

1 SB101
2 125349-3
3 By Senator Allen
4 RFD: Judiciary
5 First Read: 07-FEB-12
6 PFD: 01/25/2012

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8 SYNOPSIS: Existing law establishes various offenses
9 relating to the unauthorized provision of specified
10 items to persons confined in local and state
11 correctional facilities.

12 This bill would provide, subject to
13 exceptions, that it shall be unlawful for an inmate
14 to possess a cellular telephone, wireless
15 communication device, or computer that allows the
16 input, output, examination, or transfer of computer
17 programs from one computer to another person or for
18 a person to possess with the intent to deliver, or
19 delivers, to an inmate in the custody of the
20 Alabama Department of Corrections a cellular
21 telephone, wireless communication device, or
22 computer that allows the input, output,
23 examination, or transfer of computer programs from
24 one computer to another person.

25 This bill would provide criminal penalties.

1 This bill would provide that the crime of
2 unauthorized possession of a cellular telephone,
3 wireless communication device, or a computer that
4 allows the input, output, examination, or transfer
5 of computer programs from one computer to another
6 person by an inmate should not be construed to
7 repeal other criminal laws.

8 This bill would also provide that if a
9 person visiting an inmate is found to be in
10 possession of any cellular telephone, wireless
11 communication device, or computer that allows the
12 input, output, examination, or transfer of computer
13 programs from one computer to another person when
14 searched or subjected to a metal detector, that
15 cellular telephone or wireless communication device
16 shall be subject to confiscation.

17 This bill would require posted notices
18 regarding the search and confiscation provisions.

19 This bill would allow the Alabama Department
20 of Corrections to enter into an agreement or
21 contract to detect unauthorized inmate
22 communications by cellular telephone or other
23 wireless communication devices.

24 Amendment 621 of the Constitution of Alabama
25 of 1901, now appearing as Section 111.05 of the
26 Official ReCompilation of the Constitution of

1 Alabama of 1901, as amended, prohibits a general
2 law whose purpose or effect would be to require a
3 new or increased expenditure of local funds from
4 becoming effective with regard to a local
5 governmental entity without enactment by a 2/3 vote
6 unless: it comes within one of a number of
7 specified exceptions; it is approved by the
8 affected entity; or the Legislature appropriates
9 funds, or provides a local source of revenue, to
10 the entity for the purpose.

11 The purpose or effect of this bill would be
12 to require a new or increased expenditure of local
13 funds within the meaning of the amendment. However,
14 the bill does not require approval of a local
15 governmental entity or enactment by a 2/3 vote to
16 become effective because it comes within one of the
17 specified exceptions contained in the amendment.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 Relating to the Alabama Department of Corrections;
24 to provide, subject to exceptions, that it shall be unlawful
25 for an inmate to possess a cellular telephone, wireless
26 communication device, or computer that allows the input,

1 output, examination, or transfer of computer programs from one
2 computer to another person or for a person to possess with the
3 intent to deliver, or delivers, to an inmate in the custody of
4 the Alabama Department of Corrections a cellular telephone,
5 wireless communication device, or computer that allows the
6 input, output, examination, or transfer of computer programs
7 from one computer to another person; to provide criminal
8 penalties; to provide that the crime of unauthorized
9 possession of a cellular telephone, wireless communication
10 device, or a computer that allows the input, output,
11 examination, or transfer of computer programs from one
12 computer to another person by an inmate should not be
13 construed to repeal other criminal laws; to provide that if a
14 person visiting an inmate is found to be in possession of any
15 cellular telephone, wireless communication device, or computer
16 that allows the input, output, examination, or transfer of
17 computer programs from one computer to another person when
18 searched or subjected to a metal detector, that cellular
19 telephone or wireless communication device shall be subject to
20 confiscation; to require posted notices regarding the search
21 and confiscation provisions; to allow the Alabama Department
22 of Corrections to enter into an agreement or contract to
23 detect unauthorized inmate communications by cellular
24 telephone or other wireless communication devices; and in
25 connection therewith would have as its purpose or effect the
26 requirement of a new or increased expenditure of local funds

1 within the meaning of Amendment 621 of the Constitution of
2 Alabama of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of Alabama of 1901,
4 as amended.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. (a) Except as otherwise authorized by
7 law, or when authorized by the person in charge of the prison
8 or other institution subject to this section, or by an officer
9 of the institution empowered to give that authorization, it
10 shall be unlawful for an inmate to possess a cellular
11 telephone, wireless communication device, or computer that
12 allows the input, output, examination, or transfer of computer
13 programs from one computer to another person or for any person
14 to possess with the intent to deliver, or delivers, to an
15 inmate in the custody of the Alabama Department of Corrections
16 a cellular telephone, wireless communication device, or a
17 computer that allows the input, output, examination, or
18 transfer of computer programs from one computer to another
19 person.

20 (b) An inmate in the custody of the Alabama
21 Department of Corrections who by means of a cellular
22 telephone, wireless communication device, or computer
23 communication system that allows the input, output,
24 examination, or transfer of computer programs from one
25 computer to another person any message or information

1 communicates with another person shall provide his or her
2 identity and inmate identification number to the person.

3 (c) A violation of this section shall be a Class A
4 misdemeanor.

5 (d) This section may not be construed to repeal
6 other criminal laws. Whenever conduct proscribed by this
7 section is also proscribed by any other provision of law, the
8 provision which carries the more serious penalty shall be
9 applied.

10 Section 2. (a) If a person visiting an inmate in the
11 custody of the Alabama Department of Corrections, upon being
12 searched or subjected to a metal detector, is found to be in
13 possession of a cellular telephone, wireless communication
14 device, or a computer communication system that allows the
15 input, output, examination, or transfer of computer programs
16 from one computer to another person, that device or computer
17 shall be subject to confiscation.

18 (b) Notice of this provision shall be posted in each
19 area where visitors are searched prior to visitation with an
20 inmate in the custody of the Alabama Department of
21 Corrections.

22 Section 3. The Alabama Department of Corrections may
23 enter into an agreement or contract to detect unauthorized
24 inmate communications by cellular telephone or other wireless
25 communication device.

1 Section 4. Although this bill would have as its
2 purpose or effect the requirement of a new or increased
3 expenditure of local funds, the bill is excluded from further
4 requirements and application under Amendment 621, now
5 appearing as Section 111.05 of the Official Recompilation of
6 the Constitution of Alabama of 1901, as amended, because the
7 bill defines a new crime or amends the definition of an
8 existing crime.

9 Section 5. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.