

CORRECTIONAL INDUSTRIES ACT

Act 15 of 1968

AN ACT to provide for the employment of inmate labor in the correctional institutions of this state; to provide for the employment of inmate labor in certain private enterprises under certain conditions; to provide for certain powers and duties of the department of corrections, the governor, and other officers and agencies in relation to correctional institutions; to provide for the requisitioning and disbursement of correctional industries products; to provide for the disposition of the proceeds of correctional industries and farms; to provide for purchasing and accounting procedures; to regulate the sale or disposition of inmate labor and products; to provide for the requisitioning, purchases, and supply of correctional industries products; to provide penalties for violations of this act; and to repeal acts and parts of acts.

History: 1968, Act 15, Imd. Eff. Apr. 5, 1968 ;-- Am. 1980, Act 245, Eff. Oct. 1, 1980 ;-- Am. 1990, Act 24, Imd. Eff. Mar. 7, 1990 ;-- Am. 1996, Act 537, Imd. Eff. Jan. 13, 1997

The People of the State of Michigan enact:

800.321 Correctional industries act; short title.

Sec. 1.

This act shall be known and may be cited as the "correctional industries act".

History: 1968, Act 15, Imd. Eff. Apr. 5, 1968

800.322 "Correctional industries products" and "correctional institution" defined.

Sec. 2.

As used in this act:

(a) "Correctional industries products" means all services provided, goods, wares, and merchandise manufactured or produced, wholly or in part, by inmates in any state correctional institution, but does not include either of the following:

(i) Products manufactured with inmate labor or services rendered with inmate labor in a private manufacturing or service enterprise established under section 7a.

(ii) Goods or services provided by inmate labor assigned to a private contractor to be used solely within a correctional institution, jail, or reentry facility.

(b) "Correctional institution" means a state prison, prison facility, or other prison institution, correctional camp, community corrections center, correctional farm, state reformatory, or probation recovery camp, owned, operated, leased, supervised, or contracted for by this state.

History: 1968, Act 15, Imd. Eff. Apr. 5, 1968 ;-- Am. 1980, Act 245, Eff. Oct. 1, 1980 ;-- Am. 1996, Act 537, Imd. Eff. Jan. 13, 1997 ;-- Am. 2012, Act 261, Imd. Eff. July 2, 2012

800.323 Commission of corrections; authority and duties.

Sec. 3.

The authority and duties contained in this act are vested in the commission of corrections.

History: 1968, Act 15, Imd. Eff. Apr. 5, 1968 ;-- Am. 1980, Act 245, Eff. Oct. 1, 1980

800.324 Commission of corrections; powers; participation in prison industry enhancement certification program.

Sec. 4.

(1) The department of corrections may do any of the following:

(a) Construct, use, equip, and maintain buildings, machinery, boilers, and equipment that may be necessary to provide for the employment of inmate labor in the state correctional institutions for the manufacture of goods, wares, and merchandise and the operation of services.

(b) Purchase new material to be used in the manufacture of goods, wares, and merchandise, and the operation of services.

(c) Dispose of the manufactured products or provide services in the manner provided by law.

(d) Continue to use and maintain the buildings, machinery, boilers, and equipment in the manufacture of goods, wares, and merchandise in the manner in the operation on April 5, 1968 and use the facilities in the operation of service programs.

(e) Recruit and employ agents and assistants through the department of civil service as may be necessary to carry out the purposes of this act and recommend to the department of civil service classes and selection procedures that recognize the unique needs of correctional industries in this state.

(f) Establish an advisory council for correctional industries in this state, which shall include representatives of organized labor, private industry, state government, and the general public.

(g) Enter into any agreements necessary for assigning inmates to employment in private manufacturing or service enterprises under section 7a.

