
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 659 Session of
2019

INTRODUCED BY BROWNE, PHILLIPS-HILL AND BARTOLOTTA, MAY 17, 2019

REFERRED TO JUDICIARY, MAY 17, 2019

AN ACT

1 Amending Title 61 (Prisons and Parole) of the Pennsylvania
2 Consolidated Statutes, establishing the Prison Industry
3 Enhancement Authority; providing for employment of prisoners
4 by private industry and for subcontracts with correctional
5 agencies; establishing guidelines for prisoner compensation;
6 and providing for location of private sector prison industry.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Title 61 of the Pennsylvania Consolidated
10 Statutes is amended by adding a chapter to read:

11 CHAPTER 19

12 PRISON INDUSTRY ENHANCEMENT AUTHORITY

13 Sec.

14 1901. Scope of chapter.

15 1902. Intent.

16 1903. Definitions.

17 1904. Prison Industry Enhancement Authority.

18 1905. Powers and duties of authority.

19 1906. Cooperation with private industry.

20 1907. Minimum requirements of private sector prison industry.

1 1908. Wages and deductions.
2 1909. Administrative support.
3 1910. Immunities not waived.
4 1911. Civil actions.
5 1912. Construction of chapter.
6 1913. Monetary limitations.
7 § 1901. Scope of chapter.

8 This chapter relates to the Prison Industry Enhancement
9 Authority.

10 § 1902. Intent.

11 It is the intent of the General Assembly that joint ventures
12 between correctional facilities and private industry be
13 established so that prisoners incarcerated in correctional
14 facilities be productively engaged. Private industry in this
15 Commonwealth will become more competitive in the marketplace
16 while not displacing job opportunities for civilian labor in the
17 community. Nothing in this chapter shall be construed to
18 authorize the privatization of correctional facilities in this
19 Commonwealth. It is further the intent of the General Assembly
20 to structure the use and availability of prisoner labor and
21 regulate its use to assure that prisoner labor will not be used
22 to replace work opportunities for unemployed or underemployed
23 residents of this Commonwealth. The private sector prison
24 industry will not result in bargaining agreements for civilian
25 laborers. Prisoners who volunteer and are deemed eligible for
26 these jobs will be better able to:

27 (1) Develop positive work habits that will assist them
28 in securing and holding gainful employment in the public and
29 private sectors subsequent to their release from
30 incarceration.

1 (2) Pay a reasonable portion of the room and board in a
2 correctional facility.

3 (3) Accept responsibility for the consequences of their
4 actions by compensating victims of crime through deductions
5 from their earnings.

6 (4) Provide financial assistance to their dependents,
7 thus strengthening and promoting family ties while reducing
8 the likelihood that their families may eventually have to
9 rely upon public assistance.

10 § 1903. Definitions.

11 The following words and phrases when used in this chapter
12 shall have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Authority." The Prison Industry Enhancement Authority.

15 "Certification." The process where an applicant demonstrates
16 assurances of authority and compliance with mandatory program
17 criteria and describes key project elements as required by
18 Federal law.

19 "Correctional facility." Any jail, prison or detention
20 facility operated by the Commonwealth or by a county or jointly
21 by more than one county and used for the detention and
22 confinement of persons convicted and under sentence for
23 violations of the criminal laws of this Commonwealth. For
24 purposes of this chapter, the term shall also include any
25 motivational boot camp as defined in section 3903 (relating to
26 definitions). The term does not include any correctional
27 facility used for the detention and confinement of juvenile
28 offenders.

29 "Cost accounting center." A specific industry program
30 operated under the private sector Prison Industry Enhancement

1 Certification Program.

2 "County commissioners." Elected county commissioners or the
3 equivalent governing body of any county, regardless of form of
4 government.

5 "Customer model." An arrangement under which:

6 (1) the private business, private enterprise or
7 nonprofit entity purchases all or a significant portion of
8 the output of a prison-based business owned and operated by a
9 government entity, political subdivision or an
10 instrumentality thereof; and

11 (2) the private sector partner assumes no major role in
12 the industry operation, does not direct production and
13 exercises no control over prisoner labor.

14 "Director of correctional industries." An individual who has
15 authority to operate and manage the Prison Industry Enhancement
16 Certification Program under the direct supervision of the
17 Secretary of Corrections and the Prison Industry Enhancement
18 Authority.

19 "Employer model." An arrangement under which a private
20 business, private enterprise or nonprofit entity owns and
21 operates the cost accounting center with limited State or local
22 government involvement by controlling the hiring, firing,
23 training, supervision and payment of the prisoner workforce, and
24 the Department of Corrections assumes no major role in the
25 industry operation, does not direct production and exercises
26 minimum control over prisoner labor performance.

