

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 175 Session of  
2023

INTRODUCED BY BARTOLOTTA, ROTHMAN AND BOSCOLA, JANUARY 19, 2023

REFERRED TO JUDICIARY, JANUARY 19, 2023

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.  
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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." 34 U.S.C. Ch. 101  
28 (relating to justice system improvement).

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 "Secretary." The Secretary of Corrections of the  
20 Commonwealth.

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 chair.

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 unexpired 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 chair or three or more members. All meetings  
6 may or may not be open to the public at the discretion of the  
7 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



accounting center operated by the county. The contractual arrangement authorized by this chapter shall not create any third-party rights in any prisoner.

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

(c) Certain rights preserved.--Nothing contained in this section shall be deemed to restore, in whole or in part, the civil rights of participating prisoners, except that participating prisoners shall be afforded the protection of 29 U.S.C. Ch. 8 (relating to fair labor standards), 42 U.S.C. § 2000a-1 (relating to prohibition against discrimination or segregation required by any law, statute, ordinance, regulation, rule or order of a State or State agency), 29 U.S.C. Ch. 15 (relating to occupational safety and health), 42 U.S.C. Ch. 76 (relating to age discrimination in federally assisted programs), 42 U.S.C. Ch. 126 (relating to equal opportunity for individuals with disabilities), the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, the act of October 27, 1955 (P.L.744, No.222), known as the Pennsylvania Human Relations Act, the act of July 14, 1961 (P.L.637, No.329), known as the Wage Payment and Collection Law, and the act of January 17, 1968 (P.L.11, No.5), known as The Minimum Wage Act of 1968, solely to the extent that they apply to the private sector prison industry employment relationship.

(d) Consent to deduction.--A prisoner may participate in the program established under this chapter only on a voluntary basis and must consent, in advance, to the specific deductions from

1 gross wages, as specified under section 1908 (relating to wages  
2 and deductions). A prisoner performing services for a cost  
3 accounting center shall indicate, in writing, that the prisoner:

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

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

10 § 1907. Minimum requirements of private sector prison industry.

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

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

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

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

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

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

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

18        § 1908. Wages and deductions.

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

1 returned to the prisoner at the time of release. The  
2 correctional authority may permit the prisoner to draw a portion  
3 of the money for other purposes deemed to be appropriate by the  
4 correctional authority.

5 (b) Deductions.--

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

8 (i) Federal, State and local taxes.

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

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

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

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

30 (2) No other deductions shall be permitted unless

1 otherwise permitted under Federal or State law. Deductions  
2 shall not in the aggregate exceed 80% of gross wages. Each  
3 prisoner employed shall receive a written statement of the  
4 description and amount of each deduction.

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

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

12 § 1909. Administrative support.

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

16 § 1910. Immunities not waived.

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

23 § 1911. Civil actions.

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

30 § 1912. Construction of chapter.

1 No provision of this chapter may be construed:

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

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

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

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

16 § 1913. Monetary limitations.

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

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

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