



HOUSE BILL No. 5150

October 19, 1993, Introduced by Rep. Nye and referred to the Committee on Corrections.

A bill to amend the title and sections 2, 4, 5, 6, 7, 11, and 12 of Act No. 15 of the Public Acts of 1968, entitled as amended

"Correctional industries act,"

sections 2, 4, 5, 7, 11, and 12 as amended by Act No. 245 of the Public Acts of 1980 and section 6 as amended by Act No. 24 of the Public Acts of 1990, being sections 800.322, 800.324, 800.325, 800.326, 800.327, 800.331, and 800.332 of the Michigan Compiled Laws; and to add section 7a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 2, 4, 5, 6, 7, 11, and 12
2 of Act No. 15 of the Public Acts of 1968, sections 2, 4, 5, 7,
3 11, and 12 as amended by Act No. 245 of the Public Acts of 1980
4 and section 6 as amended by Act No. 24 of the Public Acts of
5 1990, being sections 800.322, 800.324, 800.325, 800.326, 800.327,

1 800.331, and 800.332 of the Michigan Compiled Laws, are amended
2 and section 7a is added to read as follows:

3 TITLE

4 An act to provide for the employment of inmate labor in the
5 correctional institutions of this state; TO PROVIDE FOR THE
6 EMPLOYMENT OF INMATE LABOR IN THE PRIVATE MANUFACTURE OF CERTAIN
7 PRODUCTS UNDER CERTAIN CONDITIONS; to provide for certain powers
8 and duties of the commission of corrections, the governor, and
9 other officers and agencies in relation to correctional institu-
10 tions; to provide for the requisitioning and disbursement of cor-
11 rectional industries products; to provide for the disposition of
12 the proceeds of correctional industries and farms; to provide for
13 purchasing and accounting procedures; to regulate the sale or
14 disposition of inmate labor and products; to provide for the req-
15 uisitioning, purchases, and supply of correctional industries
16 products; to provide penalties for violations of this act; and to
17 repeal certain acts and parts of acts.

18 Sec. 2. As used in this act, "correctional industries
19 products" means all services provided, goods, wares, and merchan-
20 dise manufactured or produced, wholly or in part, by inmates in
21 any state correctional institution. CORRECTIONAL INDUSTRIES
22 PRODUCTS DOES NOT INCLUDE A PRODUCT MANUFACTURED WITH INMATE
23 LABOR IN A MANUFACTURING ENTERPRISE ESTABLISHED UNDER SECTION 7A.

24 Sec. 4. The commission of corrections may:

25 (a) Construct, use, equip, and maintain buildings, machin-
26 ery, boilers, and equipment ~~which~~ THAT may be necessary to
27 provide for the employment of inmate labor in the state

1 correctional institutions for the manufacture of goods, wares,
2 and merchandise and the operation of services.

3 (b) Purchase new material to be used in the manufacture of
4 goods, wares, merchandise, and operation of services.

5 (c) Dispose of the manufactured products or provide services
6 in the manner provided by law.

7 (d) Continue to use and maintain the buildings, machinery,
8 boilers, and equipment in the manufacture of goods, wares, and
9 merchandise in the manner in the operation on April 5, 1968 and
10 use the facilities in the operation of service programs.

11 (e) Recruit and employ agents and assistants through the
12 department of civil service as may be necessary to carry out the
13 purposes of this act and recommend to the department of civil
14 service classes and selection procedures ~~which~~ THAT recognize
15 the unique needs of correctional industries in this state.

16 (f) Establish an advisory council for correctional indus-
17 tries in this state ~~which~~ THAT shall include representatives of
18 organized labor, private industry, state government, and the gen-
19 eral public.

20 (G) ENTER INTO ANY AGREEMENTS NECESSARY FOR ASSIGNING
21 INMATES TO EMPLOYMENT IN PRIVATE MANUFACTURING ENTERPRISES UNDER
22 SECTION 7A.

