

§ 3205. Promoting Major or Minor Prison Contraband.

(a) Definitions. In this section:

(1) “Correctional facility” means a jail, prison or other detention facility used to house persons who have been arrested, detained, held, convicted or sentenced by a criminal justice agency or court.

(2) “Major contraband” means:

(i) any firearm, ammunition, explosives or combustibles, and any plans or materials that could be used in the making or manufacturing of such weapons, explosives, or devices;

(ii) any dangerous device or dangerous weapon;

(iii) anything that is designed or intended to be used to facilitate escape from a correctional facility or an outside assignment;

(iv) marijuana or a controlled substance in schedule I, II, III, or IV, as defined in 6 CMC Chapter 1 (Commonwealth Controlled Substances Act); and

(v) any telecommunications device, including any electronic device or apparatus associated with a device, that can enable communication with a person outside of a correctional facility. The term includes, without limitation, a telephone, a cellular telephone, a personal digital assistant, a transmitting radio, watch or a computer that is connected to a computer or cellular network or is capable of connecting to a computer or cellular network through the use of wireless or wired technology or is otherwise capable of communicating with a person or device outside of a correctional facility.

(3) “Minor contraband” means:

(i) an alcoholic beverage or any controlled substance in schedule V, as defined in 6 CMC Chapter 1 (Commonwealth Controlled Substances Act), any paraphernalia used or intended for use in ingesting or consuming a controlled substance; or any other drugs not included in schedules I through V, except on the prescription of a licensed practitioner;

(ii) any United States or foreign currency;

(iii) any peripheral device that stores data digitally, mechanically, optically, or using flash memory; and

(iv) any other object listed in Department of Corrections rules and regulations as contraband and not defined as major contraband by this section.

(b) A person commits an offense if the person knowingly:

(1) Provides or attempts to provide major or minor contraband to a person in custody in a correctional facility, on the grounds of a correctional facility, or during an outside assignment; or

(2) While in custody, makes, possesses, or obtains, or attempt to make, possess or obtain major or minor contraband in a correctional facility, on the grounds of a correctional facility, or during an outside assignment.

(c) A conviction for the promotion of major contraband shall be punishable by a term of imprisonment of not more than four years, a fine of not more than \$1,500, or both.

(d) A conviction for the promotion of minor contraband shall be punishable by a term of imprisonment of not more than one year, a fine of not more than \$1,000, or both.

(e) The court shall order any sentence of imprisonment for this offense to run consecutive to any other sentence the person is serving at the time of the offense.

Source: PL 23-7, § 2 (Aug. 1, 2023).

Commission Comment: *Legislative Findings.*—In addition to severability and savings clause provisions, PL 23-7 included the following Findings and Purposes section:

Section 1. Findings and Purposes. The Legislature finds that contraband in the CNMI prison presents many problems, including threats to the safety of persons and the security of the prison. While the Department of Corrections, which handles the confinement of persons, has regulations establishing a list of what items constitute contraband, the Penal Code does not authorize prosecution for possession of contraband.

Many objects, such as cell phones and cash, are easily available and used outside of custody but can be used in prison to plan the commission of crimes, threaten witnesses, or escape. Other objects, if altered, can be used to threaten or harm persons. The listing and prohibition of contraband is designed to keep such objects out of prison, thereby improving the safety and security of the facility.

Most jurisdictions have laws criminalizing the possession or promotion of contraband in correctional facilities. Clarification in CNMI law is needed to properly define what items are prohibited along with appropriate penalties for those who introduce, possess and promote contraband in correctional facilities. The Legislature further finds that by enacting the prison contraband statute it will provide the Department of Corrections a more enforceable mandate that can deter inmates, detainees, correctional officers, contractors, volunteers, and the general public from possessing contraband in any of the CNMI's correctional facilities.