

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1991**

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SENATE BILL 314  
Second Edition Engrossed 6/27/91

Short Title: Prison Industry Funds.

(Public)

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Sponsors: Senator Cooper.

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Referred to: Appropriations.

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March 27, 1991

A BILL TO BE ENTITLED

1 AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CORRECTION  
2 FOR THE DEVELOPMENT AND IMPLEMENTATION OF MANUFACTURING  
3 OR OTHER INDUSTRIES WITHIN STATE PRISON FACILITIES BY PRIVATE  
4 ENTERPRISES.  
5

6 The General Assembly of North Carolina enacts:

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

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

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

18       Whereas, no money is appropriated by the General Assembly for the  
19 operation of Correction Enterprises, therefore each operation is self-sufficient and  
20 profits derived by Correction Enterprises are used by the Department of Correction for  
21 capital improvements or other uses as determined by the Secretary of Correction and the  
22 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. The Department of Correction shall use funds available to it  
19 including the Prison Enterprises Fund for the 1991-92 fiscal year for the purpose of  
20 developing, seeking approval from the Bureau of Justice Assistance, and implementing  
21 a program of manufacturing or other industries within State prison facilities by private  
22 enterprises to 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 whole  
42 or in part by the State shall give preference to Department of Correction products in  
43 purchasing articles and commodities which these departments, institutions, and agencies  
44 require and which are manufactured or produced within the State prison system and

1 offered for sale to them by the Department of Correction, and no article or commodity  
2 available from the Department of Correction shall be purchased by any such State  
3 department, institution, or agency from any other source unless the prison product does  
4 not meet the standard specifications and the reasonable requirements of the department,  
5 institution, or agency as determined by the Secretary of Administration, or the  
6 requisition cannot be complied with because of an insufficient supply of the articles or  
7 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.