

MANDATORY WORK REQUIREMENT FOR ALL PRISONERS

Pub. L. 101-647, title XXIX, §2905, Nov. 29, 1990, 104 Stat. 4914, provided that:

“(a) IN GENERAL.—(1) It is the policy of the Federal Government that convicted inmates confined in Federal prisons, jails, and other detention facilities shall work. The type of work in which they will be involved shall be dictated by appropriate security considerations and by the health of the prisoner involved.

“(2) A Federal prisoner may be excused from the requirement to work only as necessitated by—

“(A) security considerations;

“(B) disciplinary action;

“(C) medical certification of disability such as would make it impracticable for prison officials to arrange useful work for the prisoner to perform; or

“(D) a need for the prisoner to work less than a full work schedule in order to participate in literacy training, drug rehabilitation, or similar programs in addition to the work program.”

CLOSURE OF MCNEIL ISLAND PENITENTIARY; REPORT ON STATUS OF FEDERAL PRISON INDUSTRIES

Pub. L. 95-624, §10, Nov. 9, 1978, 92 Stat. 3463, required the Attorney General, on or before Sept. 1, 1979, to submit to Congress a plan to close the United States Penitentiary on McNeil Island, Steilacoom, Washington, on or before Jan. 1, 1982, and a report on the status of the Federal Prison Industries, including a long-range plan for the improvement of meaningful employment training.

§ 4122. Administration of Federal Prison Industries

(a) Federal Prison Industries shall determine in what manner and to what extent industrial operations shall be carried on in Federal penal and correctional institutions for the production of commodities for consumption in such institutions or for sale to the departments or agencies of the United States, but not for sale to the public in competition with private enterprise.

(b)(1) Its board of directors shall provide employment for the greatest number of those inmates in the United States penal and correctional institutions who are eligible to work as is reasonably possible, diversify, so far as practicable, prison industrial operations and so operate the prison shops that no single private industry shall be forced to bear an undue burden of competition from the products of the prison workshops, and to reduce to a minimum competition with private industry or free labor.

(2) Federal Prison Industries shall conduct its operations so as to produce products on an economic basis, but shall avoid capturing more than a reasonable share of the market among Federal departments, agencies, and institutions for any specific product. Federal Prison Industries shall concentrate on providing to the Federal Government only those products which permit employment of the greatest number of those inmates who are eligible to work as is reasonably possible.

(3) Federal Prison Industries shall diversify its products so that its sales are distributed among its industries as broadly as possible.

(4) Any decision by Federal Prison Industries to produce a new product or to significantly expand the production of an existing product shall be made by the board of directors of the corporation. Before the board of directors makes a final decision, the corporation shall do the following:

(A) The corporation shall prepare a detailed written analysis of the probable impact on industry and free labor of the plans for new production or expanded production. In such written analysis the corporation shall, at a minimum, identify and consider—

(i) the number of vendors currently meeting the requirements of the Federal Government for the product;

(ii) the proportion of the Federal Government market for the product currently served by small businesses, small disadvantaged businesses, or businesses operating in labor surplus areas;

(iii) the size of the Federal Government and non-Federal Government markets for the product;

(iv) the projected growth in the Federal Government demand for the product; and

(v) the projected ability of the Federal Government market to sustain both Federal Prison Industries and private vendors.

(B) The corporation shall announce in a publication designed to most effectively provide notice to potentially affected private vendors the plans to produce any new product or to significantly expand production of an existing product. The announcement shall also indicate that the analysis prepared under subparagraph (A) is available through the corporation and shall invite comments from private industry regarding the new production or expanded production.

(C) The corporation shall directly advise those affected trade associations that the corporation can reasonably identify the plans for new production or expanded production, and the corporation shall invite such trade associations to submit comments on those plans.

(D) The corporation shall provide to the board of directors—

(i) the analysis prepared under subparagraph (A) on the proposal to produce a new product or to significantly expand the production of an existing product,

(ii) comments submitted to the corporation on the proposal, and

(iii) the corporation's recommendations for action on the proposal in light of such comments.

In addition, the board of directors, before making a final decision under this paragraph on a proposal, shall, upon the request of an established trade association or other interested representatives of private industry, provide a reasonable opportunity to such trade association or other representatives to present comments directly to the board of directors on the proposal.

(5) Federal Prison Industries shall publish in the manner specified in paragraph (4)(B) the final decision of the board with respect to the production of a new product or the significant expansion of the production of an existing product.

(6) Federal Prison Industries shall publish, after the end of each 6-month period, a list of sales by the corporation for that 6-month period. Such list shall be made available to all interested parties.

(c) Its board of directors may provide for the vocational training of qualified inmates without regard to their industrial or other assignments.

(d)(1) The provisions of this chapter shall apply to the industrial employment and training of prisoners convicted by general courts-martial and confined in any institution under the jurisdiction of any department or agency comprising the Department of Defense, to the extent and under terms and conditions agreed upon by the Secretary of Defense, the Attorney General and the Board of Directors of Federal Prison Industries.

(2) Any department or agency of the Department of Defense may, without exchange of funds, transfer to Federal Prison Industries any property or equipment suitable for use in performing the functions and duties covered by agreement entered into under paragraph (1) of this subsection.

