

1 HB406
2 125991-1
3 By Representatives Baker, McCutcheon, Treadaway, Colston,
4 Shiver, Mask, Boothe, Ball and Johnson (W)
5 RFD: Judiciary
6 First Read: 23-FEB-12

2
3
4
5
6
7
8 SYNOPSIS: Existing law provides for the crime of
9 promoting prison contraband in the first, second,
10 and third degrees.

11 This bill would specifically include attempt
12 in the crime of promoting prison contraband in the
13 first, second, and third degrees, and would
14 increase the penalties.

15 Amendment 621 of the Constitution of Alabama
16 of 1901, now appearing as Section 111.05 of the
17 Official Recompilation of the Constitution of
18 Alabama of 1901, as amended, prohibits a general
19 law whose purpose or effect would be to require a
20 new or increased expenditure of local funds from
21 becoming effective with regard to a local
22 governmental entity without enactment by a 2/3 vote
23 unless: it comes within one of a number of
24 specified exceptions; it is approved by the
25 affected entity; or the Legislature appropriates
26 funds, or provides a local source of revenue, to
27 the entity for the purpose.

1 The purpose or effect of this bill would be
2 to require a new or increased expenditure of local
3 funds within the meaning of the amendment. However,
4 the bill does not require approval of a local
5 governmental entity or enactment by a 2/3 vote to
6 become effective because it comes within one of the
7 specified exceptions contained in the amendment.

8
9 A BILL
10 TO BE ENTITLED
11 AN ACT

12
13 To amend Sections 13A-10-36, 13A-10-37, and
14 13A-10-38 of the Code of Alabama 1975, relating to promoting
15 prison contraband in the first, second, and third degrees; to
16 specifically include attempt in the crimes; to increase the
17 penalties; and in connection therewith to have as its purpose
18 or effect the requirement of a new or increased expenditure of
19 local funds within the meaning of Amendment 621 of the
20 Constitution of Alabama of 1901, now appearing as Section
21 111.05 of the Official Recompilation of the Constitution of
22 Alabama of 1901, as amended.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 13A-10-36, 13A-10-37, and
25 13A-10-38 of the Code of Alabama 1975, are amended to read as
26 follows:

27 "§13A-10-36.

1 "(a) A person is guilty of promoting prison
2 contraband in the first degree if:

3 "(1) He or she intentionally and unlawfully
4 introduces or makes any attempt to introduce within a
5 detention facility, or provides or makes any attempt to
6 provide an inmate with, any deadly weapon, instrument, tool or
7 other thing which may be useful for escape;

8 "(2) Being a person confined in a detention
9 facility, he or she intentionally and unlawfully makes,
10 obtains or possesses any deadly weapon, instrument, tool or
11 other thing which may be useful for escape.

12 "(b) Promoting prison contraband in the first degree
13 is a Class C B felony.

14 "§13A-10-37.

15 "(a) A person is guilty of promoting prison
16 contraband in the second degree if:

17 "(1) He or she intentionally and unlawfully
18 introduces within a detention facility, or provides an inmate
19 with, or makes any attempt to unlawfully introduce within a
20 detention facility or makes any attempt to provide an inmate
21 with any narcotic, dangerous drug or controlled substance as
22 defined in the "Alabama Controlled Substances Act," or any
23 amendments thereto; or

24 "(2) Being a person confined in a detention
25 facility, he or she intentionally and unlawfully makes,
26 obtains or possesses any narcotic, dangerous drug, or

1 controlled substance as defined in Chapter 2 of Title 20 of
2 this Code.

3 "(b) Promoting prison contraband in the second
4 degree is a Class C felony.

5 "§13A-10-38.

6 "(a) A person is guilty of promoting prison
7 contraband in the third degree if the person does any of the
8 following:

9 "(1) He or she intentionally and unlawfully
10 introduces within a detention facility, or provides an inmate
11 with, or makes any attempt to unlawfully introduce within a
12 detention facility or makes any attempt to provide an inmate
13 with any contraband or thing which the actor knows or should
14 know it is unlawful to introduce or for the inmate to possess.

15 "(2) Being a person confined in a detention
16 facility, he or she intentionally and unlawfully makes,
17 obtains, or possesses any contraband.

18 "(3) He or she intentionally introduces within a
19 state detention facility operated by the Department of
20 Corrections, or provides an inmate in a state detention
21 facility operated by the Department of Corrections with, any
22 currency or coin which the actor knows or should know is
23 unlawful to introduce or the possession of which is not
24 authorized by an inmate by the written policy of the
25 Department of Corrections.

26 "(4) Being a person in the custody of the Department
27 of Corrections, he or she obtains or possesses any currency or

1 coin, the possession of which is not authorized by the written
2 policy of the Department of Corrections.

3 "(b) Promoting prison contraband in the third degree
4 is a Class ~~B~~ A misdemeanor.

5 "(c) Any currency or coin contraband found on or in
6 the possession of any inmate in any state detention facility
7 operated by the Department of Corrections, the possession of
8 which is not authorized by the written policy of the
9 Department of Corrections, shall be confiscated and liquidated
10 after notice and a hearing as provided by departmental policy
11 and the proceeds shall be deposited in the general operating
12 fund of the department.

13 "(d) Any person previously convicted of a violation
14 of this section, upon a second or subsequent conviction, shall
15 be guilty of a Class C felony."

16 Section 2. Although this bill would have as its
17 purpose or effect the requirement of a new or increased
18 expenditure of local funds, the bill is excluded from further
19 requirements and application under Amendment 621, now
20 appearing as Section 111.05 of the Official Recompilation of
21 the Constitution of Alabama of 1901, as amended, because the
22 bill defines a new crime or amends the definition of an
23 existing crime.

24 Section 3. This act shall become effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.