

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 167
PROPOSED COMMITTEE SUBSTITUTE S167-PCS55372-SA-21

Short Title: No Smoking/Cell Phones on Prison Grounds.

(Public)

Sponsors:

Referred to:

February 16, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT SMOKING ON THE PREMISES OF CORRECTIONAL
3 INSTITUTIONS, TO PROHIBIT THE POSSESSION OF TOBACCO PRODUCTS OR
4 CELL PHONES OUTSIDE OF A LOCKED VEHICLE ON THE PREMISES OF
5 CORRECTIONAL INSTITUTIONS, AND TO MAKE IT A CRIMINAL OFFENSE TO
6 PROVIDE TOBACCO PRODUCTS OR CELL PHONES TO INMATES IN THE
7 CUSTODY OF THE DEPARTMENT OF CORRECTION.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 148-23.1 reads as rewritten:

10 "§ 148-23.1. ~~Smoking~~ Tobacco products prohibited in-on State correctional facilities
11 premises.

12 (a) The General Assembly finds that in order to protect the health, welfare, and comfort
13 of inmates in the custody of the Department of Correction and to reduce the costs of inmate
14 health care, it is necessary to prohibit inmates from using tobacco products ~~inside~~ on the
15 premises of State correctional facilities and to ensure that employees and visitors do not use
16 tobacco products ~~inside~~ on the premises of those facilities.

17 (b) No person may use tobacco products ~~inside~~ on the premises of a State correctional
18 facility, except for authorized religious purposes. Notwithstanding any other provision of law,
19 inmates in the custody of the Department of Correction and persons facilitating religious
20 observances may use and possess tobacco products for religious purposes consistent with the
21 policies of the Department.

22 (b1) Except as provided in subsection (b) of this section, no person may possess tobacco
23 products on the premises of a State correctional facility. Notwithstanding the provisions of this
24 subsection, an employee or visitor may possess tobacco products within the confines of a motor
25 vehicle located in a designated parking area of a correctional facility's premises if the tobacco
26 product remains in the vehicle and the vehicle is locked when the employee or visitor has
27 exited the vehicle.

28 (c) The Department of Correction may adopt rules to implement the provisions of this
29 section. Inmates in violation of this section are subject to disciplinary measures to be
30 determined by the Department, including the potential loss of sentence credits earned prior to
31 that violation. Employees in violation of this section are subject to disciplinary action by the
32 Department. Visitors in violation of this section are subject to removal from the facility and
33 loss of visitation privileges.

34 (d) As used in this section, the following terms mean:



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- 1 (1) State correctional facility. – All buildings and grounds of a State correctional
2 institution operated by the Department of Correction.
- 3 (2) Tobacco products. – Cigars, cigarettes, snuff, loose tobacco, or similar goods
4 made with any part of the tobacco plant that are prepared or used for
5 smoking, chewing, dipping, or other personal use."

6 **SECTION 2.** Article 2 of Chapter 148 of the General Statutes is amended by
7 adding a new section to read:

8 **"§ 148-23.2. Mobile phones prohibited on State correctional facilities premises.**

9 Except as authorized by Department of Correction policy, no person shall possess a mobile
10 telephone or other wireless communications device on the premises of a State correctional
11 facility. Notwithstanding the provisions of this section, an employee or visitor may possess a
12 mobile telephone or other wireless communications device within the confines of a motor
13 vehicle located in a designated parking area of a correctional facility's premises if the mobile
14 telephone or other wireless communications device remains in the vehicle and the vehicle is
15 locked when the employee or visitor has exited the vehicle."

16 **SECTION 3.** G.S. 14-258.1 reads as rewritten:

17 **"§ 14-258.1. Furnishing poison, controlled substances, deadly weapons, cartridges,**
18 **ammunition or alcoholic beverages to inmates of charitable, mental or penal**
19 **institutions or local confinement facilities. facilities; furnishing tobacco**
20 **products or mobile phones to inmates.**

21 (a) If any person shall give or sell to any inmate of any charitable, mental or penal
22 institution, or local confinement facility, or if any person shall combine, confederate, conspire,
23 aid, abet, solicit, urge, investigate, counsel, advise, encourage, attempt to procure, or procure
24 another or others to give or sell to any inmate of any charitable, mental or penal institution, or
25 local confinement facility, any deadly weapon, or any cartridge or ammunition for firearms of
26 any kind, or any controlled substances included in Schedules I through VI contained in Article
27 5 of Chapter 90 of the General Statutes except under the general supervision of a practitioner,
28 poison or poisonous substance, except upon the prescription of a physician, he shall be
29 punished as a Class H felon; and if he be an officer or employee of any institution of the State,
30 or of any local confinement facility, he shall be dismissed from his position or office.

31 (b) Any person who shall knowingly give or sell any alcoholic beverages to any inmate
32 of any State mental or penal institution, or to any inmate of any local confinement facility,
33 except for medical purposes as prescribed by a duly licensed physician and except for an
34 ordained minister or rabbi who gives sacramental wine to an inmate as part of a religious
35 service; or any person who shall combine, confederate, conspire, procure, or procure another or
36 others to give or sell any alcoholic beverages to any inmate of any such State institution or
37 local confinement facility, except for medical purposes as prescribed by a duly licensed
38 physician and except for an ordained minister or rabbi who gives sacramental wine to an
39 inmate as part of a religious service; or any person who shall bring into the buildings, grounds
40 or other facilities of such institution any alcoholic beverages, except for medical purposes as
41 prescribed by a duly licensed physician or sacramental wine brought by an ordained minister or
42 rabbi for use as part of a religious service, shall be guilty of a Class 1 misdemeanor. If such
43 person is an officer or employee of any institution of the State, such person shall be dismissed
44 from office.

45 (c) Any person who knowingly gives or sells any tobacco product, as defined in
46 G.S. 148-23.1, to an inmate in the custody of the Department of Correction and on the premises
47 of a correctional facility, or any person who knowingly gives or sells any tobacco product to a
48 person who is not an inmate for delivery to an inmate in the custody of the Department of
49 Correction and on the premises of a correctional facility, other than for authorized religious
50 purposes, is guilty of a Class 1 misdemeanor.

1 (d) Any person who knowingly gives or sells a mobile telephone or other wireless
2 communications device, or a component of one of those devices, to an inmate in the custody of
3 the Department of Correction, or any person who knowingly gives or sells any such device or
4 component to a person who is not an inmate for delivery to an inmate, is guilty of a Class 1
5 misdemeanor."

6 **SECTION 4.** The Department of Correction shall ensure that sufficient notice is
7 provided to inmates, staff, and the public of the prohibitions and penalties established in this
8 act, through the posting of signs in prominent places at all State correctional facilities and any
9 other measures the Department deems necessary to sufficiently publicize those prohibitions and
10 penalties.

11 **SECTION 5.** This act becomes effective March 1, 2010, and applies to acts
12 committed on or after that date.