(h) Establish a prison industry enhancement certification program under 18 USC 1761(c) and enter into any agreements necessary for assigning prisoners to employment in private manufacturing or service enterprises permitted under the prison industry enhancement certification program, including, but not limited to, the manufacturing of caskets for the burial of indigent persons. The department may purchase equipment, raw materials, supplies and other items necessary for the manufacture or production of products or services under the prison industry enhancement certification program and may contract with a private individual, corporation, partnership, or association for the manufacture of products and services under the prison industry enhancement certification program and may sell or exchange those products and goods as provided under section 6(1)(d). Prisoners participating in the prison industry enhancement certification program shall receive, in connection with any work performed, wages at a rate which is not less than that paid for work of a similar nature in the locality in which the work was performed, except that such wages may be subject to deductions which shall not, in the aggregate, exceed 80% of gross wages, and shall be limited as follows:

(i) Taxes, including federal, state, and local taxes.

(ii) Reasonable charges for room and board, as determined by regulations issued by the director of the department.

(iii) Allocations for support of family pursuant to state statute, court order, or agreement by the offender.

(iv) Contributions to any fund established by law to compensate the victims of crime in an amount that is not more than 20% but not less than 5% of gross wages.

(i) Accept from a natural person, sole proprietorship, partnership, corporation, association, or legal entity, items that are labeled as obsolete to disassemble for sale as scrap or for disposal. The department may charge a fee for accepting items described in this subdivision and may refuse to accept any items. Other than for an institution, governmental agency, or tax-exempt organization described in section 6, materials recovered after disassembly or demanufacturing shall not be used in any form or for any purpose other than sale for scrap value or disposal. Any proceeds from a sale for scrap value shall be credited to the correctional industries revolving fund.

(2) Prisoners participating in the prison industry enhancement certification program under subsection (1)(h) shall not be deprived of the right to participate in benefits made available by the federal or state government to other individuals on the basis of their employment. However, those prisoners shall not be qualified to receive any payments for unemployment compensation while incarcerated. Prisoners participating in the prison industry enhancement certification program shall participate in that employment voluntarily and must have agreed in advance to the specific deductions made from gross wages required under subsection (1)(h) and all other financial arrangements as a result of participation in that employment. The use of inmate labor shall not result in the

displacement of employed workers within the local region in which work of the same or comparable nature is being performed.

History: 1968, Act 15, Imd. Eff. Apr. 5, 1968 ;-- Am. 1980, Act 245, Eff. Oct. 1, 1980 ;-- Am. 1996, Act 537, Imd. Eff. Jan. 13, 1997 ;-- Am. 2010, Act 307, Imd. Eff. Dec. 17, 2010

Compiler's Notes: For establishment of a new Michigan State Industries Advisory Board within the Department of Corrections, see E.R.O. No. 1993-8, compiled at MCL 800.341 of the Michigan Compiled Laws. For transfer of authority, powers, duties, functions, and responsibilities of the Michigan State Industries Advisory Council to the new Michigan State Industries Advisory Board, and the abolishment of the Michigan State Industries Advisory Council, see E.R.O. No. 1993-8 compiled at MCL 800.341 of the Michigan Compiled Laws.

800.325 Correctional industries revolving fund; crediting money collected from inmate labor; expenditures.

Sec. 5.

Except as provided in section 7a, all money collected from the sale or disposition of goods, wares, and merchandise manufactured by inmate labor, or received for services provided by labor in the correctional institutions pursuant to this act, shall be turned over to the state treasurer and credited to the correctional industries revolving fund, and shall be paid out only for the cost of doing business incurred in carrying out the purpose of this act. An expenditure for a structure from the revolving fund that would otherwise require the approval of the joint capital outlay subcommittee of the legislature shall be submitted for approval to that subcommittee before the commencement of any construction.

History: 1968, Act 15, Imd. Eff. Apr. 5, 1968 ;-- Am. 1980, Act 245, Eff. Oct. 1, 1980 ;-- Am. 1996, Act 537, Imd. Eff. Jan. 13, 1997

800.326 Sale, exchange, or purchase of correctional industries products; use of agricultural product produced on correctional farm; use of inmate labor; assignment of prison labor to private contractor; determination by department; participation by member of legislature; limitation.

