



# HOUSE BILL No. 4464

February 23, 1995, Introduced by Reps. Nye, Walberg, Cropsey, Law, Geiger, McBryde, Bobier, McNutt, Hill, Middleton and Bush and referred to the Committee on Judiciary and Civil Rights.

A bill to amend the title and sections 2, 4, 5, 6, 7, 11, and 12 of Act No. 15 of the Public Acts of 1968, entitled as amended

"Correctional industries act,"

sections 2, 4, 5, 7, 11, and 12 as amended by Act No. 245 of the Public Acts of 1980 and section 6 as amended by Act No. 24 of the Public Acts of 1990, being sections 800.322, 800.324, 800.325, 800.326, 800.327, 800.331, and 800.332 of the Michigan Compiled Laws; and to add section 7a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 2, 4, 5, 6, 7, 11, and 12  
2 of Act No. 15 of the Public Acts of 1968, sections 2, 4, 5, 7,  
3 11, and 12 as amended by Act No. 245 of the Public Acts of 1980  
4 and section 6 as amended by Act No. 24 of the Public Acts of  
5 1990, being sections 800.322, 800.324, 800.325, 800.326, 800.327,

1 800.331, and 800.332 of the Michigan Compiled Laws, are amended  
2 and section 7a is added to read as follows:

3 TITLE

4 An act to provide for the employment of inmate labor in the  
5 correctional institutions of this state; TO PROVIDE FOR THE  
6 EMPLOYMENT OF INMATE LABOR IN CERTAIN PRIVATE ENTERPRISES UNDER  
7 CERTAIN CONDITIONS; to provide for certain powers and duties of  
8 the ~~commission~~ DEPARTMENT of corrections, the governor, and  
9 other officers and agencies in relation to correctional institu-  
10 tions; to provide for the requisitioning and disbursement of cor-  
11 rectional industries products; to provide for the disposition of  
12 the proceeds of correctional industries and farms; to provide for  
13 purchasing and accounting procedures; to regulate the sale or  
14 disposition of inmate labor and products; to provide for the req-  
15 uisitioning, purchases, and supply of correctional industries  
16 products; to provide penalties for violations of this act; and to  
17 repeal ~~certain~~ acts and parts of acts.

18 Sec. 2. As used in this act, "correctional industries  
19 products" means all services provided, goods, wares, and merchan-  
20 dise manufactured or produced, wholly or in part, by inmates in  
21 any state correctional institution, BUT DOES NOT INCLUDE PRODUCTS  
22 MANUFACTURED WITH INMATE LABOR OR SERVICES RENDERED WITH INMATE  
23 LABOR IN A PRIVATE MANUFACTURING OR SERVICE ENTERPRISE ESTAB-  
24 LISHED UNDER SECTION 7A.

25 Sec. 4. The ~~commission~~ DEPARTMENT of corrections may DO  
26 ANY OF THE FOLLOWING:

1 (a) Construct, use, equip, and maintain buildings,  
2 machinery, boilers, and equipment ~~which~~ THAT may be necessary  
3 to provide for the employment of inmate labor in the state cor-  
4 rectional institutions for the manufacture of goods, wares, and  
5 merchandise and the operation of services.

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

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

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

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

19 (f) Establish an advisory council for correctional indus-  
20 tries in this state, which shall include representatives of orga-  
21 nized labor, private industry, state government, and the general  
22 public.

23 (G) ENTER INTO ANY AGREEMENTS NECESSARY FOR ASSIGNING  
24 INMATES TO EMPLOYMENT IN PRIVATE MANUFACTURING OR SERVICE ENTER-  
25 PRISES UNDER SECTION 7A.

26 Sec. 5. ~~All~~ EXCEPT AS PROVIDED IN SECTION 7A, ALL money  
27 collected from the sale or disposition of goods, wares, and

1 merchandise manufactured by inmate labor, or received for  
2 services provided by labor in the correctional institutions pur-  
3 suant to this act, shall be turned over to the state treasurer  
4 and credited to the correctional industries revolving fund, and  
5 shall be paid out only for the cost of doing business incurred in  
6 carrying out the purpose of this act. An expenditure for a  
7 structure from the revolving fund ~~which~~ THAT would otherwise  
8 require the approval of the joint capital outlay subcommittee of  
9 the legislature shall be submitted for approval to that subcom-  
10 mittee before the commencement of any construction.

