

**ASSEMBLY BILL**

**No. 830**

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**Introduced by Assembly Member Speier**

February 22, 1995

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An act to amend Sections 12403, 12403.5, 12403.6, 12403.7, 12403.8, 12423, 12426, 12450, 12453, and 12458 of, and to repeal Sections 12435 and 12460 of, the Penal Code, relating to tear gas weapons.

LEGISLATIVE COUNSEL'S DIGEST

AB 830, as introduced, Speier. Tear gas weapons.

Existing law regulates the purchase, possession, transportation, and use of any tear gas or tear gas weapon and makes its provisions applicable to, among others, specified peace officers, licensed private investigators, private patrol operators, employees of specified state agencies, and minors.

This bill would revise and recast these provisions by repealing certain licensing requirements administered by the Department of Justice and other requirements covering oleoresin capsicum certification and the purchase, possession, or use of tear gas or tear gas weapons in which this active ingredient is used. The department would be authorized to issue a permit for the possession and transportation of tear gas or tear gas weapons that are not intended or certified for personal self-defense purposes, upon proof that good cause exists for the issuance of this permit. The bill would make other related, technical and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 12403 of the Penal Code is  
2 amended to read:

3 12403. Nothing in this chapter shall prohibit any  
4 person who is a peace officer, as defined in Chapter 4.5  
5 (commencing with Section 830) of Title 3 of Part 2, from  
6 purchasing, possessing, transporting, or using any tear gas  
7 *or tear gas* weapon, ~~if the weapon has been certified as~~  
8 ~~acceptable under Article 5 (commencing with Section~~  
9 ~~12450) of this chapter and if the person has satisfactorily~~  
10 ~~completed a course of instruction approved by the~~  
11 ~~Commission on Peace Officer Standards and Training in~~  
12 ~~the use of tear gas.~~

13 SEC. 2. Section 12403.5 of the Penal Code is amended  
14 to read:

15 12403.5. Notwithstanding any other provision of law,  
16 a person holding a license as a private investigator or  
17 private patrol operator issued pursuant to Chapter 11  
18 (commencing with Section 7500), Division 3 of the  
19 Business and Professions Code, or uniformed patrolmen  
20 employees of a private patrol operator, may purchase,  
21 possess, or transport any tear gas weapon, if it is used  
22 solely for defensive purposes in the course of the activity  
23 for which the license was issued ~~and if such person has~~  
24 ~~satisfactorily completed a course of instruction approved~~  
25 ~~by the Commission on Peace Officer Standards and~~  
26 ~~Training in the use of tear gas.~~

27 SEC. 3. Section 12403.6 of the Penal Code is amended  
28 to read:

29 12403.6. Provisions within this chapter shall not be  
30 construed to prohibit any Department of Justice or  
31 ~~Department of Health~~ *California Environmental*  
32 *Protection Agency* employee, while acting within the  
33 scope of his duties, from possessing any tear gas or tear gas  
34 weapon for the purposes of examination, testing, or court  
35 appearance or any other official activity undertaken  
36 pursuant to the provisions of this chapter.

37 SEC. 4. Section 12403.7 of the Penal Code is amended  
38 to read:



1 12403.7. (a) Notwithstanding any other law, any  
2 person may purchase, possess, or use tear gas and tear gas  
3 weapons for the projection or release of tear gas if the tear  
4 gas and tear gas weapons are approved by the  
5 Department of Justice and are used solely for self-defense  
6 purposes, subject to the following requirements:

7 (1) No person convicted of a felony or any crime  
8 involving an assault under the laws of the United States,  
9 of the State of California, or any other state, government,  
10 or country or convicted of misuse of tear gas under  
11 paragraph (8) shall purchase, possess, or use tear gas or  
12 tear gas weapons.

13 (2) No person who is addicted to any narcotic drug  
14 shall purchase, possess, or use tear gas or tear gas  
15 weapons.

16 (3) No person shall sell or furnish any tear gas or tear  
17 gas weapon to a minor.

18 (4) No person who is a minor shall purchase, possess,  
19 or use tear gas or tear gas weapons.

20 (5) (A) No person shall purchase, possess, or use any  
21 tear gas weapon that expels a projectile, or that expels the  
22 tear gas by any method other than an aerosol spray, or  
23 that is of a type, or size of container, other than authorized  
24 by regulation of the Department of Justice.

