

SB1975



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1975

Introduced 2/7/2008, by Sen. A. J. Wilhelmi

SYNOPSIS AS INTRODUCED:

720 ILCS 5/31A-1.2

from Ch. 38, par. 31A-1.2

Amends the Criminal Code of 1961. Provides that the offense of bringing of contraband into a penal institution by an employee includes knowingly and without authority bringing or attempting to bring or causing or permitting another person to bring any listed form of contraband into the penal institution (rather than just alcoholic liquor, a controlled substance, methamphetamine, or a hypodermic syringe).

LRB095 18740 RLC 44853 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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

4 Section 5. The Criminal Code of 1961 is amended by changing
5 Section 31A-1.2 as follows:

6 (720 ILCS 5/31A-1.2) (from Ch. 38, par. 31A-1.2)

7 Sec. 31A-1.2. Unauthorized bringing of contraband into a
8 penal institution by an employee; unauthorized possessing of
9 contraband in a penal institution by an employee; unauthorized
10 delivery of contraband in a penal institution by an employee.

11 (a) A person commits the offense of unauthorized bringing
12 of contraband into a penal institution by an employee when a
13 person who is an employee knowingly and without authority or
14 any person designated or authorized to grant such authority:

15 (1) brings or attempts to bring an item of contraband
16 listed in ~~paragraphs (i) through (iv)~~ of subsection (d) (4)
17 into a penal institution, or

18 (2) causes or permits another to bring an item of
19 contraband listed in ~~paragraphs (i) through (iv)~~ of
20 subsection (d) (4) into a penal institution.

21 (b) A person commits the offense of unauthorized possession
22 of contraband in a penal institution by an employee when a
23 person who is an employee knowingly and without authority of

1 any person designated or authorized to grant such authority
2 possesses contraband listed in ~~paragraphs (i) through (iv)~~ of
3 subsection (d)(4) in a penal institution, regardless of the
4 intent with which he possesses it.

5 (c) A person commits the offense of unauthorized delivery
6 of contraband in a penal institution by an employee when a
7 person who is an employee knowingly and without authority of
8 any person designated or authorized to grant such authority:

9 (1) delivers or possesses with intent to deliver an
10 item of contraband to any inmate of a penal institution, or

11 (2) conspires to deliver or solicits the delivery of an
12 item of contraband to any inmate of a penal institution, or

13 (3) causes or permits the delivery of an item of
14 contraband to any inmate of a penal institution, or

15 (4) permits another person to attempt to deliver an
16 item of contraband to any inmate of a penal institution.

17 (d) For purpose of this Section, the words and phrases
18 listed below shall be defined as follows:

19 (1) "Penal Institution" shall have the meaning
20 ascribed to it in subsection (c)(1) of Section 31A-1.1 of
21 this Code;

22 (2) "Employee" means any elected or appointed officer,
23 trustee or employee of a penal institution or of the
24 governing authority of the penal institution, or any person
25 who performs services for the penal institution pursuant to
26 contract with the penal institution or its governing

1 authority.

2 (3) "Deliver" or "delivery" means the actual,
3 constructive or attempted transfer of possession of an item
4 of contraband, with or without consideration, whether or
5 not there is an agency relationship;

6 (4) "Item of contraband" means any of the following:

7 (i) "Alcoholic liquor" as such term is defined in
8 Section 1-3.05 of the Liquor Control Act of 1934.

9 (ii) "Cannabis" as such term is defined in
10 subsection (a) of Section 3 of the Cannabis Control
11 Act.

12 (iii) "Controlled substance" as such term is
13 defined in the Illinois Controlled Substances Act.

14 (iii-a) "Methamphetamine" as such term is defined
15 in the Illinois Controlled Substances Act or the
16 Methamphetamine Control and Community Protection Act.

17 (iv) "Hypodermic syringe" or hypodermic needle, or
18 any instrument adapted for use of controlled
19 substances or cannabis by subcutaneous injection.

20 (v) "Weapon" means any knife, dagger, dirk, billy,
21 razor, stiletto, broken bottle, or other piece of glass
22 which could be used as a dangerous weapon. Such term
23 includes any of the devices or implements designated in
24 subsections (a)(1), (a)(3) and (a)(6) of Section 24-1
25 of this Act, or any other dangerous weapon or
26 instrument of like character.

