

2023 Regular Session

HOUSE BILL NO. 237

BY REPRESENTATIVES SCHAMERHORN AND FIRMENT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CORRECTIONAL FACILITIES: Provides relative to certain activities regarding contraband

1 AN ACT

2 To amend and reenact R.S. 14:402(A), (B), (C), (D)(1) through (5) and (7) through (10), (F),  
3 and (G)(1) and (2) and R.S. 15:1352(A)(66), to enact R.S. 14:402(D)(11), (12), (13),  
4 and (14) and (H), and to repeal R.S. 14:402(E), relative to contraband; to provide  
5 relative to contraband in correctional facilities; to provide relative to introducing  
6 contraband into or upon the grounds of any correctional facility; to provide for a  
7 definition of correctional facility; to classify certain items as contraband; and to  
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 14:402(A), (B), (C), (D)(1) through (5) and (7) through (10), (F), and  
11 (G)(1) and (2) are hereby amended and reenacted and R.S. 14:402(D)(11), (12), (13), and  
12 (14) and (H) are hereby enacted to read as follows:

13 §402. Contraband defined; certain activities regarding contraband in ~~penal~~  
14 ~~institutions~~ correctional facilities prohibited; penalty; disposition of seized  
15 contraband

16 A. No person shall introduce or attempt to introduce contraband into or upon  
17 the grounds of any ~~state~~ correctional ~~institution~~ facility.

18 B. No person shall possess contraband upon the grounds of any ~~state~~  
19 correctional ~~institution~~ facility.

1 C. No person shall send, or give or attempt to give, contraband to an inmate  
2 of contraband from any state correctional institution facility.

3 D. "Contraband" as used herein means:

4 (1) Any controlled dangerous substance as defined in R.S. 40:961 et seq., or  
5 any other drug or substance that if taken internally, whether separately or in  
6 combination with another drug or substance, produces or may produce a hypnotic  
7 effect, including nasal inhalators of any variety, sleeping pills, or barbiturates of any  
8 variety. The introduction or attempt of introduction by a person of any controlled  
9 dangerous substance as defined in R.S. 40:961 et seq., upon the grounds of any state  
10 correctional ~~institution~~ facility shall constitute distribution of that controlled  
11 dangerous substance and shall be subject to the penalties provided in R.S. 40:961 et  
12 seq. The provisions of this Paragraph shall not apply to a drug or substance that has  
13 been prescribed by a physician, if the drug or substance is in a container issued by  
14 the pharmacy or other place of dispensation, the container identifies the prescription  
15 number, prescribing physician, and issuing pharmacist or other person, and the  
16 container is not concealed upon the body of the person.

17 (2) A dangerous weapon, or other instrumentality customarily used or  
18 intended for probable use as a dangerous weapon or to aid in an escape, unless  
19 authorized by the warden of the ~~institution~~ facility or his designee.

20 (3) Explosives or combustibles, unless authorized by the warden of the  
21 ~~institution~~ facility or his designee.

22 (4) Plans for the making or manufacturing of a dangerous weapon or other  
23 instrumentality customarily used or intended for probable use as a dangerous weapon  
24 or to aid in an escape, or for the making or manufacturing of explosives or  
25 combustibles, or for an escape from ~~an institution~~ a facility, unless authorized by the  
26 warden of the ~~institution~~ facility or his designee.

27 (5) An alcoholic beverage or other beverage which produces or may produce  
28 an intoxicating effect, unless authorized by the warden of the ~~institution~~ facility or  
29 his designee for employee residential housing areas. However, employee residential

1 housing areas shall not include bachelor officer quarters located within the secure  
 2 perimeter of the institution. A reasonably small amount of sacramental wine ~~shall~~  
 3 may be permitted by the warden or his designee to be brought onto the grounds of  
 4 a ~~state~~ correctional ~~institution~~ facility for use by a clergy member only, as part of a  
 5 religious service.

6 \* \* \*

7 (7) Any currency or coin, unless authorized by the warden of the ~~institution~~  
 8 facility or his designee.

9 (8) Any article of food, toiletries, or clothing, unless authorized by the  
 10 warden of the ~~institution~~ facility or his designee.

11 (9) Any telecommunications equipment or component hardware, including  
 12 but not limited to cellular phones, pagers, beepers, global satellite system equipment,  
 13 subscriber identity module (SIM) cards, portable memory chips, batteries, and  
 14 chargers, whether or not such equipment may be intended for use in planning or  
 15 aiding an escape or attempt to escape from any ~~institution~~ facility, unless authorized  
 16 by the warden of the ~~institution~~ facility or his designee.

17 (10) Any sketch, painting, drawing or other pictorial rendering produced in  
 18 whole or in part by a capital offender, unless authorized by the warden of the  
 19 ~~institution~~ facility or his designee.

20 (11) Any tobacco product as defined in R.S. 14:91.6, unless authorized by  
 21 the warden of the facility or his designee.

22 (12) Any equipment, whether professionally made or homemade, intended  
 23 for use in tattooing.

