

# House Bill 3338

Sponsored by Representative REARDON; Representatives FAGAN, GREENLICK, KENY-GUYER

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits person from selling graffiti materials unless person keeps graffiti materials locked in secure location, prospective purchaser provides person with photo identification and person keeps certain records of sale.

Permits local government to adopt ordinance that allows enforcement of Act with civil penalty that does not exceed \$1,000 for each violation. Provides that local government that seeks civil penalty may not cause criminal prosecution to be commenced or maintained against person that violates Act for same violation.

Becomes operative 91 days after effective date of Act.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1 Relating to sales of graffiti materials; and declaring an emergency.

2 **Be It Enacted by the People of the State of Oregon:**

3 **SECTION 1. (1) As used in this section and section 2 of this 2013 Act:**

4 (a) **"Graffiti materials" means a paint stick, an ink marker with a tip that has a surface**  
5 **area larger than one-quarter inch in any dimension or a container or system for propelling**  
6 **paint as an aerosol.**

7 (b) **"Law enforcement agency" means:**

8 (A) **A police department, sheriff's office or district attorney's office in a restricted zone;**  
9 **or**

10 (B) **A division of a police department, sheriff's office or district attorney's office that**  
11 **administers juvenile offenders in a restricted zone.**

12 (c) **"Restricted zone" means:**

13 (A) **A city or municipality with a population that totals 90,000 or more; or**

14 (B) **A county within which is located one or more cities or a metropolitan area, the**  
15 **population of which in the aggregate totals 90,000 or more.**

16 (2) **A person may not sell or offer for sale graffiti materials in a restricted zone unless:**

17 (a) **The person keeps the graffiti materials in a location that is secure and locked and to**  
18 **which members of the public cannot gain access without assistance from the person or an**  
19 **employee or agent of the person;**

20 (b) **A prospective purchaser of the graffiti materials provides the person with a driver**  
21 **license or permit or other photo identification that the Department of Transportation issues,**  
22 **or equivalent identification that a jurisdiction outside this state issues;**

23 (c) **The person requires the prospective purchaser to sign a form that the person keeps**  
24 **as part of the transaction record described in paragraph (e) of this subsection;**

25 (d) **The person initials the form described in paragraph (c) of this subsection after ex-**  
26 **amining the prospective purchaser's identification and completing the record described in**  
27

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 paragraph (e) of this subsection; and

2 (e) The person completes a record of the sale of the graffiti materials and maintains the  
3 record for a period of two years after the date of the sale. The person shall make the record  
4 available to a law enforcement agency at the law enforcement agency's request but shall  
5 otherwise keep the record confidential. The record must show:

6 (A) The date on which the person sold the graffiti materials;

7 (B) A clearly printed copy of the purchaser's name and date of birth as the name and  
8 date of birth appear on the identification the purchaser provides;

9 (C) A description of the graffiti materials the person sold;

10 (D) The number of the invoice, sales form or other record of the transaction that the  
11 person keeps or provides to the purchaser;

12 (E) A description of the type of identification the purchaser provided and the official  
13 identification number that appears on the identification; and

14 (F) The form that the purchaser signs in accordance with paragraph (c) of this sub-  
15 section and that the person initials in accordance with paragraph (d) of this subsection.

16 **SECTION 2.** (1) A local government in a restricted zone may adopt an ordinance that  
17 imposes a civil penalty that does not exceed \$1,000 for each violation of section 1 of this 2013  
18 Act.

19 (2) An official or agent of a local government in a restricted zone that seeks to impose  
20 or to maintain an action to impose or collect a civil penalty from a person that violates  
21 section 1 of this 2013 Act may not cause a criminal prosecution to be commenced or main-  
22 tained against the person for the same violation.

23 (3) Moneys that a local government in a restricted zone collects as a civil penalty for a  
24 violation of section 1 of this 2013 Act must be deposited in the local government's treasury.

25 **SECTION 3.** (1) Sections 1 and 2 of this 2013 Act become operative 91 days after the ef-  
26 fective date of this 2013 Act.

27 (2) A local government in a restricted zone may adopt an ordinance of the type described  
28 in section 2 of this 2013 Act before the operative date specified in subsection (1) of this sec-  
29 tion if the effective date of the ordinance is on or after the operative date specified in sub-  
30 section (1) of this section.

31 **SECTION 4.** This 2013 Act being necessary for the immediate preservation of the public  
32 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect  
33 on its passage.

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