(e)(1) The provisions of this chapter shall apply to the industrial employment and training of prisoners confined in any penal or correctional institution under the direction of the Commissioner of the District of Columbia to the extent and under terms and conditions agreed upon by the Commissioner, the Attorney General, and the Board of Directors of Federal Prison Industries.

(2) The Commissioner of the District of Columbia may, without exchange of funds, transfer to the Federal Prison Industries any property or equipment suitable for use in performing the functions and duties covered by an agreement entered into under subsection (e)(1) of this section.

(3) Nothing in this chapter shall be construed to affect the provisions of the Act approved October 3, 1964 (D.C. Code, sections 24-451 et seq.), entitled "An Act to establish in the Treasury a correctional industries fund for the government of the District of Columbia, and for other purposes."

(June 25, 1948, ch. 645, 62 Stat. 851; May 24, 1949, ch. 139, § 63, 63 Stat. 98; Oct. 31, 1951, ch. 655, § 31, 65 Stat. 722; Pub. L. 90-226, title VIII, § 802, Dec. 27, 1967, 81 Stat. 741; Pub. L. 100-690, title VII, § 7096, Nov. 18, 1988, 102 Stat. 4413.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., §§ 744a, 744c, 744k (May 27, 1930, ch. 340, §§ 1, 3, 46 Stat. 391; June 23, 1934, ch. 736, § 3, 48 Stat. 1211).

Section consolidates sections 744a, part of 744c, and 744k of title 18, U.S.C., 1940 ed., with such changes of phraseology as were necessary to effect the consolidation.

Provisions in section 744k of title 18, U.S.C., 1940 ed., for transfer of duties to the corporation was omitted as executed.

Other provisions of said section 744c of title 18, U.S.C., 1940 ed., form section 4123 of this title.

Changes were made in phraseology.

1949 ACT

Subsection (c) of section 4122 of title 18, U.S.C., as added by this amendment [see section 63], incorporates provisions of act of May 11, 1948 (ch. 276, 62 Stat. 230), which was not incorporated in title 18 when the revision was enacted. The remainder of such act is incorporated in section 4126 of such title by another section of this bill.

Subsections (d) and (e) of such section 4122, added by this amendment [see section 63], incorporate, with changes in phraseology, the provisions of sections 1 and

2 of act of June 29, 1948 (ch. 719, 62 Stat. 1100), extending the functions and duties of Federal Prisons Industries, Incorporated, to military disciplinary barracks. Section 3 of such act is incorporated in section 4121 of such title by another section of this bill, and section 4 of such act is classified to section 1621a of title 50, U.S.C., Appendix, War and National Defense.

REFERENCES IN TEXT

The Act approved October 3, 1964 (D.C. Code, sections 24-451 et seq.), entitled "An Act to establish in the Treasury a correctional institution industries fund for the government of the District of Columbia, and for other purposes", referred to in subsec. (e)(3), is Pub. L. 88-622, Oct. 3, 1964, 78 Stat. 1000.

AMENDMENTS

1988—Subsec. (b). Pub. L. 100-690 designated existing provisions as par. (1), substituted "the greatest number of those inmates in the United States penal and correctional institutions who are eligible to work as is reasonably possible" for "all physically fit inmates in the United States penal and correctional institutions", and added pars. (2) to (6).

1967—Subsec. (d). Pub. L. 90-226, § 802(1), (2), designated existing provisions of subsec. (d) as par. (1) thereof, designated existing provisions of subsec. (e) as par. (2) of subsec. (d), and substituted reference to par. (1) of this subsection for reference to subsec. (d) of this section.

Subsec. (e). Pub. L. 90-226, § 802(3), added subsec. (e). Former subsec. (e) redesignated (d)(2).

1951—Subsecs. (d), (e). Act Oct. 31, 1951, substituted "Department of Defense" for "National Military Establishment".

1949—Act May 24, 1949, designated existing first two pars. as subsecs. (a) and (b), respectively, and added subsecs. (c) to (e).

TRANSFER OF FUNCTIONS

Office of Commissioner of District of Columbia, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, § 711, Dec. 24, 1973, 87 Stat. 818, and replaced by Office of Mayor of District of Columbia by section 421 of Pub. L. 93-198.

UTILIZATION OF SURPLUS PROPERTY

Act June 29, 1948, ch. 719, § 4, 62 Stat. 1100, provided that: "For its own use in the industrial employment and training of prisoners and not for transfer or disposition, transfers of surplus property under the Surplus Property Act of 1944 [former sections 1611 to 1646 of the former Appendix to Title 50, War and National Defense], may be made to Federal Prison Industries, Incorporated, without reimbursement or transfer of funds."

§ 4123. New industries

Any industry established under this chapter shall be so operated as not to curtail the production of any existing arsenal, navy yard, or other Government workshop.

Such forms of employment shall be provided as will give the inmates of all Federal penal and correctional institutions a maximum opportunity to acquire a knowledge and skill in trades and occupations which will provide them with a means of earning a livelihood upon release.

The industries may be either within the precincts of any penal or correctional institution or in any convenient locality where an existing property may be obtained by lease, purchase, or otherwise.

(June 25, 1948, ch. 645, 62 Stat. 851.)