

2025 South Dakota Legislature

Senate Bill 59**AMENDMENT 59B
FOR THE INTRODUCED BILL**

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)(2) 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)(3) 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)(4) Possession of a dangerous weapon as defined in subdivision 22-1-2(10) by §~~
25 ~~22-1-2 is a Class 2 felony; and~~

1 (5) Possession of any article, not proscribed by this section, that is not provided by or
2 authorized by the facility in any form, is a Class 6 felony.

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

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

- 12 (1) Any alcoholic beverage or marijuana is a Class 6 felony;
13 ~~(2) An article of indulgence is a Class 6 felony;~~
14 ~~(3)~~(2) A cell phone or any other electronic communication device prohibited by
15 Department of Corrections policy is a Class 4 felony;
16 ~~(4)~~(3) Any prescription or nonprescription drug or controlled substance, as defined by
17 chapter 34-20B, is a Class 4 felony; and
18 ~~(5)~~(4) A dangerous weapon, as defined by § 22-1-2, is a Class 2 felony; and
19 (5) Any article, not proscribed by this section, that is not provided by or authorized by
20 the facility in any form, is a Class 6 felony.

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

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