

1 HB629
2 117432-1
3 By Representatives McClendon and Hurst
4 RFD: Government Appropriations
5 First Read: 25-FEB-10

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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 authorize the sale by the
12 Department of Corrections of products produced by
13 prisoners on probation, parole, or under community
14 supervision. This bill would also specifically
15 authorize the Department of Corrections to contract
16 or enter into agreements with private industry to
17 establish work-oriented rehabilitation programs
18 within facilities located on property owned or
19 operated by the Department of Corrections or any
20 prison facility housing inmates sentenced to the
21 department.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

1 To amend Sections 14-7-7, 14-7-8, 14-7-12, 14-7-13,
2 14-7-14, 14-7-15, 14-7-18, 14-7-19, 14-7-20, 14-7-21, and
3 14-7-22, Code of Alabama 1975, relating to the Department of
4 Corrections prison industries, inmate training, and inmate
5 rehabilitation; to authorize the department to contract with
6 private industry for on-site work programs; to further provide
7 vocational training and the rehabilitation of inmates through
8 greater utilization of prison industries; and to repeal
9 Sections 14-7-9, 14-7-10, and 14-7-11, Code of Alabama 1975.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 14-7-7, 14-7-8, 14-7-12,
12 14-7-13, 14-7-14, 14-7-15, 14-7-18, 14-7-19, 14-7-20, 14-7-21,
13 and 14-7-22, Code of Alabama 1975, are amended to read as
14 follows:

15 "§14-7-7.

16 "It is hereby declared to be the intent of this
17 chapter:

18 "(1) To provide more adequate, regular and suitable
19 employment for the vocational training and rehabilitation of
20 the prisoners of this state, consistent with proper penal
21 purposes~~7.~~

22 "(2) To utilize the labor of prisoners for
23 self-maintenance, ~~and for~~ reimbursing this state for expenses
24 incurred by reason of their crimes and imprisonment; ~~and, and~~
25 for initial living expenses upon reentry into the community
26 following release from prison.

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

4 "(4) To provide prison industry projects designed to
5 place inmates in working and training environments in which
6 they are able to acquire marketable skills and earn money to
7 make payments for restitution to their victims, provide
8 support for their families, and prepare for their release from
9 prison.

10 "§14-7-8.

11 "The Alabama ~~Board~~ Department of Corrections ~~is~~
12 ~~authorized to~~ may purchase, in the manner prescribed by law,
13 equipment, raw materials, and supplies and ~~to~~ may engage the
14 supervisory personnel necessary to establish and maintain for
15 this state at ~~the penitentiary~~ any correctional facility or
16 any penal farm or institution now or hereafter under the
17 control of ~~said board~~ the department industries for the
18 utilization of services of prisoners in the manufacture or
19 production of ~~such~~ articles or products as may be needed for
20 the construction, operation, maintenance, or use of any
21 office, department, institution, instrumentality, or agency
22 ~~supported in whole or in part by this state and~~ of this state,
23 the political subdivisions thereof, and municipalities.

24 "§14-7-12.

25 "(a) The ~~Board~~ Alabama Department of Corrections
26 shall cause to be prepared, at such times as it may determine,
27 catalogues containing an accurate and complete description of

1 all articles and products manufactured or produced by it
2 pursuant to the provisions of this chapter. Copies of ~~such the~~
3 catalogues shall be sent to all offices, departments,
4 institutions ~~and agencies of this state and made accessible to~~
5 ~~all political subdivisions of this state referred to in~~
6 ~~Section 14-7-13, instrumentalities, and agencies of this state~~
7 ~~and the political subdivisions thereof and municipalities of~~
8 ~~the state. The catalogues may also be made available through a~~
9 ~~designated website operated by the Department of Corrections.~~

10 "(b) ~~The Finance Department~~ Any office, department,
11 institution, instrumentality, or agency of this state and the
12 political subdivisions thereof and municipalities of the state
13 may at any time request the ~~Board~~ Alabama Department of
14 Corrections to manufacture or produce additional articles or
15 products.

16 "§14-7-13.

17 "(a) ~~On and after August 13, 1976, all~~ All offices,
18 departments, instrumentalities, and agencies of
19 this state ~~which are supported in whole or in part by this~~
20 ~~state and political subdivisions thereof shall purchase~~
21 directly from the Alabama ~~Board~~ Department of Corrections,
22 without solicitation or competitive bid, all articles or
23 products required by ~~such the~~ offices, departments,
24 institutions, instrumentalities, or agencies ~~or political~~
25 ~~subdivisions~~ of this state produced or manufactured by the
26 ~~said Board~~ Department of Corrections with the use of prison
27 labor, as provided for by this chapter, and no ~~such~~ article or

1 product may be purchased by any ~~such~~ office, department,
2 institution, or agency from any other source, unless excepted
3 from the provisions of this section as provided in Section
4 14-7-14. ~~All purchases made by state agencies shall be made~~
5 ~~through the Finance Department upon requisition by the proper~~
6 ~~authority of the office, department, institution or agency~~
7 Copies of all purchase orders shall be provided to the Finance
8 Department.