11       Sec. 6. (1) Correctional industries products may be sold,  
12 exchanged, or purchased by institutions of this or any other  
13 state or political subdivision ~~thereof~~ OF THIS OR ANY OTHER  
14 STATE, the federal government or agencies of the federal govern-  
15 ment, A FOREIGN GOVERNMENT OR AGENCIES OF A FOREIGN GOVERNMENT,  
16 or any organization that is a tax exempt organization under sec-  
17 tion 501(c)(3) of the internal revenue code.

18       (2) An agricultural product that is produced on a correc-  
19 tional farm, unless it is utilized within the correctional insti-  
20 tutions or is sold to an institution, governmental agency, or  
21 organization described in subsection (1), shall be made available  
22 without charge to nonprofit charitable organizations or to the  
23 department of social services for use in food banks, bulk food  
24 distributions, or similar charitable food distribution programs.  
25 This subsection does not apply to an agricultural product that is  
26 not in a form suitable for use in the manner prescribed in this

1 section, such as bulk grain, live cattle, and hogs, which may be  
2 sold on the open market.

3 (3) ~~The~~ EXCEPT AS PROVIDED IN SUBSECTION (4), THE labor of  
4 inmates shall not be sold, hired, leased, loaned, contracted for,  
5 or otherwise used for private or corporate profit or for any pur-  
6 pose other than the construction, maintenance, or operation of  
7 public works, ways, or property as directed by the governor.  
8 This act does not prohibit the sale at retail of articles made by  
9 inmates for the personal benefit of themselves or their depen-  
10 dents or the payment to inmates for personal services rendered in  
11 the correctional institutions, subject to regulations approved by  
12 the ~~commission~~ DEPARTMENT of corrections, or the use of inmate  
13 labor upon agricultural land ~~which~~ THAT has been rented or  
14 leased by the department of corrections upon a sharecropping or  
15 other basis.

16 (4) IF MORE THAN 80% OF A PARTICULAR PRODUCT SOLD IN THE  
17 UNITED STATES IS MANUFACTURED OUTSIDE THE UNITED STATES AND NONE  
18 OF THAT PRODUCT IS MANUFACTURED IN THIS STATE, OR IF A PARTICULAR  
19 SERVICE IS NOT PERFORMED IN THIS STATE, AS DETERMINED BY THE  
20 DEPARTMENT OF CORRECTIONS IN CONJUNCTION WITH THE ADVISORY COUN-  
21 CIL FOR CORRECTIONAL INDUSTRIES, INMATE LABOR MAY BE USED IN THE  
22 MANUFACTURE OF THAT PRODUCT OR THE RENDERING OF THAT SERVICE IN A  
23 PRIVATE MANUFACTURING OR SERVICE ENTERPRISE ESTABLISHED UNDER  
24 SECTION 7A. A DETERMINATION BY THE DEPARTMENT OF CORRECTIONS  
25 UNDER THIS SUBSECTION SHALL BE MADE AT THE TIME THE INDIVIDUAL OR  
26 BUSINESS ENTITY APPLIES TO THE DEPARTMENT FOR APPROVAL TO PRODUCE

1 THAT PRODUCT OR RENDER THAT SERVICE PURSUANT TO SECTION 7A, AND  
2 SHALL NOT SUBSEQUENTLY BE RECONSIDERED.

3       Sec. 7. The ~~commission~~ DEPARTMENT of corrections shall  
4 provide as fully as practicable for the employment of inmates in  
5 tasks consistent with the penal and rehabilitative purposes of  
6 their imprisonment and with the public economy. The types of  
7 employment shall be as follows:

8       (a) Routine maintenance and operation of ~~the several~~  
9 CORRECTIONAL institutions.

