

Regular Session, 2013

SENATE BILL NO. 52

BY SENATOR THOMPSON

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

PUBLIC SFTY/CORRECT DEPT. Provides relative to contraband in penal institutions.  
(gov sig)

1 AN ACT

2 To amend and reenact R.S. 14:402(D)(1), (E)(5), and (G), relative to contraband in penal  
3 institutions; to provide relative to the introduction of controlled dangerous  
4 substances into penal institutions; to provide relative to penalties; and to provide for  
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:402(D)(1), (E)(5), and (G) are hereby amended and reenacted to  
8 read as follows:

9 §402. Contraband defined; certain activities regarding contraband in penal  
10 institutions prohibited; penalty; disposition of seized contraband

11 \* \* \*

12 D. "Contraband" as used herein means:

13 (1) Any controlled dangerous substance as defined in R.S. 40:961; et seq., or  
14 any other drug or substance that if taken internally, whether separately or in  
15 combination with another drug or substance, produces or may produce an hypnotic  
16 effect. **The introduction by a person of any controlled dangerous substance as**  
17 **defined in R.S. 40:961 et seq., upon the grounds of any state correctional**

1 **institution shall constitute distribution of that controlled dangerous substance**  
2 **and shall be subject to the penalties provided in R.S. 40:961 et seq.** The  
3 provisions of this Paragraph shall not apply to a drug or substance that has been  
4 prescribed by a physician, if the drug or substance is in a container issued by the  
5 pharmacy or other place of dispensation, the container identifies the prescription  
6 number, prescribing physician, and issuing pharmacist or other person, and the  
7 container is not concealed upon the body of the person.

8 \* \* \*

9 E. It shall be unlawful to possess or to introduce or attempt to introduce into  
10 or upon the premises of any municipal or parish prison or jail or to take or send or  
11 attempt to take or send therefrom, or to give or to attempt to give to an inmate of any  
12 municipal or parish prison or jail, any of the following articles which are hereby  
13 declared to be contraband for the purpose of this Section, to wit:

14 \* \* \*

15 (5) Any narcotic or hypnotic or excitive drug or any drugs of whatever kind  
16 or nature, including nasal inhalators of any variety, sleeping pills or barbiturates of  
17 any variety that create or may create a hypnotic effect if taken internally, or any  
18 other controlled dangerous substance as defined in R.S. 40:961; et seq. **The**  
19 **introduction by a person of any controlled dangerous substance as defined in**  
20 **R.S. 40:961 et seq., upon the grounds of any municipal or parish prison or jail**  
21 **shall constitute distribution of that controlled dangerous substance and shall be**  
22 **subject to the penalties provided in R.S. 40:961 et seq.**

23 \* \* \*

24 G. Whoever violates any provision of this Section shall be fined not less than  
25 two hundred fifty dollars and not more than two thousand dollars and shall be  
26 imprisoned with or without hard labor for not more than five years.  
27 **Notwithstanding any other law to the contrary, whoever introduces contraband**  
28 **as defined in Subsections (D)(1) and (E)(5) of this Section, upon the grounds of**  
29 **any state correctional institution, or any municipal or parish prison or jail, shall**

1           be punished in accordance with the penalties for the distribution of the  
 2           controlled dangerous substance provided in R.S. 40:961 et seq. Any fine  
 3           collected under the provisions of this Subsection shall be placed in a fund located  
 4           within the division of probation and parole to be used solely for the purchase of  
 5           reentry services provided to offenders by the division of probation and parole.

6           Section 2. This Act shall become effective upon signature by the governor or, if not  
 7           signed by the governor, upon expiration of the time for bills to become law without signature  
 8           by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 9           vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 10          effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Alden A. Clement, Jr.

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#### DIGEST

Present law defines "contraband" for purposes of present law relative to the introduction of contraband into penal institutions as any controlled dangerous substance as defined in present law or any other drug or substance that if taken internally, whether separately or in combination with another drug or substance, produces or may produce a hypnotic effect. Present law excludes from the definition of "contraband" any drug or substance that has been prescribed by a physician, if the drug or substance is in a container issued by the pharmacy or other place of dispensation, the container identifies the prescription number, prescribing physician, and issuing pharmacist or other person, and the container is not concealed upon the body of the person.

Proposed law retains present law and adds that the introduction by a person of any controlled dangerous substance as defined in present law upon the grounds of any state correctional institution constitutes distribution of that controlled substance and is subject to the penalties provided in present law relative to controlled dangerous substances.

Present law provides that it is unlawful to possess or to introduce or attempt to introduce into or upon the premises of any municipal or parish prison or jail or to take or send or attempt to take or send therefrom, or to give or to attempt to give to an inmate of any municipal or parish prison or jail, any narcotic or hypnotic or excitive drug or any drugs of whatever kind or nature, including nasal inhalators of any variety, sleeping pills or barbiturates of any variety that create or may create a hypnotic effect if taken internally, or any other controlled dangerous substance as defined in present law.

Proposed law retains present law and adds that the introduction by a person of any controlled dangerous substance as defined in present law upon the grounds of any municipal or parish prison or jail constitutes distribution of that controlled dangerous substance and is subject to the penalties provided in present law relative to controlled dangerous substances.

Present law provides that whoever violates any provision of present law relative to contraband in penal institutions is to be fined not less than \$250 nor more than \$2,000 and imprisoned with or without hard labor for not more than five years.

Proposed law retains present law and adds that, notwithstanding any other law to the contrary, whoever introduces the contraband of a controlled dangerous substance, as defined in proposed law, upon the grounds of any state correctional institution, or any municipal or parish prison or jail, is to be punished in accordance with the penalties for the distribution of the controlled dangerous substance provided in present law relative to controlled dangerous substances.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 14:402(D)(1), (E)(5), and (G))