

House Bill 58

By: Representatives Powell of the 29th and Rice of the 51st

A BILL TO BE ENTITLED
AN ACT

1 To enact the "Working Against Recidivism Act"; to provide a short title and legislative
2 findings; to amend Chapters 1, 5, and 10 of Title 42 of the Official Code of Georgia
3 Annotated, relating respectively to general provisions relative to penal institutions, state and
4 county correctional institutions, and correctional industries, so as to authorize work programs
5 employing inmates as voluntary, paid labor for privately owned profit-making employers
6 producing goods, services, or goods and services for sale to public or private purchasers
7 under certain circumstances; to provide for rules and regulations; to provide for federal
8 certification and state operation of such programs; to provide for compensation for state costs
9 and use of state resources; to provide for compliance with federal law; to provide for
10 determinations by the Georgia Department of Labor as to whether inmates would be
11 displacing other workers, whether labor shortages exist, and the prevailing local wage for
12 work to be done by inmates; to authorize the Georgia Correctional Industries Administration
13 to use inmate labor to provide services and to operate an inmate post-release work placement
14 program; to provide for related matters; to provide for an effective date; to repeal conflicting
15 laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 This Act shall be known and may be cited as the "Working Against Recidivism Act."

19 **SECTION 2.**

20 The General Assembly finds and declares that:

- 21 (1) Many persons sentenced to confinement for criminal offenses commit additional
22 criminal offenses after release from confinement, and such recidivism is a serious danger
23 to public safety and a major source of expense to the state;
- 24 (2) Under the appropriate conditions and limitations, work programs of voluntary labor
25 by inmates of state and county correctional institutions for privately owned profit-making

1 employers to produce goods, services, or goods and services for sale to public or private
2 purchasers provide substantial public benefits by:

3 (A) Providing job experience and skills to participating inmates;

4 (B) Allowing participating inmates to accumulate savings available for their use when
5 released from the correctional institution;

6 (C) Lowering recidivism rates;

7 (D) Generating taxes from inmate income;

8 (E) Reducing the cost of incarceration by enabling participating inmates to pay room
9 and board; and

10 (F) Providing participating inmates income to pay fines, restitution, and family support;

11 (3) Appropriate conditions and limitations for voluntary labor by inmates for such work
12 programs include but are not limited to:

13 (A) Assurance that inmates' work is voluntary;

14 (B) Payment of inmates at the local prevailing wage for such work in the locality;

15 (C) Provision of governmental benefits to participating inmates comparable to
16 governmental benefits provided for noninmate workers;

17 (D) Selection of participating inmates with careful attention to security issues;

18 (E) Appropriate supervision of inmates during travel or employment outside the
19 correctional institution;

20 (F) Assurance that inmates are not displacing other workers and are employed only in
21 the event of genuine labor shortages;

22 (G) Consultations with local private employers that may be economically impacted; and

23 (H) Consultations with local labor unions and other local employee groups, especially
24 those who have an interest in the trade or skill to be performed by the inmates; and

25 (4) Requirements for the federal Prison Industry Enhancement Certification Program
26 authorized by 18 U.S.C. Section 1761 and federal regulations are sufficient to ensure
27 appropriate conditions and limitations in many areas of concern for programs of
28 voluntary labor by inmates for privately owned profit-making employers to produce
29 goods, services, or goods and services for sale to public and private purchasers.

30 SECTION 3.

31 Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to general
32 provisions relative to penal institutions, is amended in Code Section 42-1-5, relating to use
33 of inmates for private gain, by striking in its entirety subsection (d) and inserting in its place
34 the following:

35 "(d) This Code section shall not apply to:

36 (1) Work on private property because of natural disasters;

- 1 (1.1) Work on private property as a form of victim compensation in accordance with
 2 Chapter 15A of Title 17;
 3 (2) Work or other programs or releases which have the prior approval of the board or
 4 commissioner of corrections;
 5 (3) Community service work programs; ~~or~~
 6 (4) Work-release programs; or
 7 (5) Work programs authorized by Article 6 of Chapter 5 of this title."

8 **SECTION 4.**

9 Chapter 5 of Title 42 of the Official Code of Georgia Annotated, relating to state and county
 10 correctional institutions, is amended by inserting a new article to be designated Article 6 to
 11 read as follows:

12 "ARTICLE 6

13 42-5-120.