10       (b) Educational and rehabilitation activities, whether  
11 formal or through productive or socialized activities, determined  
12 on the basis of individual needs and educability.

13       (c) Productive or maintenance labor on or in connection with  
14 the institution farms, or other land rented or leased by the  
15 department of corrections, factories, shops, or other available  
16 facilities for the production and distribution of correctional  
17 industries products and services.

18       (d) Labor assignments on state public works, ways, or prop-  
19 erties when and as requisitioned by the governor or on county,  
20 township, or district roads when requested by the county board of  
21 commissioners pursuant to section 1 of Act No. 181 of the Public  
22 Acts of 1911, ~~as amended,~~ being section 800.101 of the Michigan  
23 Compiled Laws.

24       (E) LABOR ASSIGNMENTS IN PRIVATE MANUFACTURING OR SERVICE  
25 ENTERPRISES ESTABLISHED UNDER SECTION 7A.

1 SEC. 7A. (1) INMATES MAY BE ASSIGNED TO WORK IN A PRIVATE  
2 MANUFACTURING OR SERVICE ENTERPRISE THAT MEETS ALL OF THE  
3 FOLLOWING REQUIREMENTS:

4 (A) THE ENTERPRISE IS SUITABLY DESIGNED FOR THE UTILIZATION  
5 OF INMATE LABOR.

6 (B) THE ENTERPRISE EITHER IS LOCATED WITHIN 10 MILES OF A  
7 CORRECTIONAL FACILITY OR IS LOCATED WITHIN A CORRECTIONAL FACIL-  
8 ITY PURSUANT TO A LEASE AGREEMENT EXECUTED BETWEEN THE DEPARTMENT  
9 OF CORRECTIONS AND THE ENTERPRISE.

10 (C) THE ENTERPRISE MANUFACTURES PRODUCTS OR RENDERS SERVICES  
11 THAT ARE PERMITTED TO BE MANUFACTURED OR RENDERED USING INMATE  
12 LABOR, AS DETERMINED UNDER SECTION 6(4).

13 (D) THE RATIO OF THE NUMBER OF EMPLOYEES OF THE ENTERPRISE  
14 TO THE NUMBER OF INMATES ASSIGNED TO WORK IN THE ENTERPRISE SHALL  
15 NOT BE LESS THAN 1 EMPLOYEE TO 3 INMATES.

16 (2) ONLY THOSE INMATES WHO RESIDE IN A CORRECTIONAL INSTITU-  
17 TION HAVING A SECURITY DESIGNATION OF LEVEL I AND WHO ARE NOT  
18 SERVING A SENTENCE OF LIFE IMPRISONMENT ARE ELIGIBLE TO BE  
19 ASSIGNED TO WORK IN A PRIVATE MANUFACTURING OR SERVICE  
20 ENTERPRISE. AS USED IN THIS SUBSECTION, "SECURITY DESIGNATION"  
21 MEANS 1 OF 6 LEVELS OF RESTRICTIVENESS ENFORCED AT EACH CORREC-  
22 TIONAL INSTITUTION, AS DETERMINED BY THE DEPARTMENT, WITH SECUR-  
23 ITY LEVEL I BEING THE LEAST RESTRICTIVE AND SECURITY LEVEL VI  
24 BEING THE MOST RESTRICTIVE.

25 (3) THE CONTRACT BETWEEN THE DEPARTMENT AND THE PRIVATE MAN-  
26 UFACTURING OR SERVICE ENTERPRISE SHALL ENSURE THAT A WAGE THAT IS  
27 NOT LESS THAN THE MINIMUM WAGE ESTABLISHED PURSUANT TO THE

1 MINIMUM WAGE LAW OF 1964, ACT NO. 154 OF THE PUBLIC ACTS OF 1964,  
2 BEING SECTIONS 408.381 TO 408.398 OF THE MICHIGAN COMPILED LAWS,  
3 SHALL BE PAID BY THE DEPARTMENT TO THE INMATE FOR WORK PERFORMED  
4 BY THE INMATE IN THE PRIVATE MANUFACTURING OR SERVICE  
5 ENTERPRISE. THE WAGES OF AN INMATE UNDER THIS SECTION SHALL BE  
6 DISTRIBUTED IN THE FOLLOWING ORDER:

7 (A) THE DEPARTMENT SHALL WITHHOLD AND PAY THE INMATE'S  
8 APPLICABLE STATE AND LOCAL INCOME TAXES AND FEDERAL INCOME,  
9 SOCIAL SECURITY, AND MEDICARE TAXES.

