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Senate Commerce, Small Business and Entrepreneurship Committee Substitute  
Adopted 6/18/07

Short Title: Correction Enterprises.-AB (Public)

Sponsors:

Referred to:

March 15, 2007

A BILL TO BE ENTITLED

AN ACT TO REVISE AND RECODIFY THE LAW AUTHORIZING THE DIVISION  
OF CORRECTION ENTERPRISES WITHIN THE DEPARTMENT OF  
CORRECTION.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 148 of the General Statutes is amended by adding a  
new Article to read:

"Article 14.

"Correction Enterprises.

**§ 148-123. Authorization for Correction Enterprises.**

The Division of Correction Enterprises is established as a division of the Department of Correction. The Division of Correction Enterprises may develop and operate industrial, agricultural, and service enterprises that employ incarcerated offenders in an effort to provide them with meaningful work experiences and rehabilitative opportunities that will increase their employability upon release from prison. Enterprises operated under this Article shall be known as "Correction Enterprises."

**§ 148-124. Purposes of Correction Enterprises.**

Correction Enterprises shall serve all of the following purposes to:

- (1) Provide incarcerated offenders a work and training environment that emulates private industry.
- (2) Provide incarcerated offenders with training opportunities that allow them to increase work skills and employability upon release from prison.
- (3) Provide quality goods and services.
- (4) Aid victims by contributing a portion of its proceeds to the Crime Victims Compensation Fund.

1           (5) Generate sufficient funds from the sale of goods and services to be a  
2           self-supporting operation.

3 **"§ 148-125. Correction Enterprises Fund.**

4           (a) All revenues from the sale of articles and commodities manufactured or  
5 produced by Correction Enterprises shall be deposited with the State Treasurer to be  
6 kept and maintained as a special revolving working-capital fund designated "Correction  
7 Enterprises Fund."

8           (b) Revenue in the Correction Enterprises Fund shall be applied first to capital  
9 and operating expenditures, including salaries and wages of personnel necessary to  
10 develop and operate Correction Enterprises and incentive wages for inmates employed  
11 by Correction Enterprises or participating in work assignments established by the  
12 Division of Prisons. Of the remaining revenue in the Fund, five percent (5%) of the net  
13 proceeds, before expansion costs, shall be credited to the Crime Victims Compensation  
14 Fund established in G.S. 15B-23 as soon as practicable after net proceeds have been  
15 determined for the previous year. At the direction of the Governor, the remainder shall  
16 be used for other purposes within the State prison system or shall be transferred to the  
17 General Fund.

18           (c) The Correction Enterprises Fund shall be the source of all incentive wages  
19 and allowances paid to inmates employed by Correction Enterprises and inmates  
20 participating in work assignments established by the Division of Prisons.

21 **"§ 148-126. Powers and responsibilities.**

22           In order to fulfill the purposes set forth in G.S. 148-124, the Division of Correction  
23 Enterprises is authorized and empowered to take all actions necessary in the operation  
24 of its enterprises, including any of the following actions to:

- 25           (1) Develop and operate industrial, agricultural, and service enterprises  
26 either within prison facilities or outside the prison facilities.
- 27           (2) Plan and establish new industrial, agricultural, and service enterprises  
28 so long as any new enterprise is specifically approved by the Governor  
29 as required by G.S. 66-58(f).
- 30           (3) Employ inmates and any other personnel that may be necessary in the  
31 operation of Correction Enterprises.
- 32           (4) Expand, diminish, or discontinue any enterprise operating under its  
33 authority.
- 34           (5) Purchase any machinery, equipment, materials, and supplies required  
35 in the operation of its enterprises.
- 36           (6) Market and sell the goods and services produced by Correction  
37 Enterprises.
- 38           (7) Determine the prices at which products and services produced by  
39 inmate labor shall be sold.
- 40           (8) Execute and enter into contracts.
- 41           (9) Establish and operate an enterprise that complies with all applicable  
42 federal laws and guidelines required by the federal Prison Industry  
43 Enhancement Certification Program (Justice Assistance Act of 1984:  
44 Public Law 98-473, Section 819).

- 1           (10) Establish policies and procedures regarding the operation of  
2           Correction Enterprises.
- 3           (11) Take any action necessary and appropriate for the effective operation  
4           of its enterprises, so long as that action complies with applicable State  
5           and federal laws.

6    **"§ 148-127. Distribution of products and services.**

7           The Division of Correction Enterprises is empowered and authorized to market and  
8    sell products and services produced by Correction Enterprises to any of the following  
9    entities:

- 10           (1) Any public agency or institution owned, managed, or controlled by the  
11           State.
- 12           (2) Any county, city, or town in this State.
- 13           (3) Any federal, state, or local public agency or institution in any other  
14           state of the union.
- 15           (4) An entity or organization that has tax-exempt status pursuant to section  
16           501(c)(3) of the Internal Revenue Code and also receives local, state,  
17           or federal grant funding.
- 18           (5) Any current employee of the State of North Carolina, verified through  
19           State-issued identification, but a State employee's purchases may not  
20           exceed two thousand five hundred dollars (\$2,500) during any  
21           calendar year. Products purchased by State employees under this  
22           section may not be resold.

