

By: Menendez

H.B. No. 1234

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the regulation of the sale of aerosol paint; providing
3 criminal penalties for allowing minors access to aerosol paint used
4 for graffiti.

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

6 SECTION 1. Chapter 250, Local Government Code, is amended
7 by adding Section 250.006 to read as follows:

8 Sec. 250.006. REGULATION OF SALE OF AEROSOL PAINT;
9 SURCHARGE. (a) A county by order or a municipality by ordinance
10 may require a person who sells aerosol paint to:

11 (1) require proof of identification from the buyer
12 before making a sale to that buyer; and

13 (2) record the sale in a log and maintain the log for
14 at least two years after the date of the sale.

15 (b) An order adopted by a county under this section applies
16 only in the unincorporated area of the county.

17 (c) An order or ordinance adopted under this section may
18 require a surcharge not to exceed one dollar on each sale. Money
19 collected under this section may be used only for purposes related
20 to graffiti abatement.

21 SECTION 2. Chapter 28, Penal Code, is amended by adding
22 Section 28.09 to read as follows:

23 Sec. 28.09. USE OF AEROSOL PAINT TO COMMIT GRAFFITI. (a)
24 In this section, "minor" means a person under 18 years of age.

1 (b) A person commits an offense if:

2 (1) aerosol paint recorded as being sold to the person
3 under Section 250.006, Local Government Code, was used by a minor to
4 commit an offense under Section 28.08; and

5 (2) the person:

6 (A) failed to take steps that a reasonable person
7 would take to prevent the access to the paint by a minor, including
8 placing the paint in a locked container; or

9 (B) left the paint in a place to which the person
10 knew or should have known that the minor would gain access.

11 (c) An offense under this section is a Class C misdemeanor
12 unless it is shown on the trial of the offense that the defendant
13 has previously been convicted under this section, in which event
14 the offense is a Class B misdemeanor.

15 SECTION 3. This Act takes effect September 1, 2009.