



Information sheet no.3

Graffiti Prevention Act 2007

Information for retailers

The new graffiti laws & retailers

The *Graffiti Prevention Act 2007* aims to address the problem of graffiti in Victorian communities. The Act includes new graffiti marking offences and restricts the sale and advertising of spray paint cans.

As a retailer selling spray paint cans to the public, you have obligations under the Act, which include taking reasonable precautions to ensure that your

employees do not sell spray paint cans to minors unless they need the paint for their work.

The Act is being introduced in two stages:

- **17 April 2008** – all offences related to graffiti marking and the restriction on the advertising of graffiti implements commenced.
- **30 June 2008** – the restriction on the sale of spray paint cans will commence.

Retailer-specific offences	Penalties [#]
Selling a spray paint can to a minor for any purpose other than their employment	A fine of up to 20 penalty units (\$2,268.40) or an on-the-spot infringement penalty of up to two penalty units (\$226.84)
An employer or principal not taking reasonable precautions to prevent an employee or agent from selling a spray paint can to a minor for any purpose other than their employment	A fine of up to 20 penalty units (\$2,268.40)
Advertising a prescribed graffiti implement for sale if the advertisement is likely, and is intended, to incite or promote unlawful graffiti	A fine of up to 50 penalty units (\$5,671.00)

[#] These penalties are 2008–09 figures and apply from 1 July 2008.

Resources for retailers

This information sheet (part of the *Retailer's Kit* which provides you with a range of resources to help you meet your obligations) is a key resource for understanding the Act. The *Retailer's Kit* includes the following:

Information sheets:

- no.1:** *Graffiti laws & graffiti management*, provides background information about the legislation and other initiatives.
- no.2:** *Information for employees*, focuses on the retailer-specific offences and provides detailed information about proof of age identification and statutory declarations and who can sign them.
- no.3:** *Information for retailers*, provides you with key information about your obligations. Information sheets are available in English, Arabic, Cantonese, Mandarin and Vietnamese and can be downloaded from the Department of Justice website (justice.vic.gov.au/graffiti).

Decals provide information about the sales restriction and can be placed on shop windows, doors and walls.

Signage about the sales restriction which can be attached to shelves displaying spray paint cans.

Point-of-sale information, a postcard for customers who want more information about the sales restriction and the graffiti legislation.

To order copies of the *Retailer's Kit*, email the following details to graffiti@justice.vic.gov.au:

- your full name
- trading name
- postal address
- daytime phone number
- the number of copies you want.



Restriction on the sale of spray paint cans

From 30 June 2008, it will be an offence to sell a spray paint can to a minor (any person under 18 years of age) without written proof from their employer (a letter or statutory declaration) that the paint is required for employment purposes.

Penalties for this offence are an on-the-spot fine of \$226 or a fine of up to \$2,268.

This means that if you sell the spray paint can without sighting appropriate proof, you will be committing an offence. And if your employee sells the spray paint can, he/she will be committing an offence.

Informing your employees

As an employer, you must take reasonable precautions to prevent your employees from selling spray paint cans to minors without appropriate proof. If you don't, you are liable for a fine of up to \$2,268.

To meet your obligations as an employer, at a minimum your employees should know about the new laws as well as:

- what proof of age is required to verify that a person wishing to buy spray paint cans is at least 18 years of age (*Proof of age* section in Information sheet no.2);
- what proof is needed before you can sell spray paint cans to anyone under 18 (*Proof of employment purposes* section in Information sheet no.2); and
- who is authorised to witness a statutory declaration (*Proof of employment purposes* section in Information sheet no.2).

Restriction on advertising spray paint cans

It is an offence under the Act for a person to advertise spray paint cans in a way that is likely, and that is intended, to incite or promote illegal graffiti.

As a retailer of spray paint, you must ensure that your advertisements for spray paint cans do not contravene this part of the Act.

Proof that an advertisement is published in a publication or on an internet site that contains images or documents that incite or promote illegal graffiti is admissible in evidence for the purposes of proving that a retailer has committed an offence under this part of the Act.

You are best placed to decide the most appropriate way to inform your employees of their new obligations under the Act.

As a seller of spray paint cans, you and your employees should already be aware of your obligations concerning the responsible sale of solvents. You may decide to use the introduction of the graffiti legislation to provide a refresher for your employees about the responsible sale of solvents (the *Responsible Sale of Solvents: A Retailer's Kit* is available at health.vic.gov.au/drugs/solvents.htm).

Evidence of proof

You do not need to make or keep copies of any evidence shown for proof of age or employers' letters or statutory declarations shown as proof of employment purposes.

Enforcing the sales restriction

Local councils are responsible for enforcing the restriction on the sale of spray paint cans and will determine how best to enforce it in your local community.

If someone is caught selling a spray paint can to a minor, a council's authorised officers will be responsible for:

- issuing infringement notices; and
- initiating a prosecution.

Offenders are liable for a fine of up to \$5,671.

If spray paint cans are advertised for legitimate purposes (eg. craft work, auto body repairs), this is not an offence under the Act.

Further information about the Act and the government's graffiti management strategy is available online
justice.vic.gov.au/graffiti
or via email graffiti@justice.vic.gov.au.