

A-Engrossed
House Bill 2928

Ordered by the House April 13
Including House Amendments dated April 13

Sponsored by Representative BYNUM; Representatives CAMPOS, DEXTER, PHAM, POWER, REYNOLDS, VALDERRAMA (Presession 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.

Regulates use of chemical incapacitants, kinetic impact projectiles [*and*], sound devices **and strobe lights** by law enforcement agencies.

[*Creates private cause of action for person injured by unlawful use of chemical incapacitants, kinetic impact projectiles and sound devices by law enforcement agencies.*]

Prohibits law enforcement agency from using proxy law enforcement agency to enact measures that court or statute has barred law enforcement agency from using. Prohibits law enforcement agency from acting in concert with another law enforcement agency to engage in misconduct barred by statute or court order.

[*Eliminates immunity from claims under Oregon Tort Claims Act arising out of riot, civil commotion or mob action. Revives certain claims.*]

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the use of tools by law enforcement agencies; creating new provisions; repealing section
3 1, chapter 8, Oregon Laws 2020 (first special session); and declaring an emergency.

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

5 **SECTION 1. Section 1, chapter 8, Oregon Laws 2020 (first special session), is repealed.**

6 **SECTION 2. (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 pro-**
9 **hibited under this section, as long as the types and quantities are consistent with such pur-**
10 **poses;**

11 (B) **Munitions and devices specifically designed to cause temporary pain, temporary irri-**
12 **tation, temporary disruption of vital processes, temporary incapacitation, temporary disa-**
13 **bility or permanent harm through the toxic properties of toxic chemicals that would be**
14 **released as a result of the employment of the munitions and devices; and**

15 (C) **Any equipment specifically designed for use directly in connection with the employ-**
16 **ment of munitions and devices as described in subparagraph (B) of this paragraph.**

17 (b) **“Key component of a binary or multicomponent chemical system” means the precur-**
18 **sor that plays the most important role in determining the toxic properties of the final prod-**
19 **uct and that reacts rapidly with other chemicals in a binary or multicomponent system.**

20 (c) **“Kinetic impact projectile” means all nonlethal, less-lethal or semilethal projectiles,**
21 **including but not limited to rubber and plastic bullets, beanbag rounds, sponge rounds and**
22 **pellet rounds.**

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 (d) "Law enforcement agency" means the Department of State Police, the Department
2 of Justice, a district attorney, a political subdivision of the State of Oregon, a municipal
3 corporation of the State of Oregon and a university, that maintains a law enforcement unit
4 as defined in ORS 181A.355 (12)(a)(A).

5 (e) "Precursor" means any chemical reactant that takes part at any stage in the pro-
6 duction by whatever method of a toxic chemical, including any key component of a binary
7 or multicomponent chemical system.

8 (f) "Toxic chemical" means any chemical that through its chemical action on biological
9 processes can cause death, temporary pain, temporary irritation, temporary disruption of
10 vital processes, temporary incapacitation, temporary disability or permanent harm to hu-
11 mans or animals.

12 (2)(a) A law enforcement agency may not use a chemical incapacitant for crowd control,
13 except when one or more individuals in the crowd have engaged in conduct otherwise justi-
14 fying the use of physical force by a peace officer.

15 (b) A law enforcement agency may not use a kinetic impact projectile for crowd control
16 or discharge a kinetic impact projectile in a manner that intentionally targets the head of a
17 person, except against an individual engaged in conduct otherwise justifying the use of deadly
18 physical force by a peace officer.

19 (c) A law enforcement agency may not use a sound device for crowd control for any
20 purpose other than announcements. Whenever possible, a law enforcement agency shall
21 provide announcements for purposes of crowd control both audibly and visually.

22 (d) A law enforcement agency may not use a strobe light for crowd control.

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

26 (a) Shall attempt to take injured persons to safety or allow injured persons to seek
27 medical help.

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

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

31 (4) A law enforcement agency shall inform federal law enforcement agencies of the re-
32 quirements of this section.

33 **SECTION 3.** (1) As used in this section, "law enforcement agency" means the Department
34 of State Police, the Department of Justice, a district attorney, a political subdivision of the
35 State of Oregon, a municipal corporation of the State of Oregon and a university, that
36 maintains a law enforcement unit as defined in ORS 181A.355 (12)(a)(A).

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

39 (a) Use a proxy law enforcement agency to enact measures that a court or statute has
40 barred the law enforcement agency from using.

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

43 (3) Intentional violation of this section constitutes official misconduct in the second de-
44 gree under ORS 162.405.

45 **SECTION 4.** This 2021 Act being necessary for the immediate preservation of the public

1 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
2 **on its passage.**

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