1 (vi) "Firearm" means any device, by whatever name
2 known, which is designed to expel a projectile or
3 projectiles by the action of an explosion, expansion of
4 gas or escape of gas, including but not limited to:

5 (A) any pneumatic gun, spring gun, or B-B gun
6 which expels a single globular projectile not
7 exceeding .18 inch in diameter; or

8 (B) any device used exclusively for signaling
9 or safety and required or recommended by the United
10 States Coast Guard or the Interstate Commerce
11 Commission; or

12 (C) any device used exclusively for the firing
13 of stud cartridges, explosive rivets or industrial
14 ammunition; or

15 (D) any device which is powered by electrical
16 charging units, such as batteries, and which fires
17 one or several barbs attached to a length of wire
18 and which, upon hitting a human, can send out
19 current capable of disrupting the person's nervous
20 system in such a manner as to render him incapable
21 of normal functioning, commonly referred to as a
22 stun gun or taser.

23 (vii) "Firearm ammunition" means any
24 self-contained cartridge or shotgun shell, by whatever
25 name known, which is designed to be used or adaptable
26 to use in a firearm, including but not limited to:

1 (A) any ammunition exclusively designed for
2 use with a device used exclusively for signaling or
3 safety and required or recommended by the United
4 States Coast Guard or the Interstate Commerce
5 Commission; or

6 (B) any ammunition designed exclusively for
7 use with a stud or rivet driver or other similar
8 industrial ammunition.

9 (viii) "Explosive" means, but is not limited to,
10 bomb, bombshell, grenade, bottle or other container
11 containing an explosive substance of over one-quarter
12 ounce for like purposes such as black powder bombs and
13 Molotov cocktails or artillery projectiles.

14 (ix) "Tool to defeat security mechanisms" means,
15 but is not limited to, handcuff or security restraint
16 key, tool designed to pick locks, or device or
17 instrument capable of unlocking handcuff or security
18 restraints, doors to cells, rooms, gates or other areas
19 of the penal institution.

20 (x) "Cutting tool" means, but is not limited to,
21 hacksaw blade, wirecutter, or device, instrument or
22 file capable of cutting through metal.

23 (xi) "Electronic contraband" means, but is not
24 limited to, any electronic, video recording device,
25 computer, or cellular communications equipment,
26 including, but not limited to, cellular telephones,

1 cellular telephone batteries, videotape recorders,
2 pagers, computers, and computer peripheral equipment.

3 (e) A violation of paragraphs (a) or (b) of this Section
4 involving alcohol is a Class 4 felony. A violation of paragraph
5 (a) or (b) of this Section involving cannabis is a Class 2
6 felony. A violation of paragraph (a) or (b) involving any
7 amount of a controlled substance classified in Schedules III,
8 IV or V of Article II of the Illinois Controlled Substances Act
9 is a Class 1 felony. A violation of paragraph (a) or (b) of
10 this Section involving any amount of a controlled substance
11 classified in Schedules I or II of Article II of the Illinois
12 Controlled Substances Act is a Class X felony. A violation of
13 paragraph (a) or (b) involving an item of contraband listed in
14 paragraph (iv) of subsection (d)(4) is a Class X felony. A
15 violation of paragraph (a) or (b) involving an item of
16 contraband listed in paragraph (v) or (xi) of subsection (d)(4)
17 is a Class 1 felony. A violation of paragraph (a) or (b)
18 involving an item of contraband listed in paragraphs (vi),
19 (vii) or (viii) of subsection (d)(4) is a Class X felony.

20 (f) A violation of paragraph (c) of this Section involving
21 alcoholic liquor is a Class 3 felony. A violation of paragraph
22 (c) involving cannabis is a Class 1 felony. A violation of
23 paragraph (c) involving any amount of a controlled substance
24 classified in Schedules III, IV or V of Article II of the
25 Illinois Controlled Substances Act is a Class X felony. A
26 violation of paragraph (c) involving any amount of a controlled

1 substance classified in Schedules I or II of Article II of the
2 Illinois Controlled Substances Act is a Class X felony for
3 which the minimum term of imprisonment shall be 8 years. A
4 violation of paragraph (c) involving an item of contraband
5 listed in paragraph (iv) of subsection (d)(4) is a Class X
6 felony for which the minimum term of imprisonment shall be 8
7 years. A violation of paragraph (c) involving an item of
8 contraband listed in paragraph (v), (ix) or (x) of subsection
9 (d)(4) is a Class X felony for which the minimum term of
10 imprisonment shall be 10 years. A violation of paragraph (c)
11 involving an item of contraband listed in paragraphs (vi),
12 (vii) or (viii) of subsection (d)(4) is a Class X felony for
13 which the minimum term of imprisonment shall be 12 years.

14 (g) Items confiscated may be retained for use by the
15 Department of Corrections or disposed of as deemed appropriate
16 by the Chief Administrative Officer in accordance with
17 Department rules or disposed of as required by law.

18 (Source: P.A. 94-556, eff. 9-11-05; 94-1017, eff. 7-7-06.)