

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 314

Short Title: Prison Industry Funds.

(Public)

Sponsors: Senator Cooper.

Referred to: Appropriations.

March 27, 1991

A BILL TO BE ENTITLED

**AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CORRECTION
FOR THE DEVELOPMENT AND IMPLEMENTATION OF MANUFACTURING
OR OTHER INDUSTRIES WITHIN STATE PRISON FACILITIES BY PRIVATE
ENTERPRISES.**

The General Assembly of North Carolina enacts:

Whereas, there is currently a Correction Enterprises in North Carolina which provides products and services for the State while making a profit and alleviating the burden on the taxpayer; and

Whereas, Correction Enterprises was started in 1915 with the Central Prison printing plant and has since grown to include 24 manufacturing, farming and service operations throughout the State; and

Whereas, Correction Enterprises' operations include the license plate shop, sign plant, printing plant, paint plant, woodworking plant, sewing plant, oil refinery, soap plant, furniture plant, reupholstery plant, cannery, meat processing plant, forestry service, three farms and six laundries providing products and services for government only; and

Whereas, no money is appropriated by the General Assembly for the operation of Correction Enterprises, therefore each operation is self-sufficient and profits derived by Correction Enterprises are used by the Department of Correction for capital improvements or other uses as determined by the Secretary of Correction and the Advisory Budget Commission; and

1 Whereas, the State of North Carolina has a strong interest in making the
2 inmates in its prison system, and the prison system itself, more self-sufficient and in
3 helping inmates develop employable skills and positive work habits; and

4 Whereas, other states have had highly successful programs as part of a U.S.
5 Department of Justice Bureau of Justice Assistance pilot project program to permit
6 private enterprise to establish manufacturing facilities or other industries within the
7 confines of the State prison system; and

8 Whereas, such programs do not create the problem of government
9 competition with private enterprise since it is private enterprise that is carrying on the
10 operation and inmates are required to be paid at least the prevailing minimum wage, and
11 there is therefore no unfair competition from cheap labor; and

12 Whereas, inmates who are employed in the program are required to pay a
13 portion of their earning to the State as is now required of work release inmates; and

14 Whereas, this will be a one-time cost to the State of North Carolina for the
15 development and implementation of such a program administered through Correction
16 Enterprises; Now, therefore,

17 The General Assembly of North Carolina enacts:

18 Section 1. There is appropriated from the General Fund to the Department of
19 Correction \$25,000 for the 1991-92 fiscal year for the purpose of developing, seeking
20 approval from the Bureau of Justice Assistance, and implementing a program of
21 manufacturing or other industries within State prison facilities by private enterprises to
22 be administered through Correction Enterprises.

23 Sec. 2. G.S. 148-70 reads as rewritten:

24 **"§ 148-70. Management and care of inmates; prison industries; disposition of**
25 **products of inmate labor.**

26 The State Department of Correction in all contracts for labor shall provide for
27 feeding and clothing the inmates and shall maintain, control and guard the quarters in
28 which the inmates live during the time of the contracts; and the Department shall
29 provide for the guarding and working of such inmates under its sole supervision and
30 control. The Department may make such contracts for the hire of the inmates confined
31 in the State prison as may in its discretion be proper. In accordance with the provisions
32 of Article 11 of Chapter 66 of the General Statutes, the Department may use the labor of
33 inmates confined in the State prison in work on farms and manufacturing, either within
34 or without the State prison. The Department may dispose of the products of the labor of
35 the inmates, either in farming or in manufacturing or in other industry at the State Prison
36 System to any public institution owned, managed, or controlled by the State, or to any
37 county, city or town in this State, or to any federal, state, or local public institution in
38 any other state of the union. Provided however, no manufacturing or other industry shall
39 be established, supervised or controlled by the Department unless specifically approved
40 by the Governor pursuant to G.S. 66-58(f).

41 All departments, institutions and agencies of this State which are supported in
42 whole or in part by the State shall give preference to Department of Correction products
43 in purchasing articles and commodities which these departments, institutions, and
44 agencies require and which are manufactured or produced within the State prison

1 system and offered for sale to them by the Department of Correction, and no article or
2 commodity available from the Department of Correction shall be purchased by any such
3 State department, institution, or agency from any other source unless the prison product
4 does not meet the standard specifications and the reasonable requirements of the
5 department, institution, or agency as determined by the Secretary of Administration, or
6 the requisition cannot be complied with because of an insufficient supply of the articles
7 or commodities required. The provisions of Article 3 of Chapter 143 of the General
8 Statutes respecting contracting for the purchase of all supplies, materials and equipment
9 required by the State government or any of its departments, institutions or agencies
10 under competitive bidding shall not apply to articles or commodities available from the
11 Department of Correction, but the Department of Correction shall be required to keep
12 the price of such articles or commodities substantially in accord with that paid by
13 governmental agencies for similar articles and commodities of equivalent quality as
14 determined by the Secretary by reference to competitive bidding as required by law.