- 14 (a) The board is authorized to issue and promulgate rules and regulations for programs of
 15 voluntary labor by inmates for privately owned profit-making employers to produce goods,
 16 services, or goods and services for sale to public and private purchasers. Such rules and
 17 regulations shall be designed to meet the published requirements of the Prison Industry
 18 Enhancement Certification Program authorized by 18 U.S.C. Section 1761 and federal
 19 regulations and to provide other appropriate conditions and limitations. Such rules and
 20 regulations may provide for administration and management of such work programs by the
 21 department or the Georgia Correctional Industries Administration.
- 22 (b) The rules and regulations for the work programs authorized by this article shall include
 23 but not be limited to rules requiring:
- 24 (A) Assurance that inmates' work is voluntary;
 - 25 (B) Payment of inmates at the local prevailing wage for such work in the locality;
 - 26 (C) Provision of governmental benefits to participating inmates comparable to
 27 governmental benefits provided for noninmate workers;
 - 28 (D) Selection of participating inmates with careful attention to security issues;
 - 29 (E) Appropriate supervision of inmates during travel and employment outside the
 30 correctional institution;
 - 31 (F) Assurance that inmates are not displacing other workers and are employed only in
 32 the event of genuine labor shortages;
 - 33 (G) Consultations with local private employers that may be economically impacted;

1 (H) Consultations with local labor unions and other local employee groups, especially
2 those who have an interest in the trade or skill to be performed by the inmates; and

3 (I) Procedures for deductions from inmate wages for taxes, charges for room and board,
4 family support, and payments to the Georgia Crime Victims Emergency Fund in
5 compliance with Prison Industry Enhancement Certification Program requirements.

6 42-5-121.

7 The commissioner shall seek certification under the federal Prison Industry Enhancement
8 Certification Program authorized by 18 U.S.C. Section 1761 and federal regulations for
9 programs of voluntary labor by inmates for privately owned profit-making employers to
10 produce goods, services, or goods and services for sale to public or private purchasers.
11 After receiving certification, the board shall operate one or more such programs.

12 42-5-122.

13 Any program for voluntary labor by inmates created in accordance with this article shall
14 not be subject to the provisions of Code Section 42-5-60 prohibiting hiring out inmates to
15 private persons, corporations, and businesses conducted for profit; prohibiting sale of
16 goods, wares, or merchandise manufactured, produced, or mined by inmates to private
17 persons, firms, associations, and corporations; and limiting the amount of compensation
18 for inmates.

19 42-5-123.

20 The board shall ensure by rules or by contractual provisions that the privately owned
21 profit-making employers compensate the department and the Georgia Correctional
22 Industries Administration for any administrative costs or other costs incurred by the
23 department or the administration for the operation of the program or programs. The board
24 shall ensure by rules or by contractual provisions that the department and the
25 administration are compensated for use of any employees of the department or the
26 administration, use of any space owned by or under the control of the department or the
27 administration, or use of any other resources of the department or the administration in the
28 operation of the program or programs.

29 42-5-124.

30 Following the issuance and promulgation of rules and regulations, the department is
31 authorized to publicize the program and invite employers to participate. The department
32 shall rely upon the Georgia Department of Labor for determining whether inmates would
33 be displacing other workers, whether labor shortages exist, and the local prevailing wage

1 for work to be done by inmates. The Georgia Department of Labor is authorized to provide
2 such determinations to the department.

3 42-5-125.

4 (a) Every program involving employment of an inmate, convict, or prisoner by a business
5 operated for profit to manufacture, produce, or mine goods, wares, or merchandise for
6 transportation in interstate commerce shall become a part of the programs authorized by
7 this article and shall conform to the rules and regulations promulgated in accordance with
8 this article.

9 (b) This Code section shall not apply to programs for the production of agricultural
10 commodities, parts for the repair of farm machinery, or goods, wares, or merchandise
11 manufactured for use by not for profit organizations, the federal government, the District
12 of Columbia, or by any state or political subdivision of a state.

13 (c) This Code section shall not apply to an inmate, convict, or prisoner serving a term of
14 supervised release, as described in 18 U.S.C. Section 3583."

15 **SECTION 5.**

16 Chapter 10 of Title 42 of the Official Code of Georgia Annotated, relating to correctional
17 industries, is amended by striking paragraphs (4) and (5) of Code Section 42-10-4, relating
18 to the powers of the Georgia Correctional Industries Administration, and inserting in lieu
19 thereof the following:

20 "(4) To have the same powers and authority possessed by the Department of Corrections
21 in connection with the manufacture and sale of products and provision of services;

22 (5) To utilize any and all inmates who may be made available for its corporate purposes
23 by the Department of Corrections. The administration shall not be required to make any
24 payment to the Department of Corrections for the use of such labor and shall not
25 compensate inmates employed in any industry or performing services at any correctional
26 institution, except as otherwise provided by Article 6 of Chapter 5 of this title;"

27 **SECTION 6.**

28 Said chapter is further amended by striking paragraphs (11) and (12) of Code Section
29 42-10-4, relating to the powers of the Georgia Correctional Industries Administration, and
30 inserting in lieu thereof new paragraphs (11), (12), and (13) to read as follows:

31 "(11) To provide training facilities for the prerelease rehabilitation and education of
32 inmates confined in the state penal system; ~~and~~

1 (12) To contract with any department, agency, or instrumentality of the state and any
2 political subdivision thereof for the furnishing of any service which the Department of
3 Corrections may provide; and
4 (13) To develop and operate an inmate post-release work placement program."

5 **SECTION 7.**

6 This Act shall become effective on July 1, 2005.

7 **SECTION 8.**

8 All laws and parts of laws in conflict with this Act are repealed.