LIQUOR, NARCOTICS, AND WEAPONS PROHIBITED IN PRISONS

Act 17 of 1909

AN ACT to prohibit or limit the access by prisoners and by employees of correctional facilities to certain weapons and wireless communication devices and to alcoholic liquor, drugs, medicines, poisons, and controlled substances in, on, or outside of correctional facilities; to prohibit or limit the bringing into or onto certain facilities and real property, and the disposition of, certain weapons, substances, and wireless communication devices; to prohibit or limit the selling, giving, or furnishing of certain weapons, substances, and wireless communication devices to prisoners; to prohibit the control or possession of certain weapons, substances, and wireless communication devices by prisoners; and to prescribe penalties.

History: 1909, Act 17, Eff. Sept. 1, 1909 ;-- Am. 1977, Act 164, Imd. Eff. Nov. 10, 1977 ;-- Am. 1982, Act 343, Imd. Eff. Dec. 21, 1982 ;-- Am. 2006, Act 540, Imd. Eff. Dec. 29, 2006

The People of the State of Michigan enact:

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800.281 Alcoholic liquor, prescription drug, poison, or controlled substance; prohibitions.

Sec. 1.

(1) Except as provided in section 2, a person shall not sell, give, or furnish, either directly or indirectly, any alcoholic liquor, prescription drug, poison, or controlled substance to a prisoner who is in or on a correctional facility or dispose of that liquor, drug, poison, or controlled substance in any manner that allows a prisoner or employee of the correctional facility who is in or on a correctional facility access to it.

(2) Except as provided in section 2, a person who knows or has reason to know that another person is a prisoner shall not sell, give, or furnish, either directly or indirectly, any alcoholic liquor, prescription drug, poison, or controlled substance to that prisoner anywhere outside of a correctional facility.

(3) Except as provided in section 2, a person shall not bring any alcoholic liquor, prescription drug, poison, or controlled substance into or onto a correctional facility.

(4) Except as provided in section 2, a prisoner shall not possess any alcoholic liquor, prescription drug, poison, or controlled substance.

History: 1909, Act 17, Eff. Sept. 1, 1909 ;-- CL 1915, 1827 ;-- CL 1929, 17653 ;-- CL 1948, 800.281 ;-- Am. 1982, Act 343, Imd. Eff. Dec. 21, 1982

800.281a Definitions.

Sec. 1a.

As used in this act:

(a) "Alcoholic liquor" means any spirituous, vinous, malt, or fermented liquor, liquid, or compound whether or not medicated, containing 1/2 of 1% or more of alcohol by volume and which is or readily can be made suitable for beverage purposes.

(b) "Chief administrator" means the warden, superintendent, or other employee approved or designated by the department of corrections as the chief administrative officer of a correctional facility.

(c) "Controlled substance" means a drug, substance, or immediate precursor in schedules 1 to 5 of part 72 of 1978 PA 368, MCL 333.7201 to 333.7231.

(d) "Department" means the department of corrections.

(e) "Correctional facility" means any of the following:

(i) A state prison, reformatory, work camp, or community corrections center.

(ii) A youth correctional facility operated by the department or a private vendor under section 20g of 1953 PA 232, MCL 791.232.

(iii) A privately operated community corrections center or resident home which houses prisoners committed to the jurisdiction of the department.

(iv) The land on which a facility described in subparagraph (i), (ii), or (iii) is located.

(f) "Prescription drug" means prescription drug as defined in section 17708 of 1978 PA 368, MCL 333.17708.

(g) "Prisoner" means a person committed to the jurisdiction of the department who has not been released on parole or discharged.

History: Add. 1982, Act 343, Imd. Eff. Dec. 21, 1982 ;-- Am. 1998, Act 514, Imd. Eff. Jan. 8, 1999

800.282 Persons not in violation of MCL 800.281; limitation on wine for use of clergy; applicability of MCL 800.281(3).

Sec. 2.

(1) A person is not in violation of section 1 if all of the following occur:

(a) A licensed physician certifies in writing that the alcoholic liquor, prescription drug, or controlled substance is necessary for the health of the prisoner or employee.

(b) The certificate contains the following information:

(i) The quantity of the alcoholic liquor, prescription drug, or controlled substance which is to be furnished to the prisoner or employee.

(ii) The name of the prisoner or employee.

(iii) The time when the alcoholic liquor, prescription drug, or controlled substance is to be furnished.

(iv) The reason why the alcoholic liquor, prescription drug, or controlled substance is needed.

(c) The certificate has been delivered to the chief administrator of the correctional facility to which the prisoner is assigned or at which the employee works.

(d) The chief administrator of the correctional facility or the designee of the chief administrator approves in advance the sale, giving, furnishing, bringing, or possession of the alcoholic liquor, prescription drug, or controlled substance.

(e) The sale, giving, furnishing, bringing, or possession of the alcoholic liquor, prescription drug, or controlled substance is in compliance with the certificate.

(2) Not more than 2 ounces of wine for the use of the clergy may be brought into or onto a correctional facility by a person of the clergy of any religious denomination for clergy purposes.

(3) Section 1(3) shall not apply to the bringing of alcoholic liquor, prescription drugs, or controlled substances into or onto a correctional facility for the ordinary hospital supply of the correctional facility.

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(4) Section 1(3) shall not apply to the bringing of any alcoholic liquor, prescription drug, poison, or controlled substance into or onto a privately operated community corrections center or resident home which houses prisoners for the use of the owner, operator, or nonprisoner resident of that center or home if the owner or operator lives in the center or home, or for the use of a nonprisoner guest of the owner, operator, or nonprisoner resident.

