



NEW GRAFFITI LAWS

The new Victorian graffiti laws have been passed. (April 2008).

There are new offences (see below).

The police have new search powers (see below).

You might want to look at our fact sheets on fines. If you can't pay the fine you will have to go to court and you may get a criminal record. Come and see us or go to a local legal centre (see below).

We would like to hear of any complaints about the new search powers –ie how you are approached, searched and charged.

Before these new laws you could be charged with criminal damage but now there are new graffiti offences and a power for police to search anyone **from** 14 up near public transport to find spray paint cans.

NEW OFFENCES

Possessing a 'prescribed graffiti implement (section 7). **This means a spray paint can.**

You **CAN** be charged with this offence:

- If you are near or on public transport.
- You have a spray paint can on you or in your bag, car etc.
- It's no excuse that you weren't going to graffiti.
- It is an excuse if you are using it for a job or trade but you'll have to prove it.

On-the-spot fine of \$550 or more **OR** maximum fine of 25 penalty points (\$2,750).

Possessing a graffiti implement (section 8)

You can be charged with the offence if:

- You've got something that can be used to graffiti
- 'Graffiti implement' can be anything used to graffiti.
- The police must have a reasonable suspicion you intend to graffiti.

Penalty –maximum 25 penalty units (\$2,750)

Marking graffiti (section 5)

You **CANNOT** graffiti on property visible in public places unless you have permission of the property owner. This includes writing, drawing, scratching or anything that can't be removed with a dry cloth.

Penalty: maximum 2 years imprisonment

Offensive graffiti (section 6)

Even with permission of an owner you **CANNOT** graffiti on property visible in public places if it is offensive.

Penalty: maximum 2 years imprisonment

SEARCHES (without warrant)

Search for spray can

Police have expanded special search powers to search anyone 14 or over who is on or near to public transport for a spray paint cans.

Police **can**:

- Inspect your bag.
- Ask you to remove a coat, hat and shoes.
- Do a 'pat down' search.

You will need to give your name and address.

When searching, police must **identify themselves**.

- Police must first inform you of their name, rank and what station they are from. You can ask for this info in writing.
- Police must show you their ID.

When searching, if they think you are using the spray paint can for CHROMING they are required to stop the search and assist you.

Police who conduct a search MUST make a WRITTEN RECORD of the search containing:

- the member's name, rank and station
- date of search
- the time of search
- the place where the search took place
- name of person searched
- grounds relied on for conducting the search
- a description of any item seized

You **MAY** request a copy of the report. This is free if requested within 1 year of the search.

Search on suspicion

Police can search you if they have a reasonable suspicion that you have committed or are about to commit a graffiti offence.

Example: You are at a skate park and you have paint on your fingers and there is wet graffiti nearby.

SELLING SPRAY PAINT CANS

A person MUST NOT sell an aerosol paint container to a person less than 18 years of age unless the young person provides a statutory declaration from an employer that it is needed for employment purposes.

For more information

- for information by phone or email, contact Youthlaw on 9611 2412, info@youthlaw.asn.au
- if you are a young person under 25 years, drop in and see us at Youthlaw for some free legal advice, Monday to Friday, 2pm to 5pm, 19 King Street, Melbourne, 3000
- for a copy of the laws <http://www.justice.vic.gov.au/graffiti>

You are welcome to copy and use this FACT sheet.