10 (B) OF THE BALANCE REMAINING:

11 (i) IF THE INMATE HAS BEEN ORDERED BY THE COURT TO PAY RES-  
12 TITUTION TO THE VICTIM OF HIS OR HER CRIME, 20% SHALL BE PAID FOR  
13 THAT RESTITUTION ON THE INMATE'S BEHALF, IN ACCORDANCE WITH THE  
14 COURT ORDER, UNTIL THE AMOUNT OF RESTITUTION IS SATISFIED. IF  
15 RESTITUTION IS SATISFIED OR IF THE INMATE WAS NOT MADE SUBJECT TO  
16 RESTITUTION, 10% SHALL BE ADDED TO THE ESCROW ACCOUNT UNDER SUB-  
17 PARAGRAPH (iv) AND 10% SHALL BE DEPOSITED WITH THE STATE TREA-  
18 SURER AND CREDITED TO THE GENERAL FUND IN ADDITION TO THE AMOUNT  
19 IN SUBPARAGRAPH (v).

20 (ii) IF THE INMATE HAS A SPOUSE OR CHILDREN, 20% SHALL BE  
21 PAID TO THE INMATE'S SPOUSE OR CHILDREN FOR THE PURPOSE OF FAMILY  
22 SUPPORT. IF THE INMATE'S SPOUSE OR CHILDREN RECEIVE AID TO FAMI-  
23 LIES WITH DEPENDENT CHILDREN OR GENERAL ASSISTANCE UNDER THE  
24 SOCIAL WELFARE ACT, ACT NO. 280 OF THE PUBLIC ACTS OF 1939, BEING  
25 SECTIONS 400.1 TO 400.119B OF THE MICHIGAN COMPILED LAWS, WHILE  
26 THE INMATE IS INCARCERATED, THE 20% DESIGNATED IN THIS  
27 SUBDIVISION SHALL BE DEPOSITED WITH THE STATE TREASURER AND

1 CREDITED TO THE GENERAL FUND AS REPAYMENT OF THAT AID OR  
2 ASSISTANCE, UNTIL THAT AMOUNT OF AID OR ASSISTANCE IS REPAID.

3 (iii) TEN PERCENT SHALL BE PAID TO THE INMATE FOR HIS OR HER  
4 PERSONAL USE WHILE INCARCERATED.

5 (iv) TEN PERCENT SHALL BE HELD BY THE DEPARTMENT IN AN  
6 ESCROW ACCOUNT FOR THE INMATE, AND SHALL BE RETURNED TO THE  
7 INMATE UPON HIS OR HER RELEASE.

8 (v) THE BALANCE REMAINING AFTER THE DEDUCTIONS SPECIFIED IN  
9 SUBPARAGRAPHS (i) TO (iv) SHALL BE DEPOSITED WITH THE STATE TREA-  
10 SURER AND CREDITED TO THE GENERAL FUND, AS PARTIAL REIMBURSEMENT  
11 TO THE STATE FOR THE COST OF THAT INMATE'S IMPRISONMENT AND CARE.

12 (4) THE CONTRACT BETWEEN THE DEPARTMENT AND THE PRIVATE MAN-  
13 UFACTURING OR SERVICE ENTERPRISE SHALL PROVIDE THAT THE DEPART-  
14 MENT SHALL PAY THE APPLICABLE EMPLOYER'S SHARE OF FEDERAL SOCIAL  
15 SECURITY AND MEDICARE TAXES AND STATE WORKER'S DISABILITY COMPEN-  
16 SATION PAYMENTS OR CONTRIBUTIONS.