23 Sec. 5. ~~All~~ EXCEPT AS PROVIDED IN SECTION 7A, ALL money
24 collected from the sale or disposition of goods, wares, and mer-
25 chandise manufactured by inmate labor, or received for services
26 provided by labor in the correctional institutions pursuant to
27 this act, shall be turned over to the state treasurer and

1 credited to the correctional industries revolving fund, and shall
2 be paid out only for the cost of doing business incurred in car-
3 rying out the purpose of this act. An expenditure for a struc-
4 ture from the revolving fund ~~which~~ THAT would otherwise require
5 the approval of the joint capital outlay subcommittee of the leg-
6 islature shall be submitted for approval to that subcommittee
7 before the commencement of any construction.

8 Sec. 6. (1) Correctional industries products may be sold,
9 exchanged, or purchased by institutions of this or any other
10 state or political subdivision ~~thereof~~ OF THIS STATE, the fed-
11 eral government or agencies of the federal government, A FOREIGN
12 GOVERNMENT OR AGENCIES OF A FOREIGN GOVERNMENT, or any organi-
13 zation that is a tax exempt organization under section 501(c)(3)
14 of the internal revenue code.

15 (2) An agricultural product that is produced on a correc-
16 tional farm, unless it is utilized within the correctional insti-
17 tutions or is sold to an institution, governmental agency, or
18 organization described in subsection (1), shall be made available
19 without charge to nonprofit charitable organizations or to the
20 department of social services for use in food banks, bulk food
21 distributions, or similar charitable food distribution programs.
22 This subsection does not apply to an agricultural product that is
23 not in a form suitable for use in the manner prescribed in this
24 section, such as bulk grain, live cattle, and hogs, which may be
25 sold on the open market.

26 (3) ~~The~~ EXCEPT AS PROVIDED IN SUBSECTION (4), THE labor of
27 inmates shall not be sold, hired, leased, loaned, contracted for,

1 or otherwise used for private or corporate profit or for any
2 purpose other than the construction, maintenance, or operation of
3 public works, ways, or property as directed by the governor.

4 This act does not prohibit the sale at retail of articles made by
5 inmates for the personal benefit of themselves or their depen-
6 dents or the payment to inmates for personal services rendered in
7 the correctional institutions, subject to regulations approved by
8 the commission of corrections, or the use of inmate labor upon
9 agricultural land ~~which~~ THAT has been rented or leased by the
10 department of corrections upon a sharecropping or other basis.

11 (4) IF MORE THAN 80% OF A PARTICULAR PRODUCT SOLD IN THE
12 UNITED STATES IS MANUFACTURED OUTSIDE THE UNITED STATES AND NONE
13 OF THAT PRODUCT IS MANUFACTURED IN THIS STATE, AS DETERMINED BY
14 THE COMMISSION IN CONJUNCTION WITH THE ADVISORY COUNCIL FOR COR-
15 RECTIONAL INDUSTRIES, INMATE LABOR MAY BE USED IN THE MANUFACTURE
16 OF THAT PRODUCT IN A PRIVATE MANUFACTURING ENTERPRISE ESTABLISHED
17 UNDER SECTION 7A. A DETERMINATION BY THE COMMISSION UNDER THIS
18 SUBSECTION SHALL BE MADE AT THE TIME THE MANUFACTURER APPLIES TO
19 THE DEPARTMENT FOR APPROVAL TO PRODUCE THAT PRODUCT PURSUANT TO
20 SECTION 7A, AND SHALL NOT SUBSEQUENTLY BE RECONSIDERED.

21 Sec. 7. The commission of corrections shall provide as
22 fully as practicable for the employment of inmates in tasks con-
23 sistent with the penal and rehabilitative purposes of their
24 imprisonment and with the public economy. The types of employ-
25 ment shall be as follows:

26 (a) Routine maintenance and operation of ~~the several~~
27 CORRECTIONAL institutions.