25 (B) The department, with the cooperation of the ~~State~~  
26 ~~Department of Health Services,~~ *Environmental*  
27 *Protection Agency's Office of Environmental Health*  
28 *Hazard Assessment, hereinafter referred to as*  
29 *"Cal-EPA,"* shall develop standards regarding the type of  
30 tear gas and tear gas weapons that may lawfully be  
31 purchased, possessed, and used pursuant to this section-

32 ~~(C) Every tear gas container and tear gas weapon that~~  
33 ~~may be lawfully purchased, possessed, and used pursuant~~  
34 ~~to this section and shall have a label that states:~~  
35 "WARNING: The use of this substance or device for any  
36 purpose other than self-defense is a felony under the law.  
37 The contents are dangerous—use with care."

38 (D) After January 1, 1984, every tear gas container and  
39 tear gas weapon that may be lawfully purchased,  
40 possessed, and used pursuant to this section shall have a



1 label that discloses the date on which the useful life of the  
2 tear gas weapon expires.

3 (6) Effective March 1, 1994, every tear gas container  
4 and tear gas weapon that may be lawfully purchased,  
5 possessed, and used pursuant to this section be  
6 accompanied by an insert including directions for use,  
7 first aid information, safety and storage information, and  
8 explanation of the legal ramifications of improper use of  
9 the tear gas container or tear gas product. The  
10 Department of Justice may issue informational guidelines  
11 that shall be used as a minimum standard for compliance  
12 with this insert requirement.

13 ~~(7) (A) No person shall purchase, possess, or use any~~  
14 ~~tear gas or any tear gas weapon that has been certified by~~  
15 ~~the Department of Justice without first obtaining a tear~~  
16 ~~gas instruction card issued by the Department of Justice.~~  
17 ~~Any person who legally possesses a tear gas certificate~~  
18 ~~issued by the Department of Justice prior to March 1,~~  
19 ~~1994, shall obtain oleoresin capsicum certification~~  
20 ~~pursuant to this section to purchase, possess, or use a tear~~  
21 ~~gas weapon in which the active ingredient is oleoresin~~  
22 ~~capsicum. Commencing March 1, 1994, the department~~  
23 ~~shall issue a tear gas instruction card to an applicant if any~~  
24 ~~of the following criteria are satisfied:~~

25 ~~(i) The applicant has completed a course in the use of~~  
26 ~~tear gas and tear gas weapons certified by the~~  
27 ~~Department of Justice.~~

28 ~~(ii) The applicant has completed an objective test as~~  
29 ~~prescribed by the Department of Justice that includes a~~  
30 ~~requirement that the participant test spray a tear gas~~  
31 ~~canister that contains inert ingredients. The purpose of~~  
32 ~~the objective test is to ensure knowledge of tear gas~~  
33 ~~safety. The test shall consist of not less than 20, nor more~~  
34 ~~than 30, questions. An applicant shall respond successfully~~  
35 ~~to at least 75 percent of the total number of questions to~~  
36 ~~pass the test. This test shall be administered by a licensed~~  
37 ~~point-of-sale tear gas retailer or by a certified tear gas~~  
38 ~~training institution.~~

39 ~~(iii) Completion of point-of-sale instruction,~~  
40 ~~administered by a licensed point-of-sale tear gas retailer,~~



1 ~~or by a certified tear gas training institution that satisfies~~  
2 ~~each of the following criteria:~~

3 ~~(I) Includes an instructional videotape not more than~~  
4 ~~30 minutes that has been approved by the Department of~~  
5 ~~Justice. The instructional training for oleoresin capsicum~~  
6 ~~certification shall not exceed 10 minutes, as specified by~~  
7 ~~the department, for any person who legally possesses a~~  
8 ~~tear gas certificate issued by the Department of Justice~~  
9 ~~prior to March 1, 1994.~~

10 ~~(H) Requires the course participants to test spray a~~  
11 ~~tear gas canister that contains inert ingredients.~~

12 ~~(B) If the purchase of tear gas or any tear gas weapon~~  
13 ~~is denied, the retailer denying the purchase shall inform~~  
14 ~~the person in writing of the reason for the denial. The~~  
15 ~~valid instruction card shall be carried on the person when~~  
16 ~~carrying tear gas or tear gas weapons and shall be~~  
17 ~~presented for examination to the retailer from whom any~~  
18 ~~tear gas or tear gas weapons are purchased. The sale of~~  
19 ~~tear gas or tear gas weapons by a retailer to a person who~~  
20 ~~fails to present a valid instruction card is a violation of~~  
21 ~~Section 12420.~~

