HB5553

LRB104 19204 BDA 34222 b

104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB5553

Introduced 2/13/2026, by Rep. Edgar González, Jr.

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.1038 new

Creates the Building Remedies to End Abusive Tear Gas and Harmful Exposures Act. Establishes the Chemical Agent Review Board within the Department of Public Health, and sets forth the Board's membership and duties. Prohibits deployment or possession of lachrymatory agents in the State, except for limited purposes. Requires the Department to adopt rules for approval of pepper spray formulations, including safety standards, testing protocols, and restrictions on delivery mechanisms. Directs the Department to maintain a public database of approved formulations and adverse event reports. Provides for reporting of chemical irritant deployments other than for personal self-defense. Creates a private right of action and enforcement authority for the Attorney General and certain organizations, with remedies including damages, civil penalties, and injunctive relief. Establishes the Illinois Human Rights Enforcement Fund. Includes home rule limitation and severability provisions and transition and compliance periods. Amends the State Finance Act to make conforming changes. Effective immediately.

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A BILL FOR

AN ACT concerning safety.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short title. This Act may be cited as the Building Remedies to End Abusive Tear Gas and Harmful Exposures Act.

Section 5. Findings; purpose.

(a) The General Assembly finds that:

(1) Illinois has a compelling interest in protecting all persons within its territorial boundaries from exposure to dangerous chemical agents that cause severe pain, respiratory distress, permanent injury, and death.

(2) The deployment of chemical irritant agents, including tear gas and pepper spray, poses serious public health risks to Illinois residents and all persons present in Illinois, particularly vulnerable populations, including children, pregnant individuals, elderly persons, and persons with pre-existing respiratory, cardiac, or other medical conditions.

(3) Tear gas and other lachrymatory agents have been associated with severe injuries including permanent respiratory damage, miscarriages, vision impairment, chemical burns, and death, and present unacceptable public

health risks when deployed in populated areas or enclosed spaces.

(4) Unregulated pepper spray formulations may contain concentrations of active ingredients and additional compounds that cause injuries far exceeding their intended temporary incapacitating effect.

(5) Illinois law enforcement agencies have demonstrated that tear gas is unnecessary for effective crowd control and public safety operations. Public reporting indicates that since 2021, the Chicago Police Department has emphasized crowd-management strategies that avoid tear gas and successfully managed major events, including the 2024 Democratic National Convention, without resorting to tear gas or other lachrymatory agents.

(b) The purposes of this Act are:

(1) to protect all persons in Illinois from serious injury caused by dangerous chemical irritant agents;

(2) to establish science-based public health standards for chemical irritant agents;

(3) to prohibit the deployment of tear gas and other lachrymatory agents that pose unacceptable public health risks;

(4) to ensure that pepper spray formulations used in Illinois meet rigorous safety standards;

(5) to provide comprehensive remedies for persons injured by prohibited or unapproved chemical agents; and

(6) to ensure even enforcement of public health protections on behalf of affected communities.

Section 10. Definitions. As used in this Act:

"Approved formulation" means a pepper spray or oleoresin capsicum formulation that has received approval from the Department under this Act and for which approval is current and has not been suspended or revoked.

"Board" means the Chemical Agent Review Board established under Section 15 of this Act.

"Capsaicinoid content" means the total concentration of capsaicinoids, expressed as a percentage by weight, contained in a chemical irritant agent.

"Chemical irritant agent" means any substance, compound, or mixture designed, intended, or used to cause temporary or permanent incapacitation, pain, irritation, disorientation, or impairment through chemical action affecting the eyes, respiratory system, skin, or nervous system.

"Chemical irritant agent" includes, without limitation:

(1) any lachrymatory agent;

(2) oleoresin capsicum, pepper spray, and any capsaicinoid-based irritant; and

(3) any compound, mixture, or formulation marketed, labeled, or commonly known as tear gas, pepper spray, mace, or chemical agent.

"Chemical irritant agent" does not include common

household products such as cleaning agents or personal care products not specifically designed, marketed, or intended for use as incapacitating agents.

"Deploy" means to release, discharge, dispense, spray, apply, or cause to be released any chemical irritant agent, or to use any device or mechanism to expose any person to a chemical irritant agent.