1 (b) Educational and rehabilitation activities, whether
2 formal or through productive or socialized activities, determined
3 on the basis of individual needs and educability.

4 (c) Productive or maintenance labor on or in connection with
5 the institution farms, or other land rented or leased by the
6 department of corrections, factories, shops, or other available
7 facilities for the production and distribution of correctional
8 industries products and services.

9 (d) Labor assignments on state public works, ways, or prop-
10 erties when and as requisitioned by the governor or on county,
11 township, or district roads when requested by the county board of
12 commissioners pursuant to section 1 of Act No. 181 of the Public
13 Acts of 1911, as amended, being section 800.101 of the Michigan
14 Compiled Laws.

15 (E) LABOR ASSIGNMENTS IN PRIVATE MANUFACTURING ENTERPRISES
16 ESTABLISHED UNDER SECTION 7A.

17 SEC. 7A. (1) INMATES MAY BE ASSIGNED TO WORK IN A PRIVATE
18 MANUFACTURING ENTERPRISE THAT MEETS ALL OF THE FOLLOWING
19 REQUIREMENTS:

20 (A) THE ENTERPRISE IS LOCATED ADJACENT TO A CORRECTIONAL
21 INSTITUTION OR IN AN INDUSTRIAL PARK THAT IS ADJACENT TO A COR-
22 RECTIONAL INSTITUTION, AND IS SUITABLY DESIGNED FOR UTILIZATION
23 OF INMATE LABOR.

24 (B) THE ENTERPRISE MANUFACTURES PRODUCTS THAT ARE PERMITTED
25 TO BE MANUFACTURED USING INMATE LABOR, AS DETERMINED UNDER
26 SECTION 6(4).

(C) THE RATIO OF THE NUMBER OF EMPLOYEES OF THE ENTERPRISE TO THE NUMBER OF INMATES ASSIGNED TO WORK IN THE ENTERPRISE SHALL NOT BE LESS THAN 1 EMPLOYEE TO 3 INMATES.

(2) ONLY THOSE INMATES WHO RESIDE IN A CORRECTIONAL INSTITUTION HAVING A SECURITY DESIGNATION OF LEVEL I AND WHO ARE NOT SERVING A SENTENCE OF LIFE IMPRISONMENT ARE ELIGIBLE TO BE ASSIGNED TO WORK IN A PRIVATE MANUFACTURING ENTERPRISE. AS USED IN THIS SUBSECTION, "SECURITY DESIGNATION" MEANS 1 OF 6 LEVELS OF RESTRICTIVENESS ENFORCED AT EACH CORRECTIONAL INSTITUTION, AS DETERMINED BY THE DEPARTMENT, WITH SECURITY LEVEL I BEING THE LEAST RESTRICTIVE AND SECURITY LEVEL VI BEING THE MOST RESTRICTIVE.

(3) THE CONTRACT BETWEEN THE DEPARTMENT AND THE PRIVATE MANUFACTURING ENTERPRISE SHALL ENSURE THAT A WAGE THAT IS NOT LESS THAN THE MINIMUM WAGE ESTABLISHED PURSUANT TO THE MINIMUM WAGE LAW OF 1964, ACT NO. 154 OF THE PUBLIC ACTS OF 1964, BEING SECTIONS 408.381 TO 408.398 OF THE MICHIGAN COMPILED LAWS, SHALL BE PAID BY THE DEPARTMENT TO THE INMATE FOR WORK PERFORMED BY THE INMATE IN THE PRIVATE MANUFACTURING ENTERPRISE. THE WAGES OF AN INMATE UNDER THIS SECTION SHALL BE DISTRIBUTED IN THE FOLLOWING ORDER:

(A) THE DEPARTMENT SHALL WITHHOLD AND PAY THE INMATE'S APPLICABLE STATE AND LOCAL INCOME TAXES AND FEDERAL INCOME, SOCIAL SECURITY, AND MEDICARE TAXES.

