

By: Crockett

H.B. No. 2334

A BILL TO BE ENTITLED

AN ACT

1
2 relating to prohibiting a peace officer from using less lethal
3 devices to control the activity or movement of a nonviolent
4 gathering of persons or disperse persons engaging in protected
5 speech or expressive conduct.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. This Act may be cited as the Brandon Saenz Act.

8 SECTION 2. Chapter 2, Code of Criminal Procedure, is
9 amended by adding Article 2.33 to read as follows:

10 Art. 2.33. PROHIBITION ON USE OF LESS LETHAL DEVICES FOR
11 CROWD CONTROL OR DISPERSAL. (a) In this article:

12 (1) "Law enforcement agency" means an agency of the
13 state or an agency of a political subdivision of the state
14 authorized by law to employ peace officers.

15 (2) "Less lethal chemical device" means a less lethal
16 device designed to be launched or thrown as a projectile for the
17 purpose of incapacitating or substantially diminishing the
18 capacity of the target by causing chemical irritation of the eyes,
19 throat, lungs, or skin. The term includes chemical devices
20 commonly known as "tear gas," "pepper bullets," "pepper pellets,"
21 and "smoke grenades."

22 (3) "Less lethal device" means a weapon, ammunition,
23 or other device designed to reduce the risk of serious bodily injury
24 or death compared to a deadly weapon, as defined by Section 1.07,

1 Penal Code. The term includes a less lethal chemical device or less
2 lethal projectile.

3 (4) "Less lethal projectile" means a less lethal
4 device that is discharged from a firearm or other device for the
5 purpose of incapacitating or substantially diminishing the
6 capacity of the target by inflicting blunt trauma. The term
7 includes ammunition commonly known as "rubber bullets," "wooden
8 bullets," "sponge rounds," and "bean bag rounds."

9 (b) A peace officer may not use a less lethal device as a
10 means to:

11 (1) control the activity or movement of a nonviolent
12 gathering of persons; or

13 (2) disperse persons engaging in speech or expressive
14 conduct protected by the First Amendment to the United States
15 Constitution or Section 8, Article 1, Texas Constitution.

16 (c) Each law enforcement agency in this state shall adopt a
17 policy that prohibits a peace officer employed by the agency from
18 using less lethal devices for a purpose prohibited under Subsection
19 (b).

20 SECTION 3. Not later than January 1, 2022, each law
21 enforcement agency in this state shall adopt the policy required by
22 Article 2.33, Code of Criminal Procedure, as added by this Act.

23 SECTION 4. This Act takes effect September 1, 2021.