History: 1909, Act 17, Eff. Sept. 1, 1909 ;-- CL 1915, 1828 ;-- CL 1929, 17654 ;-- CL 1948, 800.282 ;-- Am. 1977, Act 164, Imd. Eff. Nov. 10, 1977 ;-- Am. 1982, Act 343, Imd. Eff. Dec. 21, 1982

800.283 Weapons; prohibitions.

Sec. 3.

(1) Unless authorized by the chief administrator of the correctional facility, a weapon or other implement which may be used to injure a prisoner or other person, or in assisting a prisoner to escape from imprisonment, shall not be sold, given, or furnished, either directly or indirectly, to a prisoner who is in or on the correctional facility, or be disposed of in a manner or in a place that it may be secured by a prisoner who is in or on the correctional facility.

(2) Unless authorized by the chief administrator of the correctional facility, a person, who knows or has reason to know that another person is a prisoner, shall not sell, give, or furnish, either directly or indirectly, to that prisoner anywhere outside of a correctional facility a weapon or other implement which may be used to injure a prisoner or other person or in assisting a prisoner to escape from imprisonment.

(3) Unless authorized by the chief administrator of the correctional facility, a weapon or other implement which may be used to injure a prisoner or other person, or in assisting a prisoner to escape from imprisonment, shall not be brought into or onto any correctional facility.

(4) Unless authorized by the chief administrator of the correctional facility, a prisoner shall not have in his or her possession or under his or her control a weapon or other implement which may be used to injure a prisoner or other person, or to assist a prisoner to escape from imprisonment.

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History: 1909, Act 17, Eff. Sept. 1, 1909 ;-- CL 1915, 1829 ;-- CL 1929, 17655 ;-- CL 1948, 800.283 ;-- Am. 1972, Act 105, Imd. Eff. Mar. 29, 1972 ;-- Am. 1982, Act 343, Imd. Eff. Dec. 21, 1982
Constitutionality: In People v Stanton, 400 Mich. 192; 253 NW2d 650 (1977), the Michigan supreme court declared 1972 PA 105, which amended this section, unconstitutional due to a defect in the title to 1909 PA 17. The law as embodied in the 1972 amendment was voided, not the act title. The amendment of the title by 1977 PA 164 following the declaration of unconstitutionality of a portion of the act itself did not suffice to resurrect the voided portion. If the voided portion is to be once again considered a part of the law, it must be "revised, altered, or amended" and "re-enacted and published at length" pursuant to Const 1963, art IV, § 25. People v Clabin, 411 Mich 472; 307 NW2d 682 (1981). This section and the title to 909 PA 17 were subsequently amended by 1982 PA 343.

800.283a Cellular telephone or wireless communication device to prisoner prohibited; confiscation.

Sec. 3a.

(1) A person shall not sell, give, or furnish, or aid in the selling, giving, or furnishing of, a cellular telephone or other wireless communication device to a prisoner in a correctional facility, or dispose of a cellular telephone or other wireless communication device in or on the grounds of a correctional facility.

(2) A prisoner shall not possess or use a cellular telephone or other wireless communication device in a correctional facility or on the grounds of a correctional facility except as authorized by the department of corrections.

(3) A cellular telephone or other wireless communication device sold, given, furnished, possessed, or used in violation of this section is subject to confiscation and disposal under this section as contraband. If a cellular telephone or other wireless communication device is confiscated under this section, and the cellular telephone or other wireless device is serviceable but no longer needed for purposes of a criminal prosecution under this section, the cellular telephone or other wireless device shall be donated to a nonprofit organization that provides cellular telephones and other wireless communication devices to military personnel, or to any other charity approved by the warden of the facility where the device was confiscated.

History: Add. 2006, Act 540, Imd. Eff. Dec. 29, 2006 ;-- Am. 2012, Act 255, Imd. Eff. July 2, 2012

800.284 Search of persons coming to correctional facility.

Sec. 4.

The chief administrator of a correctional facility may search, or have searched, any person coming to the correctional facility as a visitor, or in any other capacity, who is suspected of having any weapon or other implement which may be used to injure a prisoner or other person or in assisting a prisoner to escape from imprisonment, or any alcoholic liquor, prescription drug, poison, or controlled substance upon his or her person.

History: 1909, Act 17, Eff. Sept. 1, 1909 ;-- CL 1915, 1830 ;-- CL 1929, 17656 ;-- CL 1948, 800.284 ;-- Am. 1982, Act 343, Imd. Eff. Dec. 21, 1982

800.285 Violation as felony; penalty; prosecution for delivery or possession of controlled substance.

Sec. 5.

(1) Except as provided in subsection (2), a person violating this act is guilty of a felony, punishable by a fine of not more than $1,000.00, or imprisonment for not more than 5 years, or both.

(2) If the delivery of a controlled substance is a felony punishable by imprisonment for more than 5 years under part 74 of Act No. 368 of the Public Acts of 1978, being sections 333.7401 to 333.7415 of the Michigan Compiled Laws, a person who gives, sells, or furnishes a controlled substance in violation of section 1 of this act shall not be prosecuted under this section for that giving, selling, or furnishing. If the possession of a controlled substance is a felony punishable by imprisonment for more than 5 years under part 74 of Act No. 368 of the Public Acts of 1978, a person who possesses, or brings into a correctional facility, a controlled substance in violation of section 1 of this act shall not be prosecuted under this section for that possession.

History: 1909, Act 17, Eff. Sept. 1, 1909 ;-- CL 1915, 1831 ;-- CL 1929, 17657 ;-- CL 1948, 800.285 ;-- Am. 1982, Act 343, Imd. Eff. Dec. 21, 1982

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