(B) OF THE BALANCE REMAINING:

(i) IF THE INMATE HAS BEEN ORDERED BY THE COURT TO PAY RESTITUTION TO THE VICTIM OF HIS OR HER CRIME, 20% SHALL BE PAID

1 FOR THAT RESTITUTION ON THE INMATE'S BEHALF, IN ACCORDANCE WITH
2 THE COURT ORDER, UNTIL THE AMOUNT OF RESTITUTION IS SATISFIED.
3 IF RESTITUTION IS SATISFIED, 10% SHALL BE ADDED TO THE ESCROW
4 ACCOUNT UNDER SUBPARAGRAPH (iv) AND 10% SHALL BE DEPOSITED WITH
5 THE STATE TREASURER AND CREDITED TO THE GENERAL FUND IN ADDITION
6 TO THE AMOUNT IN SUBPARAGRAPH (v).

7 (ii) IF THE INMATE HAS A SPOUSE OR CHILDREN, 20% SHALL BE
8 PAID TO THE INMATE'S SPOUSE OR CHILDREN FOR THE PURPOSE OF FAMILY
9 SUPPORT. IF THE INMATE'S SPOUSE OR CHILDREN RECEIVE AID TO FAMI-
10 LIES WITH DEPENDENT CHILDREN OR GENERAL ASSISTANCE UNDER THE
11 SOCIAL WELFARE ACT, ACT NO. 280 OF THE PUBLIC ACTS OF 1939, BEING
12 SECTIONS 400.1 TO 400.119B OF THE MICHIGAN COMPILED LAWS, WHILE
13 THE INMATE IS INCARCERATED, THE 20% DESIGNATED IN THIS SUBDIVI-
14 SION SHALL BE DEPOSITED WITH THE STATE TREASURER AND CREDITED TO
15 THE GENERAL FUND AS REPAYMENT OF THAT AID OR ASSISTANCE, UNTIL
16 THAT AMOUNT OF AID OR ASSISTANCE IS REPAID.

17 (iii) TEN PERCENT SHALL BE PAID TO THE INMATE FOR HIS OR HER
18 PERSONAL USE WHILE INCARCERATED.

19 (iv) TEN PERCENT SHALL BE HELD BY THE DEPARTMENT IN AN
20 ESCROW ACCOUNT FOR THE INMATE, AND SHALL BE RETURNED TO THE
21 INMATE UPON HIS OR HER RELEASE.

22 (v) THE BALANCE REMAINING AFTER THE DEDUCTIONS SPECIFIED IN
23 SUBPARAGRAPHS (i) TO (iv) SHALL BE DEPOSITED WITH THE STATE TREA-
24 SURER AND CREDITED TO THE GENERAL FUND, AS PARTIAL REIMBURSEMENT
25 TO THE STATE FOR THE COST OF THAT INMATE'S IMPRISONMENT AND CARE.

26 (4) THE CONTRACT BETWEEN THE DEPARTMENT AND THE PRIVATE
27 MANUFACTURING ENTERPRISE SHALL PROVIDE THAT THE DEPARTMENT SHALL

1 PAY THE APPLICABLE EMPLOYER'S SHARE OF FEDERAL SOCIAL SECURITY
2 AND MEDICARE TAXES AND STATE WORKER'S DISABILITY COMPENSATION
3 PAYMENTS OR CONTRIBUTIONS.

4 (5) IN ADDITION TO THE AMOUNTS PAID UNDER SUBSECTIONS (3)
5 AND (4), THE CONTRACT BETWEEN THE DEPARTMENT AND THE PRIVATE MAN-
6 UFACTURING ENTERPRISE SHALL REQUIRE THE ENTERPRISE TO PAY TO THE
7 DEPARTMENT AN ANNUAL ADMINISTRATIVE FEE EQUAL TO 1% OF THE TOTAL
8 AMOUNTS PAID ANNUALLY TO THE DEPARTMENT BY THE PRIVATE MANUFAC-
9 TURING ENTERPRISE FOR THE PURPOSES DESCRIBED IN SUBSECTIONS (3)
10 AND (4).

