

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 981 Session of
2023

INTRODUCED BY BOSCOLA, STREET, FONTANA, KANE, DILLON, COMITTA,
TARTAGLIONE AND COSTA, NOVEMBER 6, 2023

REFERRED TO JUDICIARY, NOVEMBER 6, 2023

AN ACT

1 Amending Title 61 (Prisons and Parole) of the Pennsylvania
2 Consolidated Statutes, establishing the Prison Industry
3 Enhancement Authority; and, in safe community reentry,
4 further providing for Safe Community Reentry Program.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

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

9 CHAPTER 48

10 PRISON INDUSTRY ENHANCEMENT AUTHORITY

11 Sec.

12 4801. Scope of chapter.

13 4802. Intent.

14 4803. Definitions.

15 4804. Prison Industry Enhancement Authority.

16 4805. Powers and duties of authority.

17 4806. Cooperation with private industry.

18 4807. Minimum requirements of private sector prison industry.

19 4808. Wages and deductions.

1 4809. Administrative support.

2 4810. Immunities not waived.

3 4811. Civil actions.

4 4812. Construction of chapter.

5 4813. Monetary limitations.

6 § 4801. Scope of chapter.

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

9 § 4802. Intent.

10 The General Assembly's intention is to encourage
11 collaborative efforts between correctional facilities and
12 private industry, aimed at ensuring productive engagement for
13 incarcerated individuals by establishing a program that seeks to
14 enhance the opportunities of nonviolent prisoners within this
15 Commonwealth without negatively impacting job opportunities for
16 civilian labor in the community. Nothing in this chapter shall
17 be construed to authorize the privatization of correctional
18 facilities in this Commonwealth. Furthermore, the General
19 Assembly aims to establish guidelines for the use of prisoner
20 labor to prevent that labor from replacing job opportunities for
21 unemployed or underemployed residents within this Commonwealth.
22 The private sector prison industry will not result in bargaining
23 agreements for civilian laborers. Prisoners who voluntarily
24 participate and meet the eligibility criteria for these jobs
25 will experience several benefits:

26 (1) The development of positive work habits and
27 employment skills, which can be instrumental in securing and
28 maintaining gainful employment in both the public and private
29 sectors upon their release from incarceration.

30 (2) The contribution of a reasonable portion of their

1 earnings to cover the costs of room and board within the
2 correctional facility.

3 (3) The assumption of responsibility for their actions
4 by compensating victims of crime through deductions from
5 their earnings.

6 (4) The provisions of financial support to their
7 dependents, thereby strengthening family bonds and reducing
8 the likelihood of their families relying on public assistance
9 in the future.

10 § 4803. 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 established under this chapter.

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

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

29 "Cost accounting center." A specific industry program
30 operated under the program.

1 "County commissioners." The elected county commissioners or
2 the equivalent governing body of a county, regardless of form of
3 government.

4 "Director of correctional industries." The individual who
5 has authority to operate and manage the program under the direct
6 supervision of the secretary and the authority.

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

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

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

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

21 "Program." The Prison Industry Enhancement Certification
22 Program established under Federal law.

23 "Secretary." The Secretary of Corrections of the
24 Commonwealth.

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

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

29 § 4804. Prison Industry Enhancement Authority.

30 (a) Establishment.--The Prison Industry Enhancement

1 Authority is established.

2 (b) Composition.--The authority shall consist of the
3 following members:

4 (1) The secretary or a designee who shall serve as
5 chair.

6 (2) The director of correctional industries.

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

10 (4) One county commissioner nominated by the County
11 Commissioners Association of Pennsylvania and appointed by
12 the Governor.

13 (5) One warden appointed by the Governor.

14 (6) One representative from the business community
15 appointed by the Governor from a list submitted by the
16 business community.

17 (7) One superintendent appointed by the secretary.

18 (8) One representative from the Office of Victim
19 Advocate.

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

21 (1) Three years for the county commissioner.

