

HOUSE BILL NO. 5706

May 07, 2024, Introduced by Reps. DeBoyer, Friske, Rigas, Bezotte and Beeler and referred to the Committee on Government Operations.

A bill to amend 1981 PA 7, entitled

"An act to prohibit without authorization the bringing into jails and other specified areas any alcoholic liquor, controlled substances, weapons, and certain other items; the selling or furnishing to prisoners, and the improper disposal of any alcoholic liquor, controlled substances, weapons, and certain other items; the possession or control by prisoners of any alcoholic liquor, controlled substances, weapons, and certain other items; to prescribe a penalty; and to repeal certain acts and parts of acts,"

by amending sections 2, 2a, 3, and 5 (MCL 801.262, 801.262a, 801.263, and 801.265), section 2a as added by 2012 PA 256 and section 5 as amended by 1999 PA 28.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) Unless authorized by the chief administrator of
2 the jail, a person shall not do either of the following:

3 (a) Bring into a jail or a building appurtenant to a jail, or
4 onto the grounds used for jail purposes, for the use or benefit of
5 a prisoner, any weapon or other item that may be used to injure a
6 prisoner or other person, or used to assist a prisoner in escaping
7 from jail.

8 (b) Sell or furnish to a prisoner, or dispose of in a manner
9 that allows a prisoner access to the weapon or other item, any
10 weapon or other item which may be used to injure a prisoner or
11 other person, or used to assist a prisoner in escaping from jail.

12 **(2) A person who violates subsection (1) (a) is guilty of a**
13 **felony. The court shall sentence the person to imprisonment for not**
14 **less than 5 years or more than life.**

15 (3) ~~(2)~~—Unless authorized by the chief administrator of the
16 jail, a prisoner shall not possess or have under ~~his or her~~ **the**
17 **prisoner's** control any weapon or other item that may be used to
18 injure a prisoner or other person, or used to assist a prisoner in
19 escaping from jail. **A person who violates this subsection is guilty**
20 **of a felony. The court shall sentence the person to imprisonment**
21 **for not less than 15 years or more than life.**

22 Sec. 2a. (1) A person shall not sell, give, or furnish, or aid
23 in the selling, giving, or furnishing of, a cellular telephone or
24 other wireless communication device to a prisoner in a jail or a
25 building appurtenant to a jail or on grounds used for jail
26 purposes, or dispose of a cellular telephone or other wireless
27 communication device in a jail or a building appurtenant to a jail
28 or on grounds used for jail purposes.

1 (2) A prisoner shall not possess or use a cellular telephone
2 or other wireless communication device in a jail or a building
3 appurtenant to a jail or on grounds used for jail purposes except
4 as authorized by the person in charge of the jail. **A person who**
5 **violates this subsection is guilty of a felony. The court shall**
6 **sentence the person to imprisonment for not less than 1 year or**
7 **more than 5 years.**

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

20 Sec. 3. (1) Except as provided in section 4, a person shall
21 not bring into a jail, a building appurtenant to a jail, or the
22 grounds used for jail purposes; sell or furnish to a prisoner; or
23 dispose of in a manner that allows a prisoner access to an
24 alcoholic liquor or controlled substance, any alcoholic liquor or
25 controlled substance. **A person who violates this subsection is**
26 **guilty of a felony. The court shall sentence the person to**
27 **imprisonment for not less than 5 years or more than life.**

28 (2) Except as provided in section 4, a prisoner shall not
29 possess or have under ~~his or her~~ **the prisoner's** control any

1 alcoholic liquor or controlled substance. **A person who violates**
2 **this subsection is guilty of a felony. The court shall sentence the**
3 **person to imprisonment for not less than 5 years or more than life.**

4 Sec. 5. (1) Except as **otherwise** provided in **sections 2, 2a,**
5 **and 3 or** subsection (2), a person who violates this act is guilty
6 of a felony punishable by imprisonment for not more than 5 years or
7 a fine of not more than \$1,000.00, or both.

8 (2) If a violation of section 3 involving a controlled
9 substance constitutes the delivery, possession with intent to
10 deliver, or possession of or other action involving a controlled
11 substance that is punishable by imprisonment for more than 5 years
12 under part 74 of the public health code, 1978 PA 368, MCL 333.7401
13 to 333.7461, the person ~~shall~~**must** not be prosecuted under this act
14 for that violation.

15 Enacting section 1. This amendatory act takes effect 90 days
16 after the date it is enacted into law.