

Submitter: Chris Bushick

On Behalf Of:

Committee: House Committee On Judiciary

Measure: HB4131

Chair Bynum and Members of the House Committee on Judiciary:

I am a privacy advocate and legal observer in Portland, and I submit this testimony on behalf of myself only. I strongly oppose HB 4131 as well as any other attempts to weaken HB 2928, which established reasonable restrictions on the use of tear gas and munitions for crowd control purposes.

The logic for this proposed legislation seems to be that, if law enforcement officers are not allowed to use military-style weapons, they'll instead be forced to respond to crowds with even greater physical force. I reject the notion that the only two options available for crowd management are “deploying toxic chemicals and impact munitions” or “beating people with batons”.

I am appalled that any of our local or state legislators might deem acceptable the deployment in Oregon communities of dangerous chemicals that have been banned from use in war zones¹. During the 2020 protests that arose following the murder of George Floyd, the Portland downtown area and several other neighborhoods were repeatedly blanketed with tear gas. Because these “gases” form clouds of particulates, their use cannot be targeted to specific individuals. As a result, their usage indiscriminately impacted not only peaceful demonstrators but also bystanders, houseless people, and even residents—including children—who were inside their homes.

While the health effects of tear gas are generally considered to be temporary, medical research has shown that exposure to these chemicals can cause permanent disability² related to human visual and/or respiratory systems.³ Exposing large numbers of people to these potentially serious consequences is both reprehensible and irresponsible.

¹ United Nations, 1925 Geneva Protocol, Office for Disarmament Affairs, <https://www.un.org/disarmament/wmd/bio/1925-geneva-protocol/>

² Tear Gas, American Lung Association (June 6, 2020) available at <https://www.lung.org/clean-air/outdoors/what-makes-air-unhealthy/toxic-air-pollutants/tear-gas>

³ *Facts About Riot Control Agents Interim document*, Centers for Disease Control and Prevention (April 4, 2018) available at <https://emergency.cdc.gov/agent/riotcontrol/factsheet.asp>

Furthermore, most studies have been done on young, healthy men⁴, so the effects on women, children, and the more diverse population are not yet fully known. During the 2020 protests, hundreds of women in Portland⁵ reported irregular periods and cramps after being exposed to tear gas. Another provision in HB 4131 seeks to eliminate protections for people seeking medical care from protest medics. No person in need of medical help, and no person offering such help, should face further harm or arrest.

In addition to the hazards posed by chemical weapons, kinetic impact projectiles and other so-called "less lethal" weapons are also dangerous and should not be fired into crowds of people. After all, the term is 'less lethal', not 'non-lethal', and these weapons can still cause life-threatening injuries, sometimes injuring persons who were not the intended target or who were not a threat at all. For example, at an August 2018 protest in Portland, at least two people were injured by flash-bang grenades⁶, and many people across the country were seriously injured during the 2020 protests⁷.

A better approach to resolving the concerns this legislation aims to address is to prioritize deescalation. Law enforcement agencies should require deescalation training and ensure that all officers tasked with managing crowds have been properly trained in both deescalation procedures and crowd management. The focus should be on keeping everyone safe—the officers *and* the general public, whether those members of the public are demonstrators, bystanders, people in their homes, or those forced to live on the streets.

As a society, we must set a very high bar for the use of toxic chemicals and potentially deadly munitions; they should only be used as a last resort. Oregon can lead the country in exercising care for the welfare of its residents. I urge you to do so by keeping tear gas and munitions usage protocols as defined in HB 2928.

Please vote NO on HB 4131.

Thank you,
Chris Bushick

⁴ Heather Murphy, Hundreds Reported Abnormal Menstruation After Exposure to Tear Gas, New York Times (May 1, 2021) available at <https://www.nytimes.com/2021/05/01/us/period-tear-gas-study-portland.html>

⁵ Rebecca Ellis, 'It's like they're testing it on us': Portland protesters say tear gas has caused irregularities with their periods, OPB (July 29, 2020) available at <https://www.opb.org/article/2020/07/29/tear-gas-period-menstrual-cycle-portland/>

⁶ Everton Bailey Jr., *Portland woman injured by police flash-bang grenade while protesting right-wing rally sues city*, The Oregonian/OregonLive (Aug. 5, 2018), available at <https://www.oregonlive.com/portland/2019/08/portland-woman-injured-by-police-flash-bang-grenade-while-protesting-right-wing-rally-sues-city.html>

⁷ Jordan Culver, *Analysis: 115 head injuries from rubber bullets, 'less lethal' weapons*, USA Today (Sep 14, 2020) available at Sep 14, 2020