

E2SHB 1310 - S AMD TO S AMD (S-2618.1/21) **790**
By Senator Padden

ADOPTED 04/10/2021

1 On page 5, after line 12, insert the following:

2 "NEW SECTION. **Sec. 7.** Notwithstanding provisions in this
3 chapter to the contrary, the following applies to the use of tear
4 gas:

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

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

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

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

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

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

21 (3) For the purposes of this section:

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

26 (b) "Hostage situation" means a scenario in which a person is
27 being held against his or her will by an armed, potentially armed, or
28 otherwise dangerous suspect.

29 (c) "Tear gas" means chloroacetophenone (CN), O chlorobenzylidene
30 malononitrile (CS), and any similar chemical irritant dispersed in
31 the air for the purpose of producing temporary physical discomfort or

1 permanent injury, except "tear gas" does not include oleoresin
2 capsicum (OC)."

3 Renumber the remaining sections consecutively and correct any
4 internal references accordingly.

5 On page 5, after line 17, insert the following:

6 "NEW SECTION. **Sec. 9.** Section 7 of this act is added to chapter
7 10.--- RCW (the new chapter created by section 10, chapter . . . ,
8 Laws of 2021 (Engrossed Substitute House Bill No. 1054))."

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9 On page 5, line 24, after "43.101 RCW;" insert "adding a new
10 section to chapter 10.--- RCW;"

EFFECT: Clarifies permissible use of force regarding tear gas.

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