22 ~~(C) The following fees shall be established by the~~  
23 ~~Department of Justice. The establishment of these fees is~~  
24 ~~exempt from Chapter 3.5 (commencing with Section~~  
25 ~~11340) of Part 1 of Division 3 of the Government Code.~~  
26 ~~The following fees may be charged:~~

27 ~~(i) A fee charged to the applicant for the tear gas~~  
28 ~~instruction card not to exceed ten dollars (\$10) paid to the~~  
29 ~~Department of Justice for the cost of the Department of~~  
30 ~~Justice to administer the program.~~

31 ~~(ii) A fee, not to exceed five dollars (\$5), paid to the~~  
32 ~~Department of Justice by each person requesting a~~  
33 ~~replacement certificate from the department.~~

34 ~~(iii) A fee to the applicant for the objective test or~~  
35 ~~point-of-sale instruction not to exceed ten dollars (\$10)~~  
36 ~~paid to the point-of-sale retailer or administrator of the~~  
37 ~~objective test or Department of Justice certified tear gas~~  
38 ~~training institution.~~

39 ~~(iv) A fee, not to exceed five dollars (\$5), paid to the~~  
40 ~~Department of Justice by each person who legally~~



1 ~~possesses a tear gas certificate issued prior to March 1,~~  
 2 ~~1994, and who requests oleoresin capsicum certification~~  
 3 ~~to obtain a tear gas weapon in which oleoresin capsicum~~  
 4 ~~is the active ingredient.~~

5 ~~(v) Pursuant to clause (i) of subparagraph (A) of~~  
 6 ~~paragraph (7), Department of Justice certified tear gas~~  
 7 ~~training institutions are hereby authorized to charge a fee~~  
 8 ~~covering the actual cost of that training.~~

9 ~~(8)~~

10 (7) Any person who uses tear gas or tear gas weapons  
 11 except in self-defense is guilty of a public offense and is  
 12 punishable by imprisonment in a state prison for 16  
 13 months, or two or three years or in a county jail not to  
 14 exceed one year or by a fine not to exceed one thousand  
 15 dollars (\$1,000), or by both the fine and imprisonment,  
 16 except that if the use is against a peace officer, as defined  
 17 in Chapter 4.5 (commencing with Section 830) of Title 3  
 18 of Part 2, engaged in the performance of his or her official  
 19 duties and the person committing the offense knows or  
 20 reasonably should know that the victim is a peace officer,  
 21 the offense is punishable by imprisonment in a state  
 22 prison for 16 months or two or three years or by a fine of  
 23 one thousand dollars (\$1,000), or by both the fine and  
 24 imprisonment.

25 ~~(b) Notwithstanding Section 12420, any person who~~  
 26 ~~has not obtained a tear gas instruction card issued by the~~  
 27 ~~Department of Justice and who uses in self-defense, or~~  
 28 ~~purchases or possesses for the purpose of self-defense, any~~  
 29 ~~tear gas or tear gas weapon that has been certified by the~~  
 30 ~~Department of Justice as acceptable pursuant to Article~~  
 31 ~~5 (commencing with Section 12450) is guilty of an~~  
 32 ~~infraction, punishable by a fine not to exceed one~~  
 33 ~~hundred dollars (\$100). Any person who uses in~~  
 34 ~~self-defense, or purchases or possesses for the purpose of~~  
 35 ~~self-defense, any tear gas or tear gas weapon that has not~~  
 36 ~~been certified by the Department of Justice is guilty of a~~  
 37 ~~misdemeanor, punishable by imprisonment in a county~~  
 38 ~~jail for a period not to exceed one year, or by a fine not~~  
 39 ~~to exceed two thousand dollars (\$2,000), or by both the~~  
 40 ~~fine and imprisonment.~~



1 ~~(c) The tear gas instruction card specified in~~  
2 ~~paragraph (7) of subdivision (a) shall be valid, provided~~  
3 ~~the person meets the requirements in subdivision (a);~~  
4 ~~and shall be nontransferable.~~

5 ~~(d) Documentation necessary to administer this~~  
6 ~~section shall be uniform throughout the state as~~  
7 ~~prescribed by the Department of Justice.~~

