

SUBSTITUTE FOR
HOUSE BILL NO. 5658

A bill to amend 1968 PA 15, entitled
"Correctional industries act,"
by amending sections 2, 6, and 7a (MCL 800.322, 800.326, and
800.327a), section 2 as amended and section 7a as added by 1996 PA
537 and section 6 as amended by 2010 PA 308.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Correctional industries products" means all services
3 provided, goods, wares, and merchandise manufactured or produced,
4 wholly or in part, by inmates in any state correctional
5 institution, but does not include ~~products~~—**EITHER OF THE FOLLOWING:**

6 **(i) PRODUCTS** manufactured with inmate labor or services
7 rendered with inmate labor in a private manufacturing or service

enterprise established under section 7a.

(ii) GOODS OR SERVICES PROVIDED BY INMATE LABOR ASSIGNED TO A PRIVATE CONTRACTOR TO BE USED SOLELY WITHIN A CORRECTIONAL INSTITUTION, JAIL, OR REENTRY FACILITY.

~~_____ (b) "Youth correctional facility" means a facility established under section 20g of Act No. 232 of the Public Acts of 1953, being section 791.220g of the Michigan Compiled Laws.~~

(B) "CORRECTIONAL INSTITUTION" MEANS A STATE PRISON, PRISON FACILITY, OR OTHER PRISON INSTITUTION, CORRECTIONAL CAMP, COMMUNITY CORRECTIONS CENTER, CORRECTIONAL FARM, STATE REFORMATORY, OR PROBATION RECOVERY CAMP, OWNED, OPERATED, LEASED, SUPERVISED, OR CONTRACTED FOR BY THIS STATE.

Sec. 6. (1) Correctional industries products may be sold, exchanged, or purchased by any of the following:

(a) An institution of this or any other state or political subdivision of this or any other state, the federal government or agencies of the federal government, a foreign government or agencies of a foreign government, or, except as provided in subsection ~~(5)~~, **(6)**, a private vendor that operates a correctional facility in this state.

(b) Except as provided in subsection ~~(5)~~, **(6)**, any organization that is a tax exempt organization under section 501(c)(3) of the internal revenue code, or any organization or individual that acts as a fiduciary for a tax exempt organization under section 501(c)(3) of the internal revenue code and certifies that the product sold or exchanged under this act is intended for use by a tax exempt organization under section 501(c)(3) of the

1 internal revenue code.

2 (c) Except as provided in subsection ~~(5)~~, **(6)**, any private
3 business or individual, if the products are cut and sewn textiles,
4 but only if the same or a comparable in style product is not
5 manufactured by a private business in this state. However, this
6 subdivision no longer applies beginning on the later of the
7 following dates:

8 (i) The date cut and sewn textiles are being manufactured under
9 the prisoner industry enhancement certification program under
10 section 4(h) and sold, exchanged, or purchased under subdivision
11 (d).

12 (ii) June 1, 2015.

13 (d) Except as provided in subsection ~~(5)~~, **(6)**, any private
14 individual, corporation, partnership, or association in this state
15 and in interstate commerce if the products are manufactured under
16 section 4(h).

17 (2) An agricultural product that is produced on a correctional
18 farm may be utilized within the correctional institutions or within
19 a correctional facility in this state notwithstanding its operation
20 by a private vendor or sold to an institution, governmental agency,
21 or organization described in subsection (1) or sold for utilization
22 in the food production facilities of the department of corrections
23 notwithstanding the operation of those facilities by a private
24 vendor. An agricultural product that is not utilized or sold as
25 provided in this subsection shall be made available without charge
26 to nonprofit charitable organizations or to the family independence
27 agency for use in food banks, bulk food distributions, or similar

1 charitable food distribution programs. This subsection does not
2 apply to an agricultural product that is not in a form suitable for
3 use in the manner prescribed in this section, such as bulk grain,
4 live cattle, and hogs, which may be sold on the open market.

5 (3) Except as provided in ~~subsection~~ **SUBSECTIONS (2), (4), AND**
6 **(5)**, the labor of inmates shall not be sold, hired, leased, loaned,
7 contracted for, or otherwise used for private or corporate profit
8 or for any purpose other than the construction, maintenance, or
9 operation of public works, ways, or property as directed by the
10 governor. This act does not prohibit the sale at retail of articles
11 made by inmates for the personal benefit of themselves or their
12 dependents or the payment to inmates for personal services rendered
13 in the correctional institutions, subject to regulations approved
14 by the department of corrections, or the use of inmate labor upon
15 agricultural land that has been rented or leased by the department
16 of corrections upon a sharecropping or other basis.

17 **(4) THIS ACT DOES NOT PROHIBIT THE ASSIGNMENT OF PRISON LABOR**
18 **TO A PRIVATE CONTRACTOR FOR THE PRODUCTION OF GOODS OR SERVICES TO**
19 **BE USED SOLELY WITHIN A CORRECTIONAL INSTITUTION, JAIL, OR REENTRY**
20 **FACILITY THAT HOUSES A PRISONER POPULATION UNDER THE JURISDICTION**
21 **OF THE DEPARTMENT. INMATES ASSIGNED BY THE DEPARTMENT FOR THE**
22 **PRODUCTION OF GOODS OR SERVICES THAT ARE SOLELY USED WITHIN A**
23 **CORRECTIONAL FACILITY OR INSTITUTION THAT HOUSES A PRISONER**
24 **POPULATION UNDER THE JURISDICTION OF THE DEPARTMENT ARE NOT SUBJECT**
25 **TO THE PREVAILING OR MINIMUM WAGE.**

26 (5) ~~(4)~~ If more than 80% of a particular product sold in the
27 United States is manufactured outside the United States and none of

1 that product is manufactured in this state, or if a particular
2 service is not performed in this state, as determined by the
3 department of corrections in conjunction with the advisory council
4 for correctional industries, inmate labor may be used in the
5 manufacture of that product or the rendering of that service in a
6 private manufacturing or service enterprise established under
7 section 7a. A determination by the department of corrections under
8 this subsection shall be made at the time the individual or
9 business entity applies to the department for approval to produce
10 that product or render that service ~~pursuant to~~ **UNDER** section 7a.