24 (13) Any electronic device including but not limited to computers, telephoto  
 25 equipment, communications equipment, whether modified or not.

26 (14) Any hypodermic syringe, needle, or other object used or intended for  
 27 use, or designed for use in injecting controlled dangerous substances into the human  
 28 body.

29 \* \* \*

1 F. Any contraband which is seized may be destroyed, donated to a charitable  
 2 organization, or put to lawful use within the ~~institution~~ facility, unless it is needed  
 3 as evidence in a criminal prosecution. However, any money seized which is legal  
 4 tender shall be placed in a fund at the ~~institution~~ facility at which the money was  
 5 seized to be used solely for the purchase of contraband detection and escape chase  
 6 team equipment. A record of the disposition of all contraband shall be maintained.

7 G.(1) Whoever violates any provision of this Section shall be fined not less  
 8 than five hundred dollars and not more than ten thousand dollars and shall be  
 9 imprisoned with or without hard labor for not more than ten years. Notwithstanding  
 10 any other law to the contrary, whoever introduces or attempts to introduce  
 11 contraband as defined in Paragraph (D)(1) of this Section, upon the grounds of any  
 12 ~~state correctional institution, or Paragraph (E)(5) of this Section, upon the grounds~~  
 13 ~~of any municipal or parish prison or jail,~~ facility shall be punished in accordance  
 14 with the penalties for the distribution of the controlled dangerous substance provided  
 15 in R.S. 40:961 et seq.

16 (2) If the person who violates any provision of this Section is incarcerated  
 17 in the ~~state correctional institution or the municipal or parish prison or jail~~ facility  
 18 in which the contraband is introduced, possessed, or sent from, the sentence imposed  
 19 pursuant to Paragraph (1) of this Subsection shall be served consecutively to the  
 20 sentence the person was serving at the time the violation of this Section occurred.

21 \* \* \*

22 H. For purposes of this Section, "correctional facility" means any jail, prison,  
 23 penitentiary, juvenile institution, temporary holding center, or detention facility.

24 Section 2. R.S. 15:1352(A)(66) is hereby amended and reenacted to read as follows:

25 §1352. Definitions

26 A. As used in this Chapter, "racketeering activity" means committing,  
 27 attempting to commit, conspiring to commit, or soliciting, coercing, or intimidating  
 28 another person to commit any crime that is punishable under the following

1 provisions of Title 14 of the Louisiana Revised Statutes of 1950, the Uniform  
2 Controlled Dangerous Substances Law, or the Louisiana Securities Law:

3 \* \* \*

4 (66) R.S. 14:402 (Certain activities regarding contraband in ~~penal institutions~~  
5 correctional facilities prohibited)

6 \* \* \*

7 Section 3. R.S. 14:402(E) is hereby repealed in its entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 237 Reengrossed

2023 Regular Session

Schamerhorn

**Abstract:** Provides relative to certain activities regarding contraband in correctional facilities.

Present law (R.S. 14:402) prohibits persons from introducing, possessing, or sending contraband into or from any state correctional institution or municipal or parish jail and provides for criminal penalties.

Proposed law amends present law to also prohibit persons from attempting to introduce, giving, or attempting to give contraband to an inmate of any correctional facility rather than a correctional institute.

Proposed law defines "correctional facility" as any jail, prison, penitentiary, juvenile institution, temporary holding center, or detention facility.

Proposed law retains and restructures present law with regard to contraband in or upon the premises of municipal or parish prisons or jails.

Present law provides that a reasonably small amount of sacramental wine may be permitted to be brought for use by a clergy member only, as part of a religious service.

Proposed law retains present law and provides that the sacramental shall be permitted by the warden or his designee.

Proposed law adds that the present law term of "contraband" includes any tobacco product as defined by present law and any hypodermic syringe, needle, and or other object used or intended for use, or designed for use in injecting controlled dangerous substances into the human body.

Proposed law further adds any electronic device including but not limited to computers, telephoto equipment, communications equipment, whether modified or not.

Present law (R.S. 15:1352) provides for the definition of "racketeering activity" and provides for certain criminal offenses.

Proposed law changes the crime of contraband in penal institutions to contraband in correctional facilities.

(Amends R.S. 14:402(A), (B), (C), (D)(1)-(5) and (7)-(10), (F), and (G)(1) and (2) and R.S. 15:1352(A)(66); Adds R.S. 14:402(D)(11), (12), (13), and (14) and (H); Repeals R.S. 14:402(E))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Remove proposed law language relative to the "taking" of contraband.
2. Provide that sacramental wine shall be permitted by the warden or his designee.
3. Remove proposed law language relative to the intention for use in the planning or aiding in an escape or attempt to escape from any facility.
4. Add hypodermic syringes, needles, and other objects used, intended for use, or designed for use in injecting controlled dangerous substances into the human body as contraband.

The House Floor Amendments to the engrossed bill:

1. Authorize instead of mandate sacramental wine be permitted by the warden or his designee.