"Deploy" includes both direct application to a person and area dispersal that causes or is reasonably likely to cause exposure to any person.

"Department" means the Department of Public Health.

"Interested party organization" means a not-for-profit corporation, as defined by the General Not For Profit Corporation Act of 1986, or a labor organization, as defined by 29 U.S.C. 152(5), that:

(1) has as a significant part of its mission the protection of civil rights, immigrant rights, civil liberties, or public health;

(2) has provided services to or advocated on behalf of communities in Illinois for at least one year before bringing an action under this Act; and

(3) has members, clients, or constituents who reside in or are present in this State.

"Lachrymatory agent" means any compound or substance designed or intended to cause lacrimation, eye pain, temporary blindness, or irritation of mucous membranes, and includes,

without limitation, tear gas, ortho-chlorobenzylidene malononitrile, chloroacetophenone, dibenzoxazepine, and any similar compound.

"Person" means any individual, corporation, partnership, association, governmental entity or agency, or any other legal entity.

Section 15. Chemical Agent Review Board.

(a) The Department shall establish the Chemical Agent Review Board within 90 days after the effective date of this Act. The Board shall consist of 11 members appointed by the Director of Public Health as follows:

(1) two members who are physicians licensed under the Medical Practice Act of 1987, at least one of whom has expertise in emergency medicine and at least one of whom has expertise in pulmonology or toxicology;

(2) one member who is a toxicologist with expertise in chemical exposure and public health employed by an academic institution or research organization;

(3) one member who is a chemist with expertise in analytical chemistry or chemical safety employed by an academic institution or research organization;

(4) one member who is an attorney with expertise in civil rights, constitutional law, or tort law;

(5) three members who represent community organizations focused on immigrant rights, police

accountability, civil liberties, or public health advocacy;

(6) one member who represents a municipal law enforcement agency in Illinois; and

(7) two members of the public who have no financial interest in the manufacture, sale, distribution, or use of chemical irritant agents.

(b) In appointing members under paragraphs (5) and (7) of subsection (a), the Director shall prioritize individuals with expertise in or experience with communities disproportionately affected by chemical irritant agent deployments.

(c) Members shall serve 3-year terms and may be reappointed for one additional term. Initial appointments shall be staggered so that approximately one-third of members' terms expire each year. The Director shall designate a chairperson from among the Board members.

(d) Board members shall receive no compensation but shall be reimbursed for reasonable travel expenses and other expenses necessarily incurred in the performance of their duties.

(e) The Board shall meet at least quarterly and at additional times the chairperson deems necessary. Six members shall constitute a quorum.

(f) The Board shall advise the Department on:

(1) scientific and medical criteria for evaluating pepper spray formulations;

(2) testing protocols and evidentiary standards for approval;

(3) ongoing monitoring of adverse health effects associated with approved formulations;

(4) review of new peer-reviewed scientific evidence regarding chemical irritant agents;

(5) recommendations for revision of standards and rules; and

(6) public health impacts of chemical irritant agent deployments in Illinois.

(g) The Department shall provide adequate administrative and technical support for the Board, including staff, meeting space, and resources necessary to fulfill the Board's duties.

(h) All meetings of the Board shall be open to the public under the Open Meetings Act, except that the Board may meet in closed session to discuss pending litigation or proprietary information as permitted by law.

Section 20. Prohibition on lachrymatory agents.

(a) Except as provided in subsection (c), no person shall deploy any lachrymatory agent in this State.

(b) Except as provided in subsection (c), no person shall possess any lachrymatory agent in this State for the purpose of deploying the agent in this State.

(c) This Section does not apply:

(1) if the possession or transportation of the

lachrymatory agent is in the course of interstate commerce and the agent is not deployed in this State;

(2) to possession by manufacturers, distributors, or retailers in sealed containers in the ordinary course of business, if the persons do not sell, transfer, or provide lachrymatory agents to any person for use in this State; or

(3) to possession of commercially available personal defense devices containing lachrymatory agents in quantities of less than 2 ounces for personal self-defense, if the lachrymatory agents are not deployed except in lawful self-defense.