11 (6) ~~(5)~~ An individual who is a member of the state senate or
12 house of representatives shall not be permitted to participate,
13 directly or indirectly, either personally or through an affiliate,
14 in any program involving the sale, exchange, purchase, or
15 manufacture of correctional industries products until 2 years after
16 the date on which the individual's term of service in the senate or
17 house of representatives ends.

18 Sec. 7a. (1) Inmates may be assigned to work in a private
19 manufacturing or service enterprise that meets all of the following
20 requirements:

21 (a) The enterprise is suitably designed for the utilization of
22 inmate labor. Prisoners shall not be granted access to any
23 employee, customer or client information including, but not limited
24 to, personal addresses, telephone numbers, e-mail addresses, credit
25 card information or other financial information, health records, or
26 any information contained in personnel, client or customer files.

27 (b) The enterprise either is located within 10 miles of a

1 correctional facility or is located within a correctional facility
2 pursuant to a lease agreement executed between the department of
3 corrections and the enterprise. If the enterprise is located within
4 a correctional facility, the enterprise shall pay to the local
5 taxing authority an amount in lieu of ad valorem property taxes
6 equivalent to the amount of ad valorem property taxes that would
7 have been required if the enterprise had been located outside the
8 correctional facility.

9 (c) The enterprise manufactures products or renders services
10 that are permitted to be manufactured or rendered using inmate
11 labor, as determined under section ~~6(4)~~-6(5).

12 (d) The ratio of the number of employees of the enterprise to
13 the number of inmates assigned to work in the enterprise shall not
14 be less than 1 employee to 3 inmates.

15 (2) Only those inmates who reside in a correctional
16 institution having a security designation of level I, who are not
17 serving a sentence of life imprisonment, and who volunteer for the
18 assignment are eligible to be assigned to work in a private
19 manufacturing or service enterprise. As used in this subsection,
20 "security designation" means 1 of 6 levels of restrictiveness
21 enforced at each correctional institution, as determined by the
22 department, with security level I being the least restrictive and
23 security level VI being the most restrictive.

24 (3) The contract between the department and the private
25 manufacturing or service enterprise shall ensure that a wage that
26 is the higher of the prevailing wage or the minimum wage
27 established pursuant to ~~UNDER~~ 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, 1964 PA 154, MCL 408.381 TO 408.398,~~
shall be paid by the department to the inmate for work performed by
the inmate in the private manufacturing or service 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
for that restitution on the inmate's behalf, in accordance with the
court order, until the amount of restitution is satisfied. If
restitution is satisfied or if the inmate was not made subject to
restitution, 10% shall be added to the escrow account under
subparagraph (iv) and 10% shall be deposited with the state
treasurer and credited to the crime victims rights fund created in
section 4 of ~~Act No. 196 of the Public Acts of 1989, being section~~
~~780.904 of the Michigan Compiled Laws, 1989 PA 196, MCL 780.904,~~ in
addition to the amount in subparagraph (v).

(ii) If the inmate has a spouse or children, 20% shall be paid
to the inmate's spouse or children for the purpose of family
support. If the inmate's spouse or children receive aid to families
with dependent children or general assistance under the social
welfare act, ~~Act No. 280 of the Public Acts of 1939, being sections~~
~~400.1 to 400.119b of the Michigan Compiled Laws, 1939 PA 280, MCL~~

1 400.1 TO 400.119B, while the inmate is incarcerated, the 20%
2 designated in this subdivision shall be deposited with the state
3 treasurer and credited to the general fund as repayment of that aid
4 or assistance, until that amount of aid or assistance is repaid.

5 (iii) Ten percent shall be paid to the inmate for his or her
6 personal use while incarcerated.

7 (iv) Ten percent shall be held by the department in an escrow
8 account for the inmate, and shall be returned to the inmate upon
9 his or her release.

10 (v) The balance remaining after the deductions specified in
11 subparagraphs (i) to (iv) shall be deposited with the state treasurer
12 and credited to the general fund, as partial reimbursement to the
13 state for the cost of that inmate's imprisonment and care.

14 (vi) The inmate shall not be eligible for unemployment
15 compensation or retirement benefits upon his or her release from a
16 work assignment or from imprisonment.

17 (4) The contract between the department and the private
18 manufacturing or service enterprise shall provide that the
19 department shall pay the applicable employer's share of federal
20 social security and medicare taxes and state worker's disability
21 compensation payments or contributions.

22 (5) The contract between the department and the private
23 manufacturing or service enterprise shall provide that the
24 enterprise shall reimburse the department for the amounts paid by
25 the department for the purposes described in subsections (3) and
26 (4). The contract also shall require the enterprise to pay to the
27 department an annual administrative fee equal to 1% of the total

1 amounts paid annually to the department by the enterprise for the
2 purposes described in subsections (3) and (4).

3 (6) The contract provisions created in this section shall not
4 be construed as making the prisoner an employee of the state of
5 Michigan.