



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB6109

Introduced 2/11/2010, by Rep. Robert F. Flider

SYNOPSIS AS INTRODUCED:

720 ILCS 5/31A-1.1	from Ch. 38, par. 31A-1.1
720 ILCS 5/31A-1.2	from Ch. 38, par. 31A-1.2

Amends the Criminal Code of 1961. Provides that for the purposes of the offenses of bringing contraband into a penal institution, possessing contraband in a penal institution, unauthorized bringing of contraband into a penal institution by an employee, unauthorized possession of contraband in a penal institution by an employee, and unauthorized delivery of contraband in a penal institution by an employee, the term "item of contraband" includes poppers. Defines a popper as a device that, when placed in a locking mechanism of a cell door, can override, block or in any way defeat the locking mechanism of a cell door allowing the inmate to exit the unlocked cell. Establishes penalties.

LRB096 20700 RLC 36426 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 Sections 31A-1.1 and 31A-1.2 as follows:

6 (720 ILCS 5/31A-1.1) (from Ch. 38, par. 31A-1.1)

7 Sec. 31A-1.1. Bringing Contraband into a Penal
8 Institution; Possessing Contraband in a Penal Institution.

9 (a) A person commits the offense of bringing contraband
10 into a penal institution when he knowingly and without
11 authority of any person designated or authorized to grant such
12 authority (1) brings an item of contraband into a penal
13 institution or (2) causes another to bring an item of
14 contraband into a penal institution or (3) places an item of
15 contraband in such proximity to a penal institution as to give
16 an inmate access to the contraband.

17 (b) A person commits the offense of possessing contraband
18 in a penal institution when he possesses contraband in a penal
19 institution, regardless of the intent with which he possesses
20 it.

21 (c) For the purposes of this Section, the words and phrases
22 listed below shall be defined as follows:

23 (1) "Penal institution" means any penitentiary, State

1 farm, reformatory, prison, jail, house of correction,
2 police detention area, half-way house or other institution
3 or place for the incarceration or custody of persons under
4 sentence for offenses awaiting trial or sentence for
5 offenses, under arrest for an offense, a violation of
6 probation, a violation of parole, or a violation of
7 mandatory supervised release, or awaiting a bail setting
8 hearing or preliminary hearing; provided that where the
9 place for incarceration or custody is housed within another
10 public building this Act shall not apply to that part of
11 such building unrelated to the incarceration or custody of
12 persons.

13 (2) "Item of contraband" means any of the following:

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

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

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

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

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

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

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

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

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

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

22 (D) any device which is powered by electrical
23 charging units, such as batteries, and which fires
24 one or several barbs attached to a length of wire
25 and which, upon hitting a human, can send out
26 current capable of disrupting the person's nervous

1 system in such a manner as to render him incapable
2 of normal functioning, commonly referred to as a
3 stun gun or taser.

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

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

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

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

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

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

4 (xi) "Electronic contraband" means, but is not
5 limited to, any electronic, video recording device,
6 computer, or cellular communications equipment,
7 including, but not limited to, cellular telephones,
8 cellular telephone batteries, videotape recorders,
9 pagers, computers, and computer peripheral equipment
10 brought into or possessed in a penal institution
11 without the written authorization of the Chief
12 Administrative Officer.

13 (xii) "Popper" means a device that, when placed in
14 a locking mechanism of a cell door, can override, block
15 or in any way defeat the locking mechanism of a cell
16 door allowing the inmate to exit the unlocked cell.

17 (d) Bringing alcoholic liquor into a penal institution is a
18 Class 4 felony. Possessing alcoholic liquor in a penal
19 institution is a Class 4 felony.

20 (e) Bringing cannabis into a penal institution is a Class 3
21 felony. Possessing cannabis in a penal institution is a Class 3
22 felony.

23 (f) Bringing any amount of a controlled substance
24 classified in Schedules III, IV or V of Article II of the
25 Controlled Substance Act into a penal institution is a Class 2
26 felony. Possessing any amount of a controlled substance

1 classified in Schedule III, IV, or V of Article II of the
2 Controlled Substance Act in a penal institution is a Class 2
3 felony.

4 (g) Bringing any amount of a controlled substance
5 classified in Schedules I or II of Article II of the Controlled
6 Substance Act into a penal institution is a Class 1 felony.
7 Possessing any amount of a controlled substance classified in
8 Schedules I or II of Article II of the Controlled Substance Act
9 in a penal institution is a Class 1 felony.

10 (h) Bringing an item of contraband listed in paragraph (iv)
11 of subsection (c)(2) into a penal institution is a Class 1
12 felony. Possessing an item of contraband listed in paragraph
13 (iv) of subsection (c)(2) in a penal institution is a Class 1
14 felony.