8 ~~(e) The Department of Justice may adopt and~~  
9 ~~promulgate regulations concerning the purchase and~~  
10 ~~disposal of self-defense tear gas weapons, the standards~~  
11 ~~for tear gas training courses, and the approval of facilities~~  
12 ~~at which the training shall occur as necessary to ensure~~  
13 ~~the safe use and possession of any tear gas weapon.~~

14 ~~(f) The Department of Justice may develop standards~~  
15 ~~and promulgate regulations concerning the~~  
16 ~~requirements for obtaining a tear gas instruction card.~~

17 SEC. 5. Section 12403.8 of the Penal Code is amended  
18 to read:

19 12403.8. (a) Notwithstanding paragraph (4) of  
20 subdivision (a) of Section 12403.7, a minor who has  
21 attained the age of 16 years may purchase, *and* possess;  
22 ~~and use~~ tear gas or tear gas weapons pursuant to this  
23 chapter if he or she ~~has signed an affidavit in a format~~  
24 ~~prescribed by the Department of Justice stating under~~  
25 ~~penalty of perjury his or her intent to use the tear gas or~~  
26 ~~tear gas weapon solely for self-defense purposes and is~~  
27 ~~accompanied by a parent or guardian, or has obtained~~ the  
28 written consent of his or her parent or guardian, ~~as~~  
29 ~~specified in subdivision (b).~~

30 (b) Notwithstanding paragraph (3) of subdivision (a)  
31 of Section 12403.7, a person may sell or furnish tear gas or  
32 a tear gas weapon to a minor who has attained the age of  
33 16 years and who *is accompanied by a parent or guardian,*  
34 *or who* presents a statement of consent signed ~~and~~  
35 ~~verified~~ by the minor's parent or guardian ~~and a signed~~  
36 ~~affidavit in a format prescribed by the Department of~~  
37 ~~Justice stating under penalty of perjury the person's~~  
38 ~~intent to use the tear gas or tear gas weapon solely for~~  
39 ~~self-defense purposes.~~



1 (c) Any civil liability of a minor arising out of his or her  
2 use of tear gas or a tear gas weapon other than for  
3 self-defense is imposed upon the person, *parent, or*  
4 *guardian* who signed ~~and verified~~ the statement of  
5 consent specified in subdivision (b) who shall be jointly  
6 and severally liable with the minor for any damages  
7 proximately resulting from the negligent or wrongful act  
8 or omission of the minor in the use of the tear gas or a tear  
9 gas weapon.

10 ~~(d) The Department of Justice shall prescribe the~~  
11 ~~form of the statement of consent required by subdivision~~  
12 ~~(b).~~

13 SEC. 6. Section 12423 of the Penal Code is amended  
14 to read:

15 12423. The Department of Justice may issue a permit  
16 for the possession and transportation of tear gas or tear gas  
17 weapons *that are not intended or certified for personal*  
18 *self-defense purposes*, upon proof that good cause exists  
19 for the issuance thereof to the applicant for ~~such~~ *this*  
20 permit. The permit may also allow the applicant to install,  
21 maintain, and operate a protective system involving the  
22 use of tear gas or tear gas weapons in any place which is  
23 accurately and completely described in the application  
24 for the permit.

25 SEC. 7. Section 12426 of the Penal Code is amended  
26 to read:

27 12426. Permits issued in accordance with this article  
28 may be revoked or suspended by the issuing authority at  
29 any time when it appears that the need for the possession  
30 or transportation of the tear gas or tear gas weapons or  
31 protective system involving the use thereof, has ceased,  
32 or that the holder of the permit has engaged in an  
33 unlawful business or occupation or has wrongfully made  
34 use of the tear gas or tear gas weapons or the permit  
35 issued ~~or that the holder of the permit was in the~~  
36 ~~possession of tear gas or tear gas weapons not authorized~~  
37 ~~under the provisions of this chapter.~~

38 SEC. 8. Section 12435 of the Penal Code is repealed.

39 ~~12435. The Department of Justice may grant licenses~~  
40 ~~in a form to be prescribed by it effective for not more than~~



1 ~~one year from the date of issuance, to permit the sale at~~  
2 ~~retail of tear gas or tear gas weapons, and to permit the~~  
3 ~~installation and maintenance of protective systems~~  
4 ~~involving the use of tear gas or tear gas weapons subject~~  
5 ~~to all of the following conditions upon breach of any of~~  
6 ~~which the license shall be subject to forfeiture:~~

