

106TH CONGRESS
1ST SESSION

H. R. 2558

To amend title 18, United States Code, to reform Federal Prison Industries,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 1999

Mr. McCOLLUM (for himself and Mr. SCOTT) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to reform Federal
Prison Industries, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Prison Industries Re-
5 form Act of 1999”.

6 **SEC. 2. GENERAL PROVISIONS RELATING TO THE STRUC-**
7 **TURE AND MISSION OF FEDERAL PRISON**
8 **INDUSTRIES.**

9 Sections 4121 through 4122 of title 18, United
10 States Code, are amended to read as follows:

1 **“§ 4121. Industrial operations in Federal prisons**

2 “The Attorney General shall determine in what man-
3 ner and to what extent industrial operations shall be car-
4 ried on in Federal correctional institutions. Such oper-
5 ations shall be conducted so as (1) to provide employment
6 for the greatest number of those inmates in the United
7 States correctional institutions who are eligible to work
8 as is reasonably possible, (2) generate sufficient revenues
9 to fund the industrial operations, (3) generate revenue, to
10 be returned to the Treasury of the United States, to de-
11 fray a portion of the cost of confining inmates in United
12 States correctional institutions, and (4) minimize any ad-
13 verse impact on domestic companies or workers to the
14 greatest extent possible consistent with its mission.

15 **“§ 4122. Federal Prison Industries**

16 “(a) Federal Prison Industries is a government cor-
17 poration of the District of Columbia, and shall carry on
18 such industrial operations in Federal correctional institu-
19 tions as shall be determined by the Attorney General in
20 accordance with section 4121. The corporation shall be
21 governed by a board of 12 directors appointed by the At-
22 torney General. In making appointments to the Board, the
23 Attorney General shall appoint to the Board one person
24 recommended by each of the Speaker of the House of Rep-
25 resentatives, the minority leader of the House of Rep-
26 resentatives, the majority leader of the Senate, and the

1 minority leader of the Senate. The members of the Board
2 shall serve for 4 years and may be reappointed. The mem-
3 bers of the Board shall serve without compensation. The
4 Director of the Bureau of Prisons shall serve as Chief Ex-
5 ecutive Officer of the Corporation.

6 “(b) Federal Prison Industries shall endeavor, con-
7 sistent with the priorities established in section 4121, to
8 produce products that otherwise would be produced by for-
9 eign workers outside the United States. Federal Prisons
10 Industries shall also endeavor, consistent with those prior-
11 ities, to enter into contracts pursuant to section 4131 with
12 private companies that employ foreign workers outside the
13 United States to produce products, for the purpose of in-
14 ducing such companies to employ inmates in a Federal
15 Prison Industry Shop to produce such products.

16 “(c) The Attorney General shall appoint an Inde-
17 pendent Review Panel composed of one representative
18 from each of the Department of Commerce, the Depart-
19 ment of Labor, the International Trade Commission, the
20 Small Business Administration, the business community,
21 and organized labor, and such other persons as the Attor-
22 ney General deems appropriate. The Panel shall advise the
23 Board regarding the type and quantity of products to be
24 produced by Federal Prison Industries for sale in inter-
25 state commerce consistent with the purposes set forth in

1 subsection (a). The members of the Panel shall serve with-
2 out compensation. The Federal Advisory Committee Act
3 shall not apply with respect to the Panel.”.

4 **SEC. 3. ELIMINATION OF MANDATORY SOURCE PREF-**
5 **ERENCE AND CREATION OF FAIR COMPETI-**
6 **TION AUTHORITY.**

7 Chapter 307 of title 18, United States Code, is
8 amended by adding at the end the following:

9 **“§ 4130. Federal Prison Industry inmate labor**

10 “The Attorney General shall endeavor to make avail-
11 able to inmates who have been committed to the custody
12 of the Bureau of Prisons opportunities to work in a Fed-
13 eral Prison Industry Shop. The Attorney General may set
14 standards regarding education and conduct for those in-
15 mates who work in a Federal Prison Industry Shop.

