

**Ala. Code 1975, § 13A-10-38(a)(2)**

**Promoting Prison Contraband in the Third Degree**  
**(Inmate)**

The defendant is charged with promoting prison contraband in the third degree.

A person commits the crime of promoting prison contraband in the third degree if he/she is a person confined in a detention facility and he/she intentionally and unlawfully makes, obtains or possesses any contraband.

To convict, the State must prove beyond a reasonable doubt each of the following elements:

- (1) The Defendant was a person confined in a detention facility, **[insert description]**;
- (2) The Defendant made, obtained or possessed any contraband **[insert description]**; **(AND)**
- (3) The Defendant acted intentionally and unlawfully.

A *detention facility* is any place used for the confinement, pursuant to law, of a person:

- (a) Charged with or convicted of a criminal offense;
- (b) Charged with being or adjudicated a youthful offender, or a neglected minor or juvenile delinquent;
- (c) Held for extradition; **(OR)**
- (d) Otherwise confined pursuant to an order of the court. [13A-10-30(b)(2)]

*Contraband* is any article or thing which a person confined in a detention facility is legally prohibited from obtaining or possessing by statute, rule, regulation or order. [13A-10-30(b)(4)]

A person acts *intentionally* with respect to a result or to conduct described by a statute defining an offense when his/her purpose is to cause that result or to engage in that conduct. [13A-2-2(1)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of promoting prison contraband in the third degree, then you shall find the defendant guilty of promoting prison contraband in the third degree.

If you find that the State has failed to prove any one or more of the elements of promoting prison contraband in the third degree, then you cannot find the defendant guilty of promoting prison contraband in the third degree.

**[If lesser-included offenses are included, the Court should instruct on those offenses at this point.]**

[Approved 8-20-15.]