15 (i) Bringing an item of contraband listed in paragraph (v),
16 (ix), (x), ~~or~~ (xi), or (xii) of subsection (c)(2) into a penal
17 institution is a Class 1 felony. Possessing an item of
18 contraband listed in paragraph (v), (ix), (x), ~~or~~ (xi), or
19 (xii) of subsection (c)(2) in a penal institution is a Class 1
20 felony.

21 (j) Bringing an item of contraband listed in paragraphs
22 (vi), (vii) or (viii) of subsection (c)(2) in a penal
23 institution is a Class X felony. Possessing an item of
24 contraband listed in paragraphs (vi), (vii), or (viii) of
25 subsection (c)(2) in a penal institution is a Class X felony.

26 (k) It shall be an affirmative defense to subsection (b)

1 hereof, that such possession was specifically authorized by
2 rule, regulation, or directive of the governing authority of
3 the penal institution or order issued pursuant thereto.

4 (l) It shall be an affirmative defense to subsection (a) (1)
5 and subsection (b) hereof that the person bringing into or
6 possessing contraband in a penal institution had been arrested,
7 and that that person possessed such contraband at the time of
8 his arrest, and that such contraband was brought into or
9 possessed in the penal institution by that person as a direct
10 and immediate result of his arrest.

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

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

16 (720 ILCS 5/31A-1.2) (from Ch. 38, par. 31A-1.2)

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

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

25 (1) brings or attempts to bring an item of contraband

1 listed in subsection (d) (4) into a penal institution, or

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

5 (b) A person commits the offense of unauthorized possession
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 possesses contraband listed in subsection (d) (4) in a penal
10 institution, regardless of the intent with which he possesses
11 it.

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

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

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

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

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

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

26 (1) "Penal Institution" shall have the meaning

1 ascribed to it in subsection (c)(1) of Section 31A-1.1 of
2 this Code;

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (D) any device which is powered by electrical
23 charging units, such as batteries, and which fires
24 one or several barbs attached to a length of wire
25 and which, upon hitting a human, can send out
26 current capable of disrupting the person's nervous

1 system in such a manner as to render him incapable
2 of normal functioning, commonly referred to as a
3 stun gun or taser.

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

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

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

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

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

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

4 (xi) "Electronic contraband" means, but is not
5 limited to, any electronic, video recording device,
6 computer, or cellular communications equipment,
7 including, but not limited to, cellular telephones,
8 cellular telephone batteries, videotape recorders,
9 pagers, computers, and computer peripheral equipment.

10 (xii) "Popper" means a device that, when placed in
11 a locking mechanism of a cell door, can override, block
12 or in any way defeat the locking mechanism of a cell
13 door allowing the inmate to exit the unlocked cell.

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

21 (e) A violation of paragraphs (a) or (b) of this Section
22 involving alcohol is a Class 4 felony. A violation of paragraph
23 (a) or (b) of this Section involving cannabis is a Class 2
24 felony. A violation of paragraph (a) or (b) involving any
25 amount of a controlled substance classified in Schedules III,
26 IV or V of Article II of the Illinois Controlled Substances Act

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

12 (f) A violation of paragraph (c) of this Section involving
13 alcoholic liquor is a Class 3 felony. A violation of paragraph
14 (c) involving cannabis is a Class 1 felony. A violation of
15 paragraph (c) involving any amount of a controlled substance
16 classified in Schedules III, IV or V of Article II of the
17 Illinois Controlled Substances Act is a Class X felony. A
18 violation of paragraph (c) involving any amount of a controlled
19 substance classified in Schedules I or II of Article II of the
20 Illinois Controlled Substances Act is a Class X felony for
21 which the minimum term of imprisonment shall be 8 years. A
22 violation of paragraph (c) involving an item of contraband
23 listed in paragraph (iv) of subsection (d)(4) is a Class X
24 felony for which the minimum term of imprisonment shall be 8
25 years. A violation of paragraph (c) involving an item of
26 contraband listed in paragraph (v), (ix), ~~or (x)~~, or (xii) of

1 subsection (d)(4) is a Class X felony for which the minimum
2 term of imprisonment shall be 10 years. A violation of
3 paragraph (c) involving an item of contraband listed in
4 paragraphs (vi), (vii) or (viii) of subsection (d)(4) is a
5 Class X felony for which the minimum term of imprisonment shall
6 be 12 years.

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

11 (h) For a violation of subsection (a) or (b) involving
12 items described in clause (i), (v), (vi), (vii), (ix), (x), ~~or~~
13 (xi), or (xii) of paragraph (4) of subsection (d), such items
14 shall not be considered to be in a penal institution when they
15 are secured in an employee's locked, private motor vehicle
16 parked on the grounds of a penal institution.

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