

SUBJECT: Prohibiting contraband in county jails

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 7 ayes — R. Lewis, Gutierrez, Chisum, Kamel, G. Lewis, Longoria,
Wohlgemuth

0 nays

2 absent — Hamric, Muñoz

SENATE VOTE: On final passage, May 4 — 31-0

WITNESSES: No public hearing

DIGEST: SB 949 would amend Local Government Code, Subchapter C, Chapter 351, to authorize county commissioners courts to prohibit the introduction of tobacco products in county jails or other correctional facilities. A commissioners court could not designate an item as contraband unless the sheriff agreed in writing to the designation.

Items that could be designated as contraband would include cigars, cigarettes, snuff, chewing tobacco, matches or anything that could be used for smoking or could be a threat to the health and safety of the jail population and correctional facility employees. Items already prohibited in Penal Codes secs. 38.09 or 38.11 could not be included.

The sheriff would be required to post a list of contraband items at each entrance to the jail facility and to state that anyone attempting to bring in contraband would be committing a Class C misdemeanor, punishable by a maximum penalty of a \$500 fine.

This bill would take immediate effect if approved by two-thirds of the membership of each house.

**SUPPORTERS
SAY:**

SB 949 would allow county commissioners courts to make county jails safer and healthier for both prisoners and employees and would provide enforcement authority to penalize those who supply contraband.

Many correctional facilities have chosen to become nonsmoking to accommodate nonsmoking prisoners, to prevent facility deterioration and to improve facility safety. In June 1993 the U.S. Supreme Court ruled that secondhand smoke can violate an inmate's constitutional protections against cruel and unusual punishment. If inmates can show that exposure to cigarette smoke is a threat to their health, they have a right not to be confined with a smoker.

SB 949 is permissive and would give commissioners courts and sheriffs the option to prevent the introduction of many items that are not apparently dangerous but could be potentially harmful to people or property. SB 949 would incorporate both the opinion of the sheriff and the court by requiring the consent of both entities before items could be designated as contraband.

The function of a jail is to restrict an convicted offender's activities. If a person wants to maintain the right to smoke, the person should not commit a crime. Items included in Penal Code secs. 38.11 and 38.09 (such as alcohol, controlled substances and deadly weapons) could not be designated as contraband under this bill because they are already prohibited and are felony, instead of a misdemeanor, offenses.

**OPPONENTS
SAY:**

Inmates and prisoners across the country are being forced to give up tobacco products, television, coffee and the right to wear long hair. Losing simple amenities and privileges would result in discontent and unrest and lead to increased smuggling attempts and black market trade.