

Submitter: Jesse Merrithew  
On Behalf Of:  
Committee: House Committee On Judiciary  
Measure: HB4131

I support the -8 amendments to HB 4008, also reflected in the 4131-3, and oppose 4131-1.

HB 4131 creates different rules for police when they are policing a crowd than for all other police interactions. The U.S. constitution does not recognize any of these differences. The Fourth Amendment to the U.S. Constitution creates a single standard to determine whether a use of force is lawful or not – it must be reasonable based on the conduct that the individual is engaged in. That is why the -8 amendments create clear rules that allow the police to use reasonable force against individuals engaged in dangerous conduct while protecting those who are not. These clear lines also protect our First Amendment rights to freedom of speech and assembly by ensuring that when people exercise those rights, they are protected from police violence.

The outright ban on pyrotechnic tear gas is particularly important to protect people's First Amendment rights. Pyrotechnic tear gas is designed to harm crowds of people. It is what gets into people's cars, their homes, and their offices. It is by its very nature indiscriminate and harmful to large groups of people. I would also point out that 4131-1 is indistinguishable from HB 4208, passed by this body in June of 2020 and overturned by HB 2928, so to say this is just a technical fix is disingenuous at best. It is impossible to justify the use of pyrotechnic tear gas under the Fourth Amendment to the constitution. The police should never have discretion to use it.