

HOUSE BILL NO. 1779

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FITZWATER (144).

5224H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 217.360, RSMo, and section 221.111 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and to enact in lieu thereof two new sections relating to a prohibition on certain telecommunications items being possessed in correctional facilities, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 217.360, RSMo, and section 221.111 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, are repealed and two new sections enacted in lieu thereof, to be known as sections 217.360 and 221.111, to read as follows:

217.360. 1. It shall be an offense for any person to knowingly deliver, attempt to deliver, have in his possession, deposit or conceal in or about the premises of any correctional center, or city or county jail, or private prison or jail:

(1) Any controlled substance as that term is defined by law, except upon the written prescription of a licensed physician, dentist, or veterinarian;

(2) Any other alkaloid of any controlled substance, any spirituous or malt liquor, or any intoxicating liquor as defined in section 311.020;

(3) Any article or item of personal property which an offender is prohibited by law or by rule and regulation of the division from receiving or possessing;

(4) Any gun, knife, weapon, or other article or item of personal property that may be used in such manner as to endanger the safety or security of the correctional center, or city or county jail, or private prison or jail or as to endanger the life or limb of any offender or employee of such a center;

(5) **Any two-way telecommunications device or its component parts.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 2. The violation of subdivision (1) of subsection 1 of this section shall be a class C
16 felony; the violation of subdivision (2) **or (5)** of subsection 1 of this section shall be a class D
17 felony; the violation of subdivision (3) of subsection 1 of this section shall be a class A
18 misdemeanor; and the violation of subdivision (4) of subsection 1 of this section shall be a class
19 B felony.

20 3. Any person who has been found guilty of or has pled guilty to a violation of
21 subdivision (2) of subsection 1 of this section involving any alkaloid shall be entitled to
22 expungement of the record of the violation. The procedure to expunge the record shall be
23 pursuant to section 610.123. The record of any person shall not be expunged if such person has
24 been found guilty of or has pled guilty to knowingly delivering, attempting to deliver, having in
25 his possession, or depositing or concealing any alkaloid of any controlled substance in or about
26 the premises of any correctional center, or city or county jail, or private prison or jail.

27 **4. Subdivision (5) of subsection 1 of this section shall not apply to:**

28 **(1) Any law enforcement officer employed by a state, federal agency, or political**
29 **subdivision lawfully engaged in his or her duties as a law enforcement officer; or**

30 **(2) Any other person who is authorized by the correctional center, city or county**
31 **jail, or private prison or jail to possess or use a two-way telecommunications device in the**
32 **correctional center, city or county jail, or private prison or jail.**

221.111. 1. A person commits the offense of possession of unlawful items in a prison
2 or jail if such person knowingly delivers, attempts to deliver, possesses, deposits, or conceals in
3 or about the premises of any correctional center as the term "correctional center" is defined under
4 section 217.010, or any city, county, or private jail:

5 (1) Any controlled substance as that term is defined by law, except upon the written
6 prescription of a licensed physician, dentist, or veterinarian;

7 (2) Any other alkaloid of any kind or any intoxicating liquor as the term intoxicating
8 liquor is defined in section 311.020;

9 (3) Any article or item of personal property which a prisoner is prohibited by law, by rule
10 made pursuant to section 221.060, or by regulation of the department of corrections from
11 receiving or possessing, except as herein provided;

12 (4) Any gun, knife, weapon, or other article or item of personal property that may be
13 used in such manner as to endanger the safety or security of the institution or as to endanger the
14 life or limb of any prisoner or employee thereof;

15 **(5) Any two-way telecommunications device or its component parts.**

16 2. The violation of subdivision (1) of subsection 1 of this section shall be a class D
17 felony; the violation of subdivision (2) **or (5) of subsection 1** of this section shall be a class E
18 felony; the violation of subdivision (3) **of subsection 1** of this section shall be a class A

19 misdemeanor; and the violation of subdivision (4) **of subsection 1** of this section shall be a class
20 B felony.

21 3. The chief operating officer of a county or city jail or other correctional facility or the
22 administrator of a private jail may deny visitation privileges to or refer to the county prosecuting
23 attorney for prosecution any person who knowingly delivers, attempts to deliver, possesses,
24 deposits, or conceals in or about the premises of such jail or facility any personal item which is
25 prohibited by rule or regulation of such jail or facility. Such rules or regulations, including a list
26 of personal items allowed in the jail or facility, shall be prominently posted for viewing both
27 inside and outside such jail or facility in an area accessible to any visitor, and shall be made
28 available to any person requesting such rule or regulation. Violation of this subsection shall be
29 an infraction if not covered by other statutes.

30 4. Any person who has been found guilty of a violation of subdivision (2) of subsection
31 1 of this section involving any alkaloid shall be entitled to expungement of the record of the
32 violation. The procedure to expunge the record shall be pursuant to section 610.123. The record
33 of any person shall not be expunged if such person has been found guilty of knowingly
34 delivering, attempting to deliver, possessing, depositing, or concealing any alkaloid of any
35 controlled substance in or about the premises of any correctional center, or city or county jail,
36 or private prison or jail.

37 **5. Subdivision (5) of subsection 1 of this section shall not apply to:**

38 **(1) Any law enforcement officer employed by a state, federal agency, or political**
39 **subdivision lawfully engaged in his or her duties as a law enforcement officer; or**

40 **(2) Any other person who is authorized by the correctional center, or city, county,**
41 **or private jail to possess or use a two-way telecommunications device in the correctional**
42 **center, or city, county, or private jail.**

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