27 "Justice Assistance Act of 1984." The Justice Assistance Act
28 of 1984 (Public Law 98-473, 98 Stat. 2077).

29 "Municipality." A municipal corporation or quasi-municipal
30 corporation, including counties.

1 "Office." The Office of Victims' Services within the
2 Department of Corrections.

3 "Open market." An unrestricted stream of commerce within
4 this Commonwealth and outside the borders of this Commonwealth
5 in interstate commerce.

6 "Prisoner." An individual who has been convicted of a crime
7 and is serving a sentence in a correctional facility.

8 "Private business," "private enterprise" or "nonprofit
9 entity." An individual, firm, partnership, corporation or other
10 lawful commercial enterprise or nonprofit organization that,
11 under this chapter, operates a private sector prison industry
12 and employs State or county prisoners.

13 "Private sector prison industry." A private business,
14 private enterprise or nonprofit entity that produces goods or
15 services employing prisoner labor in or on the property of a
16 State or county correctional facility.

17 "Program." The Prison Industry Enhancement Certification
18 Program established under Federal law.

19 "Superintendent." The person in primary charge of the
20 administration and managers of a State correctional facility.

21 "Warden." The person in primary charge of the administration
22 and management of a county or multicounty correctional facility.

23 § 1904. Prison Industry Enhancement Authority.

24 (a) Establishment.--There is established an authority to be
25 known as the Prison Industry Enhancement Authority.

26 (b) Composition.--The authority shall consist of the
27 following members:

28 (1) The secretary or a designee who shall serve as
29 chair.

30 (2) The director of correctional industries.

1 (3) Two representatives from organized labor appointed
2 by the Governor from a list submitted by the Statewide labor
3 organizations in this Commonwealth.

4 (4) One county commissioner nominated by the County
5 Commissioners Association of Pennsylvania and appointed by
6 the Governor.

7 (5) One warden appointed by the Governor.

8 (6) One representative from the business community
9 appointed by the Governor from a list submitted by the
10 business community.

11 (7) One superintendent appointed by the secretary.

12 (8) One representative from the Office of Victim
13 Advocate.

14 (c) Terms.--Terms for members shall be as follows:

15 (1) Three years for the county commissioner.

16 (2) Two years for the representative from the business
17 community.

18 (3) Two years for the warden and the superintendent.

19 (4) Two years for the representatives from organized
20 labor.

21 (5) The secretary, the director of correctional
22 industries and the representative from the Office of Victim
23 Advocate shall serve continuously.

24 (d) Reappointment.--A member of the authority may be
25 eligible for reappointment. A member shall continue to serve
26 after the expiration of the member's term until a successor is
27 appointed.

28 (e) Vacancies.--A vacancy shall be filled by the original
29 appointing authority for the remainder of the unexpired term. A
30 vacancy shall be filled within 90 days of the occurrence of the

1 vacancy.

2 (f) Meetings.--The authority shall meet biannually and upon
3 the request of the chair or three or more members. All meetings
4 may or may not be open to the public at the discretion of the
5 secretary or the authority.

6 (g) Quorum.--For the transaction of general business of the
7 authority, four members shall constitute a quorum. A majority
8 vote of the members present will be necessary for a private
9 sector prison industry application to be approved. Each approval
10 of a private sector prison industry application shall be made by
11 a vote at a duly constituted meeting of the authority.

12 (h) Compensation.--Notwithstanding any other provision of
13 law, members shall receive no compensation for their services on
14 the authority, but shall be reimbursed by the department from
15 the department's Manufacturing Fund under section 3122 (relating
16 to Manufacturing Fund) for reasonable and necessary expenses.

17 (i) Administration of authority.--The department shall
18 furnish administrative support to the authority. Legal counsel
19 for the authority shall be furnished by the Office of General
20 Counsel.

21 § 1905. Powers and duties of authority.

22 The authority shall have the powers and duties to:

23 (1) Authorize the department to apply to the United
24 States Department of Justice, Bureau of Justice Assistance or
25 any successors for certification, as an umbrella authority,
26 to assist other units of government seeking to participate in
27 the program.

28 (2) Act as an intermediary between the department, and
29 its designees, and the United States Department of Justice,
30 Bureau of Justice Assistance or any successors in complying

1 with the mandatory criteria and program requirements for
2 private sector prison industries in this Commonwealth.

3 (3) Adopt procedures for determining whether a
4 prospective private sector prison industry proposed by the
5 department or any county correctional agency complies with
6 the requirements of the program and other State law not
7 inconsistent with this chapter.

