

1 HB36
2 128090-2
3 By Representative McClendon
4 RFD: State Government
5 First Read: 07-FEB-12
6 PFD: 12/01/2011

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8 SYNOPSIS: Under existing law, the employment of
9 prisoners within the Department of Corrections
10 facilities by private industry is not authorized.

11 This bill would specifically authorize the
12 Department of Corrections to contract or enter into
13 agreements with private industry to establish
14 work-oriented rehabilitation programs within
15 facilities located on property owned or operated by
16 the Department of Corrections or any prison
17 facility housing inmates sentenced to the
18 department.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT

23
24 To amend Sections 14-7-7 and 14-7-22, Code of
25 Alabama 1975, relating to the Department of Corrections prison
26 industries, inmate training, and inmate rehabilitation; to
27 authorize the department to contract with private industry for

1 on-site work programs; and to further provide vocational
2 training and the rehabilitation of inmates through greater
3 utilization of prison industries.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Sections 14-7-7 and 14-7-22, Code of
6 Alabama 1975, are amended to read as follows:

7 "§14-7-7.

8 "It is hereby declared to be the intent of this
9 chapter:

10 "(1) To provide more adequate, regular and suitable
11 employment for the vocational training and rehabilitation of
12 the prisoners of this state, consistent with proper penal
13 purposes~~7~~.

14 "(2) To utilize the labor of prisoners for
15 self-maintenance, ~~and for~~ reimbursing this state for expenses
16 incurred by reason of their crimes and imprisonment; ~~and, and~~
17 for initial living expenses upon reentry into the community
18 following release from prison.

19 "(3) To effect the requisitioning and disbursement
20 of prison products directly through established state
21 authorities without possibility of private profits therefrom.

22 "(4) To provide prison industry projects designed to
23 place inmates in working and training environments in which
24 they are able to acquire marketable skills and earn money to
25 off-set the cost of incarceration, make payments for
26 restitution to their victims, provide support for their
27 families, and prepare for their release from prison.

1 "§14-7-22.

2 "(a) ~~On and after August 13, 1976, it~~ It shall be
3 unlawful for the Department of Corrections to sell or offer
4 for sale on the open market of this state any articles or
5 products manufactured wholly or in part in this or any other
6 state by prisoners of this state or any other state, except
7 prisoners participating in community correction programs, as
8 defined under Section 15-18-170, et seq., or on parole, or
9 probation, or any other kind of community supervision.

10 "(b) Any person who willfully violates ~~the~~
11 ~~provisions of subsection (a) of this section~~ shall be guilty
12 of a misdemeanor and, upon conviction, shall be confined in
13 jail for not less than 10 days nor more than one year or shall
14 be fined not less than ~~\$10.00~~ ten dollars (\$10) nor more than
15 ~~\$500.00~~ five hundred dollars (\$500), or both, in the
16 discretion of the court."

17 Section 2. (a) In order to implement work-oriented
18 rehabilitation programs in an actual private enterprise work
19 environment, the Commissioner of the Department of Corrections
20 may contract or enter into agreements with private
21 individuals, enterprises, partnerships, or corporations to
22 develop joint plants, businesses, factories, or commercial
23 enterprises. The contracts or agreements shall be limited to
24 those in which the department contracts or agrees to furnish
25 inmate labor for the manufacture of articles or products or to
26 furnish inmate labor for the provision of service in
27 facilities furnished by the department or the party or parties

1 and enter into contracts or agreements with the department.
2 The facilities shall be on property owned or operated by the
3 department or at any prison facility housing inmates sentenced
4 to the department.

5 (b) An inmate may participate in the program
6 established pursuant to this section only on a voluntary basis
7 and only after he or she has been informed of the conditions
8 of his or her employment.

9 (c) Inmates participating in programs where articles
10 or products are manufactured in part or in whole shall earn
11 not less than the prevailing wage for work of a similar nature
12 in the private sector. The earnings of an inmate authorized to
13 work at paid employment pursuant to this act shall be paid
14 directly to the department. The department shall adopt rules
15 concerning the disbursement of any earnings of the inmates
16 involved in a program established pursuant to this section,
17 including the payment of any court ordered restitution. The
18 department shall withhold from an inmate's earnings the costs
19 incident to the inmate's confinement, as the department shall
20 deem appropriate and reasonable, and the moneys collected
21 shall be deposited into the Department of Corrections Special
22 Revenue Fund. In no event shall the withheld earnings exceed
23 40 percent of the gross earnings of the inmate. The department
24 shall also comply with any order from a court of proper
25 jurisdiction that directs the withholding of funds from an
26 inmate's personal funds, not to exceed 40 percent of the
27 earnings of the inmate. After all expenses have been deducted

1 by the department, the remainder of the inmate's earnings
2 shall be credited to his or her account with the department.
3 All such manufacturing programs shall be operated in
4 compliance with the Federal Prison Industries Enhancement Act
5 codified at 18 U.S.C. §1761(c).

6 (d) An inmate participating in the program shall not
7 be considered an employee of the state and shall not be
8 entitled to employee benefits.

9 (e) All products, goods, or items produced by work
10 done under the auspices of contracts or agreements with the
11 Department of Corrections shall be marketed by the party or
12 parties that entered into the contract or agreement. In no
13 instance may the department market these products, goods, or
14 items.

15 (f) The Commissioner of the Department of
16 Corrections may enter into contracts necessary to implement
17 the prison industry program. The contractual agreements may
18 include rental or lease agreements for state buildings or sale
19 or lease of land on the grounds at an institution or a
20 facility of the department and provide for reasonable access
21 to and egress from the building to establish and operate a
22 facility. Rental or lease agreements shall be exempt from the
23 provisions and requirements of Chapter 16 of Title 41 of the
24 Code of Alabama 1975, and other competitive bid laws.

25 (g) The Department of Corrections and the party or
26 parties that enter into contracts or agreements under this act

1 shall be exempt from the provisions or penalties of Sections
2 14-5-2 and 14-7-22 of the Code of Alabama 1975.

3 (h) Nothing in this section or act shall cause a
4 reduction in the number of prisoners provided for training and
5 work programs conducted on the campus of and by a two-year
6 college and all such programs shall be provided a satisfactory
7 number of prisoners for their prison education programs and
8 all such prison education appropriations shall continue to
9 fund such programs within the two-year college system as set
10 forth in the Education Trust Fund budget.

11 Section 3. This act shall become effective
12 immediately following its passage and approval by the
13 Governor, or its otherwise becoming law.