SUMMARY

Provides that peace officer may not use force that limits ability of person to breathe, including but not limited to choke holds.
Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to use of force by peace officers; creating new provisions; amending ORS 161.235 and 161.239; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2020 special session Act is added to and made a part of ORS 161.195 to 161.275.

SECTION 2. (1) As used in this section, “force that impedes the ability of a person to breathe” includes but is not limited to restraining a person around the neck, using a choke hold, putting the peace officer’s knee on the person’s neck or acting in any other manner that interferes with or results in the blocking or compromising of the person’s airway.

(2) A peace officer is not justified in any circumstance in using physical force or deadly physical force that impedes the ability of a person to breathe.

(3) The use by a peace officer of force that impedes the ability of a person to breathe is not reasonable under any circumstance.

SECTION 3. ORS 161.235 is amended to read:

161.235. Except as provided in ORS 161.239 and section 2 of this 2020 special session Act, a peace officer is justified in using physical force upon
another person only when and to the extent that the peace officer reasonably believes it necessary:

(1) To make an arrest or to prevent the escape from custody of an arrested person unless the peace officer knows that the arrest is unlawful; or

(2) For self-defense or to defend a third person from what the peace officer reasonably believes to be the use or imminent use of physical force while making or attempting to make an arrest or while preventing or attempting to prevent an escape.

SECTION 4. ORS 161.239 is amended to read:

161.239. (1) Notwithstanding the provisions of ORS 161.235 and except as provided in section 2 of this 2020 special session Act, a peace officer may use deadly physical force only when the peace officer reasonably believes that:

(a) The crime committed by the person was a felony or an attempt to commit a felony involving the use or threatened imminent use of physical force against a person; [or]

(b) The crime committed by the person was kidnapping, arson, escape in the first degree, burglary in the first degree or any attempt to commit such a crime; [or]

(c) Regardless of the particular offense which is the subject of the arrest or attempted escape, the use of deadly physical force is necessary to defend the peace officer or another person from the use or threatened imminent use of deadly physical force; [or]

(d) The crime committed by the person was a felony or an attempt to commit a felony and under the totality of the circumstances existing at the time and place, the use of such force is necessary; or

(e) The officer’s life or personal safety is endangered in the particular circumstances involved.

(2) Nothing in subsection (1) of this section constitutes justification for reckless or criminally negligent conduct by a peace officer amounting to an offense against or with respect to innocent persons whom the peace officer
is not seeking to arrest or retain in custody.

SECTION 5. This 2020 special session Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2020 special session Act takes effect on its passage.