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CITY OF SACRAMENTO

DEPARTMENT OF POLICE
HALL OF JUSTICE
813 - 6TH STREET

SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 449-5121

JOHN P. KEARNS
CHIEF OF POLICE

October 24, 1988
REF: 10-44

Transportation and Community
Development Committee and
Law and Legislation Committee
Sacramento, CA 95814

SUBJECT: An Ordinance Regulating Sale, Purchase or
Possession of Aerosol Paint Containers of
Six Ounces or Less

Honorable Members in Session:

SUMMARY

This report recommends enactment of an ordinance regulating sale, purchase or possession of aerosol paint containers of six ounces or less.

BACKGROUND

State law prohibits sale of any aerosol paint container containing more than six ounces of paint that is capable of defacing property to anyone under the age of 18 (Penal Code Section 594.1). The evident purpose of the law is to discourage use of spray paint for destructive graffiti, including gang-related identifications. Penal Code Section 594.1 also prohibits minors from purchasing such paint containers or possessing them for the purpose of defacing property while on any public street or other public property. Violation is a misdemeanor.

State law expressly preempts local regulations relating to sales and possession of aerosol containers of paint larger than six ounces.

The attached ordinance concerns only those aerosol paint containers containing six ounces or less. It prohibits their sale to minors, and their purchase or possession by minors. Basically, it complements the state law, to ensure that containers of all sizes are regulated. Unlike state law, however, violation of the ordinance would be an infraction rather than a misdemeanor. The penalty for an infraction is up to \$100 fine for a first offense, up to \$200 for a second offense within one year, and up to \$500 for a third or subsequent offense within

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one year. Persons charged with infractions do not have a right to jury trial or appointed defense counsel.

The Police Department believes that this ordinance can serve a useful purpose and may be one of many needed tools to fight gang-related activity. However, significant resources will not be devoted to active enforcement of the ordinance due to the commitment of Police resources in areas of more immediate concern to the public safety.

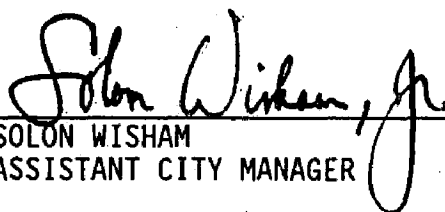
RECOMMENDATION

It is recommended that the members of the Transportation and Community Development Committee and the Law and Legislation Committee recommend that the full Council enact the attached ordinance regulating sale, purchase and possession of aerosol paint containers.

Respectfully submitted,


JOHN P. KEARNS
CHIEF OF POLICE

RECOMMENDATION APPROVED:



SOLON WISHAM
ASSISTANT CITY MANAGER

Attachment: Ordinance

_____, 1988
Joint Transportation and
Community Development/
Law and Legislation
All Districts

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

AN ORDINANCE ADDING SECTION 24.20 TO THE
SACRAMENTO CITY CODE REGULATING SALE, PURCHASE
OR POSSESSION OF AEROSOL PAINT CONTAINERS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 24.20 is hereby added to the Sacramento City Code, to read as follows:

Sec. 24.20 Sale, purchase or possession of aerosol paint container: persons under the age of 18 years.

- (a) It shall be unlawful and a misdemeanor for any person, firm, or corporation, except a parent or legal guardian, to sell or give or in any way furnish to another person, who is in fact under the age of 18 years, any aerosol container of paint weighing six ounces or less (net weight of contents) that is capable of defacing property without first obtaining bona fide evidence of majority and identity.

For purposes of this subdivision, "bona fide evidence of majority and identity" is any document evidencing the age and identity of an individual which has been issued by a federal, state, or local government entity, and includes, but is not limited to, a motor vehicle operator's license, a registration certificate issued under the federal Selective Service Act, or an identification card issued to a member of the armed forces.

- (b) It shall be unlawful and a misdemeanor for any person under the age of 18 years to purchase an aerosol container of paint weighing six ounces or less (net weight of contents) that is capable of defacing property.

(c) It is unlawful and a misdemeanor for any person under the age of 18 years to possess an aerosol container of paint weighing six ounces or less (net weight of contents) for the purpose of defacing property while on any public highway, street, alley, or way, or other public place, regardless of whether that person is or is not in any automobile, vehicle, or other conveyance.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK