



In 2021, communities, cities, and police came to the table and agreed to reasonable restrictions on the use of tear gas and munition weapons against protestors, communities, and the environment and the legislature passed HB 2928. Now the legislature should not weaken those restrictions because police don't want the accountability and protections for community safety created by this law.

The ACLU of Oregon and OJRC support HB 4131 -3 and oppose 4131 -5 and 4131 -6.

	4131 -3	CURRENT LAW HB 2928 (2021)	4131 -5	4131-6
When is <u>TEAR GAS</u> permitted?	Almost never. Most types of tear gas are expressly banned, and indiscriminate use is prohibited.	To stop a riot.	Any situation in which a commanding officer authorizes it to control a "dangerous and unlawful situation." ¹	"Dangerous and unlawful situation" AND de-escalation has failed, warning given, people have a chance to leave, munitions targeted at individuals engaged in violent acts, efforts have been made to extract people in distress + commanding officer authorization. Expressly not permitted for curfew violations, verbal threats, noncompliance with police orders.
When is <u>HANDHELD PEPPER SPRAY</u> permitted?	Against individuals who are engaged in conduct justifying this level of force.	To stop a riot.	Against individuals who are engaged in conduct justifying this level of force.	Same as tear gas, except no commanding officer authorization required.
When are <u>IMPACT MUNITIONS</u> permitted?	Inherently indiscriminate weapons (e.g. automatic pepper-ball guns, rubber ball grenades) are banned. Some impact munitions are permitted against an individual engaged in conduct justifying the amount of force used.	When used against an individual engaged in conduct justifying the amount of force used. Never fired at the head.	Against individuals who are engaged in conduct justifying this level of force.	Same as tear gas, except no commanding officer authorization required.
Does it restrict indiscriminate <u>FLASHBANGS AND STUN GRENADES</u> ?	Yes	No	No	No

¹ Police have repeatedly failed to comport with constitutional standards when given vague terms like these, including "unlawful assembly." Additionally, this is very likely a much lower threshold than riot. It is unclear how the additional riot restriction interplays with the express permission to use tear gas to control a dangerous and unlawful situation.

CURRENT LAW
HB 2928 (2021)

4131 -3 **4131 -5** **4131-6**

Does it limit unlawful <u>SHOVING</u> ?	Yes	No	No	No
Does it protect <u>MEDICS</u> ?	Yes	Yes	No. Only those under the term of art "emergency medical services" umbrella.	Yes
Does it protect <u>JOURNALISTS AND LEGAL OBSERVERS</u> constitutional access rights?	Yes	No	No	Minimally
Does it <u>EQUALLY PROTECT EVERYONE</u> from unconstitutional, indiscriminate force? (**The Fourth Amendment does not apply differently, for example, in protest crowds versus bar crowds or sporting event crowds.)	Yes	Yes, when read consistent with the Oregon DOJ's memo.	No. Limits protections to those within the narrow definition of "crowd control" situations. Fails to consider First Amendment standard in defining and permitting force for "crowd control" because it does not require an imminent threat.	No
Does it address <u>ENVIRONMENTAL HARMS</u> ?	No	No	Requires clean up policies for visible debris.	Requires shrapnel clean up.
Does it consider <u>DISABILITY ACCOMMODATIONS</u> ?	Minimally	Minimally	No	Minimally
Does it provide for <u>TRANSPARENCY</u> for munitions at protests?	Yes	No	No	Yes
Does it ensure officers, supervisors, and local governments are held <u>ACCOUNTABLE</u> for violations of the law?	Yes, including removing the protection of qualified immunity.	Minimally	No	No

THE BOTTOM LINE:

- ✓ **SUPPORT** HB 4131 -3, which creates stronger and clearer protections for protestors and medics.
- ✗ **OPPOSE** HB 4131 -5 and HB 4131 -6, which are changes that would weaken protections for protestors and medics and create dangerous lack of clarity.

RELEVANT LINKS

- [4141 Amendment Breakdown with citations](#)
- [DOJ Memo](#)
- [-5 Amendment Language](#)
- [-6 Amendment Language](#)