

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 12, 2009

TO: Honorable Burt R. Solomons, Chair, House Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1234 by Menendez (Relating to the regulation of the sale of aerosol paint; providing criminal penalties for allowing minors access to aerosol paint used for graffiti.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to authorize a county by order or a municipality by ordinance to impose certain requirements on persons who sell aerosol paint to ensure the paint is not sold to persons under 18 years of age. An order adopted by a county could apply only in the unincorporated area of the county. An order or ordinance adopted may require a surcharge not to exceed one dollar on each sale. Money collected from the surcharge may be used only for purposes related to graffiti abatement.

The bill would amend the Penal Code to create a new Class C misdemeanor offense. If aerosol paint recorded as being sold to a person under the requirements added to the Local Government Code by the bill is used by a minor (a person under 18 years of age) to commit a graffiti offense, the person who purchased the paint would have committed an offense if the person failed to take steps that a reasonable person would take to prevent a minor from gaining access to aerosol paint or if the person left the paint in a place the person knew or should have known would be accessible by a minor. The offense would be a Class B misdemeanor if the person was previously convicted of the same offense.

A Class C misdemeanor is punishable by a fine not to exceed \$500. A Class B misdemeanor is punishable by a fine not to exceed \$2,000, jail time of not more than 180 days, or both.

Administrative costs for enacting an order or ordinance could be absorbed within existing resources, as could costs associated with enforcement, prosecution, and punishment. Revenue gain from fines imposed would vary depending on the number of offenses committed and the amount of the fines imposed.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, KJG, DB