

**TO: ALL RETAILERS OF GLUE AND AEROSOL PAINTS/VOLATILE CHEMICALS**

**SUBJECT: Requirement's for Retail sale of Abusable Glue and/or Aerosol Paint/Volatile Chemicals Graffiti prevention.**

The 1987 Texas Legislature enacted House Bill 173 (Chapter 485 – Texas Health and Safety Code) requiring each Texas retail location that sells abusable glue and/or abusable aerosol paint to obtain a “Glue and Paint Sales Permit”, issued by the Texas Department of Health (Department), prior to retail sale. This law also prohibited the sale of these products to a person younger than 18 years of age.

Aerosol paint is defined as an aerosolized paint product, including a clear or pigmented lacquer or finish. Glue means an adhesive substance intended to be used to join two surfaces. As a general rule of thumb, any glue or aerosol paint which contains a minimum of 10% toluene (toluol), 10% xylene (xylol), 5% benzene (benzol), or 4% methyl alcohol (methanol) (percentages can be verified by reviewing the Product MSDS) by weight and packaged in a container of one pint or less by volume or two pounds by weight, is by law abusable and falls under the permit requirement.

In the event the products you plan on retailing fall under the permit requirement, the annual permit fee is \$25.00 for each retail location. The permit must be available for inspection by the public. The store must also display a conspicuous sign in both English and Spanish. The sign is furnished by the Department at the time of permit issuance.

The penalties for failure to comply range from a Class C misdemeanor to a third degree felony. Chapter 485, Sec.013(e) (Issuance and Renewal of Permit) states that the permit is not valid if the permit holder has been convicted more than once in the proceeding year of an offense that is committed at the location for which the permit is issued. Offenses include Sec. 484.005(a)

(Delivery to a Minor), Sec. 485.031 (Possession and Use), Sec. 485.032 (Manufacture and Delivery), Sec. 485.033 (Delivery to a Minor), Sec. 485.034 (Inhalant Paraphernalia) is violated.

Effective September 1, 1997, Senate Bill (SB) 758 amended Chapter 485 by adding a new section 485.019 Restriction of Access to Aerosol Paint.

Sec. 485.019 Restriction Of Access to Aerosol Paint (SB 758 – Graffiti prevention amendment to Chapter 485).

A business establishment that holds a permit under Section 485.12 (permit required to sell abusable glue or aerosol paint) and that displays aerosol paint shall display the paint:

- 1) In a place that is in the line of sight of a cashier or in the line of sight from a workstation normally continuously occupied during business hours;
- 2) In a manner that makes the paint accessible to a patron of the business establishment only with the assistance of an employee of the establishment or;
- 3) In an area electronically protected or viewed by surveillance equipment that is monitored during business hours.

\* This section does not apply to (1) a business establishment that has in place a computerized checkout system at the point of sale for merchandise that alerts the cashier that a person purchasing aerosol paint must be over 18 years old or (2) to a business establishment that is located in a county with a population of less than 75,000.

In addition to the regulation of abusable glues and aerosol paints, Health and Safety Code, §Chapter 484, Sec. 484.005(a) (Delivery to a Minor) states that a person commits an offense if: the person intentionally, knowingly, or recklessly sells or delivers a substance containing a volatile chemical (minimum of 10% toluene, 10% xylene, or 4% methyl alcohol; percentages can be verified by reviewing the product MSDS) to a person younger than 18 years of age. Consumer products which normally contain these chemicals include octane boosters, carburetor/fuel injector cleaners, fuel conditioners, windshield washer fluids, paint removers, paint thinners, material seam sealers and pavement sealers. Note: Chapter 484 regulates the retail sale of products that are not glues or aerosol paints. There are no size or weight exemptions (i.e., pints/quarts/gallons, ect.). Products containing the above referenced volatile chemicals, at the stated percentages may not be sold to minors.