17 (5) IN ADDITION TO THE AMOUNTS PAID UNDER SUBSECTIONS (3)  
18 AND (4), THE CONTRACT BETWEEN THE DEPARTMENT AND THE PRIVATE MAN-  
19 UFACTURING OR SERVICE ENTERPRISE SHALL REQUIRE THE ENTERPRISE TO  
20 PAY TO THE DEPARTMENT AN ANNUAL ADMINISTRATIVE FEE EQUAL TO 1% OF  
21 THE TOTAL AMOUNTS PAID ANNUALLY TO THE DEPARTMENT BY THE ENTER-  
22 PRISE FOR THE PURPOSES DESCRIBED IN SUBSECTIONS (3) AND (4).

23 Sec. 11. (1) It is the intent of this act to do all of the  
24 following:

25 (a) Provide adequate, regular, diversified, and suitable  
26 employment for inmates of the state FOR THE PURPOSE OF ENHANCING  
27 JOB SKILLS consistent with proper penal purposes.

1 (b) Utilize the labor of inmates ~~exclusively~~ for  
2 self-maintenance and for reimbursing the state for expenses  
3 incurred by reason of their crimes and imprisonment, AND FOR  
4 EMPLOYMENT IN PRIVATE MANUFACTURING OR SERVICE ENTERPRISES ESTAB-  
5 LISHED UNDER SECTION 7A.

6 (C) PROVIDE A MEANS FOR INMATES TO EARN WAGES FOR SUPPORT OF  
7 THEIR FAMILIES, REIMBURSEMENT TO THE STATE FOR PART OF THE COST  
8 OF THEIR IMPRISONMENT, RESTITUTION TO CRIME VICTIMS, AND OTHER  
9 PURPOSES CONSISTENT WITH THEIR IMPRISONMENT.

10 (D) ~~(c)~~ Effect the requisitioning and disbursement of cor-  
11 rectional industries products and services directly through  
12 established state authorities without possibility of private  
13 profits and without any intermediating financial considerations,  
14 appropriations, or expenditures.

15 (E) ~~(d)~~ Permit the management of correctional industries  
16 to operate in a manner as similar as possible to similar private  
17 industrial operations.

18 (2) Within 5 years after ~~the effective date of this~~  
19 ~~subsection~~ OCTOBER 1, 1980, correctional industries shall be  
20 changed from a system ~~which~~ THAT requires intermediating finan-  
21 cial assistance to a total self-supporting system.

22 (3) The governor shall require the director of the depart-  
23 ment of management and budget to establish suitable methods of  
24 purchasing and accounting, which shall provide as may be neces-  
25 sary or advisable for ALL OF THE FOLLOWING:

26 (A) ~~(1)~~ The purchasing and supply of supplies and  
27 materials necessary for the institutional manufacture or

1 production of ~~the~~ correctional industries products. ~~pursuant~~  
2 ~~to sections 2, 6, and 7.~~

3 (B) ~~(ii)~~ Crediting correctional industries accounts and  
4 debiting accounts of consuming institutions or departments for  
5 products requisitioned and disbursed, at prices fixed to recap-  
6 ture all direct and indirect costs. In addition, the methods of  
7 purchasing, accounting, and pricing may provide for the setting  
8 of a margin in excess of direct and indirect costs, which may be  
9 expended for purposes consistent with this act.

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

20 (D) ~~(iv)~~ An equitable basis to be proposed by the depart-  
21 ment of corrections and approved by the department of management  
22 and budget for determining costs between the correctional insti-  
23 tutions and correctional industries ~~which shall require~~ THAT  
24 REQUIRES the institutions to absorb that portion of the supervi-  
25 sory costs that directly relate to custody and security  
26 responsibilities.

1        Sec. 12. The ~~commission~~ DEPARTMENT of corrections may  
2 adopt a schedule of payments or allowances to inmates or to their  
3 dependents from the funds as may be provided for the payment.  
4 THIS SECTION DOES NOT APPLY TO THE PAYMENT OF WAGES TO INMATES  
5 ASSIGNED TO WORK IN PRIVATE MANUFACTURING OR SERVICE ENTERPRISES  
6 UNDER SECTION 7A.