22 (2) Two years for the representative from the business
23 community.

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

25 (4) Two years for the representatives from organized
26 labor.

27 (5) The secretary, the director of correctional
28 industries and the representative from the Office of Victim
29 Advocate shall serve continuously.

30 (d) Reappointment.--A member of the authority may be

eligible for reappointment. A member shall continue to serve after the expiration of the member's term until a successor is appointed.

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

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

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

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

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

§ 4805. Powers and duties of authority.

The authority shall have the power and duty to:

(1) Authorize the department to apply to the United States Department of Justice, Bureau of Justice Assistance or

1 any successors for certification, as an umbrella authority,
2 to assist other units of government seeking to participate in
3 the program.

4 (2) Act as an intermediary between the department, and
5 its designees, and the United States Department of Justice,
6 Bureau of Justice Assistance or any successors in complying
7 with the mandatory criteria and program requirements for
8 private sector prison industries in this Commonwealth.

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

14 (4) Approve or disapprove proposals submitted to the
15 authority from the department, or its designees, by private
16 sector prison industry for inclusion or continuation in the
17 program.

18 (5) Monitor the department and its designees to ensure
19 continuing compliance with this chapter and Federal law and
20 provide proper notification of a violation and proposed
21 action taken to ensure compliance.

22 (6) Designate which services to be performed or articles
23 manufactured or assembled by prisoners conform to the program
24 regulations and can be sold on the open market.

25 § 4806. Cooperation with private industry.

26 (a) General rule.--Upon the approval of the authority, the
27 department or a county correctional facility, with the approval
28 of its governing board, may contract with a private business,
29 private enterprise or nonprofit organization to permit the
30 employment of prisoners to perform designated work. The

department shall remain responsible for the custody of State prisoners who are working for a cost accounting center operated by the department. The county shall remain responsible for the custody of county prisoners who work for a cost accounting center operated by the county. The contractual arrangement authorized by this chapter shall not create a third-party right for a prisoner.

(b) Status of prisoner.--A prisoner compensated for participation in the program may not be considered an employee of the Commonwealth or the county, nor shall the prisoner be afforded a right or privilege available to Commonwealth or county employees.

(c) Certain rights preserved.--Nothing contained in this section shall be construed 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

1 prison industry employment relationship.

2 (d) Consent to deduction.--A prisoner may participate in the
3 program only on a voluntary basis and must consent, in advance,
4 to the specific deductions from gross wages, as specified under
5 section 4808 (relating to wages and deductions). A prisoner
6 performing services for a cost accounting center shall indicate,
7 in writing, that the prisoner:

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

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

14 § 4807. Minimum requirements of private sector prison industry.

15 (a) Requirements enumerated.--A private business, private
16 enterprise or nonprofit organization may not enter into a
17 contract under section 4806 (relating to cooperation with
18 private industry), unless all of the following are satisfied:

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

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

30 (i) demonstrably result in the displacement of

employees in the surrounding community;

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

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

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

§ 4808. Wages and deductions.

(a) Wages.--

(1) A prisoner who participates in a cost accounting center's activities shall be compensated at a rate that is not less than the wages paid for work of a similar nature in private industry in the locality in which the activity is performed, as determined after consultation with the Department of Labor and Industry. A prisoner may not receive

1 compensation that is less than the minimum wage established
2 by Federal or State law unless the lesser compensation is
3 consistent with Federal and State law.

4 (2) Wages shall be paid no less frequently than
5 biweekly. Any wages remaining after the deductions under
6 subsection (b) shall be maintained by the appropriate
7 correctional facility in a fund in the prisoner's name. The
8 amount remaining shall be returned to the prisoner at the
9 time of release.

10 (3) The correctional facility may permit the prisoner to
11 draw a portion of the money for other purposes deemed to be
12 appropriate by the correctional facility.

13 (b) Deductions.--

14 (1) A prisoner shall have deducted from any compensation
15 received:

16 (i) Federal, State and local taxes.