11 Sec. 11. (1) It is the intent of this act to do all of the
12 following:

13 (a) Provide adequate, regular, diversified, and suitable
14 employment for inmates of the state FOR THE PURPOSE OF ENHANCING
15 JOB SKILLS consistent with proper penal purposes.

16 (b) Utilize the labor of inmates ~~exclusively~~ for
17 self-maintenance and for reimbursing the state for expenses
18 incurred by reason of their crimes and imprisonment, AND FOR
19 EMPLOYMENT IN PRIVATE MANUFACTURING ENTERPRISES ESTABLISHED UNDER
20 SECTION 7A.

21 (C) PROVIDE A MEANS FOR INMATES TO EARN WAGES FOR SUPPORT OF
22 THEIR FAMILIES, REIMBURSEMENT TO THE STATE FOR PART OF THE COST
23 OF THEIR IMPRISONMENT, RESTITUTION TO CRIME VICTIMS, AND OTHER
24 PURPOSES CONSISTENT WITH THEIR IMPRISONMENT.

25 (D) ~~(c)~~ Effect the requisitioning and disbursement of cor-
26 rectional industries products and services directly through
27 established state authorities without possibility of private

1 profits and without any intermediating financial considerations,
2 appropriations, or expenditures.

3 (E) ~~(d)~~ Permit the management of correctional industries
4 to operate in a manner as similar as possible to similar private
5 industrial operations.

6 (2) Within 5 years after ~~the effective date of this~~
7 ~~subsection~~ OCTOBER 1, 1980, correctional industries shall be
8 changed from a system ~~which~~ THAT requires intermediating finan-
9 cial assistance to a total self-supporting system.

10 (3) The governor shall require the director of the depart-
11 ment of management and budget to establish suitable methods of
12 purchasing and accounting ~~which~~ THAT shall provide as may be
13 necessary or advisable for ALL OF THE FOLLOWING:

14 (A) ~~(i)~~ The purchasing and supply of supplies and materi-
15 als necessary for the institutional manufacture or production of
16 ~~the~~ correctional industries products. ~~pursuant to sections 2,~~
17 ~~6, and 7.~~

18 (B) ~~(ii)~~ Crediting correctional industries accounts and
19 debiting accounts of consuming institutions or departments for
20 products requisitioned and disbursed, at prices fixed to recap-
21 ture all direct and indirect costs. In addition, the methods of
22 purchasing, accounting, and pricing may provide for the setting
23 of a margin in excess of direct and indirect costs ~~which~~ THAT
24 may be expended for purposes consistent with this act.

25 (C) ~~(iii)~~ The purchase of all commodities or requirements
26 other than correctional industries products as provided in this
27 act, by competitive bidding or other methods established by law

1 or approved practice. All agencies, offices, and departments of
2 this state shall order goods from correctional industries if the
3 goods are produced by correctional industries of this state, are
4 comparable in price and quality to the goods normally purchased
5 by governmental agencies, and can be supplied in a reasonable
6 time period as determined by the department of management and
7 budget.

8 (D) ~~(iv)~~ An equitable basis to be proposed by the depart-
9 ment of corrections and approved by the department of management
10 and budget for determining costs between the correctional insti-
11 tutions and correctional industries ~~which shall require~~ THAT
12 REQUIRES the institutions to absorb that portion of the supervi-
13 sory costs that directly relate to custody and security
14 responsibilities.

15 Sec. 12. The commission of corrections may adopt a schedule
16 of payments or allowances to inmates or to their dependents from
17 the funds as may be provided for the payment. THIS SECTION DOES
18 NOT APPLY TO THE PAYMENT OF WAGES TO INMATES ASSIGNED TO WORK IN
19 PRIVATE MANUFACTURING ENTERPRISES UNDER SECTION 7A.