Sec. 6.

(1) Correctional industries products may be sold, exchanged, or purchased by any of the following:

(a) An institution of this or any other state or political subdivision of this or any other state, the federal government or agencies of the federal government, a foreign government or agencies of a foreign government, or, except as provided in subsection (6), a private vendor that operates a correctional facility in this state.

(b) Except as provided in subsection (6), any organization that is a tax exempt organization under section 501(c)(3) of the internal revenue code, 26 USC 501, or any organization or individual that acts as a fiduciary for a tax exempt organization under section 501(c)(3) of the internal revenue code, 26 USC 501, and certifies that the product sold or exchanged under this act is intended for use by a tax exempt organization under section 501(c)(3) of the internal revenue code, 26 USC 501.

(c) Except as provided in subsection (6), any private business or individual, if the products are cut and sewn textiles, but only if the same or a comparable in style product is not manufactured by a private business in this state. However, this subdivision does not apply beginning on the later of the following dates:

(i) The date cut and sewn textiles are being manufactured under the prisoner industry enhancement certification program under section 4(h) and sold, exchanged, or purchased under subdivision (d).

(ii) June 1, 2020.

(d) Except as provided in subsection (6), any private individual, corporation, partnership, or association in this state and in interstate commerce if the products are manufactured under section 4(h).

(2) An agricultural product that is produced on a correctional farm may be utilized within the correctional institutions or within a correctional facility in this state notwithstanding its operation by a private vendor or sold to an institution, governmental agency, or organization described in subsection (1) or sold for utilization in the food production facilities of the department of corrections notwithstanding the operation of those facilities by a private vendor. An agricultural product that is not utilized or sold as provided in this subsection shall be made available without charge to nonprofit charitable organizations or to the family independence agency for use in food banks, bulk food distributions, or similar charitable food distribution programs. This subsection does not apply to an

agricultural product that is not in a form suitable for use in the manner prescribed in this section, such as bulk grain, live cattle, and hogs, which may be sold on the open market.

(3) Except as provided in subsections (2), (4), and (5), the labor of inmates shall not be sold, hired, leased, loaned, contracted for, or otherwise used for private or corporate profit or for any purpose other than the construction, maintenance, or operation of public works, ways, or property as directed by the governor. This act does not prohibit the sale at retail of articles made by inmates for the personal benefit of themselves or their dependents or the payment to inmates for personal services rendered in the correctional institutions, subject to regulations approved by the department of corrections, or the use of inmate labor upon agricultural land that has been rented or leased by the department of corrections upon a sharecropping or other basis.

(4) This act does not prohibit the assignment of prison labor to a private contractor for the production of goods or services to be used solely within a correctional institution, jail, or reentry facility that houses a prisoner population under the jurisdiction of the department of corrections. Inmates assigned by the department of corrections for the production of goods or services that are solely used within a correctional facility or institution that houses a prisoner population under the jurisdiction of the department of corrections are not subject to the prevailing or minimum wage.

(5) If more than 80% of a particular product sold in the United States is manufactured outside the United States and none of that product is manufactured in this state, or if a particular service is not performed in this state, as determined by the department of corrections in conjunction with the advisory council for correctional industries, inmate labor may be used in the manufacture of that product or the rendering of that service in a private manufacturing or service enterprise established under section 7a. A determination by the department of corrections under this subsection shall be made at the time the individual or business entity applies to the department of corrections for approval to produce that product or render that service under section 7a.

(6) An individual who is a member of the state senate or house of representatives is not permitted to participate, directly or indirectly, either personally or through an affiliate, in any program involving the sale, exchange, purchase, or manufacture of correctional industries products until 2 years after the date on which the individual's term of service in the senate or house of representatives ends.

