

ACT 341

S.B. NO. 3039

A Bill for an Act Relating to Correctional Industries.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
HAWAII CORRECTIONAL INDUSTRIES**

§ -1 **Finding and purpose.** The legislature finds that the number and types of programs operated by the department of public safety shall be expanded to provide a comprehensive work program for inmates. The full development of

inmate employment opportunities shall be expanded to enable correctional industries programs to operate in a cost-effective manner.

The purpose of this chapter is to:

- (1) Establish the correctional industries program to allow expanded industries programs to generate revenue to sustain its operation and allow for capital investment. The program should be structured to allow for the increased involvement of correctional industries in providing specific training skills of offenders that increase their employment prospects after release;
- (2) Develop industries that provide a maximum level of work for all qualified, able-bodied inmates;
- (3) Provide an environment for the operation of correctional industries similar to that of a private business operation;
- (4) Encourage cooperative training ventures between the correctional industries program and the private sector; and
- (5) Provide for low-cost construction, renovation, and repairs of facilities for private nonprofit social service, education, and health agencies and programs.

§ -2 **Definitions.** As used in this chapter, unless the context otherwise requires:

“Able-bodied inmate” means a sentenced felon offender in the custody of the department of public safety who, as determined by the department, is physically and mentally able to participate in a work program or other training program authorized by this chapter.

“Administrator” means the administrator of the correctional industries program.

“Advisory committee” means the correctional industries advisory committee established in section -5.

“Department” means the department of public safety.

“Director” means the director of public safety.

§ -3 **Correctional industries program.** There is established a correctional industries program within the department of public safety, under the supervision of the director and other subordinates as the director shall designate. The administrator of the correctional industries program shall be appointed by the director of public safety, without regard to chapters 76 and 77.

§ -4 **Powers and duties of the director.** Under the supervision of the director or the director’s designee, the administrator of the correctional industries program shall:

- (1) Develop programs generating revenue that best sustains their operation and allows for capital investment, and reimburses the general fund, when possible, for the expense of correctional services;
- (2) Develop programs providing the maximum level of work and training opportunities for qualified, able-bodied inmates;
- (3) Develop programs assuming responsibility for training qualified, able-bodied inmates in general work and specific training skills that increase their employment prospects after release;
- (4) Develop programs in which inmates can learn skills used in the construction industry, while providing low-cost construction, renovation, and repairs of facilities for private, nonprofit social services, health, or education agencies and programs;

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- (5) Acquire or purchase equipment, materials, supplies, office space, insurance, and services necessary to establish and maintain programs pursuant to this chapter;
- (6) Utilize labor services of qualified, able-bodied inmates in the manufacture or production of goods and services that are needed for the construction, operation, or maintenance of any office, department, institution, or agency supported in whole or in part by the State, the counties, or the federal government;
- (7) Sell all goods and services to the State, the counties, or the federal government;
- (8) Enter into any contract or agreement and execute all instruments consistent with this chapter and exempt from chapter 103;
- (9) Purchase, lease, trade, exchange, acquire, and maintain personal property; and
- (10) Accept grants or loans from the State, the counties, or the federal government.

**§ -5 Advisory committee.** (a) There is established within the department a committee to be known as the correctional industries advisory committee. This advisory committee shall advise the department of the feasibility of establishing venture agreements with private sector businesses to utilize the services of qualified, able-bodied inmates pursuant to section -13.

(b) The advisory committee shall consist of seven members who shall be appointed by the governor for staggered terms of two years in accordance with section 26-34. Each term shall commence on July 1 of the year of appointment and expire on the second June 30 following that date. The governor shall designate a member to be chairperson of the advisory committee. The director or a designee shall serve as ex officio member of the advisory committee. In establishing the advisory committee, the governor shall appoint at least two members representing private sector businesses and two members representing labor unions. The members shall serve without compensation but shall be reimbursed for expenses, including travel expenses, that are necessary for the performance of their duties.

**§ -6 Required programs.** (a) The administrator shall establish programs that provide essential products and services for each of the State's correctional facilities, for other state agencies, and for the counties, as may be required.

(b) To the extent that inventories and equipment for specific services may be dedicated to the development of correctional industries, the director may transfer the supervision of inventory and equipment to the administrator.

(c) A portion of real property at each correctional facility shall be designated by the director as an industry area. The director may assign these facilities to the administrator who shall be responsible for the maintenance and upkeep of the areas.

(d) The director or a designated representative shall consult with the directors of the various state agencies, including the department of transportation, the department of accounting and general services, and the department of business and economic development, to identify goods or services which the correctional industries program may produce or provide. Unless a specific exemption is granted by the administrator, these goods and services shall be provided by the correctional industries program.

**§ -7 Pricing.** (a) The administrator, with the approval of the director, shall determine the prices at which all goods and services produced are sold. The

prices shall be as near to the prevailing market prices for similar goods and services as practicable.

(b) The administrator shall prepare catalogs containing the description of all goods and services produced with the price of each item. Copies of the catalogs shall be made available to the State, the counties, and the federal government.

(c) The administrator shall ensure that the quality of goods and services produced is comparable to similar goods and services available from the private sector. For sales to the State or the counties, the quality of the goods or services shall be consistent with the specifications for the goods or services requested.

**§ -8 Business operations; budget.** (a) The administrator may purchase or cause to be purchased and maintained all necessary materials, supplies, space, services, and equipment required for the operation of the program. Notwithstanding any other provision to the contrary, purchases of equipment, materials, supplies, and services by the administrator for the manufacture of any goods or services shall be exempt from the public bidding requirements of chapter 103.