23    **"§ 148-128. Inmate wages and conditions of employment.**

24           (a) The Secretary shall adopt rules for the administration and management of  
25    personnel policies for inmates who work for Correction Enterprises, including wages,  
26    working hours, training requirements, and conditions of employment. The Secretary  
27    shall adopt rules to ensure that inmates participating in the Prison Industry Enhancement  
28    Certification Program comply with all applicable federal rules and regulations.

29           (b) No inmate working for Correction Enterprises shall be paid more than three  
30    dollars (\$3.00) per day unless applicable State or federal laws require a higher salary.  
31    Inmates who are employed as part of the Prison Industry Enhancement Certification  
32    Program shall be paid in accordance with applicable federal rules and regulations.

33    **"§ 148-129. Preference for Department of Correction products.**

34           All departments, institutions, and agencies of this State that are supported in whole  
35    or in part by the State shall give preference to Correction Enterprises products in  
36    purchasing articles, products, and commodities that these departments, institutions, and  
37    agencies require and that are manufactured or produced within the State prison system  
38    and offered for sale to them by Correction Enterprises. No article or commodity  
39    available from Correction Enterprises shall be purchased by any State department,  
40    institution, or agency from any other source unless the prison product does not meet the  
41    standard specifications and the reasonable requirements of the department, institution,  
42    or agency as determined by the Secretary of Administration or the requisition cannot be  
43    complied with because of an insufficient supply of the articles or commodities required.  
44    The provisions of Article 3 of Chapter 143 of the General Statutes respecting

1 contracting for the purchase of all supplies, materials, and equipment required by the  
2 State government or any of its departments, institutions, or agencies under competitive  
3 bidding shall not apply to articles or commodities available from Correction Enterprises.  
4 The Division of Correction Enterprises shall be required to keep the price of such  
5 articles or commodities substantially in accord with that paid by governmental agencies  
6 for similar articles and commodities of equivalent quality."

7 **SECTION 2.** G.S. 148-2(b) is repealed.

8 **SECTION 3.** G.S. 148-18(a) reads as rewritten:

9 "(a) ~~Prisoners employed in prison enterprises shall be compensated at hourly rates~~  
10 ~~fixed by the Department of Correction's rules and regulations, or on the basis of~~  
11 ~~production quotas established by prison enterprises, for work performed; provided, that~~  
12 ~~no prisoner working for prison enterprises shall be paid more than three dollars (\$3.00)~~  
13 ~~per day from funds made available by the Prison Enterprises Fund.~~

14 Prisoners employed by Correction Enterprises shall be compensated as set forth in  
15 Article 14 of this Chapter. Prisoners employed other than by prison enterprises and  
16 those involved in the maintenance and housekeeping of the prison system, participating  
17 in work assignments established by the Division of Prisons shall be compensated at  
18 rates fixed by the Department of Correction's rules and regulations; provided, that no  
19 prisoner so paid shall receive more than one dollar (\$1.00) per day, unless the  
20 Secretary determines that the work assignment requires special skills or training. Upon  
21 approval of the Secretary, inmates working in job assignments requiring special skills or  
22 training may be paid up to three dollars (\$3.00) per day. The source of wages and  
23 allowances provided inmates who are not employed by prison enterprises shall be funds  
24 provided by the Department of Transportation to the Department of Correction for this  
25 purpose. The provisions of this subsection shall not apply to wages paid by private  
26 prison enterprises conducted pursuant to G.S. 148-70. The Correction Enterprises Fund  
27 shall be the source of wages and allowances provided to inmates who are employed by  
28 the Department of Correction in work assignments established by the Division of  
29 Prisons."

30 **SECTION 4.** G.S. 148-70 reads as rewritten:

31 "**§ 148-70. Management and care of inmates; ~~prison industries; disposition of~~**  
32 **~~products of inmate labor.~~inmates.**

33 The State Department of Correction in all contracts for labor shall provide for  
34 feeding and clothing the inmates and shall maintain, control and guard the quarters in  
35 which the inmates live during the time of the contracts; and the Department shall  
36 provide for the guarding and working of such inmates under its sole supervision and  
37 control. The Department may make such contracts for the hire of the inmates confined  
38 in the State prison as may in its discretion be proper. ~~In accordance with the provisions~~  
39 ~~of Article 11 of Chapter 66 of the General Statutes, the Department may use the labor of~~  
40 ~~inmates confined in the State prison in work on farms and manufacturing, either within~~  
41 ~~or without the State prison. The Department may dispose of the products of the labor of~~  
42 ~~the inmates, either in farming or in manufacturing or in other industry at the State Prison~~  
43 ~~System to any public institution owned, managed, or controlled by the State, or to any~~  
44 ~~county, city or town in this State, or to any federal, state, or local public institution in~~

1 any other state of the union. Provided however, no manufacturing or other industry shall  
2 be established, supervised or controlled by the Department unless specifically approved  
3 by the Governor pursuant to G.S. 66-58(f).