(d) The prohibitions in this Section apply to all persons operating within or causing injury in this State.

Section 25. Department rulemaking for pepper spray approval.

(a) Within 180 days after the effective date of this Act, the Department shall adopt rules, in consultation with the Board, establishing comprehensive standards for the approval of pepper spray and oleoresin capsicum formulations. The rules shall establish:

(1) the maximum permissible capsaicinoid content, which shall not exceed 1.3% by weight unless an applicant demonstrates by clear and convincing peer-reviewed scientific evidence that a higher concentration is

necessary for legitimate law enforcement purposes and does not present unacceptable health risks to the general population or to vulnerable subpopulations;

(2) prohibited compounds, additives, propellants, and carriers, including:

(A) UV marking dyes or any substance designed to permanently mark or identify exposed individuals;

(B) any compound identified by the International Agency for Research on Cancer, the National Toxicology Program, or other recognized scientific authorities as a known or probable human carcinogen;

(C) any compound identified by recognized scientific or medical authorities as neurotoxic, mutagenic, or a reproductive toxin;

(D) any propellant or carrier that independently causes respiratory distress, chemical burns, or other injury beyond the intended temporary incapacitating effect of capsaicinoids; and

(E) any compound that impedes or delays decontamination;

(3) mandatory testing protocols that applicants must complete using protocols approved by the Department, including:

(A) testing on the effects on individuals with asthma, chronic obstructive pulmonary disease, and other respiratory conditions;

(B) testing on the effects on individuals with cardiovascular disease;

(C) testing on pregnant subjects or, if such testing is ethically prohibited, peer-reviewed literature review and risk assessment regarding effects on pregnant individuals and fetal development;

(D) assessment of long-term health consequences of single and repeated exposure;

(E) testing regarding interactions with commonly prescribed medications, including, but not limited to, anticoagulants, bronchodilators, and cardiac medications;

(F) testing regarding efficacy and safety of decontamination procedures;

(G) environmental persistence and contamination studies;

(H) testing regarding effects on children, elderly persons, and persons with compromised immune systems; and

(I) any other testing the Department determines is necessary to assess public health risks;

(4) restrictions on delivery mechanisms that:

(A) permit only targeted stream delivery mechanisms designed to affect a single individual;

(B) prohibit area dispersal systems, foggers, aerosol clouds, and any delivery mechanism designed or

reasonably likely to expose multiple persons simultaneously;

(C) prohibit any delivery mechanism that results in environmental contamination affecting persons not directly targeted; and

(D) establish maximum discharge volume and duration standards;

(5) application procedures, including required documentation, testing data, chemical composition disclosure, and certification by a qualified toxicologist;

(6) application fees, which shall not exceed the Department's reasonable costs of review and shall not create a barrier to smaller manufacturers seeking approval;

(7) timelines for Department review, which shall not exceed 180 days from receipt of a complete application;

(8) standards for approval, conditional approval, or denial, which shall prioritize public health protection;

(9) requirements for annual recertification, including submission of any new safety data and reports of adverse events;

(10) procedures for immediate suspension of approval upon evidence of serious adverse health effects not disclosed or anticipated at the time of approval; and

(11) public access to information regarding approved formulations, including a requirement that the Department

maintain a publicly accessible database containing chemical composition, testing data, adverse event reports, and approval status, subject to applicable trade secret protections that do not impair public health and safety.

(b) In adopting rules under this Section, the Department shall prioritize the protection of public health and shall interpret any ambiguity in favor of greater protection for vulnerable populations.

(c) The Department may deny approval to any formulation if the applicant fails to provide adequate testing data, if the formulation presents unacceptable health risks, or if approval would be contrary to the purposes of this Act.

Section 30. Approved formulations database.

(a) The Department shall establish and maintain a publicly accessible online database, updated within 5 business days of any change, that lists:

(1) all approved pepper spray formulations, identified by manufacturer name, product name or designation, and a unique approval number assigned by the Department;

(2) the capsaicinoid content and other active ingredients in each approved formulation;

(3) the approval date and expiration date for each approval;

(4) a summary of testing data supporting approval, including key findings regarding safety;

(5) any conditions, limitations, or restrictions on the approval;

(6) the status of each approval, including whether the approval is current, expired, suspended, or revoked; and

(7) a summary of any adverse event reports received regarding each approved formulation.

