

# B-Engrossed House Bill 2928

Ordered by the House June 23  
Including House Amendments dated April 13 and June 23

Sponsored by Representatives BYNUM, NOBLE; Representatives CAMPOS, DEXTER, PHAM, POWER, REYNOLDS, VALDERRAMA (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Regulates use of chemical incapacitants, kinetic impact projectiles[, *sound devices and strobe lights*] **and sound devices** by law enforcement agencies.

Prohibits law enforcement agency from using proxy law enforcement agency to enact measures that court or statute has barred law enforcement agency from using. Prohibits law enforcement agency from acting in concert with another law enforcement agency to engage in misconduct barred by statute or court order.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to the use of tools by law enforcement agencies; creating new provisions; repealing section  
3 1, chapter 8, Oregon Laws 2020 (first special session); and declaring an emergency.

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

5 **SECTION 1. Section 1, chapter 8, Oregon Laws 2020 (first special session), is repealed.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **“Chemical incapacitant” means the following, together or separately:**

8 (A) **Toxic chemicals and their precursors, except where intended for purposes not pro-**  
9 **hibited under this section, as long as the types and quantities are consistent with such pur-**  
10 **poses;**

11 (B) **Munitions and devices specifically designed to cause temporary pain, temporary irri-**  
12 **tation, temporary disruption of vital processes, temporary incapacitation, temporary disa-**  
13 **bility or permanent harm through the toxic properties of toxic chemicals that would be**  
14 **released as a result of the employment of the munitions and devices; and**

15 (C) **Any equipment specifically designed for use directly in connection with the employ-**  
16 **ment of munitions and devices as described in subparagraph (B) of this paragraph.**

17 (b) **“Key component of a binary or multicomponent chemical system” means the precu-**  
18 **rsor that plays the most important role in determining the toxic properties of the final prod-**  
19 **uct and that reacts rapidly with other chemicals in a binary or multicomponent system.**

20 (c) **“Kinetic impact projectile” means all nonlethal, less-lethal or semilethal projectiles,**  
21 **including but not limited to rubber and plastic bullets, beanbag rounds, sponge rounds and**  
22 **pellet rounds.**

23 (d) **“Law enforcement agency” means the Department of State Police, the Department**  
24 **of Justice, a district attorney, a political subdivision of the State of Oregon, a municipal**  
25 **corporation of the State of Oregon and a university, that maintains a law enforcement unit**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 as defined in ORS 181A.355 (12)(a)(A).

2 (e) "Precursor" means any chemical reactant that takes part at any stage in the pro-  
3 duction by whatever method of a toxic chemical, including any key component of a binary  
4 or multicomponent chemical system.

5 (f) "Toxic chemical" means any chemical that through its chemical action on biological  
6 processes can cause death, temporary pain, temporary irritation, temporary disruption of  
7 vital processes, temporary incapacitation, temporary disability or permanent harm to hu-  
8 mans or animals.

9 (2)(a) A law enforcement agency may not use a chemical incapacitant for crowd control,  
10 except when the following requirements are satisfied:

11 (A) The circumstances constitute a riot, as described in ORS 166.015; and

12 (B) The officer using the chemical incapacitant reasonably believes, when and to the ex-  
13 tent the chemical incapacitant is used, that the use of the chemical incapacitant is necessary  
14 to terminate and prevent furtherance of the riotous behavior.

15 (b) A law enforcement agency may not use a kinetic impact projectile for crowd control  
16 or discharge a kinetic impact projectile in a manner that intentionally targets the head of a  
17 person, except against an individual engaged in conduct otherwise justifying the use of deadly  
18 physical force by a peace officer.

19 (c) A law enforcement agency may not use a sound device for crowd control for any  
20 purpose other than announcements. Whenever possible, a law enforcement agency shall  
21 provide announcements for purposes of crowd control both audibly and visually.

22 (3) When using chemical incapacitants, kinetic impact projectiles or sound devices in  
23 compliance with this section, and when it is possible to do so safely, a law enforcement  
24 agency:

25 (a) Shall attempt to take injured persons to safety or allow injured persons to seek  
26 medical help.

27 (b) May not prevent emergency medical services from reaching injured persons.

28 (c) Shall take reasonable action to accommodate disabilities when issuing or enforcing  
29 orders to disperse.

30 (4) A law enforcement agency shall inform federal law enforcement agencies of the re-  
31 quirements of this section.

32 SECTION 3. (1) As used in this section, "law enforcement agency" means the Department  
33 of State Police, the Department of Justice, a district attorney, a political subdivision of the  
34 State of Oregon, a municipal corporation of the State of Oregon and a university, that  
35 maintains a law enforcement unit as defined in ORS 181A.355 (12)(a)(A).

36 (2) A law enforcement agency or a person acting on behalf of a law enforcement agency  
37 may not:

38 (a) Use a proxy law enforcement agency to enact measures that a court or statute has  
39 barred the law enforcement agency from using.

40 (b) Act in concert with another law enforcement agency to engage in misconduct barred  
41 by a court order or statute.

42 (3) Intentional violation of this section constitutes official misconduct in the second de-  
43 gree under ORS 162.405.

44 SECTION 4. Notwithstanding any other provision of law, the General Fund appropriation  
45 made to the Department of State Police by section 1 (1), chapter \_\_, Oregon Laws 2021

1 (Enrolled House Bill 5028), for the biennium beginning July 1, 2021, for patrol services,  
2 criminal investigations, gaming enforcement and the Office of the State Fire Marshal, is in-  
3 creased by \$605,781 to implement the provisions of this 2021 Act.

4 SECTION 5. This 2021 Act being necessary for the immediate preservation of the public  
5 peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect  
6 on its passage.

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