

1 SB366
2 96492-1
3 By Senator Griffith
4 RFD: Fiscal Responsibility and Accountability
5 First Read: 14-FEB-08

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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
12 state, county, and municipal employees and
13 nonprofit organizations, associations, and
14 institutions to purchase products made through the
15 use of prison labor directly from the Department of
16 Corrections. This bill would authorize the sale by
17 the Department of Corrections of products produced
18 by prisoners on probation, parole, or under
19 community supervision. This bill would also
20 specifically authorize the Department of
21 Corrections to contract or enter into agreements
22 with private industry to establish work-oriented
23 rehabilitation programs within facilities located
24 on property owned or operated by the Department of
25 Corrections or any prison facility housing inmates
26 sentenced to the department.

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

5 To amend Sections 14-7-7, 14-7-8, 14-7-12, 14-7-13,
6 14-7-14, 14-7-15, 14-7-18, 14-7-19, 14-7-20, 14-7-21, and
7 14-7-22, Code of Alabama 1975, relating to the Department of
8 Corrections prison industries, inmate training, and inmate
9 rehabilitation; to authorize the department to contract with
10 private industry for on-site work programs; to authorize
11 state, county, and municipal employees and nonprofit
12 organizations to purchase products made by prison labor
13 directly from the Department of Corrections; to further
14 provide vocational training and the rehabilitation of inmates
15 through greater utilization of prison industries; and to
16 repeal Sections 14-7-9, 14-7-10, and 14-7-11, Code of Alabama
17 1975.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

23 "§14-7-7.

24 "It is hereby declared to be the intent of this
25 chapter:

26 "(1) To provide more adequate, regular and suitable
27 employment for the vocational training and rehabilitation of

1 the prisoners of this state, consistent with proper penal
2 purposes~~7~~.

3 "(2) To utilize the labor of prisoners for
4 self-maintenance, ~~and for~~ reimbursing this state for expenses
5 incurred by reason of their crimes and imprisonment; ~~and, and~~
6 for initial living expenses upon reentry into the community
7 following release from prison.

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

11 "(4) To provide prison industry projects designed to
12 place inmates in working and training environments in which
13 they are able to acquire marketable skills and earn money to
14 make payments for restitution to their victims, provide
15 support for their families, and prepare for their release from
16 prison.

17 "§14-7-8.

18 "The Alabama ~~Board~~ Department of Corrections ~~is~~
19 ~~authorized to~~ may purchase, in the manner prescribed by law,
20 equipment, raw materials, and supplies and ~~to~~ may engage the
21 supervisory personnel necessary to establish and maintain for
22 this state at ~~the penitentiary~~ any correctional facility or
23 any penal farm or institution now or hereafter under the
24 control of ~~said board~~ the department industries for the
25 utilization of services of prisoners in the manufacture or
26 production of ~~such~~ articles or products as may be needed for
27 the construction, operation, maintenance, or use of any

1 office, department, institution, instrumentality, or agency
2 ~~supported in whole or in part by this state and of this state,~~
3 the political subdivisions thereof, and municipalities.

4 "§14-7-12.

5 "(a) The ~~Board~~ Alabama Department of Corrections
6 shall cause to be prepared, at such times as it may determine,
7 catalogues containing an accurate and complete description of
8 all articles and products manufactured or produced by it
9 pursuant to the provisions of this chapter. Copies of ~~such the~~
10 catalogues shall be sent to all offices, departments,
11 institutions ~~and agencies of this state and made accessible to~~
12 ~~all political subdivisions of this state referred to in~~
13 Section 14-7-13, instrumentalities, and agencies of this state
14 and the political subdivisions thereof and municipalities of
15 the state. The catalogues may also be made available through a
16 designated website operated by the Department of Corrections.

17 "(b) ~~The Finance Department~~ Any office, department,
18 institution, instrumentality, or agency of this state and the
19 political subdivisions thereof and municipalities of the state
20 may at any time request the ~~Board~~ Alabama Department of
21 Corrections to manufacture or produce additional articles or
22 products.

23 "§14-7-13.

24 "(a) ~~On and after August 13, 1976, all~~ All offices,
25 departments, institutions, instrumentalities, and agencies of
26 this state ~~which are supported in whole or in part by this~~
27 ~~state and political subdivisions thereof shall purchase~~

1 directly from the Alabama Board Department of Corrections,
2 without solicitation or competitive bid, all articles or
3 products required by ~~such~~ the offices, departments,
4 institutions, instrumentalities, or agencies ~~or political~~
5 ~~subdivisions~~ of this state produced or manufactured by the
6 ~~said Board Department~~ of Corrections with the use of prison
7 labor, as provided for by this chapter, and no ~~such~~ article or
8 product may be purchased by any ~~such~~ office, department,
9 institution, or agency from any other source, unless excepted
10 from the provisions of this section as provided in Section
11 14-7-14. ~~All purchases made by state agencies shall be made~~
12 ~~through the Finance Department upon requisition by the proper~~
13 ~~authority of the office, department, institution or agency~~
14 Copies of all purchase orders shall be provided to the Finance
15 Department.

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

18 "(c) The Finance Department shall monitor the
19 compliance of state offices, departments, institutions, and
20 agencies in the procurement of goods, products, and services
21 from the Division of Prison Industries of the department.