(b) The database shall be searchable by manufacturer, product name, approval number, and approval status.

(c) Information in the database is public information, except as provided under this subsection. The Department may withhold specific manufacturing process information that constitutes a trade secret under the Illinois Trade Secrets Act, except that no information may be withheld if disclosure is necessary to protect public health and safety or to enable enforcement of this Act.

Section 35. Prohibition on deployment of unapproved pepper spray.

(a) Beginning one year after the effective date of this Act, no person shall deploy any pepper spray, oleoresin capsicum spray, or other capsaicinoid-based chemical irritant agent in this State unless the specific formulation has been approved by the Department under this Act and the approval for the formulation is current and has not been suspended or revoked.

(b) Any person who deploys pepper spray in this State is

responsible for ensuring that the formulation deployed is an approved formulation.

(c) The prohibitions in this Section apply to all persons operating within or causing injury in this State.

(d) This Section does not apply to:

(1) possession or use of pepper spray by private individuals in quantities of 2 ounces or less for personal self-defense purposes only, if the use is otherwise lawful and not in connection with employment or official duties; or

(2) possession by manufacturers, distributors, or retailers in sealed containers in the ordinary course of business, provided that the persons do not sell, transfer, or provide unapproved formulations to any person for use in this State.

Section 40. Private right of action.

(a) Any person who suffers injury in this State, including physical injury, respiratory distress, pain and suffering, emotional distress, or property damage, as a result of deployment of a chemical irritant agent in violation of Section 20 or 35 may bring a civil action for damages and injunctive relief in any court of competent jurisdiction in this State.

(b) An action under this Section may be brought against:

(1) any person who deployed the prohibited or

unapproved chemical irritant agent;

(2) any person who ordered, directed, or authorized the deployment of the prohibited or unapproved chemical irritant agent;

(3) any agency, entity, or organization whose employee, agent, or contractor deployed the prohibited or unapproved chemical irritant agent while acting within the scope of employment or agency; or

(4) any person who provided the prohibited or unapproved chemical irritant agent to another person knowing or having reason to know it would be deployed in this State.

(c) Notwithstanding Section 2-1117 of the Code of Civil Procedure, defendants found liable under this Section are jointly and severally liable for all damages awarded. The trier of fact shall apportion fault among the plaintiff and all defendants for purposes of contribution, but apportionment does not limit the plaintiff's right to collect the full amount of the judgment from any defendant.

(d) In any action under this Section:

(1) The plaintiff need not prove intent, negligence, or any culpable mental state. Deployment of a prohibited or unapproved chemical irritant agent that causes injury is a strict liability tort under this State's law.

(2) The affirmative defense of qualified immunity or any similar immunity defense based on official capacity or

discretionary function is not available to any defendant.

(3) The plaintiff may recover:

(A) all actual damages, including medical expenses, lost wages, pain and suffering, and emotional distress;

(B) statutory damages of not less than $5,000 per violation; each deployment that causes injury to a plaintiff shall constitute a separate violation; if a single deployment causes injury to a plaintiff on multiple occasions or results in multiple distinct injuries, each such occasion or injury may constitute a separate violation;

(C) punitive damages, notwithstanding the provisions of Section 2-102 of the Local Governmental and Governmental Employees Tort Immunity Act, if the defendant acted with reckless disregard for the safety of others or with knowledge that the chemical irritant agent was prohibited or unapproved;

(D) reasonable attorney's fees and costs, including expert witness fees; and

(E) injunctive relief prohibiting future violations.

(4) Causation is established if deployment of the prohibited or unapproved agent was a contributing factor in causing the plaintiff's injury. The plaintiff need not prove that the prohibited or unapproved nature of the

agent was the sole or primary cause of injury.

(e) The statute of limitations for actions under this Section shall be 2 years from the date of injury, or 2 years from the date the plaintiff discovers or reasonably should have discovered that the injury was caused by a prohibited or unapproved chemical irritant agent, whichever is later, but in no event more than 5 years from the date of deployment.