4 All departments, institutions and agencies of this State which are supported in whole  
5 or in part by the State shall give preference to Department of Correction products in  
6 purchasing articles, products, and commodities which these departments, institutions,  
7 and agencies require and which are manufactured or produced within the State prison  
8 system and offered for sale to them by the Department of Correction, and no article or  
9 commodity available from the Department of Correction shall be purchased by any such  
10 State department, institution, or agency from any other source unless the prison product  
11 does not meet the standard specifications and the reasonable requirements of the  
12 department, institution, or agency as determined by the Secretary of Administration, or  
13 the requisition cannot be complied with because of an insufficient supply of the articles  
14 or commodities required. The provisions of Article 3 of Chapter 143 of the General  
15 Statutes respecting contracting for the purchase of all supplies, materials and equipment  
16 required by the State government or any of its departments, institutions or agencies  
17 under competitive bidding shall not apply to articles or commodities available from the  
18 Department of Correction, but the Department of Correction shall be required to keep  
19 the price of such articles or commodities substantially in accord with that paid by  
20 governmental agencies for similar articles and commodities of equivalent quality as  
21 determined by the Secretary by reference to competitive bidding as required by law.

22 In addition, the Secretary of Correction may lease one or more buildings or portions  
23 of buildings on the grounds of any State correctional institution or location under  
24 Department of Correction control, together with the real estate needed for reasonable  
25 access to such buildings, for a term not to exceed 20 years, to a private corporation for  
26 the purpose of establishing and operating a factory for the manufacture and processing  
27 of products or any other commercial enterprise deemed by the Secretary to provide  
28 employment opportunities for inmates in meaningful jobs for wages. A lease entered  
29 into pursuant to this section may include provisions for the remodeling or construction  
30 of buildings. Each lease shall be approved by the Governor and Council of State and  
31 may be entered into only after consultation with the Joint Legislative Commission on  
32 Governmental Operations. Each lease negotiated and concluded pursuant to this section  
33 shall include and shall be valid only so long as the lessee adheres to the following  
34 provisions:

- 35 (1) All persons employed in the factory or other commercial enterprise  
36 operated in or on the leased property, except the lessee's supervisory  
37 employee and necessary training personnel, shall be inmates who are  
38 approved for such employment by the Secretary or his designee.
- 39 (2) The factory or other commercial enterprise operated in or on the leased  
40 property shall observe at all times such practices and procedures  
41 regarding security as the lease may specify or as the Secretary may  
42 stipulate.
- 43 (3) The factory or other commercial enterprise operated on the leased  
44 property shall be deemed a private enterprise and subject to all the

1 laws and lawfully adopted rules of this State governing the operation  
 2 of similar business enterprises elsewhere, except that the provisions of  
 3 G.S. 66-58 shall not apply to the industries or products of such private  
 4 enterprise.

5 The Secretary shall adopt rules for the administration and management of personnel  
 6 policies for prisoner workers including wages, working hours, and conditions of  
 7 employment.

8 Except as prohibited by applicable provisions of the United States Code, inmates of  
 9 correctional institutions of this State may be employed in the manufacture and  
 10 processing of products and services for introduction into interstate commerce, so long as  
 11 they are paid no less than the prevailing minimum wage."

12 **SECTION 4.1.** G.S. 66-58(b)(16) reads as rewritten:

13 "(b) The provisions of subsection (a) of this section shall not apply to:

14 ...

15 (16) Laundry services performed by the Department of Correction may be  
 16 provided only for agencies and instrumentalities of the State which are  
 17 supported by State funds and for county or municipally controlled and  
 18 supported hospitals presently being served by the Department of  
 19 Correction, or for which services have been contracted or applied for  
 20 in writing, as of May 22, 1973. In addition to the prior sentence,  
 21 laundry services performed by the Department of Correction may be  
 22 provided for VA Medical Centers of the United States Department of  
 23 Veterans Affairs, the Governor Morehead ~~School~~ School, and the  
 24 North Carolina School for the Deaf.

25 ...."

26 **SECTION 5.** G.S. 66-58(f) reads as rewritten:

27 "(f) Notwithstanding the provisions of G.S. 66-58(a), the operation by the  
 28 Department of Corrections of facilities for the manufacture of any product or the  
 29 providing of any service pursuant to ~~G.S. 148-70~~ Article 14 of Chapter 148 of the  
 30 General Statutes not regulated by the provisions of subsection (c) ~~hereof~~, of this section  
 31 shall be subject to the prior approval of the Governor, with biennial review by the  
 32 General Assembly, at the beginning of each fiscal year commencing after October 1,  
 33 1975. The Department of Correction shall file with the Director of the Budget quarterly  
 34 reports detailing prison enterprise operations in such a format as shall be required by the  
 35 Director of the Budget."

36 **SECTION 6.** This act becomes effective July 1, 2007.