(b) All acquisitions, purchases, and loan repayments of the administrator shall be payable from the revenues derived from the sale of goods and services authorized by this chapter.

(c) The administrator, with the approval of the director, may enter into loan arrangements with the director of finance or other organizations when funds are needed for a new or expanded program.

(d) The director or a designated representative shall make regular reports, including monthly operating statements and annual finance reports. The director shall provide the annual operating report for the correctional industries program to the governor and the legislature.

(e) The administrator shall submit a proposed annual budget of the correctional industries program as part of the total budget of the department of public safety. The advisory committee shall review the budget of the correctional industries program.

**§ -9 Rules.** The director shall adopt rules in accordance with chapter 91 to carry out the purposes of this chapter.

**§ -10 Correctional industries revolving fund.** There is created a revolving fund to be known as the correctional industries revolving fund to be administered by the department. All moneys collected by the department from the sale or disposition of goods and services produced in accordance with this chapter shall be deposited into the correctional industries revolving fund. The proceeds in the correctional industries revolving fund shall be used for: the purchase or lease of supplies, equipment, and machinery; the construction, leasing, or renovating of buildings used to carry out the purposes of this chapter; the salaries of personnel necessary to administer the enterprises established in accordance with this chapter; and other necessary expenses; provided that the correctional industries revolving fund shall not be maintained in excess of the amount necessary to carry out the purposes of this chapter.

**§ -11 Provisions for qualified, able-bodied inmates; employment.** (a) The director or a designated representative shall make all qualified, able-bodied inmate work assignments with the correctional industries program and establish the rate of compensation for the assignments. A portion of the compensation shall be paid to the State to defray the cost of operations, and a portion shall be paid to the qualified, able-bodied inmate in relation to the number of hours

worked, type of work assignment, and quality of work performed. Payment rates shall be established on an annual basis after review by the advisory committee. Payment rates shall be subject to the availability of appropriations by the legislature.

(b) The department shall recommend a possible reduction in the minimum term to the Hawaii paroling authority for any offender satisfactorily participating in the correctional industries program for a minimum of one year or for any period the equivalent of one-half of the balance of the term remaining to the tentative parole date. The possible reduction in the minimum term shall be determined by the performance and evaluation of the offender by the correctional industries program as recommended to the director or the director's designee.

(c) The department is authorized to adopt rules governing the employment, conduct, and management of qualified, able-bodied inmates while assigned to programs. All rules pertaining to the payment, employment, conduct, and management of qualified, able-bodied inmates shall be published and posted for inmates.

**§ -12 Training and employment by organization; account proceeds and wages.** (a) The administrator, after consultation and with the approval of the director, is authorized to contract with any labor organization, private profit or nonprofit organization, or federal or state agency for the purpose of training or employing qualified, able-bodied inmates.

(b) Proceeds and wages owed to a qualified, able-bodied inmate from the sale of goods or services that were produced by the qualified, able-bodied inmate under a program authorized by this chapter shall be held in an account maintained by the department and distributed periodically for:

- (1) Reimbursement to the criminal injuries compensation fund by the qualified, able-bodied inmate in an amount not to exceed forty per cent of the qualified, able-bodied inmate's wages for payments actually and reasonably made by the criminal injuries compensation commission under chapter 351 to the victim of any crime of which the inmate was convicted;
- (2) Payment for the support of the qualified, able-bodied inmate's dependents in amounts deemed appropriate by the department after consultation with the department of human services;
- (3) Establishment of funds in trust for the qualified, able-bodied inmate to be released upon the inmate's release; and
- (4) Payment of costs incident to the qualified, able-bodied inmate's confinement in an amount determined by the department, but not to exceed twenty per cent of the proceeds and wages.

**§ -13 Venture agreements.** (a) The department, working through the correctional industries program, may enter into venture agreements with private persons for the utilization of qualified, able-bodied inmate labor in the manufacture, processing, or assembly of components, finished goods, services, or product lines within facilities owned or leased by the department. The department may enter into agreements allowing for shared financing by the administrator and the private contractor for the facility, equipment, raw materials, and operation of industries developed pursuant to this section. The agreements shall be subject to review as to form by the attorney general and by the advisory committee.

(b) Qualified, able-bodied inmates producing goods and services under the terms of an agreement authorized by this section shall be paid on a scale to be determined by the director. These payments shall be distributed to offset the cost

of imprisonment, incidental expenses, court-ordered restitution, child support, and to establish funds in trust for the qualified able-bodied inmate upon release in conformance with section -12.

(c) The correctional industries program may market goods and services produced under a venture agreement to both the public and private sectors.

**§ -14 Disclosure of interests.** Any employee, adviser, or any other agent of the correctional industries program who has a direct or indirect interest in any contract or transaction with the correctional industries program shall disclose this interest to the administrator. No employee, adviser, or agent having an interest shall participate on behalf of the correctional industries program in the authorization of any contract or transaction.

**§ -15 Sale of goods.** 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 this chapter. Goods or services produced by venture agreements under section -13 shall be exempt from this limitation.

**§ -16 Penalties.** Any person who knowingly violates this chapter shall be guilty of a misdemeanor.”

SECTION 2. Section 353-19, Hawaii Revised Statutes, is amended to read as follows:

**“§353-19 Compensation for labor or training by committed persons.** Every committed person, who is working within a state correctional facility or who is in such training or educational programs as the director or a designated agent pursuant to law prescribes, may be allowed such graduated sums of money as the director by rule determines. Any committed person engaged in work, training, or education pursuant to this section or work pursuant to this chapter or chapter [354] \_\_\_ shall not be affected by chapter 386.”

SECTION 3. Chapter 354, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 9, 1990.)