History: 1968, Act 15, Imd. Eff. Apr. 5, 1968 ;-- Am. 1980, Act 245, Eff. Oct. 1, 1980 ;-- Am. 1990, Act 24, Imd. Eff. Mar. 7, 1990 ;-- Am. 1996, Act 537, Imd. Eff. Jan. 13, 1997 ;-- Am. 2007, Act 102, Imd. Eff. Oct. 1, 2007 ;-- Am. 2010, Act 308, Imd. Eff. Dec. 17, 2010 ;-- Am. 2012, Act 261, Imd. Eff. July 2, 2012 ;-- Am. 2015, Act 249, Eff. Mar. 21, 2016

Compiler's Notes: In the second sentence of subsection (2), the reference to "the family independence agency" evidently should read "the department of health and human services".

800.327 Employment of inmates; types of employment.

Sec. 7.

The department of corrections shall provide as fully as practicable for the employment of inmates in tasks consistent with the penal and rehabilitative purposes of their imprisonment and with the public economy. The types of employment shall be as follows:

- (a) Routine maintenance and operation of correctional institutions.
- (b) Educational and rehabilitation activities, whether formal or through productive or socialized activities, determined on the basis of individual needs and educability.
- (c) Productive or maintenance labor on or in connection with the institution farms, or other land rented or leased by the department of corrections, factories, shops, or other available facilities for the production and distribution of correctional industries products and services.
- (d) Labor assignments on state public works, ways, or properties when and as requisitioned by the governor or on county, township, or district roads when requested by the county board of commissioners pursuant to section 1 of 1911 PA 181, MCL 800.101.
- (e) Labor assignments in private manufacturing or service enterprises established under section 7a.
- (f) Labor assignments in connection with manufacture of products under section 4(1)(h) and in connection with the disassembly and disposal of items and scrap material under section 4(1)(i).

History: 1968, Act 15, Imd. Eff. Apr. 5, 1968 ;-- Am. 1980, Act 245, Eff. Oct. 1, 1980 ;-- Am. 1996, Act 537, Imd. Eff. Jan. 13, 1997 ;-- Am. 2010, Act 307, Imd. Eff. Dec. 17, 2010

800.327a Assignment of inmates to work in private manufacturing or service enterprise.

Sec. 7a.

(1) Inmates may be assigned to work in a private manufacturing or service enterprise that meets all of the following requirements:

(a) The enterprise is suitably designed for the utilization of inmate labor. Prisoners shall not be granted access to any employee, customer or client information including, but not limited to, personal addresses, telephone numbers, e-mail addresses, credit card information or other financial information, health records, or any information contained in personnel, client or customer files.

(b) The enterprise either is located within 10 miles of a correctional facility or is located within a correctional facility pursuant to a lease agreement executed between the department of corrections and the enterprise. If the enterprise is located within a correctional facility, the enterprise shall pay to the local taxing authority an amount in lieu of ad valorem property taxes equivalent to the amount of ad valorem property taxes that would have been required if the enterprise had been located outside the correctional facility.

(c) The enterprise manufactures products or renders services that are permitted to be manufactured or rendered using inmate labor, as determined under section 6(5).

(d) The ratio of the number of employees of the enterprise to the number of inmates assigned to work in the enterprise shall not be less than 1 employee to 3 inmates.

(2) Only those inmates who reside in a correctional institution having a security designation of level I, who are not serving a sentence of life imprisonment, and who volunteer for the assignment are eligible to be assigned to work in a private manufacturing or service enterprise. As used in this subsection, "security designation" means 1 of 6 levels of restrictiveness enforced at each correctional institution, as determined by the department, with security level I being the least restrictive and security level VI being the most restrictive.

(3) The contract between the department and the private manufacturing or service enterprise shall ensure that a wage that is the higher of the prevailing wage or the minimum wage established under the minimum wage law of 1964, 1964 PA 154, MCL 408.381 to 408.398, shall be paid by the department to the inmate for work performed by the inmate in the private manufacturing or service enterprise. The wages of an inmate under this section shall be distributed in the following order:

(a) The department shall withhold and pay the inmate's applicable state and local income taxes and federal income, social security, and medicare taxes.

(b) Of the balance remaining:

(i) If the inmate has been ordered by the court to pay restitution to the victim of his or her crime, 20% shall be paid for that restitution on the inmate's behalf, in accordance with the court order, until the amount of restitution is satisfied. If restitution is satisfied or if the inmate was not made subject to restitution, 10% shall be added to the escrow account under subparagraph (iv) and 10% shall be deposited with the state treasurer and credited to the crime victims rights fund created in section 4 of 1989 PA 196, MCL 780.904, in addition to the amount in subparagraph (v).

(ii) If the inmate has a spouse or children, 20% shall be paid to the inmate's spouse or children for the purpose of family support. If the inmate's spouse or children receive aid to families with dependent children or general assistance under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, while the inmate is incarcerated, the 20% designated in this subdivision shall be deposited with the state treasurer and credited to the general fund as repayment of that aid or assistance, until that amount of aid or assistance is repaid.

(iii) Ten percent shall be paid to the inmate for his or her personal use while incarcerated.

(iv) Ten percent shall be held by the department in an escrow account for the inmate, and shall be returned to the inmate upon his or her release.

(v) The balance remaining after the deductions specified in subparagraphs (i) to (iv) shall be deposited with the state treasurer and credited to the general fund, as partial reimbursement to the state for the cost of that inmate's imprisonment and care.

(vi) The inmate shall not be eligible for unemployment compensation or retirement benefits upon his or her release from a work assignment or from imprisonment.

(4) The contract between the department and the private manufacturing or service enterprise shall provide that the department shall pay the applicable employer's share of federal social security and medicare taxes and state worker's disability compensation payments or contributions.

(5) The contract between the department and the private manufacturing or service enterprise shall provide that the enterprise shall reimburse the department for the amounts paid by the department for the purposes described in subsections (3) and (4). The contract also shall require the enterprise to pay to the department an annual administrative fee equal to 1% of the total amounts paid annually to the department by the enterprise for the purposes described in subsections (3) and (4).

(6) The contract provisions created in this section shall not be construed as making the prisoner an employee of the state of Michigan.

History: Add. 1996, Act 537, Imd. Eff. Jan. 13, 1997 ;-- Am. 2012, Act 261, Imd. Eff. July 2, 2012

800.328 Correctional industries products; duties of director of department of management and budget.

Sec. 8.

The director of the department of management and budget shall prescribe specifications, standards, quality tests, methods, and conditions of packaging and conditions and times of delivery for correctional industries products purchased by this state, and may inspect, accept, or reject correctional industries products to the same extent as if they were purchased from other sources.

History: 1968, Act 15, Imd. Eff. Apr. 5, 1968 ;-- Am. 1980, Act 245, Eff. Oct. 1, 1980

800.329 Purchase and sale of similar finished goods, materials, or equipment.

Sec. 9.

Correctional industries, with the approval of the department of management and budget, may purchase finished goods, materials, or equipment of the same type as ordinarily produced by correctional industries. The industries may then sell the items to those entities for whom production by correctional industries is permitted by this act. The purpose of this section is to provide for the completing of orders when production is not sufficient or for other reasons of economy and good business practice which may make the purchases beneficial to the state.

History: 1968, Act 15, Imd. Eff. Apr. 5, 1968 ;-- Am. 1980, Act 245, Eff. Oct. 1, 1980

800.330 Correctional institution maintained by political subdivision; sale or disposal of products; MCL 800.328 and 800.329 inapplicable.

Sec. 10.

A correctional institution now maintained by a political subdivision of this state may sell or otherwise dispose of its correctional institution products to the institutions or departments of the county or political subdivision in which the institution is located. The provisions of sections 8 and 9 shall not apply to a correctional institution of a political subdivision.

