



Sen. Mike Jacobs

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1 AMENDMENT TO SENATE BILL 3503

2 AMENDMENT NO. _____. Amend Senate Bill 3503 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by
5 changing 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.

1 (b) A person commits the offense of possessing contraband
2 in a penal institution when he possesses contraband in a penal
3 institution, regardless of the intent with which he possesses
4 it.

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

7 (1) "Penal institution" means any penitentiary, State
8 farm, reformatory, prison, jail, house of correction,
9 police detention area, half-way house or other institution
10 or place for the incarceration or custody of persons under
11 sentence for offenses awaiting trial or sentence for
12 offenses, under arrest for an offense, a violation of
13 probation, a violation of parole, or a violation of
14 mandatory supervised release, or awaiting a bail setting
15 hearing or preliminary hearing; provided that where the
16 place for incarceration or custody is housed within another
17 public building this Act shall not apply to that part of
18 such building unrelated to the incarceration or custody of
19 persons.

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

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

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

26 (iii) "Controlled substance" as such term is

1 defined in the Illinois Controlled Substances Act.

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

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

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

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

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

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

26 (C) any device used exclusively for the firing

1 of stud cartridges, explosive rivets or industrial
2 ammunition; or

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

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

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

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

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

1 Molotov cocktails or artillery projectiles.

2 (ix) "Tool to defeat security mechanisms" means,
3 but is not limited to, handcuff or security restraint
4 key, tool designed to pick locks, popper, or any device
5 or instrument used to or capable of unlocking or
6 preventing from locking any handcuff or security
7 restraints, doors to cells, rooms, gates or other areas
8 of the penal institution.

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

12 (xi) "Electronic contraband" means, but is not
13 limited to, any electronic, video recording device,
14 computer, or cellular communications equipment,
15 including, but not limited to, cellular telephones,
16 cellular telephone batteries, videotape recorders,
17 pagers, computers, and computer peripheral equipment
18 brought into or possessed in a penal institution
19 without the written authorization of the Chief
20 Administrative Officer.

21 (d) Bringing alcoholic liquor into a penal institution is a
22 Class 4 felony. Possessing alcoholic liquor in a penal
23 institution is a Class 4 felony.

24 (e) Bringing cannabis into a penal institution is a Class 3
25 felony. Possessing cannabis in a penal institution is a Class 3
26 felony.

1 (f) Bringing any amount of a controlled substance
2 classified in Schedules III, IV or V of Article II of the
3 Controlled Substance Act into a penal institution is a Class 2
4 felony. Possessing any amount of a controlled substance
5 classified in Schedule III, IV, or V of Article II of the
6 Controlled Substance Act in a penal institution is a Class 2
7 felony.

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

14 (h) Bringing an item of contraband listed in paragraph (iv)
15 of subsection (c)(2) into a penal institution is a Class 1
16 felony. Possessing an item of contraband listed in paragraph
17 (iv) of subsection (c)(2) in a penal institution is a Class 1
18 felony.

19 (i) Bringing an item of contraband listed in paragraph (v),
20 (ix), (x), or (xi) of subsection (c)(2) into a penal
21 institution is a Class 1 felony. Possessing an item of
22 contraband listed in paragraph (v), (ix), (x), or (xi) of
23 subsection (c)(2) in a penal institution is a Class 1 felony.

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

1 contraband listed in paragraphs (vi), (vii), or (viii) of
2 subsection (c) (2) in a penal institution is a Class X felony.

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

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

14 (m) 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.)

19 (720 ILCS 5/31A-1.2) (from Ch. 38, par. 31A-1.2)

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

24 (a) A person commits the offense of unauthorized bringing
25 of contraband into a penal institution by an employee when a

1 person who is an employee knowingly and without authority of
2 any person designated or authorized to grant such authority:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (D) any device which is powered by electrical
26 charging units, such as batteries, and which fires

1 one or several barbs attached to a length of wire
2 and which, upon hitting a human, can send out
3 current capable of disrupting the person's nervous
4 system in such a manner as to render him incapable
5 of normal functioning, commonly referred to as a
6 stun gun or taser.

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

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

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

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

24 (ix) "Tool to defeat security mechanisms" means,
25 but is not limited to, handcuff or security restraint
26 key, tool designed to pick locks, popper, or any device

1 or instrument used to or capable of unlocking or
2 preventing from locking any handcuff or security
3 restraints, doors to cells, rooms, gates or other areas
4 of the penal institution.

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

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

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) of subsection

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

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

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

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