

107TH CONGRESS  
1ST SESSION

# S. 1295

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.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2001

Mr. LEVIN (for himself and Mr. THOMAS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## 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 (a) REVISION OF PREFERENCE.—Section 4124 of  
6 title 18, United States Code, is amended by striking sub-  
7 sections (a) and (b) and inserting the following:

1 “(a) A Federal agency that has a requirement for a  
2 specific product listed in the current edition of the catalog  
3 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 that 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 that has a requirement for a  
2 product referred to in subsection (a) shall—

3               “(1) enter into negotiations with Federal Prison  
4 Industries on a contract for the purchase of the  
5 product on a noncompetitive basis if the Attorney  
6 General personally determines, within the period de-  
7 scribed in subsection (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 (b) CONFORMING AMENDMENTS.—Subsection (c) of  
 4 such section is amended—

5 (1) by striking “Federal department, agency,  
 6 and institution” in the first sentence and inserting  
 7 “Federal agency”; and

8 (2) by striking “department, agency, or institu-  
 9 tion” in the second sentence and inserting “Federal  
 10 agency”.

11 **SEC. 2. LIMITATION ON NEW PRODUCTS AND EXPANSION**  
 12 **OF PRODUCTION.**

13 Section 4122(b) of title 18, United States Code, is  
 14 amended—

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

17 (2) by inserting after paragraph (3) the fol-  
 18 lowing new paragraph (4):

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

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

4   **SEC. 3. RESTRICTION ON INMATE ACCESS TO SENSITIVE IN-**  
 5                           **FORMATION.**

6           (a) IN GENERAL.—Chapter 307 of title 18, United  
 7   States Code, is amended by adding at the end the fol-  
 8   lowing new section:

9   **“§ 4130. Restriction on inmate access to sensitive in-**  
 10                           **formation**

11           “The board of directors of Federal Prison Industries  
 12   may not approve a proposal for inmates to provide a serv-  
 13   ice in which an inmate worker has access to any of the  
 14   following information:

15                   “(1) Personal or financial information about an  
 16           individual (including any information that relates to  
 17           the individual’s real property, however described)  
 18           unless the individual has been notified that the in-  
 19           mate is to have access to the information.

20                   “(2) Any data that—

21                           “(A) is classified in the interest of national  
 22           defense or foreign policy; or

23                           “(B) will become classified in such interest  
 24           after being merged with other data.

1           “(3) Geographic data regarding the location  
2       of—

3           “(A) any surface or subsurface infrastruc-  
4       ture for providing communications, water, or  
5       electrical power distribution;

6           “(B) any pipeline for the distribution of  
7       natural gas, bulk petroleum products, or other  
8       commodity; and

9           “(C) any other utility.”.

10       (b) CLERICAL AMENDMENT.—The table of sections  
11   at the beginning of such chapter is amended by adding  
12   at the end the following new item:

“4130. Restriction on inmate access to sensitive information.”.

13   **SEC. 4. PROHIBITIONS ON REQUIRING SUBCONTRACTING**  
14                           **WITH FEDERAL PRISON INDUSTRIES.**

15       (a) IN GENERAL.—Chapter 307 of title 18, United  
16   States Code, as amended by section 3, is further amended  
17   by adding at the end the following new section:

18   **“§ 4131. Prohibition on requiring subcontracting with**  
19                           **Federal Prison Industries**

20       “(a) A contractor or potential contractor of the  
21   United States may not be required to use Federal Prison  
22   Industries as a subcontractor or supplier of products, or  
23   as a provider of services, under a contract of the United  
24   States by any means, including such means as—

5           “(2) a contract specification that requires the  
6           contractor to use a specific product or service (or  
7           class of products or services) offered by Federal  
8           Prison Industries in the performance of the contract;  
9           and

“(3) any contract modification that imposes a requirement to use Federal Prison Industries, its products, or its services in the performance of the contract.

14           “(b) In this section, the term ‘contractor’ includes a  
15 subcontractor of a contractor at any tier under a con-  
16 tract.”.

(b) CLERICAL AMENDMENT.—The table of sections of the beginning of such chapter, as amended by section 3, is further amended by adding at the end the following new item:

**•S 1295 IS**

1 **SEC. 5. UNLAWFUL TRANSPORTATION OR IMPORTATION OF**  
2 **PRODUCTS, SERVICES, OR MINERALS RE-**  
3 **SULTING FROM CONVICT LABOR.**

4 Section 1761 of title 18, United States Code, is  
5 amended—

6 (1) in subsection (a), by inserting after “any  
7 goods, wares, or merchandise manufactured, pro-  
8 duced, or mined, wholly or in part by convicts or  
9 prisoners,” the following: “or sells in interstate com-  
10 merce any services furnished wholly or in part by  
11 convicts or prisoners,”; and

12 (2) in subsection (c), by inserting “, or services  
13 furnished,” after “or mined” in the matter pre-  
14 ceding paragraph (1).

15 **SEC. 6. EFFECTIVE DATE.**

16 The amendments made by this Act shall take effect  
17 180 days after the date of the enactment of this Act.

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