

AN ACT concerning criminal law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) A violation of paragraphs (a) or (b) of this Section involving alcohol is a Class 4 felony. A violation of paragraph (a) or (b) of this Section involving cannabis is a Class 2 felony. A violation of paragraph (a) or (b) involving any amount of a controlled substance classified in Schedules III, IV or V of Article II of the Illinois Controlled Substances Act is a Class 1 felony. A violation of paragraph (a) or (b) of this Section involving any amount of a controlled substance classified in Schedules I or II of Article II of the Illinois Controlled Substances Act is a Class X felony. A violation of paragraph (a) or (b) involving an item of contraband listed in paragraph (iv) of subsection (d)(4) is a Class X felony. A violation of paragraph (a) or (b) involving an item of contraband listed in paragraph (v) or (xi) of subsection (d)(4) is a Class 1 felony. A violation of paragraph (a) or (b) involving an item of contraband listed in paragraphs (vi), (vii) or (viii) of subsection (d)(4) is a Class X felony.

(f) A violation of paragraph (c) of this Section involving alcoholic liquor is a Class 3 felony. A violation of paragraph (c) involving cannabis is a Class 1 felony. A violation of paragraph (c) involving any amount of a controlled substance classified in Schedules III, IV or V of Article II of the Illinois Controlled Substances Act is a Class X felony. A violation of paragraph (c) involving any amount of a controlled substance classified in Schedules I or II of Article II of the Illinois Controlled Substances Act is a Class X felony for which the minimum term of imprisonment shall be 8 years. A violation of paragraph (c) involving an item of contraband listed in paragraph (iv) of subsection (d)(4) is a Class X felony for which the minimum term of imprisonment shall be 8 years. A violation of paragraph (c) involving an item of contraband listed in paragraph (v), (ix) or (x) of subsection (d)(4) is a Class X felony for which the minimum term of imprisonment shall be 10 years. A violation of paragraph (c) involving an item of contraband listed in paragraphs (vi), (vii) or (viii) of subsection (d)(4) is a Class X felony for which the minimum term of imprisonment shall be 12 years.

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

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

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

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