7 ~~(a) Under a sales license for the sale of tear gas or tear~~  
8 ~~gas weapons issued by the department, the business shall~~  
9 ~~be carried on only in the building designated in the~~  
10 ~~license, except that self-defense products may be sold at~~  
11 ~~the place of instruction.~~

12 ~~(b) The license or certified copy thereof shall be~~  
13 ~~displayed at each sales premises in a place where it may~~  
14 ~~easily be read.~~

15 ~~(c) No tear gas or tear gas weapon shall be delivered~~  
16 ~~to any person not authorized to possess or transport the~~  
17 ~~same under the provisions of this chapter. No protective~~  
18 ~~system involving the use of tear gas or tear gas weapons~~  
19 ~~shall be installed, nor shall supplies be sold for the~~  
20 ~~maintenance of such system, unless the licensee has~~  
21 ~~personal knowledge of the existence of a valid permit for~~  
22 ~~the operation and maintenance of the system.~~

23 ~~(d) A permanent complete sales register shall be kept~~  
24 ~~of self-defense tear gas and tear gas weapons sales made~~  
25 ~~under the authority of the license, showing all of the~~  
26 ~~following:~~

27 ~~(1) The purchaser's name, date of birth, and address;~~  
28 ~~the purchaser's identification card number and date of~~  
29 ~~issue; the purchaser's response to questions pertaining to~~  
30 ~~his or her eligibility to purchase tear gas or tear gas~~  
31 ~~weapons pursuant to the requirements of subdivision (a)~~  
32 ~~of Section 12403.7.~~

33 ~~(2) The quantity and description, including serial~~  
34 ~~numbers of articles purchased.~~

35 ~~(3) The business name, address, and telephone~~  
36 ~~number; the business retail tear gas sales license number;~~  
37 ~~and the name and signature of the person making the~~  
38 ~~sales.~~

39 ~~(4) The date and time of sale.~~



1 ~~(c) This sales register shall be open to the inspection~~  
2 ~~of any peace officer or other person designated by the~~  
3 ~~Attorney General.~~

4 ~~(f) The original copy of the sales register shall be~~  
5 ~~retained as part of the vendor's permanent record of~~  
6 ~~sales. The duplicate copy of the sales register of each~~  
7 ~~transaction shall, on the date of sale, be placed in the mail,~~  
8 ~~postage prepaid, and properly addressed to the chief of~~  
9 ~~police or sheriff who has jurisdiction over the purchaser's~~  
10 ~~place of residence.~~

11 ~~(g) The sales register requirements of this section shall~~  
12 ~~not apply to wholesale or retail dealers in their normal~~  
13 ~~business intercourse with other wholesale or retail~~  
14 ~~dealers.~~

15 ~~(h) The sales register required for each tear gas~~  
16 ~~weapon sale shall be prepared by and obtained from the~~  
17 ~~Department of General Services and shall be furnished~~  
18 ~~by the Department of General Services to the licensed~~  
19 ~~vendor on application at a cost to be determined by the~~  
20 ~~Department of General Services for each 100 leaves in~~  
21 ~~duplicate, one original and one duplicate for the making~~  
22 ~~of one carbon copy. The original and duplicate copy shall~~  
23 ~~differ in color, and shall be in a form prescribed by the~~  
24 ~~Department of Justice.~~

25 ~~The Department of General Services upon issuing a~~  
26 ~~register shall forward to the Department of Justice the~~  
27 ~~name and business address of the vendor together with~~  
28 ~~the series and sheet numbers of the register. The register~~  
29 ~~shall not be transferable. If the vendor moves his business~~  
30 ~~to a different location he shall notify the Department of~~  
31 ~~Justice of such fact in writing within 48 hours.~~

32 ~~(i) Each applicant for the tear gas sales license~~  
33 ~~described in this section shall pay at the time of filing his~~  
34 ~~or her application a fee determined by the Department~~  
35 ~~of Justice not to exceed the application processing costs~~  
36 ~~of the Department of Justice. A license granted pursuant~~  
37 ~~to this article may be renewed one year from the date of~~  
38 ~~issuance, and annually thereafter, upon the filing of a~~  
39 ~~renewal application and the payment of a license renewal~~  
40 ~~fee not to exceed the application processing costs of the~~