(f) Venue for actions under this Act shall be proper in any county where:

(1) the deployment occurred;

(2) the injury occurred;

(3) the plaintiff resides; or

(4) any defendant resides or maintains a principal place of business.

(g) Nothing in this Section shall be construed to modify or limit defenses or immunities available under the Local Governmental and Governmental Employees Tort Immunity Act, except as expressly provided in subparagraph (C) of paragraph (3) of subsection (d) of this Section.

Section 45. Interested party organization standing and enforcement actions.

(a) Upon a reasonable belief that any person or entity is in violation of Section 20 or 35, an interested party organization may bring a civil action in the county where the alleged violation occurred or where any party to the action

resides, in the name of the State or for the benefit of any impacted persons.

(1) No later than 30 days after filing an action, the interested party organization shall serve upon the State through the Attorney General a copy of the complaint and written disclosure of substantially all material evidence and information the interested party organization possesses.

(2) The State may elect to intervene and proceed with the action no later than 60 days after it receives both the complaint and the material evidence and information. The State may, for good cause shown, move the court for an extension of the time to intervene and proceed with the action.

(3) Before the expiration of the 60-day period or any extensions under paragraph (2), the State shall:

(A) proceed with the action, in which case the action shall be conducted by the State; or

(B) notify the court that it declines to take the action, in which case the interested party organization bringing the action shall have the right to conduct the action.

(4) When the State conducts the action, the interested party organization shall have the right to continue as a party to the action subject to the following limitations:

(A) the State may dismiss the action

notwithstanding the objections of the interested party organization initiating the action if the interested party organization has been notified by the State of the filing of the motion and the court has provided the interested party organization with an opportunity for a hearing on the motion; and

(B) the State may settle the action with the defendant notwithstanding the objections of the interested party organization initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances.

(5) If an interested party organization brings an action under this Section, no person other than the State may intervene or bring a related action on behalf of the State based on the facts underlying the pending action.

(6) An action brought in court by an interested party organization under this Section may be dismissed only if the court and the Office of the Attorney General give written consent to the dismissal and their reasons for consenting.

(b) Any claim or action filed by an interested party organization under this Section shall be made no later than 3 years after the alleged conduct resulting in the complaint, plus any period for which the limitations period has been tolled.

(c) In an action brought by an interested party organization under this Section, an interested party organization may seek the following relief:

(1) temporary, preliminary, or permanent injunctive relief prohibiting violations of this Act;

(2) declaratory relief;

(3) civil penalties of not less than $10,000 per violation.

For purposes of paragraph (3) of this subsection (c), each deployment of a prohibited or unapproved chemical irritant agent constitutes a separate violation. If a defendant has engaged in a pattern and practice of violations, the court may award enhanced civil penalties of up to $50,000 per violation.

(d) An interested party organization that prevails in a civil action under this Section shall receive:

(1) 20% of any civil penalties assessed, to be used for enforcement activities, community education regarding rights under this Act, and provision of services to affected communities; and

(2) reasonable attorney's fees and costs, including expert witness fees.

(e) The remaining 80% of any civil penalties assessed under this Section shall be deposited into the Illinois Human Rights Enforcement Fund established in subsection (c) of Section 50 of this Act.

(f) An interested party organization may recover for a

violation of this Act under this Section at the interested party organization's option, but may not recover under more than one Section. An interested party organization's action under this Section does not preclude any individual from bringing a private action under Section 40 of this Act.

(g) Venue for actions under this Section shall be proper in any county where:

(1) a violation occurred;

(2) the interested party organization maintains an office; or

(3) any defendant resides or maintains a principal place of business.

Section 50. Attorney General enforcement and Illinois Human Rights Enforcement Fund.

(a) The Attorney General may bring a civil action to enforce this Act pursuant to the authority conferred by Section 6.3 of the Attorney General Act, including actions for injunctive relief, civil penalties, and restitution to affected persons.

(b) In an action brought by the Attorney General under this Section, the court may award:

(1) temporary, preliminary, or permanent injunctive relief prohibiting violations of this Act;

(2) declaratory relief;

(3) civil penalties of not less than $10,000 per

violation;

(4) restitution to persons injured by violations of this Act; and

(5) reasonable costs of investigation and litigation.

