

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON

April 3, 2012

The Honorable Natalie E. Tennant
Secretary of State
State Capitol
Charleston, West Virginia

Dear Ms. Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill No. 408.

While I support the substance of this bill, I must object to the bill because its object is not adequately expressed in the title. The purpose of the bill is to criminalize the act of graffiti. The bill establishes misdemeanor and felony offenses and provides for fines and imprisonment and would provide for imposition of community service and suspension of driver's licenses in certain circumstances. The bill would also provide that affected property owners may institute a civil action for recovery of damages in an amount up to three times the amount of the loss or the cost of restoration, plus attorneys' fees and costs.

The title, however, fails to reference that affected property owners may institute a civil action for recovery of damages in an amount up to three times the loss or the cost of restoration, plus

attorneys' fees and costs. The title's reference to "civil liability is not precluded by criminal provisions" cannot be read to include the aforementioned damages provision. Accordingly, I find the title of the bill inconsistent with the substance of the bill, so as to render Enrolled Committee Substitute for Senate Bill No. 408 constitutionally defective.

For this reason, I must veto the legislation. However, I encourage the Legislature to reconsider this matter and return it to my desk for consideration at a future date.

Very truly yours,

Earl Ray Tomblin,

Governor.

cc: The Honorable Jeffrey V. Kessler

The Honorable Richard Thompson