
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1414 Session of
2015

INTRODUCED BY STEPHENS, KIM, YOUNGBLOOD, MILLARD, MURT, TAYLOR,
FREEMAN, HARHAI, COHEN, CALTAGIRONE, SCHLOSSBERG, GIBBONS,
ACOSTA, D. COSTA, KINSEY, DAVIDSON, BRIGGS, ROZZI, DAVIS,
EVERETT, MILNE, WATSON, V. BROWN, D. PARKER AND REGAN,
JUNE 26, 2015

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 26, 2015

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.

- 1 1906. Cooperation with private industry.
- 2 1907. Minimum requirements of private sector prison industry.
- 3 1908. Wages and deductions.
- 4 1909. Administrative support.
- 5 1910. Immunities not waived.
- 6 1911. Civil actions.
- 7 1912. Construction of chapter.
- 8 1913. Monetary limitations.
- 9 § 1901. Scope of chapter.

10 This chapter relates to the Prison Industry Enhancement
11 Authority.

12 § 1902. Intent.

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

29 (1) Develop positive work habits that will assist them
30 in securing and holding gainful employment in the public and

1 private sectors subsequent to their release from
2 incarceration.

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

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

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

12 § 1903. Definitions.

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

16 "Authority." The Prison Industry Enhancement Authority.

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

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

1 "Cost accounting center." A specific industry program
2 operated under the private sector prison industry enhancement
3 certification program.

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

7 "Customer model." An arrangement under which:

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

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

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

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

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

1 "Municipality." A municipal corporation or quasi-municipal
2 corporation, including counties.

3 "Office." The Office of Victims' Services within the
4 Department of Corrections.

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

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

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

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

19 "Program." The Prison Industry Enhancement Certification
20 Program established under Federal law.

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

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

25 § 1904. Prison Industry Enhancement Authority.

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

28 (b) Composition.--The authority shall consist of the
29 following members:

30 (1) The secretary or a designee who shall serve as

1 chairman.

2 (2) The director of correctional industries.

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

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

9 (5) One warden appointed by the Governor.

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

13 (7) One superintendent appointed by the secretary.

14 (8) One representative from the Office of Victim
15 Advocate.

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

17 (1) Three years for the county commissioner.

18 (2) Two years for the representative from the business
19 community.

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

21 (4) Two years for the representatives from organized
22 labor.

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

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

30 (e) Vacancies.--A vacancy shall be filled by the original

1 appointing authority for the remainder of the expired term. A
2 vacancy shall be filled within 90 days of the occurrence of the
3 vacancy.

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

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

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

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

23 § 1905. Powers and duties of authority.

24 The authority shall have the powers and duties to:

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

30 (2) Act as an intermediary between the department, and

1 its designees, and the United States Department of Justice,
2 Bureau of Justice Assistance or any successors in complying
3 with the mandatory criteria and program requirements for
4 private sector prison industries in this Commonwealth.

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

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

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

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

21 § 1906. Cooperation with private industry.

22 (a) General rule.--Upon the approval of the authority, the
23 department or a county correctional facility, with the approval
24 of its governing board, may enter into contracts with a private
25 business, private enterprise or nonprofit organization to permit
26 the employment of prisoners to perform designated work. The
27 department shall remain responsible for the custody of State
28 prisoners who are working for a cost accounting center operated
29 by the department. The county shall remain responsible for the
30 custody of county prisoners who are working for a cost

1 accounting center operated by the county. Cost accounting
2 centers may only be established in suitable areas on the grounds
3 of the correctional facility housing the participating prisoner.
4 The contractual arrangement authorized by this chapter shall not
5 create any third-party rights in any prisoner.

6 (b) Status of prisoner.--No prisoner compensated for
7 participation in the program shall be considered to be an
8 employee of the Commonwealth or the county nor shall the
9 prisoner be afforded the rights and privileges of Commonwealth
10 or county employees.

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

29 (d) Consent to deduction.--A prisoner may participate in the
30 program established under this chapter only on a voluntary basis

1 and must consent, in advance, to the specific deductions from
2 gross wages, as set forth under section 1908 (relating to wages
3 and deductions). A prisoner performing services for a cost
4 accounting center shall indicate, in writing, that he or she:

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

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

11 § 1907. Minimum requirements of private sector prison industry.

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

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

23 (2) The private business, private enterprise or
24 nonprofit organization has verified with the Department of
25 Labor and Industry that its participation in the program will
26 not:

27 (i) demonstrably result in the displacement of
28 employees in the surrounding community;

29 (ii) be applied in skills, crafts or trades in which
30 there is a surplus of available gainful labor in the

1 locality; or
2 (iii) impair existing contracts for goods and
3 services. A contract may not be executed by or with a
4 private sector prison industry employer that will permit
5 the employment of prisoners in the same job
6 classifications or similar work duties or assignments as
7 individuals who are on strike, as defined in the act of
8 June 1, 1937 (P.L.1168, No.294), known as the
9 Pennsylvania Labor Relations Act, or who are otherwise
10 involved in a labor dispute as that term is defined by
11 Federal or State law, including a lockout.

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

19 § 1908. Wages and deductions.

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

1 fund in the prisoner's name. The amount remaining shall be
2 returned to the prisoner at the time of release. The
3 correctional authority may permit the prisoner to draw a portion
4 of the money for other purposes deemed to be appropriate by the
5 correctional authority.

6 (b) Deductions.--

7 (1) A prisoner shall have deducted from any compensation
8 received:

9 (i) Federal, State and local taxes.

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

15 (iii) A reasonable portion of room and board and
16 administrative costs for the prisoner in a correctional
17 facility as determined by the department or the governing
18 body of the county correctional agency.

19 (iv) An allocation for support of the prisoner's
20 immediate family under statute or court order or under
21 any other financial obligation acknowledged in writing by
22 the prisoner.

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

1 (2) No other deductions shall be permitted unless
2 otherwise permitted pursuant to Federal or State law.
3 Deductions shall not in the aggregate exceed 80% of gross
4 wages. Each prisoner employed shall receive a written
5 statement of the description and amount of each deduction.

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

11 (d) Unemployment insurance.--No prisoner may qualify for
12 unemployment insurance payments.

13 § 1909. Administrative support.

14 The department shall provide the authority with reasonable
15 administrative and clerical support services subject to the
16 availability of funds.

17 § 1910. Immunities not waived.

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

24 § 1911. Civil actions.

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

1 § 1912. Construction of chapter.

2 No provision of this chapter may be construed:

3 (1) To establish a civil cause of action against the
4 authority, the Commonwealth or its agencies, officers or
5 employees or the political subdivisions of this Commonwealth
6 and their agencies, officers and employees.

7 (2) To establish an enforceable right in any person to
8 obtain or retain employment in the private sector prison
9 industry.

10 (3) To require the department or any county to propose
11 or permit a private sector prison industry within the
12 correctional facility.

13 (4) To affect or change the method or manner of prisoner
14 work assignments within a correctional facility or the
15 statutory authority to compel the labor on behalf of the
16 Commonwealth or any political subdivision thereof.

17 § 1913. Monetary limitations.

18 There shall be no monetary limitations on the amount of goods
19 and services supplied to the open market unless otherwise stated
20 by the authority.

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

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