

Requested by Representative NOBLE

**PROPOSED AMENDMENTS TO
HOUSE BILL 4131**

1 On page 1 of the printed bill, delete lines 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) ‘Crowd control’ means law enforcement techniques used to**
6 **address a breach of the peace or any assembly of persons where there**
7 **is a threat of collective violence, destruction of property or other un-**
8 **lawful acts.**

9 “[*(a)*] **(b)(A) ‘Handheld** chemical incapacitant’ means the following, to-
10 gether or separately:

11 “[*(A)*] *Toxic chemicals and their precursors, except where intended for pur-*
12 *poses not prohibited under this section, as long as the types and quantities are*
13 *consistent with such purposes;]*

14 “[*(B)*] **(i) Handheld** munitions and devices specifically designed to cause
15 temporary pain, temporary irritation, temporary disruption of vital processes,
16 temporary incapacitation, temporary disability or permanent harm through
17 the toxic properties of toxic chemicals, **or their precursors**, that would be
18 released as a result of the employment of the **handheld** munitions and de-
19 vices; and

20 “[*(C)*] **(ii)** Any equipment specifically designed for use directly in con-
21 nection with the employment of **handheld** munitions and devices as de-

1 scribed in [subparagraph (B) of this paragraph] **sub-subparagraph (i) of**
2 **this subparagraph.**

3 “(B) **‘Handheld chemical incapacitant’ does not include tear gas.**

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

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

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

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

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

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

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

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

1 *and]*

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

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

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

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

17 **“(3) A law enforcement agency may not use tear gas for crowd**
18 **control except when:**

19 **“(a) The use is objectively reasonable by law enforcement to:**

20 **“(A) Defend against a threat to life or serious bodily injury to any**
21 **individual, including any peace officer; or**

22 **“(B) Bring an objectively dangerous and unlawful situation safely**
23 **and effectively under control; and**

24 **“(b) A commanding officer authorizes the use of tear gas.**

25 **“(4) A law enforcement agency may use tear gas only when the**
26 **circumstances constitute a riot as described in ORS 166.015 and the**
27 **use of tear gas is necessary to terminate or prevent furtherance of the**
28 **riot.**

29 **“(5)(a) A law enforcement agency may not use a kinetic impact**
30 **projectile indiscriminately for crowd control.**

1 “(b) A law enforcement agency may not use a kinetic impact
2 projectile for crowd control except when the kinetic impact projectile
3 is used against an individual engaged in conduct otherwise justifying
4 the use of physical force under ORS 161.195 to 161.275.

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

9 “(6) A law enforcement agency, when it is safe and possible to do
10 so, shall minimize the incidental impact of the agency’s use of
11 handheld chemical incapacitants, tear gas and kinetic impact
12 projectiles on bystanders, medical personnel, journalists and other
13 unintended targets.

14 “(7) A law enforcement agency shall adopt policies requiring the
15 cleanup of visible debris caused by the use of tear gas and kinetic
16 impact projectiles within a reasonable time of the use of tear gas and
17 kinetic impact projectiles.

18 “[(c)] (8) A law enforcement agency may not use [*a sound device for crowd*
19 *control for any purpose other than announcements*] **electronically amplified**
20 **noise-producing equipment except for announcements or to facilitate**
21 **movement of an emergency vehicle as allowed or required by ORS**
22 **820.300 or any other provision of law.** Whenever possible, a law enforce-
23 ment agency shall provide announcements for purposes of crowd control both
24 audibly and visually.

25 “[(3)] (9) When using **handheld** chemical incapacitants, **tear gas**, kinetic
26 impact projectiles or sound devices in compliance with this section, and
27 when it is possible to do so safely, a law enforcement agency:

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

30 “(b) May not prevent emergency medical services from reaching injured

1 persons.

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

4 “[~~4~~] **(10)** A law enforcement agency shall inform federal law enforcement
5 agencies of the requirements of this section.”.

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