8 (4) Approve or disapprove proposals submitted to the
9 authority from the department, or its designees, for private
10 sector prison industry for inclusion or continuation in the
11 program.

12 (5) Monitor the department and its designees to ensure
13 continuing compliance with this chapter and Federal law and
14 provide proper notification of violations and proposed
15 actions taken to ensure compliance.

16 (6) Designate which services to be performed or articles
17 manufactured or assembled by prisoners are conforming to the
18 program regulations and can be sold on the open market.

19 § 1906. Cooperation with private industry.

20 (a) General rule.--Upon the approval of the authority, the
21 department or a county correctional facility, with the approval
22 of its governing board, may enter into contracts with a private
23 business, private enterprise or nonprofit organization to permit
24 the employment of prisoners to perform designated work. The
25 department shall remain responsible for the custody of State
26 prisoners who are working for a cost accounting center operated
27 by the department. The county shall remain responsible for the
28 custody of county prisoners who are working for a cost
29 accounting center operated by the county. The contractual
30 arrangement authorized by this chapter shall not create any

1 third-party rights in any prisoner.

2 (b) Status of prisoner.--No prisoner compensated for
3 participation in the program shall be considered to be an
4 employee of the Commonwealth or the county nor shall the
5 prisoner be afforded the rights and privileges of Commonwealth
6 or county employees.

7 (c) Certain rights preserved.--Nothing contained in this
8 section shall be deemed to restore, in whole or in part, the
9 civil rights of participating prisoners, except that
10 participating prisoners shall be afforded the protection of the
11 Fair Labor Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 201
12 et seq.), Title VII of the Civil Rights Act of 1964 (Public Law
13 88-352, 78 Stat. 241), the Occupational Safety and Health Act of
14 1970 (Public Law 91-596, 29 U.S.C. § 651 et seq.), the Age
15 Discrimination Act of 1975 (Public Law 94-135, 42 U.S.C. § 6101
16 et seq.), the Americans with Disabilities Act of 1990 (Public
17 Law 101-336, 104 Stat. 327), the act of June 2, 1915 (P.L.736,
18 No.338), known as the Workers' Compensation Act, the act of
19 October 27, 1955 (P.L.744, No.222), known as the Pennsylvania
20 Human Relations Act, the act of July 14, 1961 (P.L.637, No.329),
21 known as the Wage Payment and Collection Law, and the act of
22 January 17, 1968 (P.L.11, No.5), known as The Minimum Wage Act
23 of 1968, solely to the extent that they apply to the private
24 sector prison industry employment relationship.

25 (d) Consent to deduction.--A prisoner may participate in the
26 program established under this chapter only on a voluntary basis
27 and must consent, in advance, to the specific deductions from
28 gross wages, as set forth under section 1908 (relating to wages
29 and deductions). A prisoner performing services for a cost
30 accounting center shall indicate, in writing, that the prisoner:

1 (1) agrees voluntarily to participate in the cost
2 accounting center activities; and

3 (2) agrees voluntarily, and in advance, to specific
4 deductions made from gross wages, as well as all other
5 financial arrangements made as to wages earned through
6 participation in the cost accounting center's activities.

7 § 1907. Minimum requirements of private sector prison industry.

8 (a) Requirements enumerated.--A private business, private
9 enterprise or nonprofit organization may not enter into a
10 contract under section 1906 (relating to cooperation with
11 private industry) unless it demonstrates all of the following:

12 (1) The private business, private enterprise or
13 nonprofit organization, the department or the governing
14 authority of the county correctional system, whichever is
15 applicable, consulted with local union central bodies and
16 with local businesses that may be affected by the private
17 business, private enterprise or nonprofit organization
18 participating in the program.

19 (2) The private business, private enterprise or
20 nonprofit organization has verified with the Department of
21 Labor and Industry that its participation in the program will
22 not:

23 (i) demonstrably result in the displacement of
24 employees in the surrounding community;

25 (ii) be applied in skills, crafts or trades in which
26 there is a surplus of available gainful labor in the
27 locality; or

28 (iii) impair existing contracts for goods and
29 services. A contract may not be executed by or with a
30 private sector prison industry employer that will permit

1 the employment of prisoners in the same job
2 classifications or similar work duties or assignments as
3 individuals who are on strike as a result of a labor
4 dispute as defined in the act of June 1, 1937 (P.L.1168,
5 No.294), known as the Pennsylvania Labor Relations Act,
6 or who are otherwise involved in a labor dispute as that
7 term is defined by Federal law, including a lockout.

