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SB 105

Comments from RTC

1. Section 1 of the bill refers to NRS 193.155 as setting forth the penalty for placement of graffiti on public or private property. That statutory provision talks about penalties for "... the impairment of public...transportation...", but "impairment" is not defined in the chapter or section. I would suggest an amendment to NRS 193.155 to define "impairment" essentially as follows: "Disruption of ordinary and incidental service, temporary loss of use or the removal of the property from service for repair of damage."
  
2. Sections 4 and 5 create a "loophole" that needs to be closed. Note that a penalty is prescribed for a violation by a minor under the age of 17 and for a violation by a person 18 or older (an adult). There is nothing about over 17 and under 18 years. I suggest that section 4 be amended to increase the 17 to 18 in order to fix the problem.
  
3. Section 5 reflects the penalty for a person over 18 years. The legislature has provided that a person who is an adult is found guilty of the offense and his fine is not paid, his driver's license can be withheld or suspended for six months. I am not sure why the legislature has picked six months, but since it is feasible that the cost to correct the damage could reach felony level (over \$5000) the penalty seems a little on the light side! A year would seem more realistic and more likely to persuade a wrongdoer to pay.

Received March 5, 2003

**NRS 193.150 Punishment of misdemeanors.**

1. Every person convicted of a misdemeanor shall be punished by imprisonment in the county jail for not more than 6 months, or by a fine of not more than \$1,000, or by both fine and imprisonment, unless the statute in force at the time of commission of such misdemeanor prescribed a different penalty.

2. In lieu of all or a part of the punishment which may be imposed pursuant to subsection 1, the convicted person may be sentenced to perform a fixed period of community service pursuant to the conditions prescribed in NRS 176.087.

[1911 C&P § 20; RL § 6285; NCL § 9969]—(NRS A 1967, 459; 1981, 487, 652; 1991, 1931; 2001 Special Session, 136)

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Criminal Law ⇌ 1206.2(2).  
WESTLAW Topic No. 110.

the law under subsection 2, NRS 590.535 which violation becomes a misdemeanor under NRS 193.170 and punishable as provided for under NRS 193.150. AGO 395 (7-17-1958)

**ATTORNEY GENERAL'S OPINIONS.**

**Operation of liquefied petroleum gas products business without license is misdemeanor.** The operation of a business engaged in the selling and handling of liquefied petroleum gas products, either without a license or after a previously granted license has expired, is made a violation of

**Penalties for unlawful disposal of garbage or sewage.** As punishment for a violation of NRS 444.630, a court may impose a fine and imprisonment in addition to a sentence to perform work for the benefit of the community authorized by NRS 176.087 and 193.150. AGO 96-35 (12-19-1996)

**NRS 193.155 Penalty for public offense proportionate to value of property affected or loss resulting from offense.** Every person who is guilty of a public offense proportionate to the value of the property affected or the loss resulting from the offense shall be punished as follows:

1. Where the value of the loss is \$5,000 or more or where the damage results in impairment of public communication, transportation or police and fire protection, for a category C felony as provided in NRS 193.130.

2. Where the value of the loss is \$250 or more but less than \$5,000, for a gross misdemeanor.

3. Where the value of the loss is \$25 or more but less than \$250, for a misdemeanor.

4. Where the value of the loss is less than \$25, by a fine of not more than \$500.  
(Added to NRS by 1967, 459; A 1995, 1168)

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Criminal Law ⇌ 1206.2(2).  
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**NEVADA CASES.**

**Conviction for felonious malicious destruction of property reversed where evidence only supported conviction for gross misdemeanor.** In a case involving felonious destruction of property, where the state's case rested on the fact that acts of vandalism to the victim's vehicle, which included spraying corrosives, scratching paint and puncturing tires, corresponded to events in a civil action between the defendant and the victim, but the state presented no witnesses to place the defendant near the vehicle on the dates of vandalism to the vehicle's finish and no caustic substances were found at the defendant's residence, there was insufficient evidence upon which a reasonable trier of fact could have concluded that the defendant willingly, unlawfully and maliciously damaged the finish of the victim's vehicle. However, a surveillance

videotape of a person puncturing tires was sufficient evidence upon which a reasonable trier of fact could find that the defendant caused damage to the tires. Therefore, because there was only sufficient evidence for the trier of fact to find that the defendant caused damage of more than \$250 but less than \$5,000 to the tires of the victim's vehicle, the judgment of conviction for felonious destruction of the victim's vehicle was reversed (see NRS 193.155 and 206.310). *Rossana v. State*, 113 Nev. 375, 934 P.2d 1045 (1997), cited, *Romero v. State*, 116 Nev. 344, at 347, 996 P.2d 894 (2000)

**Determining the amount of damages for the purposes of the crime of malicious destruction of property.** The court set forth the following principles to determine the value of property affected or loss resulting from an offense when determining criminal liability pursuant to NRS 193.155 where a person is charged with malicious destruction of property pursuant to NRS 206.310: