

HB 4131 -5, -6 STAFF MEASURE SUMMARY

House Committee On Rules

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Meeting Dates: 2/23

WHAT THE MEASURE DOES:

Modifies definition of chemical incapacitant. Defines crowd control. Modifies when law enforcement agency may use chemical incapacitants and kinetic impact projectiles for crowd control. Permits electronically amplified noise equipment to facilitate movement of emergency vehicle. Specifies injured persons may seek help from emergency medical services. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-5 Defines "crowd control." Redefines "chemical incapacitant" to "handheld chemical incapacitant." Defines "tear gas." Excludes "tear gas" from definition of "handheld chemical incapacitant." Specifies that a law enforcement agency may not use a handheld chemical incapacitant or a kinetic impact projectile indiscriminately for crowd control. Prohibits use of "handheld chemical incapacitant" for purposes of crowd control unless use of force is otherwise authorized against an individual by specified statute. Regulates law enforcement agency use of tear gas for crowd control. Modifies when law enforcement agency may use kinetic impact projectiles for crowd control. Specifies that a law enforcement agency shall minimize the incidental impact of agency's use of handheld chemical incapacitants, tear gas, and kinetic impact projectiles on bystanders, medical personnel, journalists, and other unintended targets, when safe and possible to do so. Requires law enforcement agencies to adopt policies on cleanup of visible debris caused by tear gas and kinetic impact projectiles within reasonable time of use. Permits electronically amplified noise equipment to facilitate movement of emergency vehicle. Specifies injured persons may seek help from emergency medical services.

-6 Modifies definition of "chemical incapacitant." Defines "tear gas." Specifies that a law enforcement agency may not use chemical incapacitants or kinetic impact projectiles indiscriminately for crowd control. Prohibits use of chemical incapacitants and kinetic impact projectiles for dispersal of any assembly, protest, or demonstration by a law enforcement agency except in compliance with specified standards. Permits electronically amplified noise equipment to facilitate movement of emergency vehicle. Requires law enforcement agencies to notify local emergency rooms of type of chemical incapacitants, kinetic impact projectiles, or electronically amplified noise-producing equipment used, when it is possible to do so safely. Allows law enforcement agencies to adopt more stringent policies than required by measure. Requires each law enforcement agency, within specified timeframe, to publish summary on its website of all instances of a peace officer using a chemical incapacitant or kinetic impact projectile for crowd control. Requires Department of Justice to post on its website compiled link to each law enforcement agency's reports.

BACKGROUND:

Tear gas, long range acoustic devices, and sound cannons are devices used by various law enforcement agencies for several purposes, including to control riots and disburse crowds. House Bill 4208 A was enacted during the first special session of 2020. It prohibited the use of tear gas by a law enforcement agency for crowd control except in circumstances constituting a riot. House Bill 2928 was enacted in the 2021 regular legislative session and regulated the use of chemical incapacitants (including tear gas), kinetic impact projectiles, and sound devices by law enforcement officials. It also repealed HB 4208. It took effect July 19, 2021.

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In 2021, California enacted Assembly Bill 48, which prohibits law enforcement agencies from using kinetic energy projectiles and chemical agents for dispersal of any assembly, protest or demonstration, except when certain conditions are met. AB 48 also required law enforcement agencies to post on their internet websites a summary of each incident a kinetic energy projectile or chemical agent was used for crowd control.

House Bill 4131 modifies provisions included in the 2021 legislation regulating law enforcement's use of of certain devices for crowd control.