

Chapter 82A

SALE OF SPRAY PAINT AND INK MARKERS

- § 82A-1. Spray paint ink markers.
- § 82A-2. Possession of spray paint and/or any marker having a writing surface of one-half (1/2) inch or greater by persons under the age of eighteen (18) prohibited; exemptions.
- § 82A-3. Possession of spray paint container and/or ink markers having a writing surface of one-half (1/2) inch or greater within public buildings unlawful; possession of same with intent to deface property unlawful.
- § 82A-4. License required for the sale of spray paint.
- § 82A-5. Posting of signs and display requirements for certain aerosol containers and marker pens.
- § 82A-6. Aiding and abetting persons under the age of eighteen (18) to obtain spray prohibited and any marker having a writing surface of one-half (1/2) inch or greater.

[HISTORY: Adopted by the City of Elizabeth City Council, 5-23-95 as Ord. No. 2777. Amendments noted where applicable.]

Be it ordained by the City Council of the City of Elizabeth:

- § 82A-1. Spray paint ink markers.
- A. Spray paint means any paint or pigmented substance in an aerosol or similar spray container or intended for use in an aerosol or similar spray container.

- B. It shall be unlawful for any person to sell or offer to any person under eighteen (18) years of age any spray paint, or hobby kit or any similar kind of kit containing spray paint and any ink marker, which is not water soluble, having a marking tip of one-half (1/2) inch or more in length or width.
- C. No person may sell or offer to sell spray paint to any other person unless the buyer presents evidence of his or her identity and age.
- D. Containers of spray paint and any ink marker which is not water soluble, having a marking tip of one-half (1/2) inch or more in length or width may not be displayed in any retail business premises in a manner in which they can be picked up by a customer when standing in an area allocated for customer use.
- E. Any person who is convicted of a violation of any section of this section shall be subject to a fine not to exceed one thousand dollars (\$1,000.) and/or imprisonment for a term not exceeding ninety (90) days, or a period of community service not exceeding ninety (90) days.

§ 82A-2. Possession of spray paint and/or any marker having a writing surface of one-half (1/2) inch or greater by persons under the age of eighteen (18) prohibited; exemptions.

No person under the age of eighteen (18) shall possess any paint in a spray can or any marker containing a fluid which is not water soluble and has a paint, brush, applicator, or other writing surface of one-half (1/2) inch or more in length or width. This prohibition shall not apply to:

- A. A child using paint or marker while under the immediate supervision of his or her parent or legal guardian; and
- B. A student using paint or a marker while under the immediate supervision of his or her teacher; and

§ 82A-3

SALE OF SPRAY PAINT AND
INK MARKERS

§ 82A-4

C. An employee using paint or marker under the supervision of his or her employer.

§ 82A-3. **Possession of spray paint container and/or ink markers having a writing surface of one-half (1/2) inch or greater within public buildings unlawful; possession of same with intent to deface property unlawful.**

A. It shall be unlawful for any person to possess a spray paint container or any marker containing a fluid which is not water soluble and has a paint, brush applicator or other writing surface of one-half (1/2) inch in length or width or greater, on the property of another or in any public building or upon any public facility. It shall be a defense to an action for violation of this section that the owner, manager, or other person having control of the property, building or facility, consented to the presence and use of the paint or marker.

B. It shall be unlawful for any person to possess a spray paint or any marker containing fluid which is not water soluble and has a paint, brush, applicator or other writing surface of one-half (1/2) of an inch in length or width or greater, on the public way with intent to use the same to deface any building, structure or property. This prohibition shall not apply to any employee of a public utility or of the municipal, state or federal government using spray paint or any marker within the scope of his or her prescribed duties.

§ 82A-4. **License required for the sale of spray paint.**

A. No person, except a wholesale dealer, may sell, offer to sell or possess with intent to sell any spray paint or hobby kit or any similar kind of kit containing spray paint without first obtaining a license from the Superintendent of Licenses. Wholesale dealer means

any manufacturer and any person who sells spray paint to persons who are reasonably understood not to be the ultimate consumers. Applications for licenses to sell spray paint shall be made in the form prescribed by the Superintendent of Licenses and accompanied by a fee of twenty-five dollars (\$25.) payable to the City of Elizabeth.

- B. Licenses shall be valid for a period of one (1) year from the date issued.
- C. The license or certified copy of the license shall be displayed at all times in a conspicuous place within the business premises where it can be easily read.
- D. A license may be suspended or revoked, after notice and an opportunity to be heard, if the licensee is convicted of a violation of this section or if the Superintendent of Licenses finds that the licensee has violated any provision of this section.

§ 82A-5. Posting of signs and display requirements for certain aerosol containers and marker pens.

- A. Every person who engages in the business of selling spray paint, or markers regulated by this section shall post in clear public view at or near the display of such products using bold lettering at least one (1) inch in height a placard stating as follows:

ANY PERSON DEFACING REAL PROPERTY
NOT HIS OR HER OWN WITH PAINT OR ANY
OTHER LIQUID IS SUBJECT TO A FINE OF
\$1,000.00 OR IMPRISONMENT FOR UP TO
NINETY (90) DAYS.

- B. Every person who engages in the business of selling spray paint or markers regulated by this section shall also post in the direct view of such persons or persons responsible for accepting customer payment for such spray paint container or marker pens, using bold

lettering at least one (1) inch in height a placard stating as follows:

IT IS UNLAWFUL TO SELL OR OTHERWISE CONVEY SPRAY PAINT OR WIDE-TIPPED MARKERS TO PERSONS UNDER EIGHTEEN (18) YEARS OF AGE IN THE CITY OF ELIZABETH. VIOLATORS SHALL BE SUBJECT TO A FINE OF UP TO \$1,000.00 OR IMPRISONMENT FOR UP TO NINETY (90) DAYS.

§ 82A-6. Aiding and abetting persons under the age of eighteen (18) to obtain spray prohibited and any marker having a writing surface of one-half (1/2) inch or greater.

No person shall aide, assist or abet a person under the age of eighteen (18) in obtaining possession of paint in a spray can or any marker containing a fluid which is not water soluble and has a paint, brush, applicator or other writing surface of one-half (1/2) of an inch or greater. This prohibition shall not apply to:

- A. A parent or legal guardian assisting and supervising his or her own child or ward in use of paint or a marker; and
- B. A teacher, assisting and supervising his or her student in the use of paint or a marker; and
- C. An employer assisting and supervising his or her employee in the use of paint or a marker.