

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2114
(Judiciary Committee)
(At the request of the Department of Corrections and Rehabilitation)

AN ACT to create and enact subsection 8 to section 12-44.1-21 of the North Dakota Century Code, relating to wireless electronic devices on or within correctional facilities; to amend and reenact section 12-44.1-06 and subsection 7 of section 12-44.1-21 of the North Dakota Century Code, relating to grades of correctional facilities and the definition of contraband; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-44.1-06 of the North Dakota Century Code is amended and reenacted as follows:

12-44.1-06. Grades of correctional facilities.

1. The department of corrections and rehabilitation shall, following inspection pursuant to section 12-44.1-24, grade correctional facilities as to length of allowable inmate confinement based upon construction, size, and usage, as follows:
 - a. "Grade one" means a correctional facility for confining inmates not more than one year.
 - b. "Grade two" means a correctional facility for confining inmates not more than ninety days.
 - c. "Grade three" means a correctional facility for confining inmates not more than ninety-six hours.
2. The length of confinement of a prisoner may be temporarily increased on a case-by-case basis in grade one and grade two correctional facilities upon the request of the administrator and the approval of the department of corrections and rehabilitation.
- ~~3. The department of corrections and rehabilitation, upon the request of the governing body of the correctional facility, may authorize a correctional facility to regularly confine inmates for more than one year if the correctional facility meets criteria established by the department, including:~~
 - ~~a. A classification system approved by the department.~~
 - ~~b. Education programs, including vocational education and a general equivalency diploma program.~~
 - ~~c. Treatment programs, including licensed alcohol or drug addiction counseling.~~
 - ~~d. Inmate work programs, including prison industries work programs.~~
 - ~~e. An infirmary and onsite medical and pharmacy services.~~
 - ~~f. Indoor and outdoor recreation.~~

SECTION 2. Subsection 8 to section 12-44.1-21 of the North Dakota Century Code is created and enacted as follows:

8.
 - a. It is unlawful for an inmate in a correctional facility to willfully manufacture, possess, or use a wireless electronic communication device in a correctional facility except for law enforcement purposes.
 - b. It is unlawful for any person to willfully deliver, or possess with intent to deliver, a wireless electronic communication device to an inmate in a correctional facility or to any person for redelivery to an inmate in a correctional facility, or to allow an inmate to possess or use a wireless electronic communication device in a correctional facility except for law enforcement purposes.
 - c. A violation of this subsection is a class C felony.

SECTION 3. AMENDMENT. Subsection 7 of section 12-44.1-21 of the North Dakota Century Code is amended and reenacted as follows:

7. As used in this section, "controlled substance" is as defined in subsection 6 of section 19-03.1-01 and includes counterfeit substances as defined in subsection 7 of section 19-03.1-01. As used in this section, "willfully" is as defined in section 12.1-02-02. As used in this section, "alcohol" and "alcoholic beverage" are as defined in section 5-01-01. As used in this section, "tobacco" means any form of tobacco, including cigarettes, cigars, snuff, or tobacco in any form in which it may be used for smoking or chewing. As used in this section, a wireless electronic communication device includes a cellular telephone, personal digital assistant, pager, mobile broadband card, internet router, digital camera, two-way radio, modem, or any other electronic device capable of wireless transmission, reception, interception, or storage of oral communications, text, e-mail, video or photograph images, data signals, or radio communications, and also includes a component of a wireless electronic device, regardless whether the component itself is able to transmit, store, or receive oral communications, text, e-mail, video or photograph images, data signals, or radio communications. A wireless electronic communications device does not include a medically prescribed device or any other device approved by the department.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2114 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 45 Nays 0 Absent 2

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 88 Nays 0 Absent 6

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at ___ o'clock _____ M.

Secretary of State