16 **“§ 4131. Sale of products; contracts for the provision**
17 **of labor; inmate wages**

18 “(a) Federal Prison Industries is authorized to sell
19 its products generally on the open market to the public,
20 to departments and agencies of the United States, to a
21 State or municipality, and to foreign governments.

22 “(b) Federal Prison Industries is authorized, and
23 shall make it a priority, to enter into contracts with one
24 or more private companies through which such private
25 company may produce products at a Federal Prison In-

1 dustry Shop for sale. In addition to any other provision
2 negotiated by the private company and Federal Prison In-
3 dustries, any such contract shall provide—

4 “(1) for the amount to paid to Federal Prison
5 Industries by the private company;

6 “(2) that if the private company employs any
7 non inmate workers, on or after a date that is 60
8 days prior to the execution of the contract, who re-
9 side within the United States, that the private com-
10 pany agrees to continue to employ non-inmate work-
11 ers who reside within the United States in at least
12 the same number for a period of at least 18 months
13 after the date of the contract or the date the private
14 company begins to produce products at a Federal
15 Prison Industry Shop, whichever is later; and

16 “(3) that the Attorney General shall make
17 available to such private company under reasonable
18 terms and conditions such number of inmates who
19 have been selected to work in a prison industry car-
20 ried on by Federal Prison Industries as shall be
21 specified in the contract.

22 “(c) Federal Prison Industries shall pay wages to all
23 inmates who work in a prison industry carried on by Fed-
24 eral Prison Industries (including those at which products
25 are produced by a private company pursuant to a contract

1 with Federal Prison Industries) at a rate not less than
2 the Federal minimum wage from time to time in effect.
3 From the amounts paid to inmates pursuant to this sec-
4 tion, the Attorney General is authorized to deduct
5 amounts, not exceeding in their aggregate 90 percent,
6 for—

7 “(1) payment of fines, special assessments, and
8 restitution owed by the prisoner pursuant to court
9 order;

10 “(2) allocations for support of the inmate’s
11 family pursuant to statute, court order, or agree-
12 ment by the inmate;

13 “(3) reasonable charges for room and board, as
14 determined by the Attorney General, but not less
15 than 50 percent of the total amounts deducted
16 under this subsection;

17 “(4) amounts to be held on account and paid
18 to the inmate upon release from the custody of the
19 Bureau of Prisons; and

20 “(5) contributions to any fund established by
21 law to compensate the victims of crime.

22 “(d) Federal Prison Industries shall be relieved from
23 payment of the amount specified in subsection (c) if the
24 Independent Review Panel determines that the products
25 are—

1 “(1) foreign-made products; or

2 “(2) any product described in section 1761(b).

3 Inmates producing such products shall, instead of the
4 amount specified in subsection (c), be paid wages not less
5 than would be paid at the rate set forth in the schedule
6 of compensation paid to inmates working at prison indus-
7 tries carried on by Federal Prison Industries on the date
8 of enactment of the Prison Industries Reform Act of 1999.
9 From the wages paid to such inmates under this sub-
10 section, the Attorney General is authorized to deduct
11 amounts, not exceeding in their aggregate 50 percent of
12 the amount paid to an inmate, for the purposes set forth
13 in subsection (c).

14 “(e) An inmate may agree to deductions in additional
15 to those provided for in subsections (c) and (d) if the addi-
16 tional deductions are used solely for the purposes de-
17 scribed in paragraphs (2) and (4) of subsection (c).

18 “(f) Nothing in this section shall be construed to pro-
19 hibit more than one Federal Prison Industry Shop from
20 being located at a Federal correctional facility. A Federal
21 Prison Industry Shop may be located outside a correc-
22 tional facility if all of the inmates working at that Shop
23 are classified as minimum security inmates.