15 In addition to the industries authorized above, the Secretary of Correction or his
16 designee, consistent with sound business judgment, may construct, reconstruct or lease
17 one or more buildings or portions of buildings on the grounds of any State correctional
18 institution or location under Department of Correction control, together with the real
19 estate needed for reasonable access to such buildings, for a term not to exceed 20 years,
20 to a private corporation for the purpose of establishing and operating a factory for the
21 manufacture and processing of products or any other commercial enterprise deemed by
22 the Secretary to provide employment opportunities for inmates in meaningful jobs for
23 wages. Each lease negotiated and concluded pursuant to this section shall include and
24 shall be valid only so long as the lessee adheres to the following provisions:

- 25 (1) All persons employed in the factory or other commercial enterprise
26 operated in or on the leased property, except the lessee's supervisory
27 employee and necessary training personnel, shall be inmates of the
28 institution where the leased property is located who are approved for
29 such employment by the Secretary or his designee.
- 30 (2) The factory or other commercial enterprise operated in or on the leased
31 property shall observe at all times such practices and procedures
32 regarding security as the lease may specify or as the Secretary may
33 stipulate.
- 34 (3) The factory or other commercial enterprise operated on the leased
35 property shall be deemed a private enterprise and subject to all the
36 laws and lawfully adopted rules of this State governing the operation
37 of similar business enterprises elsewhere, except that the provisions of
38 G.S. 66-58 shall not apply to the industries or products of such private
39 enterprise.

40 The Secretary shall adopt rules for the administration and management of personnel
41 policies for prisoner workers including wages, working hours, and conditions of
42 employment.

43 Except as prohibited by applicable provisions of the United States Code, inmates of
44 correctional institutions of this State may be employed in the manufacture and

1 processing of products for introduction into interstate commerce, so long as they are
2 paid no less than the prevailing minimum wage."

3 Sec. 3. G.S. 66-58(b) is amended by adding a new subdivision to read:

4 "(17) The activities and products of private enterprise carried on or
5 manufactured within a State prison facility pursuant to G.S.
6 148-70."

7 Sec. 4. G.S. 148-2(b) reads as rewritten:

8 "(b) All revenues from the sale of articles and commodities manufactured or
9 produced by prison enterprises shall be deposited with the State Treasurer to be kept and
10 maintained as a special revolving working-capital fund designated 'Prison Enterprises
11 Fund.' The Prison Enterprises Fund shall be used for capital and operating expenditures,
12 including salaries and wages of supervisory personnel, necessary to develop and operate
13 prison industrial and forestry enterprises to provide diversified employment for
14 prisoners. When, in the opinion of the Governor, the Prison Enterprises Fund has
15 reached a sum in excess of requirements for these purposes, the excess shall be used for
16 other purposes within the State prison system or shall be transferred to the general fund
17 as the Governor may direct. The provisions of this section shall not apply to revenues
18 generated from private prison enterprises conducted pursuant to G.S. 138-70."

19 Sec. 5. G.S. 148-18(a) reads as rewritten:

20 "(a) Prisoners employed in prison enterprises shall be compensated, at rates fixed
21 by the Department of Correction's rules and regulations, for work performed; provided,
22 that no prisoner working for prison enterprises shall be paid more than one dollar
23 (\$1.00) per day from funds made available by the Prison Enterprises Fund.

24 Prisoners employed other than by prison enterprises and those involved in the
25 maintenance and housekeeping of the prison system, shall be compensated at rates fixed
26 by the Department of Correction's rules and regulations; provided, that no prisoner so
27 paid shall receive more than one dollar (\$1.00) per day. The source of wages and
28 allowances provided inmates who are not employed by prison enterprises shall be funds
29 provided by the Department of Transportation to the Department of Correction for this
30 purpose. The provisions of this subsection shall not apply to wages paid by private
31 prison enterprises conducted pursuant to G.S. 148-70."

32 Sec. 6. G.S. 148-33.1 is amended by adding a new subsection to read:

33 "(j) The provisions of subsections (f), (g), and (h) of this section shall also apply
34 to prisoners employed in private prison enterprises conducted pursuant to G.S. 148-70."

35 Sec. 7. This act becomes effective July 1, 1991.