

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, popper, or any device
24 or instrument used to or capable of unlocking or
25 preventing from locking any handcuff or security
26 restraints, doors to cells, rooms, gates or other areas

1 of the penal institution.

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

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

14 (d) Bringing alcoholic liquor into a penal institution is a
15 Class 4 felony. Possessing alcoholic liquor in a penal
16 institution is a Class 4 felony.

17 (e) Bringing cannabis into a penal institution is a Class 3
18 felony. Possessing cannabis in a penal institution is a Class 3
19 felony.

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

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

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

12 (i) Bringing an item of contraband listed in paragraph (v),
13 (ix), (x), or (xi) of subsection (c)(2) into a penal
14 institution is a Class 1 felony. Possessing an item of
15 contraband listed in paragraph (v), (ix), (x), or (xi) of
16 subsection (c)(2) in a penal institution is a Class 1 felony.

17 (j) Bringing an item of contraband listed in paragraphs
18 (vi), (vii) or (viii) of subsection (c)(2) in a penal
19 institution is a Class X felony. Possessing an item of
20 contraband listed in paragraphs (vi), (vii), or (viii) of
21 subsection (c)(2) in a penal institution is a Class X felony.

22 (k) It shall be an affirmative defense to subsection (b)
23 hereof, that such possession was specifically authorized by
24 rule, regulation, or directive of the governing authority of
25 the penal institution or order issued pursuant thereto.

26 (l) It shall be an affirmative defense to subsection (a)(1)

1 and subsection (b) hereof that the person bringing into or
2 possessing contraband in a penal institution had been arrested,
3 and that that person possessed such contraband at the time of
4 his arrest, and that such contraband was brought into or
5 possessed in the penal institution by that person as a direct
6 and immediate result of his arrest.

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

12 (720 ILCS 5/31A-1.2) (from Ch. 38, par. 31A-1.2)

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

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

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

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

1 (b) A person commits the offense of unauthorized possession
2 of contraband in a penal institution by an employee when a
3 person who is an employee knowingly and without authority of
4 any person designated or authorized to grant such authority
5 possesses contraband listed in subsection (d)(4) in a penal
6 institution, regardless of the intent with which he possesses
7 it.

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

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

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

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

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

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

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

25 (2) "Employee" means any elected or appointed officer,
26 trustee or employee of a penal institution or of the

1 governing authority of the penal institution, or any person
2 who performs services for the penal institution pursuant to
3 contract with the penal institution or its governing
4 authority.

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

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

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

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

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

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

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

23 (v) "Weapon" means any knife, dagger, dirk, billy,
24 razor, stiletto, broken bottle, or other piece of glass
25 which could be used as a dangerous weapon. Such term
26 includes any of the devices or implements designated in

1 subsections (a)(1), (a)(3) and (a)(6) of Section 24-1
2 of this Act, or any other dangerous weapon or
3 instrument of like character.

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

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

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

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

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

26 (vii) "Firearm ammunition" means any

1 self-contained cartridge or shotgun shell, by whatever
2 name known, which is designed to be used or adaptable
3 to use in a firearm, including but not limited to:

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

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

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

17 (ix) "Tool to defeat security mechanisms" means,
18 but is not limited to, handcuff or security restraint
19 key, tool designed to pick locks, popper, or any device
20 or instrument used to or capable of unlocking or
21 preventing from locking any handcuff or security
22 restraints, doors to cells, rooms, gates or other areas
23 of the penal institution.

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

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

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

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

1 contraband listed in paragraph (v) or (xi) of subsection (d) (4)
2 is a Class 1 felony. A violation of paragraph (a) or (b)
3 involving an item of contraband listed in paragraphs (vi),
4 (vii) or (viii) of subsection (d) (4) is a Class X felony.

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

25 (g) Items confiscated may be retained for use by the
26 Department of Corrections or disposed of as deemed appropriate

1 by the Chief Administrative Officer in accordance with
2 Department rules or disposed of as required by law.

3 (h) For a violation of subsection (a) or (b) involving
4 items described in clause (i), (v), (vi), (vii), (ix), (x), or
5 (xi) of paragraph (4) of subsection (d), such items shall not
6 be considered to be in a penal institution when they are
7 secured in an employee's locked, private motor vehicle parked
8 on the grounds of a penal institution.

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