24 “(g) After consultation with the Independent Review
25 Panel, the Attorney General may waive the requirement

1 of subsection (b)(2) if the Attorney General determines
2 that exigent circumstances exist and the private company
3 has taken all reasonable steps to continue to employ its
4 non-inmate workers who reside within the United States.

5 **“§ 4132. Elimination of mandatory source purchase**
6 **requirement**

7 “(a) Not later than 180 days after the date of enact-
8 ment of the Prison Industries Reform Act of 1999, the
9 Attorney General shall submit to Congress a plan for the
10 elimination of the use by Federal Prison Industries of the
11 mandatory source preference requirement described in sec-
12 tion 4124. Such plan shall provide for annual reductions
13 in that portion of the total sales of Federal Prison Indus-
14 tries made pursuant to that requirement, and shall further
15 provide that no sales shall be made pursuant to that re-
16 quirement after the date which is 7 years after the date
17 of enactment of such Act. The plan shall also provide that
18 Federal Prison Industries shall designate those products,
19 described by Standard Industrial Product Code (as pub-
20 lished by the Office of Management and Budget) as to
21 which it has determined to no longer sell to Federal de-
22 partments and agencies under the authority described in
23 section 4124 of this chapter. Within 30 days of such des-
24 ignation, Federal Prison Industries shall publish in the
25 Federal Register and in a commercial business publication

1 with a national circulation a list of those products so des-
2 ignated. Federal Prison Industries shall make available to
3 the public, on request, a list of all such products so des-
4 ignated. The plan shall take effect 180 days after its sub-
5 mission to Congress, unless Congress by law provides oth-
6 erwise.

7 “(b) Federal Prison Industries shall not undertake
8 the production of any new product or significantly expand
9 the rate of production of a product for sale to any Federal
10 department, agency, or institution, unless the procurement
11 requirement for that product described in section 4124
12 has been eliminated in accordance with the plan described
13 in subsection (a).

14 “(c) Federal agencies may purchase directly from
15 Federal Prison Industries those products for which the
16 procurement requirement has been eliminated in accord-
17 ance with the plan described in subsection (a) in such
18 quantities and by such method they deem appropriate.

19 **“§ 4133. Procurement from the private sector**

20 “For purchases from the private sector in support of
21 its operations, Federal Prison Industries shall be exempt
22 from the provisions of the Competition in Contracting Act
23 and the Federal Acquisition Regulation. Nothing in this
24 section shall be construed to modify any requirement that
25 any department, agency, or other institution of the Fed-

1 eral Government comply with the provisions of the Com-
2 petition in Contracting Act and the Federal Acquisition
3 Regulation.

4 **“§ 4134. Applicability of other law**

5 “Nothing in this chapter shall be construed to entitle
6 an inmate to employment in a Federal Prison Industry
7 Shop, to any wage, compensation, or benefit, to imply that
8 inmates are employees for the purposes of other laws or
9 programs, or to provide a cause of action by or on behalf
10 of any person against the United States or any officer,
11 employee, or contractor thereof.

12 **“§ 4135. Definitions**

13 “In this chapter—

14 “(1) the term ‘private company’ means a cor-
15 poration, partnership, joint venture, or sole propri-
16 etorship;

17 “(2) the term ‘product’ includes both goods and
18 services;

19 “(3) the term ‘Federal Prison Industry Shop’
20 means a prison industry operation at which a prod-
21 uct is made or provided;

22 “(4) the term ‘foreign-made product’ means a
23 product that would otherwise be produced by foreign
24 workers outside the United States.”.

1 **SEC. 4. REVIVAL OF OLD LAW UPON FAILURE OF CONDI-**
2 **TIONS.**

3 (a) IN GENERAL.—

4 (1) DETERMINATION.—On the date that is—

5 (A) 3 years after the date of the enactment
6 of this Act; and

7 (B) 5 years after the date of the enact-
8 ment of this Act;

9 the Attorney General shall determine what percentage of
10 the total eligible inmates are employed by Federal Prison
11 Industries.