9 "(b) Political subdivisions of this state may
10 purchase directly from the ~~Board~~ Department of Corrections.

11 "(c) The Finance Department shall monitor the
12 compliance of state offices, departments, institutions, and
13 agencies in the procurement of goods, products, and services
14 from the Division of Prison Industries of the department.

15 "§14-7-14.

16 "Exceptions from the operation of the mandatory
17 provisions in subsection (a) of Section 14-7-13 may be made in
18 the case of articles or products produced or manufactured in
19 work shops or home industries developed, supervised, or
20 maintained by the adult blind department of the Alabama
21 Institute for Deaf and Blind; ~~or~~ in any case where, in the
22 opinion of the Finance Department, the article or articles or
23 product or products produced or manufactured under the
24 supervision of the ~~Board~~ Department of Corrections do or do
25 not meet the reasonable requirements of or for ~~such~~ the
26 offices, departments, institutions, instrumentalities, or

1 agencies; or in any case where the requisitions made cannot be
2 reasonably complied with.

3 "No ~~such~~ office, department, institution, or agency
4 ~~shall be allowed to~~ may evade the intent and meaning of this
5 section by slight variations from standards adopted by the
6 ~~finance department~~ Finance Department when the articles or
7 products produced or manufactured by the ~~Board~~ Department of
8 Corrections in accordance with established standards are
9 reasonably adapted to the actual needs of ~~such~~ the office,
10 department, institution or agency.

11 "§14-7-15.

12 "~~At least 30 days before the beginning of each~~
13 ~~fiscal year, the Finance Department shall provide to the Board~~
14 ~~of Corrections summary reports of the kind and amount of~~
15 ~~articles and products purchased for state offices,~~
16 ~~departments, institutions and agencies based upon the previous~~
17 ~~nine months experience. Not more than 100 days following the~~
18 ~~close of each fiscal year, the Finance Department shall submit~~
19 ~~to the Board of Corrections a report showing the kinds and~~
20 ~~amounts of such prison manufactured articles purchased by all~~
21 ~~state offices, departments, institutions and agencies based~~
22 ~~upon the purchase experience of the entire previous fiscal~~
23 ~~year. All such reports shall refer, insofar as possible, to~~
24 ~~the items or products contained in the catalogue as issued by~~
25 ~~the Board of Corrections. Not more than 100 days following the~~
26 ~~close of each fiscal year, the Finance Department shall submit~~

1 to the Governor and the Department of Corrections a report
2 showing compliance with this chapter.

3 "§14-7-18.

4 "The ~~Board~~ Department of Corrections ~~shall have the~~
5 ~~power and authority to~~ may prepare and promulgate policies
6 which are necessary to give effect to the provisions of this
7 chapter with respect to matters of administration respecting
8 the same.

9 "§14-7-19.

10 "In order to carry out the provisions of this
11 chapter, the Legislature shall authorize in its annual
12 appropriations ~~an Industrial Revolving Fund~~ a revolving fund
13 designated the Prison Industries Account and set the amount
14 therein for the use of the ~~Board~~ Department of Corrections.
15 The ~~board is authorized to~~ department may expend ~~such~~ moneys
16 out of appropriations for ~~said the~~ revolving fund as may be
17 necessary to erect buildings, improve, repair, or maintain
18 existing facilities, purchase equipment, procure tools,
19 supplies, and materials, purchase, install, or replace
20 equipment, and otherwise defray the necessary expenses
21 incident to the employment of prisoners as provided in this
22 chapter.

23 "§14-7-20.

24 "All moneys collected by the ~~Board~~ Department of
25 Corrections from the sale or disposition of articles and
26 products manufactured or produced by prison labor in
27 accordance with ~~the provisions of~~ this chapter, shall be

1 forthwith deposited with the State Treasurer to be kept and
2 maintained in ~~the Industrial Revolving Fund authorized by this~~
3 ~~chapter~~ a special revolving account designated the Prison
4 Industries Account, and ~~such the~~ moneys so collected and
5 deposited shall be used ~~solely~~ for the purchase of raw
6 materials, manufacturing supplies, equipment, machinery, and
7 the erection, repair, and maintenance of buildings used to
8 carry out the purposes of this chapter, as well as for the
9 payment of necessary personnel in charge, and to otherwise
10 defray the necessary expenses incident thereto, including the
11 employment of ~~such inmate labor and~~ necessary supervisory
12 personnel as is unavailable in the prison inmate population,
13 all of which shall be subject to the approval of the ~~Board~~
14 Department of Corrections; ~~provided, however, that the~~
15 ~~Industrial Revolving Fund. The Prison Industries Account~~ shall
16 never be maintained in excess of the amount necessary to carry
17 out efficiently and properly the intentions of this chapter.
18 When, in the opinion of the ~~Governor and the Legislature~~ the
19 ~~Industrial Revolving Fund~~ Commissioner of the Department of
20 Corrections, the Prison Industries Account has reached a sum
21 in excess of the requirements of this chapter, ~~such the~~ excess
22 shall be ~~transferred by the Board of Corrections to the State~~
23 ~~General Fund~~ used by the department for operating expenses and
24 permanent improvements to the state prison system, subject to
25 the approval of the Governor and appropriation by the
26 Legislature.

