

Requested by Representative NOBLE

**PROPOSED AMENDMENTS TO
HOUSE BILL 4131**

1 On page 1 of the printed bill, delete line 5 through 31.

2 On page 2, delete lines 1 through 41 and insert:

3 **“SECTION 1.** ORS 181A.708 is amended to read:

4 “181A.708. (1) As used in this section:

5 “(a)(A) ‘Chemical incapacitant’ means the following, together or sepa-
6 rately:

7 “[A] (i) Toxic chemicals and their precursors[, *except where intended for*
8 *purposes not prohibited under this section, as long as the types and quantities*
9 *are consistent with such purposes*];

10 “[B] (ii) **Handheld** munitions and devices specifically designed to cause
11 temporary pain, temporary irritation, temporary disruption of vital processes,
12 temporary incapacitation, temporary disability or permanent harm through
13 the toxic properties of toxic chemicals that would be released as a result of
14 the employment of the munitions and devices; and

15 “[C] (iii) Any equipment specifically designed for use directly in con-
16 nection with the employment of **handheld** munitions and devices as de-
17 scribed in [*subparagraph (B) of this paragraph*] **sub-subparagraph (ii) of**
18 **this subparagraph.**

19 “(B) ‘Chemical incapacitant’ does not include tear gas.

20 “(b) ‘Crowd control’ means law enforcement techniques used to
21 address a breach of the peace or any assembly of persons where there

1 **is a threat of collective violence, destruction of property or other un-**
2 **lawful acts.**

3 “[*b*] (c) ‘Key component of a binary or multicomponent chemical
4 system’ means the precursor that plays the most important role in deter-
5 mining the toxic properties of the final product and that reacts rapidly with
6 other chemicals in a binary or multicomponent system.

7 “[*c*] (d) ‘Kinetic impact projectile’ means all nonlethal, less-lethal or
8 semilethal projectiles, including but not limited to rubber and plastic bullets,
9 beanbag rounds, sponge rounds and pellet rounds.

10 “[*d*] (e) ‘Law enforcement agency’ means the Department of State Police,
11 the Department of Justice, a district attorney, a political subdivision of the
12 State of Oregon, a municipal corporation of the State of Oregon and a uni-
13 versity, that maintains a law enforcement unit as defined in ORS 181A.355
14 (12)(a)(A).

15 “[*e*] (f) ‘Precursor’ means any chemical reactant that takes part at any
16 stage in the production by whatever method of a toxic chemical, including
17 any key component of a binary or multicomponent chemical system.

18 **“(g) ‘Tear gas’ means oleoresin capsicum or orthochloro-**
19 **benzalmalonitrile, or other similar chemicals meant to accomplish**
20 **the same effect, administered by any shell, cartridge or bomb capable**
21 **of being discharged or exploded, when the discharge or explosion will**
22 **cause or permit the release or emission of the chemicals.**

23 “[*f*] (h) ‘Toxic chemical’ means any chemical that through its chemical
24 action on biological processes can cause death, temporary pain, temporary
25 irritation, temporary disruption of vital processes, temporary incapacitation,
26 temporary disability or permanent harm to humans or animals.

27 “[*2*)(a) *A law enforcement agency may not use a chemical incapacitant for*
28 *crowd control, except when the following requirements are satisfied*]:

29 “[*A*) *The circumstances constitute a riot, as described in ORS 166.015;*
30 *and*]

1 “[B) *The officer using the chemical incapacitant reasonably believes, when*
2 *and to the extent the chemical incapacitant is used, that the use of the chemical*
3 *incapacitant is necessary to terminate and prevent furtherance of the riotous*
4 *behavior.*]

5 “[b) *A law enforcement agency may not use a kinetic impact projectile for*
6 *crowd control or discharge a kinetic impact projectile in a manner that inten-*
7 *tionally targets the head of a person, except against an individual engaged in*
8 *conduct otherwise justifying the use of deadly physical force by a peace*
9 *officer.*]

10 **“(2)(a) A law enforcement agency may not use a chemical**
11 **incapacitant indiscriminately for crowd control.**

12 **“(b) A law enforcement agency may not use a chemical incapacitant**
13 **for crowd control except when the chemical incapacitant is used**
14 **against an individual engaged in conduct otherwise justifying the use**
15 **of physical force under ORS 161.195 to 161.275.**

16 **“(3) A law enforcement agency may use tear gas only when the**
17 **circumstances constitute a riot as described in ORS 166.015 and the**
18 **use of tear gas is necessary to terminate or prevent furtherance of the**
19 **riot.**

20 **“(4)(a) A law enforcement agency may not use a kinetic impact**
21 **projectile indiscriminately for crowd control.**

22 **“(b) A law enforcement may not use a kinetic impact projectile for**
23 **crowd control except when the kinetic impact projectile is used against**
24 **an individual engaged in conduct otherwise justifying the use of**
25 **physical force under ORS 161.195 to 161.275.**

26 **“(c) A law enforcement agency may not discharge a kinetic impact**
27 **projectile in a manner that intentionally targets the head of a person,**
28 **except against an individual engaged in conduct otherwise justifying**
29 **the use of deadly physical force by a peace officer under ORS 161.242.**

30 “[c)] **(5) A law enforcement agency may not use [a sound device for crowd**

1 *control for any purpose other than announcements]* **electronically amplified**
2 **noise producing equipment except for announcements or to facilitate**
3 **movement of an emergency vehicle as allowed or required by ORS**
4 **820.320 or any other provision of law.** Whenever possible, a law enforce-
5 ment agency shall provide announcements for purposes of crowd control both
6 audibly and visually.

7 “[3] **(6)** When using chemical incapacitants, **tear gas**, kinetic impact
8 projectiles or sound devices in compliance with this section, and when it is
9 possible to do so safely, a law enforcement agency:

10 “(a) Shall attempt to take injured persons to safety or allow injured per-
11 sons to seek [*medical*] help **from emergency medical services.**

12 “(b) May not prevent emergency medical services from reaching injured
13 persons.

14 “(c) Shall take reasonable action to accommodate disabilities when issu-
15 ing or enforcing orders to disperse.

16 “[4] **(7)** A law enforcement agency shall inform federal law enforcement
17 agencies of the requirements of this section.”.

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