

# House Bill 4131

Sponsored by Representatives NOBLE, LEWIS, MORGAN; Representative DRAZAN (Pre-session 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 **as introduced**.

Modifies provisions relating to use by law enforcement agencies of certain crowd control measures.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to the use of tools by law enforcement agencies; amending ORS 181A.708 and 181A.710; and  
3 declaring an emergency.

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

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

6 181A.708. (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 prohibited un-*  
9 *der this section, as long as the types and quantities are consistent with such purposes*];

10 (B) Munitions and devices specifically designed to cause temporary pain, temporary irritation,  
11 temporary disruption of vital processes, temporary incapacitation, temporary disability or permanent  
12 harm through the toxic properties of toxic chemicals that would be released as a result of the em-  
13 ployment of the munitions and devices; and

14 (C) Any equipment specifically designed for use directly in connection with the employment of  
15 munitions and devices as described in subparagraph (B) of this paragraph.

16 (b) "**Crowd control**" means **law enforcement techniques used to address a breach of the**  
17 **peace or any assembly of persons where there is a threat of collective violence, destruction**  
18 **of property or other unlawful acts.**

19 [(b)] (c) "Key component of a binary or multicomponent chemical system" means the precursor  
20 that plays the most important role in determining the toxic properties of the final product and that  
21 reacts rapidly with other chemicals in a binary or multicomponent system.

22 [(c)] (d) "Kinetic impact projectile" means all nonlethal, less-lethal or semilethal projectiles, in-  
23 cluding but not limited to rubber and plastic bullets, beanbag rounds, sponge rounds and pellet  
24 rounds.

25 [(d)] (e) "Law enforcement agency" means the Department of State Police, the Department of  
26 Justice, a district attorney, a political subdivision of the State of Oregon, a municipal corporation  
27 of the State of Oregon and a university, that maintains a law enforcement unit as defined in ORS  
28 181A.355 (12)(a)(A).

29 [(e)] (f) "Precursor" means any chemical reactant that takes part at any stage in the production  
30 by whatever method of a toxic chemical, including any key component of a binary or multicompo-  
31 nent chemical system.

**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        *[(f)]* **(g)** “Toxic chemical” means any chemical that through its chemical action on biological  
 2 processes can cause death, temporary pain, temporary irritation, temporary disruption of vital pro-  
 3 cesses, temporary incapacitation, temporary disability or permanent harm to humans or animals.

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

6        *[(A) The circumstances constitute a riot, as described in ORS 166.015; and]*

7        *[(B) The officer using the chemical incapacitant reasonably believes, when and to the extent the*  
 8 *chemical incapacitant is used, that the use of the chemical incapacitant is necessary to terminate and*  
 9 *prevent furtherance of the riotous behavior.]*

10        *[(b) A law enforcement agency may not use a kinetic impact projectile for crowd control or dis-*  
 11 *charge a kinetic impact projectile in a manner that intentionally targets the head of a person, except*  
 12 *against an individual engaged in conduct otherwise justifying the use of deadly physical force by a*  
 13 *peace officer.]*

14        **(2)(a) A law enforcement agency may not use a chemical incapacitant for crowd control,**  
 15 **except:**

16        **(A) When the circumstances constitute a riot, as described in ORS 166.015, and the offi-**  
 17 **cer using the chemical incapacitant reasonably believes, when and to the extent the chemical**  
 18 **incapacitant is used, that the use of the chemical incapacitant is necessary to terminate or**  
 19 **prevent furtherance of the riot; or**

20        **(B) When the chemical incapacitant is used against an individual engaged in conduct**  
 21 **otherwise justifying the use of physical force under Oregon law.**

22        **(b)(A) A law enforcement agency may use a kinetic impact projectile for crowd control**  
 23 **only if used against an individual engaged in conduct otherwise justifying the use of physical**  
 24 **force under Oregon law.**

25        **(B) A law enforcement agency may not discharge a kinetic impact projectile in a manner**  
 26 **that intentionally targets the head of a person, except against an individual engaged in con-**  
 27 **duct otherwise justifying the use of deadly physical force by a peace officer.**

28        (c) A law enforcement agency may not use *[a sound device for crowd control for any purpose*  
 29 *other than announcements]* **electronically amplified noise producing equipment except for an-**  
 30 **ouncements or to facilitate movement of an emergency vehicle as allowed or required by**  
 31 **ORS 820.320 or any other provision of law.** Whenever possible, a law enforcement agency shall  
 32 provide announcements for purposes of crowd control both audibly and visually.

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

35        (a) Shall attempt to take injured persons to safety or allow injured persons to seek *[medical]*  
 36 **help from emergency medical services.**

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

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

40        (4) A law enforcement agency shall inform federal law enforcement agencies of the requirements  
 41 of this section.

42        **SECTION 2.** ORS 181A.710 is amended to read:

43        181A.710. (1) As used in this section, “law enforcement agency” means the Department of State  
 44 Police, the Department of Justice, a district attorney, a political subdivision of the State of Oregon,  
 45 a municipal corporation of the State of Oregon and a university, that maintains a law enforcement

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

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

4 (a) Use a proxy law enforcement agency to [*enact*] **use crowd control** measures that a court  
5 or statute has barred the law enforcement agency from using.

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

8 (3) Intentional violation of this section constitutes official misconduct in the second degree un-  
9 der ORS 162.405.

10 **SECTION 3. This 2022 Act being necessary for the immediate preservation of the public**  
11 **peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect**  
12 **on its passage.**

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