1 ~~Department of Justice. After the department establishes~~  
2 ~~fees sufficient to reimburse the department for~~  
3 ~~processing costs, fees charged shall increase at a rate not~~  
4 ~~to exceed the legislatively approved annual cost-of-living~~  
5 ~~adjustments for the department's budget.~~

6 SEC. 9. Section 12450 of the Penal Code is amended  
7 to read:

8 12450. Except as ~~specified in Section 12460~~ *otherwise*  
9 *authorized by this chapter*, no tear gas or tear gas weapon  
10 shall be possessed, sold, or transported in this state after  
11 January 1, 1971, unless, pursuant to this article, the  
12 Department of Justice has certified that particular type  
13 and brand of tear gas or tear gas weapon to be acceptable.

14 SEC. 10. Section 12453 of the Penal Code is amended  
15 to read:

16 12453. Any application submitted pursuant to Section  
17 12452 shall contain all of the following:

18 (a) Full reports of any investigation conducted by any  
19 public or private agency for the purpose of determining  
20 whether ~~such~~ *the* tear gas or tear gas weapon is  
21 acceptable.

22 (b) A full statement of the composition of each  
23 component of ~~such~~ *the* tear gas or tear gas weapon.

24 (c) A full statement of the methods used in, and the  
25 facilities and controls used for, the manufacture,  
26 processing and packing of ~~such~~ *the* tear gas or tear gas  
27 weapon.

28 (d) ~~Such~~ *Any* samples of ~~such~~ tear gas or tear gas  
29 weapon and its components ~~as~~ *that* the ~~bureau~~  
30 *department* may require.

31 (e) Specimens of the labeling, instructions, and  
32 advertisements used or proposed to be used for ~~such~~ *the*  
33 tear gas or tear gas weapon.

34 SEC. 11. Section 12458 of the Penal Code is amended  
35 to read:

36 12458. Prior to certification of any tear gas or tear gas  
37 weapon, the department shall request from ~~the State~~  
38 ~~Department of Health Cal-EPA~~ a report on each type and  
39 brand of tear gas or the contents of each type and brand  
40 of tear gas weapon submitted to it by the department. At



1 the Attorney General's discretion, ~~the State Department~~  
 2 ~~of Health Cal-EPA~~ shall prepare and transmit ~~such the~~  
 3 report to the department, and shall also submit  
 4 supplemental reports whenever the facts warrant ~~such~~  
 5 ~~that~~ action. All the reports shall be for the purpose of  
 6 aiding the department in determining whether the type  
 7 and brand of tear gas or the contents of the dispensed  
 8 material of the particular type and brand of tear gas  
 9 weapon are harmful, toxic, or present any health hazards  
 10 to human beings, and shall be based on any one or more  
 11 of the following:

- 12 (a) Investigations conducted by the facilities of ~~the~~  
 13 ~~State Department of Health Cal-EPA.~~
- 14 (b) Investigations conducted by independent  
 15 laboratories.
- 16 (c) Any other investigations approved by ~~the State~~  
 17 ~~Department of Health Cal-EPA.~~

18 The applicant shall reimburse ~~the State Department of~~  
 19 ~~Health Cal-EPA~~ and the Department of Justice for any  
 20 actual expenses incurred by ~~such the~~ departments in  
 21 connection with ~~such the~~ reports.

22 SEC. 12. Section 12460 of the Penal Code is repealed.

23 ~~12460. Notwithstanding Section 12450, any person~~  
 24 ~~who is otherwise in compliance with this chapter may~~  
 25 ~~purchase, possess, or use tear gas, or a tear gas weapon, in~~  
 26 ~~which the active ingredient is oleoresin capsicum.~~  
 27 ~~However, no oleoresin capsicum tear gas weapon that~~  
 28 ~~will cause or permit the release or emission of oleoresin~~  
 29 ~~capsicum either as a liquid or gas through being~~  
 30 ~~vaporized or otherwise dispersed in the air shall be~~  
 31 ~~purchased, possessed, used, sold, or transported in this~~  
 32 ~~state unless the Department of Justice has certified that~~  
 33 ~~the particular brand of oleoresin capsicum tear gas or~~  
 34 ~~type of oleoresin capsicum tear gas weapon is acceptable~~  
 35 ~~pursuant to Article 5 (commencing with Section 12450).~~

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