

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

247V0228

SENATE JUDICIARY ENGROSSED NO. **SB 81** - 02/13/2014

Introduced by: Senators Ewing, Brown, Jensen, Kirkeby, Lucas, Maher, Monroe, Novstrup (Al), Omdahl, Otten (Ernie), Tieszen, and Welke and Representatives Lust, Anderson, Johns, Olson (Betty), Peterson, Steele, and Verchio

1 FOR AN ACT ENTITLED, An Act to prohibit the possession of certain items in jails, to
2 provide a penalty therefor, and to revise the penalty for the procurement of certain items into
3 a jail.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 24-11 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 No cellular telephone, electronic communications device, tobacco product, or any other item
8 not provided by or authorized by the operator of the jail facility may be possessed by an inmate
9 of a jail. No item provided by or authorized by the operator of the jail facility may be possessed
10 by an inmate of a jail if the item has been altered to accommodate a use other than the originally
11 intended use of the item. A violation of this section constitutes a Class 1 misdemeanor.

12 Section 2. That § 24-11-47 be amended to read as follows:

13 24-11-47. No alcoholic beverages, controlled substances as defined by chapter 34-20B,
14 marijuana, or weapons as defined in subdivision 22-1-2(10), may be possessed by any inmate



1 of a jail. No prescription ~~or nonprescription~~ drugs may be possessed by any inmate of a jail
2 except by order of a physician, physician assistant, or nurse practitioner, as defined in chapters
3 36-4, 36-4A, and 36-9A, respectively. ~~Such and such an~~ order shall be in writing and for a
4 definite period. For purposes of this section, prescription drugs include nonprescription
5 medication items that have not been authorized by the sheriff and which are not available to
6 inmates except through authorized jail personnel or the inmate commissary system. A violation
7 of this section constitutes a felony pursuant to the following schedule:

- 8 (1) Possession of alcoholic beverages or marijuana is a Class 6 felony;
- 9 (2) Possession of prescription or nonprescription drugs or controlled substances is a
10 Class 4 felony;
- 11 (3) Possession of a weapon as defined in subdivision 22-1-2(10) is a Class 2 felony.

12 Section 3. That § 24-11-48 be amended to read as follows:

13 24-11-48. No employee or other person may deliver or procure to be delivered, or have in
14 such person's possession with intent to deliver, to any person incarcerated in a jail or a juvenile
15 detention facility, or deposit or conceal in or around any jail or in or around a juvenile detention
16 facility, or in any mode of transport entering the grounds of any jail or juvenile detention facility
17 and its ancillary facilities used to house inmates or juveniles, any article or thing prohibited
18 pursuant to § 24-11-47 or section 1 of this Act with intent that any inmate obtain or receive the
19 same. ~~A violation of this section is a Class 6 felony.~~ A violation of this section carries the same
20 penalty as the possession of the same item as defined in § 24-11-47 or section 1 of this Act.