

ACT 133

An Act Establishing Correctional Industries for the State of Hawaii.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Purpose.** Whereas the means now provided for the employment of prison labor are inadequate to furnish a sufficient number of prisoners with employment, it is hereby declared to be the intent of this Act:

1) To further provide more adequate, regular and suitable employment for the prisoners of this State, consistent with proper correctional purposes;

2) To further utilize the labor of prisoners for self-maintenance and for reimbursing this State for expenses incurred by reason of their crimes and imprisonment;

3) To effect the requisitioning and disbursement of prison products directly through established state authorities with no possibility of private profits therefrom.

4) To avoid direct competition and conflict between any correctional industrial activity and a like or similar private Hawaii industrial enterprise or business.

SECTION 2. **How cited.** This Act may be cited as the "Prison-Made Goods Act of 1963."

SECTION 3. **Establishment of industries at the state prison and other correctional facilities.** The state department of social services shall, with the advice and assistance of the department of planning and economic development, be responsible to study and evaluate any proposed or existing correctional industrial enterprise to determine if the enterprise conflicts with the orderly and planned economic development of the State of Hawaii. The department of social services shall:

1) Introduce productive industrial and agricultural enterprises in the prisons and institutions under the jurisdiction of the administrator of the corrections division in such volume and of such kinds as to eliminate unnecessary idleness among the inmates and to provide diversified work activities and pay to assigned inmates a daily wage of up to but not more than one dollar depending upon the degree of skill which will serve as means of vocational education as well as financial support.

2) Determine the advisability and suitability of establishing, ex-

panding, diminishing, or discontinuing any industrial or agricultural enterprise involving a gross annual production of more than twenty-five thousand dollars (\$25,000) value, but in no case more than three hundred fifty thousand dollars (\$350,000) value, and authorize or prohibit such action. The department shall determine the gross annual production, within the limit set above, of each new enterprise at the time of its establishment. The annual production so set shall not be increased until a public hearing concerning the proposed increase has been held before the department. It shall be the duty of the department annually, to adjust the maximum gross annual production value of three hundred fifty thousand dollars (\$350,000) permitted for each enterprise, the purpose of such adjustment being to keep said limit in balance with changes in population of state institutions and changes in cost of production and any conflict with private business.

An industrial enterprise with a gross annual production of over twenty-five thousand dollars (\$25,000) shall not be established without a public hearing. Public notice of the hearing shall be given prior to the hearing. The department may hold public hearings on any subject within its jurisdiction.

SECTION 4. Purchase of goods by state agencies and political subdivision. On and after the effective date of this Act all offices, departments, institutions and agencies of this State which are supported in whole or in part by this State shall purchase, and all political subdivisions of this State may purchase, to the extent of need and available supply, from the state department of social services all articles or products required by such offices, departments, institutions or agencies which are produced or manufactured by the state department of social services, by inmate labor, as provided for by this Act, and no such article or product shall be purchased by any such office, department, institution, or agency, from any other source unless excepted from the provisions of this section, as hereinafter provided. All purchases shall be made through the department of accounting and general services, upon requisition by the proper authority of the office, department, institution, agency or political subdivision of this State requiring such articles or products.

SECTION 5. Exceptions as to mandatory purchase requirement. Exceptions from the operation of the mandatory provisions of section four (4) hereof may be made in any case where, in the opinion of the director of the department of social services, the director of the department of accounting and general services, and the director of the department of budget and review, or a majority of them, who are hereby constituted a board for such purposes, the article or articles or product or products so produced or manufactured does or do not meet the reasonable requirements of or for such offices, departments, institutions, agencies or, in any case, where the requisition made cannot be reasonably complied with. No such office, department, institution or agency, shall be allowed to evade the intent and meaning of this section by slight variations from standards adopted by the department of social services when the articles or products produced or manufactured by it, in accordance with its standards, are reasonably adopted to the actual needs of such office, department, institution, or agency.

SECTION 6. Comptroller bound by voucher or warrant; intentional violation; penalty. No voucher, certificate, or warrant issued on the state comptroller by such office, department, institution, or agency shall be questioned by the state comptroller on the grounds that this Act has not been complied with by such office, department, institution, or agency, but if intentional violation of this Act by any such office, department, institution, or agency continues, after notice from the governor to desist, such shall constitute a malfeasance in office and shall subject the person or persons responsible for this violation to suspension or removal from office.

