

HOUSE BILL NO. 1475

Introduced by

Representatives Kroeber, Fairfield

Senators Robinson, Wardner

1 A BILL for an Act to amend and reenact section 12-44.1-21 of the North Dakota Century Code,
2 relating to prohibited acts in correctional facilities; and to provide a penalty.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 12-44.1-21 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **12-44.1-21. Prohibited acts.**

7 1. It is unlawful ~~to deliver or administer any alcoholic beverage or~~ for a person to
8 willfully:

9 a. Manufacture, or possess with intent to manufacture or deliver, a controlled
10 substance to a person detained in a correctional facility except for the delivery
11 or administration of controlled substances or alcoholic beverages in
12 accordance with the orders or prescription of a licensed physician and the
13 approval, except in emergency circumstances, of the correctional facility
14 administrator.

15 b. Deliver a controlled substance to an inmate in a correctional facility, or to any
16 other person for redelivery to an inmate in a correctional facility. This
17 subsection does not apply to the possession or delivery of controlled
18 substances in accordance with the orders or prescription of a licensed
19 physician and the approval, except in emergency circumstances, of the
20 correctional facility administrator. A person who willfully violates this
21 subsection is guilty of a class A felony.

22 2. ~~A person~~ It is unlawful for an inmate detained in a correctional facility ~~may not to~~
23 ~~possess any controlled substance or alcoholic beverage unless the substance or~~
24 ~~beverage is prescribed~~ except in accordance with the prescription or orders of a

1 licensed physician, and the approval, except in emergency circumstances, of the
2 correctional facility administrator. It is unlawful for an inmate in a correctional
3 facility to possess alcohol or alcoholic beverages. If a correctional facility has
4 promulgated a rule banning the possession of tobacco in a correctional facility, it is
5 unlawful for an inmate in a correctional facility to possess tobacco except when the
6 correctional facility administrator has authorized possession of tobacco for religious
7 purposes or when on authorized release from the correctional facility. An inmate
8 who violates this subsection with respect to:

- 9 a. Possession of a controlled substance is guilty of a class B felony.
- 10 b. Possession of alcohol or alcoholic beverages is guilty of a class A
11 misdemeanor.
- 12 c. Possession of tobacco is guilty of a class B misdemeanor.

- 13 3. ~~A person, other than an official or employee of the correctional facility, who violates~~
14 ~~subsection 1 by delivering or administering a controlled substance is guilty of a~~
15 ~~class B felony. An official or employee of the correctional facility who violates~~
16 ~~subsection 1 by delivering or administering a controlled substance is guilty of a~~
17 ~~class A felony. A person who violates subsection 1 by delivering alcoholic~~
18 ~~beverages is guilty of a class A misdemeanor. It is unlawful for any person to~~
19 ~~willfully deliver alcohol or alcoholic beverages to an inmate in a correctional facility.~~
20 It is unlawful for any person to willfully deliver tobacco to an inmate in a
21 correctional facility that has promulgated a rule banning the possession of tobacco
22 except when the correctional facility administrator has authorized possession of
23 tobacco for religious purposes or when the inmate is on an authorized release from
24 the correctional facility. Any person who willfully violates this subsection by:
 - 25 a. Delivery of alcohol or alcoholic beverages to an inmate in a correctional
26 facility is guilty of a class A misdemeanor.
 - 27 b. Delivery of tobacco to an inmate in a correctional facility is guilty of a class B
28 misdemeanor.
- 29 4. It is unlawful for any person who is not an inmate to willfully possess a controlled
30 substance in a correctional facility except in accordance with the orders or
31 prescription of a licensed physician. A person who violates subsection 2 by

possessing a controlled substance is guilty of a class B felony. ~~A person who violates subsection 2 by possessing alcoholic beverages is guilty of a class A misdemeanor.~~

5. It is unlawful for an inmate in a correctional facility to willfully procure, make, or possess any object, including a shard made of any material or any weapon, firearm, ammunition, or explosive material, intended to be used for an assault on another person or to damage property. Any inmate in a correctional facility who violates this subsection with respect to:

a. A shard or weapon that is not a dangerous weapon or firearm as defined in section 62.1-01-01 is guilty of a class B felony.

b. Ammunition, a knife of any length, a weapon that is a dangerous weapon or firearm as defined in section 62.1-01-01, or explosive material is guilty of a class A felony.

6. It is unlawful for any person to deliver or provide to an inmate in a correctional facility any object intended to be used for an assault on another person or to damage property. Any person who violates this subsection with respect to:

a. A shard or weapon that is not a dangerous weapon or firearm as defined in section 62.1-01-01 is guilty of a class B felony.

b. Ammunition, a knife of any length, a weapon that is a dangerous weapon or firearm as defined in section 62.1-01-01, or is an explosive or destructive device is guilty of a class A felony.

7. As used in this section, "controlled substance" is as defined in subsection 6 of section 19-03.1-01 and includes counterfeit substances as defined in subsection 7 of section 19-03.1-01. As used in this section, "willfully" is as defined in section 12.1-02-02. As used in this section, "alcohol" and "alcoholic beverage" are as defined in section 5-01-01. As used in this section, "tobacco" means any form of tobacco, including cigarettes, cigars, snuff, or tobacco in any form in which it may be used for smoking or chewing.