

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1991

CHAPTER 902
SENATE BILL 314

AN ACT TO ALLOW THE DEPARTMENT OF CORRECTION TO DEVELOP AND
IMPLEMENT MANUFACTURING OR OTHER INDUSTRIES WITHIN STATE
PRISON FACILITIES BY PRIVATE ENTERPRISES.

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

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

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

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

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

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

The General Assembly of North Carolina enacts:

Section 1. The Department of Correction shall use funds available to it including the Prison Enterprises Fund for the 1991-92 fiscal year for the purpose of developing, seeking approval from the Bureau of Justice Assistance, and implementing a program of manufacturing or other industries within State prison facilities by private enterprises to be administered through Correction Enterprises.

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

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

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

All departments, institutions and agencies of this State which are supported in whole or in part by the State shall give preference to Department of Correction products in purchasing ~~articles and commodities~~ articles, products, and commodities which these departments, institutions, and agencies require and which are manufactured or produced within the State prison system and offered for sale to them by the Department of Correction, and no article or commodity available from the Department of Correction shall be purchased by any such State department, institution, or agency from any other source unless the prison product does not meet the standard specifications and the reasonable requirements of the department, institution, or agency as determined by the Secretary of Administration, or the requisition cannot be complied with because of an insufficient supply of the articles or commodities required. The provisions of Article 3 of Chapter 143 of the General Statutes respecting contracting for the purchase of all supplies, materials and equipment required by the State government or any of its departments, institutions or agencies under competitive bidding shall not apply to articles or commodities available from the Department of Correction, but the Department of Correction shall be required to keep the price of such articles or commodities substantially in accord with that paid by governmental agencies for similar articles and commodities of equivalent quality as determined by the Secretary by reference to competitive bidding as required by law.

In addition, the Secretary of Correction may lease one or more buildings or portions of buildings on the grounds of any State correctional institution or location under

Department of Correction control, together with the real estate needed for reasonable access to such buildings, for a term not to exceed 20 years, to a private corporation for the purpose of establishing and operating a factory for the manufacture and processing of products or any other commercial enterprise deemed by the Secretary to provide employment opportunities for inmates in meaningful jobs for wages. A lease entered into pursuant to this section may include provisions for the remodeling or construction of buildings. Each lease shall be approved by the Governor and Council of State and may be entered into only after consultation with the Joint Legislative Commission on Governmental Operations. Each lease negotiated and concluded pursuant to this section shall include and shall be valid only so long as the lessee adheres to the following provisions:

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

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

Except as prohibited by applicable provisions of the United States Code, inmates of correctional institutions of this State may be employed in the manufacture and processing of products and services for introduction into interstate commerce, so long as they are paid no less than the prevailing minimum wage."

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

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

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

"(b) All revenues from the sale of articles and commodities manufactured or produced by prison enterprises shall be deposited with the State Treasurer to be kept and maintained as a special revolving working-capital fund designated 'Prison Enterprises Fund.' The Prison Enterprises Fund shall be used for capital and operating expenditures, including salaries and wages of supervisory personnel, necessary to develop and operate prison industrial and forestry enterprises to provide diversified employment for prisoners. When, in the opinion of the Governor, the Prison Enterprises Fund has

reached a sum in excess of requirements for these purposes, the excess shall be used for other purposes within the State prison system or shall be transferred to the general fund as the Governor may direct. The provisions of this section shall not apply to revenues generated from private prison enterprises conducted pursuant to G.S. 148-70 except for lease and rental income."

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

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

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

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

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

Sec. 7. This act becomes effective July 2, 1992.

In the General Assembly read three times and ratified this the 9th day of July, 1992.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives