

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 167
Judiciary I Committee Substitute Adopted 5/7/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S167-PCS55493-RL-62

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

(Public)

Sponsors:

Referred to:

February 16, 2009

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT SMOKING ON THE PREMISES OF CORRECTIONAL INSTITUTIONS, TO PROHIBIT THE POSSESSION OF TOBACCO PRODUCTS OR CELL PHONES OUTSIDE OF A LOCKED VEHICLE ON THE PREMISES OF CORRECTIONAL INSTITUTIONS, TO MAKE IT A CRIMINAL OFFENSE TO PROVIDE TOBACCO PRODUCTS OR CELL PHONES TO INMATES IN THE CUSTODY OF THE DEPARTMENT OF CORRECTION OR A LOCAL CONFINEMENT FACILITY, AND TO MAKE IT A CRIMINAL OFFENSE FOR INMATES OF A LOCAL CONFINEMENT FACILITY TO POSSESS TOBACCO PRODUCTS OR CELL PHONES.

The General Assembly of North Carolina enacts:

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

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

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

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

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

(c) The Department of Correction may adopt rules to implement the provisions of this section. Inmates in violation of this section are subject to disciplinary measures to be determined by the Department, including the potential loss of sentence credits earned prior to



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1 that violation. Employees in violation of this section are subject to disciplinary action by the
2 Department. Visitors in violation of this section are subject to removal from the facility and
3 loss of visitation privileges.

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

5 (1) State correctional facility. – All buildings and grounds of a State correctional
6 institution operated by the Department of Correction.

7 (2) Tobacco products. – Cigars, cigarettes, snuff, loose tobacco, or similar goods
8 made with any part of the tobacco plant that are prepared or used for
9 smoking, chewing, dipping, or other personal use."

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

12 **"§ 148-23.2. Mobile phones prohibited on State correctional facilities premises.**

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

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

21 **"§ 14-258.1. Furnishing poison, controlled substances, deadly weapons, cartridges,**
22 **ammunition or alcoholic beverages to inmates of charitable, mental or penal**
23 **institutions or local confinement facilities. ~~facilities;~~ furnishing tobacco**
24 **products or mobile phones to inmates.**

25 (a) If any person shall give or sell to any inmate of any charitable, mental or penal
26 institution, or local confinement facility, or if any person shall combine, confederate, conspire,
27 aid, abet, solicit, urge, investigate, counsel, advise, encourage, attempt to procure, or procure
28 another or others to give or sell to any inmate of any charitable, mental or penal institution, or
29 local confinement facility, any deadly weapon, or any cartridge or ammunition for firearms of
30 any kind, or any controlled substances included in Schedules I through VI contained in Article
31 5 of Chapter 90 of the General Statutes except under the general supervision of a practitioner,
32 poison or poisonous substance, except upon the prescription of a physician, he shall be
33 punished as a Class H felon; and if he be an officer or employee of any institution of the State,
34 or of any local confinement facility, he shall be dismissed from his position or office.

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

49 (c) Any person who knowingly gives or sells any tobacco product, as defined in
50 G.S. 148-23.1, to an inmate in the custody of the Department of Correction and on the premises
51 of a correctional facility or to an inmate in the custody of a local confinement facility, or any

1 person who knowingly gives or sells any tobacco product to a person who is not an inmate for
2 delivery to an inmate in the custody of the Department of Correction and on the premises of a
3 correctional facility or to an inmate in the custody of a local confinement facility, other than for
4 authorized religious purposes, is guilty of a Class 1 misdemeanor.

5 (d) Any person who knowingly gives or sells a mobile telephone or other wireless
6 communications device, or a component of one of those devices, to an inmate in the custody of
7 the Department of Correction or to an inmate in the custody of a local confinement facility, or
8 any person who knowingly gives or sells any such device or component to a person who is not
9 an inmate for delivery to an inmate, is guilty of a Class 1 misdemeanor.

10 (e) Any inmate of a local confinement facility who possesses any tobacco product, as
11 defined in G.S. 148-23.1, other than for authorized religious purposes, or who possesses a
12 mobile telephone or other wireless communications device or a component of one of those
13 devices, is guilty of a Class 1 misdemeanor."

14 **SECTION 4.** The Department of Correction and local confinement facilities shall
15 ensure that sufficient notice is provided to inmates, staff, and the public of the prohibitions and
16 penalties established in this act through the posting of signs in prominent places at all State
17 correctional facilities and local confinement facilities and any other measures the Department
18 and local confinement facilities deem necessary to sufficiently publicize those prohibitions and
19 penalties.

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