17 (ii) Contributions to the Crime Victim Services and
18 Compensation Fund or equivalent fund established by law
19 to compensate victims of crime, which contributions shall
20 not be more than 5% of the prisoner's gross wages.

21 (iii) A portion of room and board and administrative
22 costs for the prisoner in the correctional facility as
23 determined by the department or the governing body of the
24 correctional facility, not to exceed 10% of the
25 prisoner's gross wages.

26 (iv) An allocation for support of the prisoner's
27 immediate family under statute or court order or under
28 any other financial obligation acknowledged in writing by
29 the prisoner.

30 (v) The settling of a workers' expense account, or

1 to the workers' legal obligations, including payment of
2 finances and restitution, not to exceed 20% of a prisoner's
3 gross wages.

4 (2) No other deductions shall be permitted unless
5 otherwise permitted under Federal or State law. Deductions
6 shall not in the aggregate exceed 75% of gross wages. Each
7 prisoner employed shall receive a written statement of the
8 description and amount of each deduction. After deductions,
9 the balance shall be credited to the prisoner's account.

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

15 (d) Unemployment insurance.--A prisoner may not qualify for
16 unemployment insurance payments.

17 § 4809. Administrative support.

18 The department shall provide the authority with reasonable
19 administrative and clerical support services subject to the
20 availability of funds.

21 § 4810. Immunities not waived.

22 No provision of this chapter shall be construed as a waiver
23 or impairment of sovereign, government, qualified or other
24 immunity from or defense against suit available to the
25 Commonwealth and its departments, boards, officers, employees
26 and agents or the political subdivisions of this Commonwealth
27 and their agencies, officers and employees.

28 § 4811. Civil actions.

29 A prisoner may not bring a civil action before a court,
30 independent commission or authority of this Commonwealth against

1 the authority, the Commonwealth or its agencies, officers or
2 employees or the political subdivisions of this Commonwealth and
3 their agencies, officers and employees based upon a contractual
4 arrangement authorized under this chapter.

5 § 4812. Construction of chapter.

6 No provision of this chapter may be construed:

7 (1) To establish a civil cause of action against the
8 authority, the Commonwealth or its agencies, officers or
9 employees or the political subdivisions of this Commonwealth
10 and their agencies, officers and employees.

11 (2) To establish an enforceable right in a person to
12 obtain or retain employment in the private sector prison
13 industry.

14 (3) To require the department or a county to propose or
15 permit a private sector prison industry within the
16 correctional facility.

17 (4) To affect or change the method or manner of prisoner
18 work assignments within a correctional facility or the
19 statutory authority to compel the labor on behalf of the
20 Commonwealth or any political subdivision thereof.

21 § 4813. Monetary limitations.

22 There shall be no monetary limitations on the amount of goods
23 and services supplied to the open market unless otherwise stated
24 by the authority.

25 Section 2. Section 4903(b) of Title 61 is amended to read:

26 § 4903. Safe Community Reentry Program.

27 * * *

28 (b) Assessment and plan.--

29 (1) The department shall assess each offender entering
30 into the State correctional system to determine which

1 treatment services, programs and skills the offender needs to
2 develop to be successful in the community following the
3 offender's release.

4 (2) The department or the board shall assist each
5 offender in developing a reentry plan for the offender. The
6 reentry plan shall include the offender's educational,
7 employment, housing and treatment needs as appropriate and
8 necessary to encourage the successful transition and
9 reintegration of the offender into the community.

10 (3) The department or the board shall endeavor to
11 coordinate the specifics of the offender's reentry plan with
12 the educational, career and technical training and treatment
13 services that will be provided to the offender during the
14 offender's incarceration.

15 (4) The department or the board shall provide an
16 offender awaiting release with documents that are necessary
17 after release for gainful employment, including work records,
18 a resume, a birth certificate, career and technical training
19 records, an identification card issued by the Department of
20 Transportation and a Social Security card.

21 * * *

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