22 "§14-7-14.

23 "Exceptions from the operation of the mandatory
24 provisions in subsection (a) of Section 14-7-13 may be made in
25 the case of articles or products produced or manufactured in
26 work shops or home industries developed, supervised, or
27 maintained by the adult blind department of the Alabama

1 Institute for Deaf and Blind; ~~or~~ in any case where, in the
2 opinion of the Finance Department, the article or articles or
3 product or products produced or manufactured under the
4 supervision of the ~~Board~~ Department of Corrections do or do
5 not meet the reasonable requirements of or for ~~such the~~
6 offices, departments, institutions, instrumentalities, or
7 agencies; ~~or~~ in any case where the requisitions made cannot be
8 reasonably complied with.

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

17 "§14-7-15.

18 "~~At least 30 days before the beginning of each~~
19 ~~fiscal year, the Finance Department shall provide to the Board~~
20 ~~of Corrections summary reports of the kind and amount of~~
21 ~~articles and products purchased for state offices,~~
22 ~~departments, institutions and agencies based upon the previous~~
23 ~~nine months experience. Not more than 100 days following the~~
24 ~~close of each fiscal year, the Finance Department shall submit~~
25 ~~to the Board of Corrections a report showing the kinds and~~
26 ~~amounts of such prison manufactured articles purchased by all~~
27 ~~state offices, departments, institutions and agencies based~~

1 upon the purchase experience of the entire previous fiscal
2 year. All such reports shall refer, insofar as possible, to
3 the items or products contained in the catalogue as issued by
4 the Board of Corrections. Not more than 100 days following the
5 close of each fiscal year, the Finance Department shall submit
6 to the Governor and the Department of Corrections a report
7 showing compliance with this chapter.

8 "§14-7-18.

9 "The ~~Board~~ Department of Corrections ~~shall have the~~
10 ~~power and authority to~~ may prepare and promulgate policies
11 which are necessary to give effect to the provisions of this
12 chapter with respect to matters of administration respecting
13 the same.

14 "§14-7-19.

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

1 "§14-7-20.

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

1 General Fund used by the department for operating expenses and
2 permanent improvements to the state prison system, subject to
3 the approval of the Governor and appropriation by the
4 Legislature.

5 "§14-7-21.

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

18 "§14-7-22.

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

1 "(b) Any person who willfully violates ~~the~~
2 ~~provisions of~~ subsection (a) ~~of this section~~ shall be guilty
3 of a misdemeanor and, upon conviction, shall be confined in
4 jail for not less than 10 days nor more than one year or shall
5 be fined not less than ~~\$10.00~~ ten dollars (\$10) nor more than
6 ~~\$500.00~~ five hundred dollars (\$500), or both, in the
7 discretion of the court."

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

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

1 (c) Inmates participating in programs where articles
2 or products are manufactured in part or in whole shall earn
3 not less than the prevailing wage for work of a similar nature
4 in the private sector. The earnings of an inmate authorized to
5 work at paid employment pursuant to this act shall be paid
6 directly to the department. The department shall adopt rules
7 concerning the disbursement of any earnings of the inmates
8 involved in a program established pursuant to this section,
9 including the payment of any and all court ordered
10 restitution. The department shall withhold from an inmate's
11 earnings the costs incident to the inmate's confinement, as
12 the department shall deem appropriate and reasonable, and the
13 moneys collected shall be deposited into the Department of
14 Corrections Special Revenue Fund. In no event shall the
15 withheld earnings exceed 40 percent of the earnings of the
16 inmate. The department shall also comply with any order from a
17 court of proper jurisdiction that directs the withholding of
18 funds from an inmate's personal funds, not to exceed 40
19 percent of the earnings of the inmate. After all expenses have
20 been deducted by the department, the remainder of the inmate's
21 earnings shall be credited to his or her account with the
22 department. All such manufacturing programs shall be operated
23 in compliance with the Federal Prison Industries Enhancement
24 Act codified at 18 U.S.C. §1761(c).

25 (d) An inmate participating in the program shall not
26 be considered an employee of the state and shall not be
27 entitled to employee benefits.

1 (e) All products, goods, or items produced by work
2 done under the auspices of contracts or agreements with the
3 Department of Corrections shall be marketed by the party or
4 parties that entered into the contract or agreement. In no
5 instance may the department market these products, goods, or
6 items.

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

17 (g) The Department of Corrections and the party or
18 parties that enter into contracts or agreements under this act
19 shall be exempt from the provisions or penalties of Sections
20 14-5-2 and 14-7-22 of the Code of Alabama 1975.

21 (h) Nothing in this section or act shall allow a
22 reduction in the number of prisoners provided for training and
23 work programs conducted on the campus of and by a two-year
24 college and all such programs shall be provided a satisfaction
25 number of prisoners for their prison education programs and
26 all such prison education appropriations shall continue to

1 fund such programs within the two-year college system as set
2 forth in the Education Trust Fund budget.

3 Section 3. All laws or parts of laws which conflict
4 with this act are repealed and Sections 14-7-9, 14-7-10, and
5 14-7-11, Code of Alabama 1975, are expressly repealed.

6 Section 4. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law.