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**SENATE BILL 5927**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Senators Padden, Lovick, Holy, McCune, Torres, Wagoner, and L. Wilson

Prefiled 12/29/23. Read first time 01/08/24. Referred to Committee on Law & Justice.

1 AN ACT Relating to authorization of tear gas deployment by  
2 sheriffs; and amending RCW 10.116.030.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 10.116.030 and 2021 c 320 s 4 are each amended to  
5 read as follows:

6 (1) A law enforcement agency may not use or authorize its peace  
7 officers or other employees to use tear gas unless necessary to  
8 alleviate a present risk of serious harm posed by a: (a) Riot; (b)  
9 barricaded subject; or (c) hostage situation.

10 (2) Prior to using tear gas as authorized under subsection (1) of  
11 this section, the officer or employee shall:

12 (a) Exhaust alternatives to the use of tear gas that are  
13 available and appropriate under the circumstances;

14 (b) Obtain authorization to use tear gas from a supervising  
15 officer, who must determine whether the present circumstances warrant  
16 the use of tear gas and whether available and appropriate  
17 alternatives have been exhausted as provided under this section;

18 (c) Announce to the subject or subjects the intent to use tear  
19 gas; and

20 (d) Allow sufficient time and space for the subject or subjects  
21 to comply with the officer's or employee's directives.

1 (3) In the case of a riot outside of a correctional, jail, or  
2 detention facility, the officer or employee may use tear gas only  
3 after: (a) Receiving authorization from the highest elected official  
4 of the jurisdiction in which the tear gas is to be used, and (b)  
5 meeting the requirements of subsection (2) of this section.

6 (4) For the purposes of this section:

7 (a) "Barricaded subject" means an individual who is the focus of  
8 a law enforcement intervention effort, has taken a position in a  
9 physical location that does not allow immediate law enforcement  
10 access, and is refusing law enforcement orders to exit.

11 (b) "Highest elected official" means the county executive, or  
12 sheriff in those charter counties with an elective office of county  
13 executive, however designated, and in the case of other counties, the  
14 chair of the county legislative authority or sheriff. In the case of  
15 cities and towns, it means the mayor or sheriff, regardless of  
16 whether the mayor or sheriff is directly elected, selected by the  
17 council or legislative body pursuant to RCW 35.18.190 or 35A.13.030,  
18 or selected according to a process in an established city charter. In  
19 the case of actions by the Washington state patrol, it means the  
20 governor.

21 (c) "Hostage situation" means a scenario in which a person is  
22 being held against his or her will by an armed, potentially armed, or  
23 otherwise dangerous suspect.

24 (d) "Tear gas" means chloroacetophenone (CN), O-chlorobenzylidene  
25 malononitrile (CS), and any similar chemical irritant dispersed in  
26 the air for the purpose of producing temporary physical discomfort or  
27 permanent injury, except "tear gas" does not include oleoresin  
28 capsicum (OC).

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