



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5525

Introduced 2/9/2010, by Rep. Karen A. Yarbrough

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/31A-1.2

from Ch. 38, par. 31A-1.2

Amends the Criminal Code of 1961. Provides that it is a Class 1 felony for an employee of a penal institution, without authority of any person designated or authorized to grant such authority, to bring into or to attempt to bring into the penal institution, or to possess in the penal institution a tool to defeat security mechanisms or a cutting tool. Provides that it is a Class X felony with a minimum term of imprisonment of 10 years for a person who is an employee of a penal institution to knowingly and without authority of any person designated or authorized to grant such authority to deliver or possess with intent to deliver electronic contraband in the penal institution. Effective immediately.

LRB096 18347 RLC 33724 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 of  
14 any person designated or authorized to grant such authority:

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

17 (2) causes or permits another to bring an item of  
18 contraband listed in subsection (d)(4) into a penal  
19 institution.

20 (b) A person commits the offense of unauthorized possession  
21 of contraband in a penal institution by an employee when a  
22 person who is an employee knowingly and without authority of  
23 any person designated or authorized to grant such authority

1 possesses contraband listed in subsection (d)(4) in a penal  
2 institution, regardless of the intent with which he possesses  
3 it.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26           (vi) "Firearm" means any device, by whatever name

1 known, which is designed to expel a projectile or  
2 projectiles by the action of an explosion, expansion of  
3 gas or escape of gas, including but not limited to:

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

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

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

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

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

26 (A) any ammunition exclusively designed for

1 use with a device used exclusively for signaling or  
2 safety and required or recommended by the United  
3 States Coast Guard or the Interstate Commerce  
4 Commission; or

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

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

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

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

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

1           pagers, computers, and computer peripheral equipment.

2           For a violation of subsection (a) or (b) involving a  
3 cellular telephone or cellular telephone battery, the  
4 defendant must intend to provide the cellular telephone or  
5 cellular telephone battery to any inmate in a penal  
6 institution, or to use the cellular telephone or cellular  
7 telephone battery at the direction of an inmate or for the  
8 benefit of any inmate of a penal institution.

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

26           (f) A violation of paragraph (c) of this Section involving

1 alcoholic liquor is a Class 3 felony. A violation of paragraph  
2 (c) involving cannabis is a Class 1 felony. A violation of  
3 paragraph (c) involving any amount of a controlled substance  
4 classified in Schedules III, IV or V of Article II of the  
5 Illinois Controlled Substances Act is a Class X felony. A  
6 violation of paragraph (c) involving any amount of a controlled  
7 substance classified in Schedules I or II of Article II of the  
8 Illinois Controlled Substances Act is a Class X felony for  
9 which the minimum term of imprisonment shall be 8 years. A  
10 violation of paragraph (c) involving an item of contraband  
11 listed in paragraph (iv) of subsection (d)(4) is a Class X  
12 felony for which the minimum term of imprisonment shall be 8  
13 years. A violation of paragraph (c) involving an item of  
14 contraband listed in paragraph (v), (ix), ~~or~~ (x), or (xi) of  
15 subsection (d)(4) is a Class X felony for which the minimum  
16 term of imprisonment shall be 10 years. A violation of  
17 paragraph (c) involving an item of contraband listed in  
18 paragraphs (vi), (vii) or (viii) of subsection (d)(4) is a  
19 Class X felony for which the minimum term of imprisonment shall  
20 be 12 years.

21 (g) Items confiscated may be retained for use by the  
22 Department of Corrections or disposed of as deemed appropriate  
23 by the Chief Administrative Officer in accordance with  
24 Department rules or disposed of as required by law.

25 (h) For a violation of subsection (a) or (b) involving  
26 items described in clause (i), (v), (vi), (vii), (ix), (x), or



1 (xi) of paragraph (4) of subsection (d), such items shall not  
2 be considered to be in a penal institution when they are  
3 secured in an employee's locked, private motor vehicle parked  
4 on the grounds of a penal institution.

5 (Source: P.A. 95-962, eff. 1-1-09; 96-328, eff. 8-11-09.)

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