12 (2) NOTICE TO CONGRESS.—If the Attorney
13 General determines under paragraph (1) that less
14 than 25 percent of the total number of eligible in-
15 mates are employed by the Federal Prison Indus-
16 tries, the Attorney General may, not later than 180
17 days after that determination, provide notice of that
18 determination to Congress.

19 (3) EFFECT OF NOTICE.—If the Attorney Gen-
20 eral provides notice to Congress under paragraph (2)
21 the amendments made by this Act shall cease to
22 have any further effect 60 days after that notice is
23 so provided.

24 (b) DEFINITION.—As used in this section, the term
25 “eligible inmate” means a person—

1 (1) committed to the custody of the Bureau of
2 Prisons pursuant to section 3621 of this title;

3 (2) designated to a low, medium, or high secu-
4 rity facility operated by the Bureau of Prisons; and

5 (3) who is physically and mentally able to work.

6 **SEC. 5. STATE PRISON INDUSTRY SALES AUTHORITY.**

7 Section 1761 of title 18, United States Code, is
8 amended by adding at the end the following:

9 “(e)(1) In addition to the exceptions set forth in sub-
10 sections (b) and (c), this chapter does not apply to goods,
11 wares, or merchandise manufactured, produced, or mined
12 by convicts or prisoners if—

13 “(A)(i) in connection with that manufacture,
14 production, or mining, such convicts or prisoners re-
15 ceive wages at a rate equal to the Federal minimum
16 wage from time to time in effect; or

17 “(ii) such goods, wares, or merchandise, would
18 otherwise be produced by foreign workers outside the
19 United States; and

20 “(B) on or before any such sales commence, the
21 State adopts a plan to eliminate, not later than 7
22 years after the date on which such sales commence,
23 any requirement that departments or agencies of
24 that State purchase the goods, merchandise, or

1 wares manufactured, produced, or mined by convicts
2 or prisoners incarcerated in that State.

3 “(2) Nothing in this subsection shall prohibit a State
4 or municipality deducting from any wages paid under this
5 subsection amounts for—

6 “(A) payment of fines and restitution owed by
7 the prisoner pursuant to court order;

8 “(B) reasonable charges for room and board;

9 “(C) allocations for support of the inmate’s
10 family pursuant to statute, court order, or agree-
11 ment by the inmate;

12 “(D) contributions to be held on account and
13 paid out to the inmate upon release; and

14 “(E) contributions to any fund established by
15 law to compensate the victims of crime.”.

16 **SEC. 6. CONFORMING AMENDMENTS.**

17 (a) SECTION 1761.—Section 1761 of title 18, United
18 States Code, is amended by adding at the end the fol-
19 lowing:

20 “(f) This section does not apply to sales of products
21 made pursuant to section 4131.”.

22 (b) SECTION 1762.—Title 18, United States Code,
23 is amended by striking section 1762.

24 (c) SECTION 4123.—Title 18, United States Code, is
25 amended by striking section 4123.

1 (d) CLERICAL AMENDMENTS.—

2 (1) CHAPTER 307.—The table of sections at the
3 beginning of chapter 307 of title 18, United States
4 Code, is amended—

5 (A) so that the items relating to sections
6 4121 through 4122 read as follows:

“4121. Industrial operations in Federal prisons.

“4122. Federal Prison Industries.”;

7 (B) by striking the item relating to section
8 4123; and

9 (C) by adding at the end the following new
10 items:

“4130. Federal Prison Industry inmate labor.

“4131. Sale of products; contracts for the provision of labor; inmate wages.

“4132. Elimination of mandatory source purchase requirement.

“4133. Procurement from the private sector.

“4134. Applicability of other law.

“4135. Definitions.”.

11 (2) CHAPTER 85.—The table of sections at the
12 beginning of chapter 85 of title 18, United States
13 Code, is amended by striking the item relating to
14 section 1762.

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