

2377

2009-2010 Regular Sessions

I N S E N A T E

February 19, 2009

Introduced by Sen. PADAVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to penalties for making graffiti and possession of graffiti instruments

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 145.60 of the penal law, as added by chapter 458 of
2 the laws of 1992, is amended to read as follows:
3 S 145.60 Making graffiti IN THE SECOND DEGREE.
4 1. For purposes of this section AND SECTION 145.61 OF THIS ARTICLE,
5 the term "graffiti" shall mean the etching, painting, covering, drawing
6 upon or otherwise placing of a mark upon public or private property with
7 intent to damage such property.
8 2. No person shall make graffiti of any type on any building, public
9 or private, or any other property real or personal owned by any person,
10 firm or corporation or any public agency or instrumentality, without the
11 express permission of the owner or operator of said property.
12 Making graffiti IN THE SECOND DEGREE is a class A misdemeanor.
13 S 2. The penal law is amended by adding a new section 145.61 to read
14 as follows:
15 S 145.61 MAKING GRAFFITI IN THE FIRST DEGREE.
16 A PERSON IS GUILTY OF MAKING GRAFFITI IN THE FIRST DEGREE WHEN SUCH
17 PERSON COMMITS THE CRIME OF MAKING GRAFFITI IN THE SECOND DEGREE AND HAS
18 BEEN PREVIOUSLY CONVICTED, WITHIN THE PRECEDING TEN YEARS, OF THE CRIME
19 OF CRIMINAL MISCHIEF IN THE FOURTH DEGREE AS DEFINED BY SECTION 145.00
20 OF THIS ARTICLE, CRIMINAL MISCHIEF IN THE THIRD DEGREE AS DEFINED BY
21 SECTION 145.05 OF THIS ARTICLE, CRIMINAL MISCHIEF IN THE SECOND DEGREE
22 AS DEFINED BY SECTION 145.10 OF THIS ARTICLE, CRIMINAL MISCHIEF IN THE
23 FIRST DEGREE AS DEFINED BY SECTION 145.12 OF THIS ARTICLE, CEMETERY
24 DESECRATION IN THE SECOND DEGREE AS DEFINED BY SECTION 145.22 OF THIS
25 ARTICLE, CEMETERY DESECRATION IN THE FIRST DEGREE AS DEFINED BY SECTION

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD09515-01-9

1 145.23 OF THIS ARTICLE, RECKLESS ENDANGERMENT OF PROPERTY AS DEFINED BY
2 SECTION 145.25 OF THIS ARTICLE, MAKING GRAFFITI IN THE SECOND DEGREE AS
3 DEFINED BY SECTION 145.60 OF THIS ARTICLE, MAKING GRAFFITI IN THE FIRST
4 DEGREE AS DEFINED BY THIS SECTION, POSSESSION OF GRAFFITI INSTRUMENTS AS
5 DEFINED BY SECTION 145.65 OF THIS ARTICLE OR AGGRAVATED HARASSMENT IN
6 THE FIRST DEGREE AS DEFINED BY SECTION 240.31 OF THIS CHAPTER, OR ANY
7 VIOLATION OF LOCAL LAWS RELATING TO THE MAKING OF GRAFFITI, THE
8 POSSESSION OF GRAFFITI INSTRUMENTS OR THE DEFAACEMENT OF PROPERTY.
9 MAKING GRAFFITI IN THE FIRST DEGREE IS A CLASS E FELONY.
10 S 3. Section 145.65 of the penal law, as added by chapter 458 of the
11 laws of 1992, is amended to read as follows:
12 S 145.65 Possession of graffiti instruments.
13 A person is guilty of possession of graffiti instruments when he
14 possesses any tool, instrument, article, substance, solution or other
15 compound designed or commonly used to etch, paint, cover, draw upon or
16 otherwise place a mark upon a piece of property which that person has no
17 permission or authority to etch, paint, cover, draw upon or otherwise
18 mark, under circumstances evincing an intent to use same in order to
19 damage such property.
20 Possession of graffiti instruments is a [class B misdemeanor] CLASS A
21 MISDEMEANOR.
22 S 4. This act shall take effect immediately.