

Remember

It's everyone's responsibility to reduce the opportunity for graffiti to occur in our community. You can play your part by responsibly securing spray paint and ensuring that only customers over 18 years purchase the product.

For more copies of this brochure and stickers contact the Office of Fair Trading.

13 32 20

www.fairtrading.nsw.gov.au

SELLING spray paint in New South Wales



AUSTRALIAN
RETAILERS
ASSOCIATION



New South Wales
Government



NSW OFFICE OF

Fair Trading

DEPARTMENT OF COMMERCE

for consumers
& traders

A new law for those selling spray paint in New South Wales

Graffiti vandalism is a problem which costs the NSW community tens of millions of dollars each year.

Much of this vandalism is carried out using stolen spray paint cans.

This is why the NSW Government has introduced the *Summary Offences Amendment (Display of Spray Paint Cans) Act 2006*.

This Act aims to reduce the amount of graffiti in the community by reducing the theft of spray paint cans.

What the new law says

The *Summary Offences Amendment (Display of Spray Paint Cans) Act 2006* requires NSW retailers who sell spray paint cans to keep those cans either:

- in a locked cabinet
- in or behind a counter in such a way that customers cannot gain access to the cans without the assistance of shop staff
- on a shelf of height 2.1 metres or more, or
- in any other manner prescribed by the regulations.

Spray paints which are colourless and transparent are exempt from the new law.

A retailer who fails to comply with the new law may face a fine of up to \$1,100.

A copy of the *Summary Offences Amendment (Display of Spray Paint Cans) Act 2006* can be found at www.fairtrading.nsw.gov.au under Legislation.



Existing laws prohibiting sale of spray paint cans to minors

In NSW it is illegal to sell spray paint to anyone under the age of 18 years. The maximum penalty for contravening this requirement is \$1,100.

A person who sells spray paint to a minor is not guilty of an offence if they believed on reasonable grounds that the person was of or above the age of 18 years.

If an employee sells spray paint to a minor, the employee and the employer may both be guilty of an offence, even if the employee acted without the employer's authority or against instructions.

An employer is not guilty of an offence if they can prove that they:

- had no knowledge of the employee's breach, and
- could not, by exercise of due diligence (eg. staff training/supervision), have prevented the breach.

What are the penalties for graffiti vandalism?

The following penalties apply to graffiti vandalism offences:

- a maximum fine of \$2,200 or imprisonment for 6 months for damaging or defacing property using spray paint
- a maximum fine of \$1,100 or imprisonment for 3 months for possessing a spray can with intent to damage or deface property
- a maximum penalty of imprisonment for 5 years for malicious damage involving graffiti.

A court can order an offender to undertake community service work instead of imposing a fine or prison sentence. The court can require the offender to remove the graffiti and restore the appearance of the property.

What else is the NSW Government doing to fight graffiti?

The *Summary Offences Amendment (Display of Spray Paint Cans) Act 2006* forms part of the NSW Government's comprehensive strategy to drive down the incidence of graffiti on trains, public transport infrastructure and other community facilities.

The Government's anti-graffiti strategy also includes:

- establishment of an Anti-Graffiti Action Team, which brings together experts from Government agencies, retailers and the paint industry in order to co-ordinate and implement new graffiti initiatives
- increasing use of Community Service Orders to make offenders repair the damage caused by graffiti vandalism
- identifying graffiti 'hot spots' and stepping up enforcement and surveillance, especially through CCTV
- assisting councils and government utilities to develop Graffiti Management Plans targeting high graffiti environments
- local councils accrediting community groups and volunteers to remove graffiti
- continuing the work of Operation Chalk, which involves covert operations on RailCorp property, including railway stations, stabling yards, commuter carparks and the rail corridor.

Dealing with customers

If it appears that a person who wishes to buy spray paint is under 18, a retailer may ask them for proof of age. Forms of proof of age include:

- a Roads and Traffic Authority (RTA) Proof of Age card
- driver licence
- passport
- birth certificate, or other official document with the customer's name and age or date of birth.

A person who is 18 years or older may buy spray paint cans on behalf of a minor if the product is to be used for a legitimate purpose.

A retailer has the right to question customers about how they intend to use the products they are buying, and to refuse to sell products to a person of any age if they suspect that they will be used for graffiti.

Tips for dealing with a difficult customer

1. Remain calm and friendly. With a smile, firmly restate the law and store policy. Most customers will accept this approach and leave the store.
2. Do not argue with the customer.
3. If the customer threatens violence as a result of your refusal to sell a product, it would be best to sell them the product. This should then be reported to your manager and the police.

**You can call Crime Stoppers on
1800 333 000**

Suggested responses for difficult customers

Customer says	Staff reply
<i>Why won't you sell it to me?</i>	a) It is illegal to sell spray paint to under-18 year olds. b) If over 18: I'm sorry but we have the right to refuse to sell you this product.
<i>You have to sell it to me. I am over 18 years old.</i>	a) Do you have some ID that shows your age? b) If over 18: How do you intend to use the spray paint?
<i>What I do with this product is none of your business. Why do you care, anyway?</i>	I have the right to make sure that you do not intend to use this product for illegal purposes such as graffiti.
<i>My Dad sent me to buy some spray paint for a school project. Here is my note from my father.</i>	I'm sorry but the law doesn't allow me to sell you spray paint because you are under 18. You will have to come back with your father.
<i>Why is the spray paint locked up or behind the counter?</i>	The law requires me to keep spray paints in a secure manner, in order to reduce spray paint theft.