

CHAPTER 147

CORRECTIONS

HOUSE BILL 98-1178

BY REPRESENTATIVES Snyder and Pfiffner;
also SENATORS Bishop, Arnold, Congrove, Dennis, and Powers.

AN ACT

CONCERNING THE USE OF INMATE LABOR AT NONSTATE-OWNED FACILITIES.

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

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

17-24-125. Correctional industries at nonstate-owned facilities - repeal.
(1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "INMATE LABOR PROGRAM" MEANS A PROGRAM OPERATED AT A NONSTATE-OWNED PRISON FACILITY AS A BUSINESS OR FOR PROFIT UTILIZING IN WHOLE OR IN PART LABOR OF INMATES, EXCEPT THAT "INMATE LABOR PROGRAM" DOES NOT INCLUDE A PROGRAM THAT IS OPERATED BY A LOCAL GOVERNMENT OR COMBINATION OF LOCAL GOVERNMENTS OF THIS STATE AS A NONPROFIT BUSINESS WITHIN THE JURISDICTION BOUNDARIES OF THE LOCAL GOVERNMENT OR GOVERNMENTS AND WHOSE OPERATION HAS BEEN REVIEWED AND APPROVED BY THE LOCAL GOVERNMENT OR LOCAL GOVERNMENTS.

(b) "NONSTATE-OWNED PRISON FACILITY" MEANS ANY PRIVATE CORRECTIONAL FACILITY OR ANY JAIL OR OTHER DETENTION FACILITY OPERATED BY A POLITICAL SUBDIVISION OF THE STATE THAT HOUSES STATE PRISONERS OR THAT HOUSES INMATES FROM ANOTHER STATE WHOSE INCARCERATION IN THIS STATE IS APPROVED PURSUANT TO SECTION 17-1-104.5; EXCEPT THAT "NONSTATE-OWNED PRISON FACILITY" SHALL NOT INCLUDE A JAIL OR OTHER DETENTION FACILITY OPERATED BY A POLITICAL SUBDIVISION OF THE STATE THAT ONLY HOUSES STATE PRISONERS PURSUANT TO A

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

CONTRACT UNDER SECTION 16-11-308.5 (2), C.R.S., OR A FACILITY IN WHICH A COMMUNITY CORRECTIONS PROGRAM IS OPERATED PURSUANT TO ARTICLE 27 OF THIS TITLE.

(2) (a) ON AND AFTER MARCH 1, 1999, ALL INMATE LABOR PROGRAMS OPERATED AT A NONSTATE-OWNED PRISON FACILITY SHALL BE APPROVED BY THE DIVISION PRIOR TO COMMENCING OPERATIONS.

(b) (I) ANY INMATE LABOR PROGRAM IN OPERATION PRIOR TO MARCH 1, 1999, SHALL BE APPROVED ON OR BEFORE MAY 1, 1999.

(II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JANUARY 1, 2000.

(3) (a) ON OR BEFORE FEBRUARY 1, 1999, THE DIVISION SHALL PROMULGATE RULES GOVERNING THE APPROVAL REQUIRED BY SUBSECTION (2) OF THIS SECTION INCLUDING BUT NOT LIMITED TO:

(I) ESTABLISHING A PROCEDURE FOR APPROVING INMATE LABOR PROGRAMS THAT SHALL INCLUDE REVIEW BY THE CORRECTIONAL INDUSTRIES ADVISORY COMMITTEE OF A BUSINESS PLAN FOR EACH INMATE LABOR PROGRAM;

(II) ESTABLISHING THE DURATION OF ANY APPROVAL AND PROCEDURES FOR REAPPROVAL AND REVOCATION OF ANY APPROVAL;

(III) REQUIRING ALL INMATE LABOR PROGRAMS TO COMPLY WITH ALL FEDERAL LAWS AND REGULATIONS RELATING TO THE USE OF INMATE LABOR;

