

1 HB262  
2 127424-2  
3 By Representatives McClendon, Buttram, Sanderford, Greer,  
4 Weaver, Nordgren, Johnson (K), Love, Hubbard (M) and Davis  
5 RFD: Public Safety and Homeland Security  
6 First Read: 22-MAR-11



1 for initial living expenses upon reentry into the community  
2 following release from prison.

3 "(3) To effect the requisitioning and disbursement  
4 of prison products directly through established state  
5 authorities without possibility of private profits therefrom.

6 "(4) To provide prison industry projects designed to  
7 place inmates in working and training environments in which  
8 they are able to acquire marketable skills and earn money to  
9 off-set the cost of incarceration, make payments for  
10 restitution to their victims, provide support for their  
11 families, and prepare for their release from prison.

12 "§14-7-22.

13 "(a) ~~On and after August 13, 1976, it~~ It shall be  
14 unlawful for the Department of Corrections to sell or offer  
15 for sale on the open market of this state any articles or  
16 products manufactured wholly or in part in this or any other  
17 state by prisoners of this state or any other state, except  
18 prisoners participating in community correction programs, as  
19 defined under Section 15-18-170, et seq., or on parole, or  
20 probation, or any other kind of community supervision.

21 "(b) Any person who willfully violates ~~the~~  
22 ~~provisions of subsection (a) of this section~~ shall be guilty  
23 of a misdemeanor and, upon conviction, shall be confined in  
24 jail for not less than 10 days nor more than one year or shall  
25 be fined not less than ~~\$10.00~~ ten dollars (\$10) nor more than  
26 ~~\$500.00~~ five hundred dollars (\$500), or both, in the  
27 discretion of the court."

1           Section 2. (a) In order to implement work-oriented  
2           rehabilitation programs in an actual private enterprise work  
3           environment, the Commissioner of the Department of Corrections  
4           may contract or enter into agreements with private  
5           individuals, enterprises, partnerships, or corporations to  
6           develop joint plants, businesses, factories, or commercial  
7           enterprises. The contracts or agreements shall be limited to  
8           those in which the department contracts or agrees to furnish  
9           inmate labor for the manufacture of articles or products or to  
10          furnish inmate labor for the provision of service in  
11          facilities furnished by the department or the party or parties  
12          and enter into contracts or agreements with the department.  
13          The facilities shall be on property owned or operated by the  
14          department or at any prison facility housing inmates sentenced  
15          to the department.

16                 (b) An inmate may participate in the program  
17                 established pursuant to this section only on a voluntary basis  
18                 and only after he or she has been informed of the conditions  
19                 of his or her employment.

20                 (c) Inmates participating in programs where articles  
21                 or products are manufactured in part or in whole shall earn  
22                 not less than the prevailing wage for work of a similar nature  
23                 in the private sector. The earnings of an inmate authorized to  
24                 work at paid employment pursuant to this act shall be paid  
25                 directly to the department. The department shall adopt rules  
26                 concerning the disbursement of any earnings of the inmates  
27                 involved in a program established pursuant to this section,

1 including the payment of any and all court ordered restitution  
2 which along with offsetting the cost their incarceration shall  
3 be the first uses of any funds earned under this section. The  
4 department shall withhold from an inmate's earnings the costs  
5 incident to the inmate's confinement, as the department shall  
6 deem appropriate and reasonable, and the moneys collected  
7 shall be deposited into the Department of Corrections Special  
8 Revenue Fund. In no event shall the withheld earnings exceed  
9 40 percent of the gross earnings of the inmate. The department  
10 shall also comply with any order from a court of proper  
11 jurisdiction that directs the withholding of funds from an  
12 inmate's personal funds, not to exceed 40 percent of the  
13 earnings of the inmate. After all expenses have been deducted  
14 by the department, the remainder of the inmate's earnings  
15 shall be credited to his or her account with the department.  
16 All such manufacturing programs shall be operated in  
17 compliance with the Federal Prison Industries Enhancement Act  
18 codified at 18 U.S.C. §1761(c).

19 (d) An inmate participating in the program shall not  
20 be considered an employee of the state and shall not be  
21 entitled to employee benefits.

22 (e) All products, goods, or items produced by work  
23 done under the auspices of contracts or agreements with the  
24 Department of Corrections shall be marketed by the party or  
25 parties that entered into the contract or agreement. In no  
26 instance may the department market these products, goods, or  
27 items.

1 (f) The Commissioner of the Department of  
2 Corrections may enter into contracts necessary to implement  
3 the prison industry program. The contractual agreements may  
4 include rental or lease agreements for state buildings or sale  
5 or lease of land on the grounds at an institution or a  
6 facility of the department and provide for reasonable access  
7 to and egress from the building to establish and operate a  
8 facility. Rental or lease agreements shall be exempt from the  
9 provisions and requirements of Chapter 16 of Title 41 of the  
10 Code of Alabama 1975, and other competitive bid laws.

11 (g) The Department of Corrections and the party or  
12 parties that enter into contracts or agreements under this act  
13 shall be exempt from the provisions or penalties of Sections  
14 14-5-2 and 14-7-22 of the Code of Alabama 1975.

15 (h) Nothing in this section or act shall cause a  
16 reduction in the number of prisoners provided for training and  
17 work programs conducted on the campus of and by a two-year  
18 college and all such programs shall be provided a satisfactory  
19 number of prisoners for their prison education programs and  
20 all such prison education appropriations shall continue to  
21 fund such programs within the two-year college system as set  
22 forth in the Education Trust Fund budget.

23 (i) All contracts or agreements entered into  
24 pursuant to this section shall be competitively bid.

25 Section 3. This act shall become effective  
26 immediately following its passage and approval by the  
27 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Public Safety  
and Homeland Security..... . . . . . 22-MAR-11

Read for the second time and placed  
on the calendar..... . . . . . 31-MAR-11

Read for the third time and passed  
as amended..... . . . . . 31-MAY-11

Yeas 73, Nays 17, Abstains 1

Greg Pappas  
Clerk