SECTION 7. Catalogues of articles and products made and produced; distribution; estimates of needs by departments, etc. The state department of social services shall cause to be prepared, at such times as it may determine, catalogues containing the description of all articles and products manufactured or produced by it pursuant to the provisions of this Act, copies of which shall be sent by it to all offices, departments, institutions and agencies of this State and made accessible to all political subdivisions of this State referred to in the preceding sections. At least thirty days before the commencement of each fiscal year, the proper official of each such office, department, institution, or agency, when required by the state department of social services, shall report to it estimates for such fiscal year of the kind and amount of articles and products noted in said catalogue and reasonably required for such ensuing year referring in such estimates to the catalogue issued by the state department of social services.

SECTION 8. Order of distribution of articles and products. The articles or products manufactured or produced by prison labor in accordance with the provisions of this Act shall be devoted, first, to fulfilling the requirements of the offices, departments, institutions, and agencies of this State which are supported in whole or in part by this State, and, secondly, to supply the political subdivisions, of this State with such articles and products.

SECTION 9. State department of social services to determine prices. The state department of social services shall determine the prices at which all articles or products manufactured or produced shall be sold; prices shall be uniform and nondiscriminating to all, and shall not exceed the wholesale market prices.

SECTION 10. Annual statements. The administrator of the corrections division, department of social services, shall annually make a full detailed statement of all materials, machinery, or other property procured, and the cost thereof, and the expenditures made during the past preceding year for manufacturing purposes, together with a statement of all materials then on hand to be manufactured, or in process of manufacture, or manufactured, and all machinery, fixtures or other appurtenances for the purpose of carrying on the labor of the prisoners and the earnings realized during the last preceding year as the proceeds of the labor of the prisoners at the correctional facilities of this State, which statement shall be verified by the oath of said administrator, and shall be by him forwarded to the director of the state department of social services within thirty days after the end of such preceding year.

SECTION 11. Rules and regulations. The state department of social services shall have power and authority to prepare and promulgate rules and regulations which are necessary to give effect to the provisions of this Act with respect to matters of administration and procedure respecting the same.

SECTION 12. Appropriation for buildings, equipment, etc., self-liquidating; contracts. In order to carry out the provisions of this Act, there is hereby appropriated out of the moneys in the state general fund, not otherwise appropriated, the sum of one dollar (\$1.00), and the state department of social services is authorized to expend such moneys from such appropriation as may be necessary to erect buildings, to purchase equipment, to procure tools, supplies and materials, to purchase, install or replace equipment, to employ personnel, and otherwise to defray the necessary expenses incident to the employment of prisoners as herein provided, and further to aid in the above purposes of the state department of social services, it is empowered to enter into contracts and agreements with any person or persons upon a self-liquidating basis respecting the acquisition and purchase of any such equipment, tools, supplies and materials, to the end that the same may be paid for over a period of not exceeding ten years, and the aggregate amount of such purchases or acquisitions not to exceed one hundred thousand dollars (\$100,000.00) unless the expenditure of any larger sum is specifically approved by the governor, such amounts to be payable solely out of revenues derived from the activities authorized by this Act.

SECTION 13. Revenue a special fund in state treasury; expenditure; limitation on amount; transfer of excess. All moneys collected by the state department of social services from the sale or disposition of articles and products manufactured or produced by prison labor in accordance with the provisions of this Act shall be forthwith deposited with the state comptroller to be there kept and maintained as a special revolving account designated "correctional industries account," and such moneys so collected and deposited shall be used solely for the purchase of supplies, equipment, machinery and the construction of buildings used to carry out the purposes of this Act, as well as for the salaries of the necessary personnel in charge thereof and to otherwise defray the necessary expenses incident thereto, all of which shall be under the direction and subject to the approval of the state department of social services; provided, that such "correctional industries account" shall never be maintained in excess of the amount necessary to efficiently and properly carry out the purposes of this Act. When, in the opinion of the governor, the "correctional industries account" has reached a sum in excess of the requirements of this Act, such excess shall be transferred by the state department of social services to the state general fund.

SECTION 14. Sale of prison-made goods on open market. On and after the effective date of this Act, it shall be unlawful to sell or offer for sale on the open market of this State any articles or products manufactured or produced wholly or in part under the provisions of this Act.

SECTION 15. Penalties. Any person who wilfully violates any of the provisions of this Act, shall be guilty of a misdemeanor and, upon conviction, shall be confined in jail not more than one year, or fined not more than \$1,000 or both.

SECTION 16. **Inconsistent acts repealed.** All acts and parts of acts inconsistent herewith are hereby repealed; however, this Act is to be considered as supplementary, or additional, to other provisions of law now existing relative to the employment of prisoners.

SECTION 17. This Act shall take effect upon its approval.

(Approved June 3, 1963.) **S.B. 1129.**