



## 2025 South Dakota Legislature

# Senate Bill 59

*Introduced by: The Chair of the Committee on Judiciary at the request of the Attorney General*

1 **An Act to revise provisions relating to the delivery, possession with intent to deliver,**  
 2 **and possession of unauthorized articles in a state correctional facility, and to**  
 3 **provide a penalty therefor.**

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 **Section 1. That § 24-2-14 be AMENDED:**

6 ~~24-2-14. No alcoholic beverage, marijuana, or weapon, as defined in subdivision~~  
 7 ~~22-1-2(10), may be possessed by any inmate of a state correctional facility. No~~  
 8 ~~prescription or nonprescription drug, controlled substance as defined by chapter 34-20B,~~  
 9 ~~or any article of indulgence may be possessed by any inmate of a state correctional facility~~  
 10 ~~except by order of a physician, physician assistant, or licensed nurse practitioner, as~~  
 11 ~~defined in chapters 36-4, 36-4A, and 36-9A, respectively. Such order must be in writing~~  
 12 ~~and for a definite period. Any violation of this section constitutes Possession of the~~  
 13 ~~following articles by an inmate of a state correctional facility, unless directly issued by the~~  
 14 ~~Department of Corrections and used in accordance with the department's policies and~~  
 15 ~~procedures, is a felony pursuant to the following schedule:~~

- 16 (1) Possession of any alcoholic beverage or marijuana is a Class 6 felony;  
 17 (2) Possession of an article of indulgence is a Class 6 felony;  
 18 (3) Possession of a cell phone or any other electronic communication device prohibited  
 19 by Department of Corrections policy is a Class 4 felony;  
 20 (4) Possession of any prescription or nonprescription drug or controlled substance, as  
 21 defined by chapter 34-20B, except by written order for a definite period from a  
 22 physician, physician assistant, or certified nurse practitioner, as defined in chapters  
 23 36-4, 36-4A, and 36-9A, is a Class 4 felony; and  
 24 (3)(5) Possession of a dangerous weapon as defined in ~~subdivision 22-1-2(10)~~ by § 22-  
 25 1-2 is a Class 2 felony.

26 **Section 2. That § 24-2-22 be AMENDED:**

1           **24-2-22.** Any employee or other person who delivers or procures to be delivered,  
2           or possesses with the ~~intention~~ intent to deliver, to any inmate in a state correctional  
3           facility, or who deposits or conceals in or around any facility or place used to house  
4           inmates, or in any mode of transport entering ~~upon~~ the grounds of any facility or place  
5           and its ancillary facilities used to house inmates, any ~~article which is unlawful for an inmate~~  
6           ~~to possess pursuant to state law or the rules of the Department of Corrections of the~~  
7           following articles, with the intent that any inmate obtain or receive ~~such~~ the article, is  
8           guilty of a ~~Class 6~~ felony pursuant to the following schedule:

9           (1) Any alcoholic beverage or marijuana is a Class 6 felony;

10          (2) An article of indulgence is a Class 6 felony;

11          (3) A cell phone or any other electronic communication device prohibited by  
12                 Department of Corrections policy is a Class 4 felony;

13          (4) Any prescription or nonprescription drug or controlled substance, as defined by  
14                 chapter 34-20B, is a Class 4 felony; and

15          (5) A dangerous weapon, as defined by § 22-1-2, is a Class 2 felony.

16    **Section 3. That a NEW SECTION be added to chapter 24-2:**

17                 For purposes of §§ 24-2-14 and 24-2-22, "article of indulgence" means any item  
18                 that an inmate is unable to possess pursuant to the policies of the Department of  
19                 Corrections.