

106TH CONGRESS
1ST SESSION

S. 766

To amend title 18, United States Code, to revise the requirements for procurement of products of Federal Prison Industries to meet needs of Federal agencies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 12, 1999

Mr. LEVIN (for himself, Mr. ABRAHAM, Mr. ROBB, Mr. HELMS, and Mr. FEINGOLD) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to revise the requirements for procurement of products of Federal Prison Industries to meet needs of Federal agencies, 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. PURCHASES FROM FEDERAL PRISON INDUS-**
4 **TRIES.**

5 Section 4124 of title 18, United States Code, is
6 amended by striking out subsections (a) and (b) and in-
7 serting in lieu thereof the following new subsections (a)
8 and (b):

1 “(a) A Federal agency which has a requirement for
2 a specific product listed in the current edition of the cata-
3 log required by subsection (d) shall—

4 “(1) provide a copy of the notice required by
5 section 18 of the Office of Federal Procurement Pol-
6 icy Act (41 U.S.C. 416) to Federal Prison Indus-
7 tries at least 15 days before the issuance of a solici-
8 tation of offers for the procurement of such product;

9 “(2) use competitive procedures for the procure-
10 ment of that product, unless—

11 “(A) the head of the agency justifies the
12 use of procedures other than competitive proce-
13 dures in accordance with section 2304(f) of title
14 10 or section 303(f) of the Federal Property
15 and Administrative Services Act of 1949 (41
16 U.S.C. 253(f)); or

17 “(B) the Attorney General makes the de-
18 termination described in subsection (b)(1) with-
19 in 15 days after receiving a notice of the re-
20 quirement pursuant to paragraph (1); and

21 “(3) consider a timely offer from Federal Pris-
22 on Industries for award in accordance with the spec-
23 ifications and evaluation factors specified in the so-
24 licitation.

1 “(b) A Federal agency which has a requirement for
2 a product referred to in subsection (a) shall—

3 “(1) on a noncompetitive basis, negotiate a con-
4 tract with Federal Prison Industries for the pur-
5 chase of the product if the Attorney General person-
6 ally determines, within the period described in sub-
7 section (a)(2)(B), that—

8 “(A) it is not reasonable to expect that
9 Federal Prison Industries would be selected for
10 award of the contract on a competitive basis;
11 and

12 “(B) it is necessary to award the contract
13 to Federal Prison Industries in order—

14 “(i) to maintain work opportunities
15 that are essential to the safety and effec-
16 tive administration of the penal facility at
17 which the contract would be performed; or

18 “(ii) to permit diversification into the
19 manufacture of a new product that has
20 been approved for sale by the Federal Pris-
21 on Industries board of directors in accord-
22 ance with this chapter; and

23 “(2) award the contract to Federal Prison In-
24 dustries if the contracting officer determines that
25 Federal Prison Industries can meet the requirements

1 of the agency with respect to the product in a timely
 2 manner and at a fair and reasonable price.”.

3 **SEC. 2. LIMITATION ON NEW PRODUCTS AND EXPANSION**
 4 **OF PRODUCTION.**

5 Section 4122(b) of title 18, United States Code, is
 6 amended—

7 (1) by redesignating paragraphs (4), (5), and
 8 (6) as paragraphs (5), (6), and (7), respectively;

9 (2) by inserting after paragraph (3) the fol-
 10 lowing new paragraph (4):

11 “(4) Federal Prison Industries shall, to the maximum
 12 extent practicable, concentrate any effort to produce a new
 13 product or to expand significantly the production of an
 14 existing product on products that are otherwise produced
 15 with non-United States labor.”; and

16 (3) in paragraph (6), as so redesignated, by
 17 striking out “paragraph (4)(B)” and inserting in
 18 lieu thereof “paragraph (5)(B)”.

19 **SEC. 3. EFFECTIVE DATE.**

20 The amendments made by this Act shall take effect
 21 180 days after the date of the enactment of this Act.

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