History: 1968, Act 15, Imd. Eff. Apr. 5, 1968 ;-- Am. 1985, Act 55, Imd. Eff. June 14, 1985

800.331 Intent of act; correctional industries as total self-supporting system; methods of purchasing and accounting.

Sec. 11.

(1) It is the intent of this act to do all of the following:

(a) Provide adequate, regular, diversified, and suitable employment for inmates of the state for the purpose of enhancing job skills consistent with proper penal purposes.

(b) Utilize the labor of inmates for self-maintenance and for reimbursing the state for expenses incurred by reason of their crimes and imprisonment, and for employment in private manufacturing or service enterprises established under section 7a.

(c) Provide a means for inmates to earn wages for support of their families, reimbursement to the state for part of the cost of their imprisonment, restitution to crime victims, and other purposes consistent with their imprisonment.

(d) Effect the requisitioning and disbursement of correctional industries products and services directly through established state authorities without possibility of private profits and without any intermediating financial considerations, appropriations, or expenditures.

(e) Permit the management of correctional industries to operate in a manner as similar as possible to similar private industrial operations.

(2) Within 5 years after October 1, 1980, correctional industries shall be changed from a system that requires intermediating financial assistance to a total self-supporting system.

(3) The governor shall require the director of the department of management and budget to establish suitable methods of purchasing and accounting, which shall provide as may be necessary or advisable for all of the following:

(a) The purchasing and supply of supplies and materials necessary for the institutional manufacture or production of correctional industries products.

(b) Crediting correctional industries accounts and debiting accounts of consuming institutions or departments for products requisitioned and disbursed, at prices fixed to recapture all direct and indirect costs. In addition, the methods of purchasing, accounting, and pricing may provide for the setting of a margin in excess of direct and indirect costs, which may be expended for purposes consistent with this act.

(c) The purchase of all commodities or requirements other than correctional industries products as provided in this act, by competitive bidding or other methods established by law or approved practice. All agencies, offices, and departments of this state shall order goods from correctional industries if the goods are produced by correctional industries of this state, are comparable in price and quality to the goods normally purchased by governmental agencies, and can be supplied in a reasonable time period as determined by the department of management and budget.

(d) An equitable basis to be proposed by the department of corrections and approved by the department of management and budget for determining costs between the correctional institutions and correctional industries that requires the institutions to absorb that portion of the supervisory costs that directly relate to custody and security responsibilities.

History: 1968, Act 15, Imd. Eff. Apr. 5, 1968 ;-- Am. 1980, Act 245, Eff. Oct. 1, 1980 ;-- Am. 1996, Act 537, Imd. Eff. Jan. 13, 1997

800.332 Schedule of payments or allowances to inmates or dependents.

Sec. 12.

The department of corrections may adopt a schedule of payments or allowances to inmates or to their dependents from the funds as may be provided for the payment. This section does not apply to the payment of wages to inmates assigned to work in private manufacturing or service enterprises under section 7a.

History: 1968, Act 15, Imd. Eff. Apr. 5, 1968 ;-- Am. 1980, Act 245, Eff. Oct. 1, 1980 ;-- Am. 1996, Act 537, Imd. Eff. Jan. 13, 1997

800.333 Violation of act by public officer; penalty.

Sec. 13.

Wilful violations of any of the provisions of this act by an officer of the state or of any political subdivision thereof, or by any officer of any institution of either, shall be sufficient cause for removal from office, and subject such officer to prosecution as provided in section 14.

History: 1968, Act 15, Imd. Eff. Apr. 5, 1968

800.334 Violation of act; misdemeanor.

Sec. 14.

Any person, firm or corporation who wilfully violates any of the provisions of this act is guilty of a misdemeanor.

History: 1968, Act 15, Imd. Eff. Apr. 5, 1968

800.335 Repealed. 1980, Act 245, Eff. Oct. 1, 1980.

Compiler's Notes: The repealed section repealed MCL 800.301 to 800.319 of the Michigan Compiled Laws.