For purposes of paragraph (3) of this subsection (b), each deployment of a prohibited or unapproved chemical irritant agent constitutes a separate violation. If a defendant has engaged in a pattern and practice of violations, the court may award enhanced civil penalties of up to $50,000 per violation.

(c) The Illinois Human Rights Enforcement Fund is created as a special fund in the State treasury. Civil penalties recovered by the Attorney General under this Section and civil penalties deposited under Section 45 shall be deposited into the Illinois Human Rights Enforcement Fund.

(d) Moneys in the Illinois Human Rights Enforcement Fund shall be used, subject to appropriation, for the following purposes:

(1) investigation and prosecution of violations of civil rights, human rights, and constitutional protections, including, but not limited to, protections under the Illinois Constitution, the Illinois Human Rights Act, this Act, and any other statute or common law doctrine protecting individual rights and dignity;

(2) restitution to persons injured by violations of civil rights, human rights, and constitutional protections, including, but not limited to, protections

under the Illinois Constitution, the Illinois Human Rights Act, this Act, and any other statute or common law doctrine protecting individual rights and dignity;

(3) public education regarding civil rights, human rights, and constitutional protections, including, but not limited to, protections under the Illinois Constitution, the Illinois Human Rights Act, this Act, and any other statute or common law doctrine protecting individual rights and dignity;

(4) grants to community-based organizations for legal assistance, advocacy, and education related to civil rights, human rights, and constitutional protections, including, but not limited to, protections under the Illinois Constitution, the Illinois Human Rights Act, this Act, and any other statute or common law doctrine protecting individual rights and dignity; and

(5) support for medical treatment, mental health counseling, and other services for persons injured by violations of civil rights, human rights, and constitutional protections, including, but not limited to, protections under the Illinois Constitution, the Illinois Human Rights Act, this Act, and any other statute or common law doctrine protecting individual rights and dignity.

(e) Actions brought by the Attorney General under this Section do not preclude private actions under Section 40 or

interested party organization actions under Section 45 of this Act.

(f) Venue for actions under this Section shall be proper in any county where a violation occurred or where any defendant resides or maintains a principal place of business.

Section 55. Reporting requirements.

(a) Any person who deploys a chemical irritant agent in this State, other than for personal self-defense as permitted under this Act, shall report the deployment to the Department within 48 hours. The report shall include:

(1) the date, time, and location of the deployment;

(2) the chemical irritant agent used, including manufacturer and product identification;

(3) the circumstances necessitating deployment;

(4) the number of persons estimated to have been exposed;

(5) any known injuries resulting from the deployment; and

(6) the name and contact information of the person making the report.

(b) The Department shall maintain a public database of all deployment reports received under this Section, updated monthly. The database shall exclude personal identifying information of individuals exposed but shall include aggregate data on deployments, injuries, and agents used.

(c) Failure to report as required by this Section does not affect civil liability under Sections 40 and 45 of this Act but may be considered by a court as evidence of recklessness or disregard for public safety.

(d) A report submitted under this Section is inadmissible against the reporting individual in any criminal proceeding, except in a prosecution for perjury or false statements made in the report.

Section 60. Home rule. The regulation and certification of chemical irritant agents and the creation of civil remedies for injuries arising from their deployment are exclusive powers and functions of the State. A home rule unit may not regulate or certify chemical irritant agents or create or alter civil remedies for injuries arising from their deployment. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

Section 65. Transition; compliance period.

(a) The prohibitions under Section 20 concerning lachrymatory agents apply beginning 180 days after the effective date of this Act.

(b) The prohibitions under Section 35 concerning unapproved pepper spray formulations apply beginning one year after the effective date of this Act.

(c) The civil liability provisions under Sections 40 and 45 apply to all violations occurring on or after the dates specified in subsections (a) and (b).

(d) Nothing in this Act affects civil liability under common law or other statutory law for deployments occurring before the applicable dates under this Section.

Section 90. The State Finance Act is amended by adding Section 5.1038 as follows:

(30 ILCS 105/5.1038 new)

Sec. 5.1038. The Illinois Human Rights Enforcement Fund.

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 99. Effective date. This Act takes effect upon becoming law.