

CHAPTER 349

**CORRECTIONS**

**HOUSE BILL 93-1182**

BY REPRESENTATIVES Piffner, Acquafresca, Adkins, Allen, Berry, Epps, Foster, Gordon, Jerke, Kaufman, Lawrence, Martin, May, Morrison, and Owen;  
also SENATORS Bishop, Blickensderfer, Meiklejohn, Norton, R. Powers, and Wattenberg.

**AN ACT**

**CONCERNING THE EMPLOYMENT OF INMATES IN STATE CORRECTIONAL FACILITIES.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Article 24 of title 17, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

**17-24-122. Agreements for the employment of inmates by private entities.**

(1) IN ADDITION TO THE AUTHORITY GRANTED PURSUANT TO SECTION 17-24-121, THE DEPARTMENT OF CORRECTIONS, WORKING THROUGH THE DIVISION, IS AUTHORIZED TO ENTER INTO AGREEMENTS WITH PRIVATE PERSONS OR ENTITIES FOR THE UTILIZATION OF INMATE LABOR IN THE MANUFACTURING, PROCESSING, OR ASSEMBLY OF COMPONENTS, FINISHED GOODS, SERVICES, OR PRODUCT LINES WITHIN FACILITIES OWNED OR LEASED BY THE DEPARTMENT. SUCH AGREEMENTS SHALL BE SUBJECT TO THE PRIOR REVIEW OF THE ATTORNEY GENERAL AND THE CORRECTIONAL INDUSTRIES ADVISORY COMMITTEE.

(2) THE DEPARTMENT IS AUTHORIZED TO ENTER INTO AGREEMENTS SUBJECT TO STATE FISCAL RULES AND THE PRIOR REVIEW OF THE ATTORNEY GENERAL WHICH ALLOW FOR FINANCING BY THE PRIVATE CONTRACTOR FOR EQUIPMENT, RAW MATERIALS, TRAINING OF WORKERS, AND OPERATION OF INDUSTRIES DEVELOPED PURSUANT TO THE PROVISIONS OF THIS SECTION. IN ANY SUCH AGREEMENT, THE DEPARTMENT MAY PROVIDE FOR THE RECOVERY OF THE COSTS OF PROVIDING FACILITIES FOR THE PRIVATE CONTRACTOR BY REQUIRING THE PAYMENT OF RENT FOR SUCH FACILITIES.

(3) AGREEMENTS ENTERED INTO PURSUANT TO THIS SECTION SHALL PROVIDE THAT

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

ANY INMATE ASSIGNED PURSUANT TO SECTION 17-24-114 (1) TO WORK AS INMATE LABOR FOR A PRIVATE PERSON OR ENTITY WHICH MADE SUCH AGREEMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE AN EMPLOYEE OF THE PRIVATE PERSON OR ENTITY AND, NOTWITHSTANDING SECTION 17-24-114 (2), SUCH INMATE SHALL BE PAID AT LEAST THE FEDERAL MINIMUM WAGE FOR THE LABOR PERFORMED. SUCH WAGES SHALL BE PAID TO THE DEPARTMENT OF CORRECTIONS AND SHALL BE HELD IN TRUST FOR THE INMATE IN A REVENUE-PRODUCING ACCOUNT UNTIL THE INMATE IS PAROLED OR DISCHARGED FROM CUSTODY. THE PROVISIONS OF SECTION 8-40-301 (3), C.R.S., SHALL APPLY TO ANY INMATE EMPLOYED BY A PRIVATE PERSON OR ENTITY PURSUANT TO THIS SECTION.

(4) OUT OF THE WAGES HELD IN TRUST FOR AN INMATE PURSUANT TO SUBSECTION (3) OF THIS SECTION, THE DEPARTMENT OF CORRECTIONS SHALL DEDUCT UP TO FIFTY PERCENT OF SUCH WAGES TO BE USED TO DEFRAY THE COSTS INCIDENT TO THE INMATE'S CONFINEMENT.

(5) OUT OF THE WAGES HELD IN TRUST FOR AN INMATE PURSUANT TO SUBSECTION (3) OF THIS SECTION, AND SUBSEQUENT TO THE DEDUCTION MADE PURSUANT TO SUBSECTION (4) OF THIS SECTION, THE DEPARTMENT OF CORRECTIONS SHALL DEDUCT PERIODICALLY FOR THE FOLLOWING PURPOSES AND IN THE FOLLOWING ORDER OF PRIORITY:

