

SENATE BILL No. 1401

September 28, 2000, Introduced by Senators HOFFMAN, SCHUETTE, HAMMERSTROM, SIKKEMA and GOUGEON and referred to the Committee on Judiciary.

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 the title and sections 1, 3, and 5 (MCL 801.261, 801.263, and 801.265), section 1 as amended by 1985 PA 46 and section 5 as amended by 1999 PA 28.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to prohibit without authorization the bringing into jails and other specified areas any alcoholic liquor, controlled substances, weapons, TOBACCO PRODUCTS, and certain other items; the selling or furnishing to prisoners, and the improper disposal

1 of any alcoholic liquor, controlled substances, weapons, TOBACCO
2 PRODUCTS, and certain other items; the possession or control by
3 prisoners of any alcoholic liquor, controlled substances, weap-
4 ons, TOBACCO PRODUCTS, and certain other items; to prescribe a
5 penalty; and to repeal ~~certain~~ acts and parts of acts.

6 Sec. 1. As used in this act:

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

11 (b) "Controlled substance" means a drug, substance, or imme-
12 diate precursor in schedules 1 to 5 of part 72 of ~~Act No. 368 of~~
13 ~~the Public Acts of 1978, as amended, being sections 333.7201 to~~
14 ~~333.7231 of the Michigan Compiled Laws~~ THE PUBLIC HEALTH CODE,
15 1978 PA 368, MCL 333.7201 TO 333.7231.

16 (c) "Jail" means a municipal or county jail, work-camp,
17 lockup, holding center, half-way house, community corrections
18 center, house of correction, or any other facility maintained by
19 a municipality or county which houses prisoners.

20 (d) "Prisoner" means a person incarcerated in a jail, or a
21 person committed to a jail for incarceration who is a participant
22 in a work release or vocational or educational study release
23 program.

24 (E) "TOBACCO PRODUCT" MEANS A PREPARATION OF TOBACCO TO BE
25 INHALED, CHEWED, OR PLACED IN A PERSON'S MOUTH.

26 Sec. 3. (1) Except as provided in section 4, a person shall
27 not bring into a jail, a building appurtenant to a jail, or the

1 grounds used for jail purposes; sell or furnish to a prisoner; or
2 dispose of in a manner that allows a prisoner access to an alco-
3 holic liquor, ~~or~~ controlled substance, OR TOBACCO PRODUCT, any
4 alcoholic liquor, ~~or~~ controlled substance, OR TOBACCO PRODUCT.

5 (2) Except as provided in section 4, a prisoner shall not
6 possess or have under his or her control any alcoholic liquor,
7 ~~or~~ controlled substance, OR TOBACCO PRODUCT.

8 Sec. 5. (1) Except as provided in ~~subsection~~ SUBSECTIONS
9 (2) AND (3), a person who violates this act is guilty of a felony
10 punishable by imprisonment for not more than 5 years or a fine of
11 not more than \$1,000.00, or both.

12 (2) A VIOLATION OF SECTION 3 INVOLVING A TOBACCO PRODUCT IS
13 A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93
14 DAYS OR A FINE OF NOT MORE THAN \$500.00, OR BOTH.

15 (3) ~~-(2)-~~ If a violation of section 3 involving a controlled
16 substance constitutes the delivery, possession with intent to
17 deliver, or possession of or other action involving a controlled
18 substance that is punishable by imprisonment for more than 5
19 years under part 74 of the public health code, 1978 PA 368, MCL
20 333.7401 to 333.7461, the person shall not be prosecuted under
21 this act for that violation.