8 (b) Priorities.--When reviewing a potential private sector
9 prison industry, the authority shall consider the impact on the
10 employment of persons in the private business sector of this
11 Commonwealth and consider establishing joint ventures that will
12 retain or reclaim jobs in this Commonwealth, support emerging
13 Commonwealth industries or create jobs for a deficient labor
14 market.

15 § 1908. Wages and deductions.

16 (a) Wages.--All prisoners participating in a cost accounting
17 center's activities shall be compensated at a rate that is not
18 less than the wages paid for work of a similar nature in private
19 industry in the locality in which the activity is performed, as
20 determined after consultation with the Department of Labor and
21 Industry. A prisoner may not receive compensation that is less
22 than the minimum wage established by Federal or State law unless
23 the lesser compensation is consistent with Federal and State
24 law. Wages shall be paid no less frequently than biweekly. Any
25 wages remaining after the deductions under subsection (b) shall
26 be maintained by the appropriate correctional authority in a
27 fund in the prisoner's name. The amount remaining shall be
28 returned to the prisoner at the time of release. The
29 correctional authority may permit the prisoner to draw a portion
30 of the money for other purposes deemed to be appropriate by the

1 correctional authority.

2 (b) Deductions.--

3 (1) A prisoner shall have deducted from any compensation
4 received:

5 (i) Federal, State and local taxes.

6 (ii) Contributions to the Crime Victim's
7 Compensation Fund or equivalent fund established by law
8 to compensate victims of crime, which contributions shall
9 not be less than 5% nor more than 20% of the prisoner's
10 gross wages.

11 (iii) A reasonable portion of room and board and
12 administrative costs for the prisoner in a correctional
13 facility as determined by the department or the governing
14 body of the county correctional agency.

15 (iv) An allocation for support of the prisoner's
16 immediate family under statute or court order or under
17 any other financial obligation acknowledged in writing by
18 the prisoner.

19 (v) All deductions in their entirety shall not
20 exceed 80% of a prisoner's gross wages. The prisoner
21 employee shall be paid, credited with, or otherwise
22 benefit from, the 20% gross remainder. The benefit may
23 include directing the remaining 20% to workers' expense
24 accounts, or to the settling of the workers' legal
25 obligations, including the payment of fines and
26 restitution.

27 (2) No other deductions shall be permitted unless
28 otherwise permitted under Federal or State law. Deductions
29 shall not in the aggregate exceed 80% of gross wages. Each
30 prisoner employed shall receive a written statement of the

1 description and amount of each deduction.

2 (c) Workers' compensation.--The provision of benefits and
3 compensation to prisoners for injuries sustained in the course
4 of employment provided for under this chapter shall be subject
5 to any limitations set forth under the act of June 2, 1915
6 (P.L.736, No.338), known as the Workers' Compensation Act.

7 (d) Unemployment insurance.--No prisoner may qualify for
8 unemployment insurance payments.

9 § 1909. Administrative support.

10 The department shall provide the authority with reasonable
11 administrative and clerical support services subject to the
12 availability of funds.

13 § 1910. Immunities not waived.

14 No provision of this chapter shall waive or impair any
15 sovereign, government, qualified or other immunity from or
16 defense against suit available to the Commonwealth and its
17 departments, boards, officers, employees and agents or the
18 political subdivisions of this Commonwealth and their agencies,
19 officers and employees.

20 § 1911. Civil actions.

21 No prisoner may bring a civil action before any court,
22 independent commission or authority of this Commonwealth against
23 the authority, the Commonwealth or its agencies, officers or
24 employees or the political subdivisions of this Commonwealth and
25 their agencies, officers and employees based upon a contractual
26 arrangement authorized under this chapter.

27 § 1912. Construction of chapter.

28 No provision of this chapter may be construed:

29 (1) To establish a civil cause of action against the
30 authority, the Commonwealth or its agencies, officers or

1 employees or the political subdivisions of this Commonwealth
2 and their agencies, officers and employees.

3 (2) To establish an enforceable right in any person to
4 obtain or retain employment in the private sector prison
5 industry.

6 (3) To require the department or any county to propose
7 or permit a private sector prison industry within the
8 correctional facility.

9 (4) To affect or change the method or manner of prisoner
10 work assignments within a correctional facility or the
11 statutory authority to compel the labor on behalf of the
12 Commonwealth or any political subdivision thereof.

13 § 1913. Monetary limitations.

14 There shall be no monetary limitations on the amount of goods
15 and services supplied to the open market unless otherwise stated
16 by the authority.

17 Section 2. All acts and parts of acts are repealed insofar
18 as they are inconsistent with the addition of 61 Pa.C.S. Ch. 19.

19 Section 3. This act shall take effect in 90 days.