(IV) REQUIRING THAT ALL GOODS OR SERVICES BE PRICED AT PREVAILING MARKET RATES; EXCEPT THAT GOODS OR SERVICES SOLD TO GOVERNMENTAL OR NONPROFIT ENTITIES MAY BE PRICED AT WHOLESALE COST;

(V) REQUIRING THAT PERSONS EMPLOYED BY A NONSTATE-OWNED PRISON FACILITY SHALL NOT BE INVOLVED IN DECISIONS INVOLVING THE INMATE LABOR PROGRAM RELATING TO PERSONS OR ENTITIES WITH WHOM THE PERSON HAS A CONFLICT OR POTENTIAL CONFLICT OF INTEREST;

(VI) REQUIRING THAT INMATES BE COMPENSATED AS DETERMINED BY RULE PROMULGATED BY THE DEPARTMENT;

(VII) REQUIRING THAT ALL RECORDS PERTAINING TO INMATE LABOR PROGRAMS SHALL BE AVAILABLE FOR INSPECTION AND COPYING BY REPRESENTATIVES OF THE DIVISION TO ENSURE COMPLIANCE WITH THIS SECTION AND ANY RULES PROMULGATED THEREUNDER; AND

(VIII) REQUIRING NONSTATE-OWNED PRISON FACILITIES TO REIMBURSE THE DIVISION FOR ANY EXPENSES INCURRED IN CERTIFYING AND MONITORING THE INMATE LABOR PROGRAMS.

(b) THE RULES PROMULGATED PURSUANT TO THIS SUBSECTION (3) SHALL BE SUBSTANTIALLY SIMILAR TO THE RULES GOVERNING PROGRAMS AT FACILITIES OPERATED BY THE DEPARTMENT.

(4) (a) EACH NONSTATE-OWNED PRISON FACILITY OPERATING AN INMATE LABOR PROGRAM SHALL HOLD WAGES EARNED BY A STATE PRISONER IN TRUST FOR THE PRISONER IN A REVENUE-PRODUCING ACCOUNT UNTIL THE PRISONER IS PAROLED OR DISCHARGED FROM CUSTODY. OUT OF THE WAGES HELD IN TRUST FOR A STATE PRISONER PURSUANT TO THE PROVISIONS OF THIS PARAGRAPH (a), THE NONSTATE-OWNED PRISON FACILITY SHALL MAKE DISBURSEMENTS PURSUANT TO THE PROVISIONS OF SECTION 17-24-122 (4) AND (5). SECTION 17-24-122 (6) SHALL ALSO APPLY TO ANY WAGES HELD IN TRUST FOR A STATE PRISONER PURSUANT TO THIS PARAGRAPH (a).

(b) EACH NONSTATE-OWNED PRISON FACILITY OPERATING AN INMATE LABOR PROGRAM SHALL HOLD AND DISTRIBUTE WAGES EARNED BY AN INMATE FROM A STATE OTHER THAN COLORADO PURSUANT TO THE STATUTES AND RULES OF THAT STATE OR THE CONTRACT BETWEEN THAT STATE AND THE PRISON FACILITY.

SECTION 2. 17-24-104 (2) (a) (VII) and (3) (a), Colorado Revised Statutes, are amended, and the said 17-24-104 (2) (a) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

17-24-104. Creation of division of correctional industries and advisory committee - enterprise status of division - duties of committee - sunset review of committee. (2) (a) There is hereby created the correctional industries advisory committee, which shall consist of:

(VII) The executive director of the department of corrections; AND

(VIII) A COUNTY SHERIFF APPOINTED BY THE GOVERNOR.

(3) (a) Before any industry is established to utilize the services of prisoners as provided by this article, INCLUDING BUT NOT LIMITED TO ANY INDUSTRY IN A NONSTATE-OWNED FACILITY PURSUANT TO SECTION 17-24-125, the advisory committee shall consider the feasibility of establishing such industry and the effect of such establishment on similar industries already established in the state and shall make its recommendations thereon to the director. A majority of the members of the advisory committee at any meeting duly called by the chairman has full power to act upon and resolve any matter or question referred to it by the director.

SECTION 3. 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.

Approved: April 21, 1998