(a) COMPENSATION OF THE VICTIM OF THE CRIME COMMITTED BY THE INMATE FOR EXPENSES ACTUALLY AND REASONABLY INCURRED AS A RESULT OF THE INJURY TO THE PERSON OR PROPERTY OF THE VICTIM, INCLUDING MEDICAL EXPENSES, LOSS OF EARNING POWER, AND ANY OTHER PECUNIARY LOSS DIRECTLY RESULTING FROM THE INJURY TO THE PERSON OR PROPERTY OR THE DEATH OF THE VICTIM, WHICH A COURT OF COMPETENT JURISDICTION DETERMINES OR HAS DETERMINED TO BE REASONABLE AND PROPER;

(b) PAYMENT OF SUCH AMOUNTS FOR THE SUPPORT OF THE INMATE'S DEPENDENTS AS IS DEEMED APPROPRIATE BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS, TAKING INTO ACCOUNT ANY COURT ORDERS FOR SUCH SUPPORT; AND

(c) PAYMENT OF INCIDENTAL EXPENSES OF THE INMATE WHILE THE INMATE IS STILL IN CUSTODY.

(6) ANY AMOUNTS OF MONEY WHICH REMAIN IN TRUST FOR THE INMATE AFTER THE DEDUCTIONS MADE PURSUANT TO THIS SECTION SHALL BE PAID TO THE INMATE UPON PAROLE OR DISCHARGE FROM CUSTODY. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS SHALL HAVE THE DISCRETION TO PAY TO THE INMATE ANY AMOUNTS OF MONEY WHICH REMAIN IN TRUST FOR SUCH INMATE IN INSTALLMENTS OVER THE PERIOD OF ONE YEAR FROM THE DATE OF PAROLE OR DISCHARGE. IF AN INMATE DIES PRIOR TO DISCHARGE FROM CUSTODY AND THE BODY GOES UNCLAIMED FOR MORE THAN FIVE DAYS, THE AMOUNT REMAINING IN TRUST MAY BE USED TO DEFRAY ANY COSTS INCURRED BY THE STATE OF COLORADO IN CONNECTION WITH THE BURIAL OF SUCH INMATE AND ANY AMOUNT REMAINING AFTER BURIAL COSTS HAVE BEEN PAID OR THE BODY HAS BEEN CLAIMED SHALL BE PAID TO THE INMATE'S ESTATE.

(7) ANY AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION SHALL PROVIDE

THAT APPROPRIATE SECURITY MEASURES FOR A STATE CORRECTIONAL FACILITY SHALL NOT BE JEOPARDIZED DUE TO ANY OPERATIONS WHICH RESULT FROM SUCH AGREEMENT.

(8) IN MAKING OFFENDER WORK ASSIGNMENTS PURSUANT TO SECTION 17-24-114, THERE SHALL BE A PRESUMPTION THAT THE MOST FIT AND ABLE INMATES SHALL BE ASSIGNED BY THE DIRECTOR TO A WORK ASSIGNMENT PURSUANT TO THIS SECTION.

**SECTION 2.** 17-24-117, Colorado Revised Statutes, 1986 Repl. Vol., is repealed as follows:

**17-24-117. Penalty.** ~~(1) Except as provided in section 17-24-111 (4) and (5), no person, organization, or corporation shall purchase for its use or resale any goods or services produced by the division, except that this provision shall not apply to agencies funded in whole or in part by the state, political subdivisions of the state, or the federal government.~~

~~(2) Any person, organization, or corporation which violates the provisions of this article prohibiting sale of divisional goods and services on the open market is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.~~

**SECTION 3.** 8-40-301 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-40-301. Scope of term "employee".** (3) (a) Notwithstanding the provisions of section 8-40-202 (1) (a) (IV), "employee" excludes any person who is confined to a city or county jail or any department of corrections facility as an inmate and who, as a part of such confinement, is working, performing services, or participating in a training or rehabilitation or work release program.

(b) The provisions of paragraph (a) of this subsection (3) do not apply to an inmate who is working for a private employer under a contract of hire wherein the private employer is required to maintain workers' compensation insurance for its employees pursuant to articles 40 to 47 of this title. Such inmate shall be an employee of such private employer for purposes of articles 40 to 47 of this title.

(c) The provisions of paragraph (a) of this subsection (3) do not apply to an inmate working for a joint venture established pursuant to the provisions of section 17-24-119 or 17-24-121, C.R.S. Such inmate shall be an employee of such joint venture for purposes of articles 40 to 47 of this title.

(d) THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (3) DO NOT APPLY TO AN INMATE WORKING FOR A PRIVATE PERSON OR ENTITY PURSUANT TO THE PROVISIONS OF SECTION 17-24-122, C.R.S. SUCH INMATE SHALL BE AN EMPLOYEE OF SUCH PRIVATE PERSON OR ENTITY FOR PURPOSES OF ARTICLES 40 TO 47 OF THIS TITLE.

**SECTION 4. Effective date.** This act shall take effect September 1, 1993.

**SECTION 5. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

This act became law without the Governor's signature, June 12, 1993