27 "§14-7-21.

1 ~~"The Board Department of Corrections shall have the~~
2 ~~power to authorize the commissioner of the Board of~~
3 ~~Corrections to~~ may sell and dispose of all surplus
4 agricultural products and all personal property owned by the
5 ~~Board Department~~ of Corrections which have not been
6 manufactured by the ~~board department~~ for the purpose of sale
7 at ~~such the~~ prices and on ~~such the~~ terms and under ~~such the~~
8 rules and regulations as it deems best to adopt. The ~~Board~~
9 ~~Department~~ of Corrections shall continue to exercise its
10 rights and privileges relative to the sale and disposal of
11 serviceable state personal property no longer needed by state
12 agencies.

13 "§14-7-22.

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

22 "(b) Any person who willfully violates ~~the~~
23 ~~provisions of~~ subsection (a) ~~of this section~~ shall be guilty
24 of a misdemeanor and, upon conviction, shall be confined in
25 jail for not less than 10 days nor more than one year or shall
26 be fined not less than ~~\$10.00~~ ten dollars (\$10) nor more than

1 ~~\$500.00~~ five hundred dollars (\$500), or both, in the
2 discretion of the court."

3 Section 2. (a) In order to implement work-oriented
4 rehabilitation programs in an actual private enterprise work
5 environment, the Commissioner of the Department of Corrections
6 is authorized to contract or enter into agreements with
7 private individuals, enterprises, partnerships, or
8 corporations to develop joint plants, businesses, factories,
9 or commercial enterprises. The contracts or agreements shall
10 be limited to those in which the department contracts or
11 agrees to furnish inmate labor for the manufacture of articles
12 or products or to furnish inmate labor for the provision of
13 service in facilities furnished by the department or the party
14 or parties and enter into contracts or agreements with the
15 department. The facilities shall be on property owned or
16 operated by the department or at any prison facility housing
17 inmates sentenced to the department.

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

22 (c) Inmates participating in programs where articles
23 or products are manufactured in part or in whole shall earn
24 not less than the prevailing wage for work of a similar nature
25 in the private sector. The earnings of an inmate authorized to
26 work at paid employment pursuant to this act shall be paid
27 directly to the department. The department shall adopt rules

1 concerning the disbursement of any earnings of the inmates
2 involved in a program established pursuant to this section,
3 including the payment of any and all court ordered
4 restitution. The department shall withhold from an inmate's
5 earnings the costs incident to the inmate's confinement, as
6 the department shall deem appropriate and reasonable, and the
7 moneys collected shall be deposited into the Department of
8 Corrections Special Revenue Fund. In no event shall the
9 withheld earnings exceed 40 percent of the earnings of the
10 inmate. The department shall also comply with any order from a
11 court of proper jurisdiction that directs the withholding of
12 funds from an inmate's personal funds, not to exceed 40
13 percent of the earnings of the inmate. After all expenses have
14 been deducted by the department, the remainder of the inmate's
15 earnings shall be credited to his or her account with the
16 department. All such manufacturing programs shall be operated
17 in compliance with the Federal Prison Industries Enhancement
18 Act codified at 18 U.S.C. §1761(c).

19 (d) An inmate participating in the program shall not
20 be considered an employee of the state and shall not be
21 entitled to employee benefits.

22 (e) All products, goods, or items produced by work
23 done under the auspices of contracts or agreements with the
24 Department of Corrections shall be marketed by the party or
25 parties that entered into the contract or agreement. In no
26 instance may the department market these products, goods, or
27 items.

1 (f) The Commissioner of the Department of
2 Corrections may enter into contracts necessary to implement
3 the prison industry program. The contractual agreements may
4 include rental or lease agreements for state buildings or
5 portions of them in the grounds of an institution or a
6 facility of the department and provide for reasonable access
7 to and egress from the building to establish and operate a
8 facility. Rental or lease agreements shall be exempt from the
9 provisions and requirements of Chapter 16 of Title 41 of the
10 Code of Alabama 1975, and other competitive bid laws.

11 (g) The Department of Corrections and the party or
12 parties that enter into contracts or agreements under this act
13 shall be exempt from the provisions or penalties of Sections
14 14-5-2 and 14-7-22 of the Code of Alabama 1975.

15 (h) Nothing in this section or act shall allow a
16 reduction in the number of prisoners provided for training and
17 work programs conducted on the campus of and by a two-year
18 college and all such programs shall be provided a satisfactory
19 number of prisoners for their prison education programs and
20 all such prison education appropriations shall continue to
21 fund such programs within the two-year college system as set
22 forth in the Education Trust Fund budget.

23 Section 3. All laws or parts of laws which conflict
24 with this act are repealed and Sections 14-7-9, 14-7-10, and
25 14-7-11, Code of Alabama 1975, are expressly repealed.

1 Section 4. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.