

By: Representative Horan

To: Corrections

HOUSE BILL NO. 863
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 47-5-535, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE PROVISION THAT PROVIDES THAT IT IS THE INTENT OF THE
3 LEGISLATURE TO PROHIBIT THE CORPORATION FROM HAVING ANY RIGHTS TO
4 OPERATE A PROGRAM UNDER THE PRISON AGRICULTURAL ENTERPRISES AND
5 CREATING A PRISON INDUSTRY PROGRAM THAT DUPLICATES A PRISON
6 AGRICULTURAL ENTERPRISES PROGRAM OR PRODUCT; TO DELETE THE
7 PROVISION THAT PROVIDES THAT IT IS THE INTENT OF THE LEGISLATURE
8 THAT THE DEPARTMENT OF CORRECTIONS RETAINS EXCLUSIVE RIGHTS TO
9 CONDUCT ALL PRISON AGRICULTURAL AND RELATED ENTERPRISES; TO AMEND
10 SECTION 47-5-539, MISSISSIPPI CODE OF 1972, AS AMENDED BY SENATE
11 BILL NO. 2437, 2022 REGULAR SESSION, TO DEFINE CERTAIN TERMS; TO
12 AMEND SECTION 47-5-541, MISSISSIPPI CODE OF 1972, TO REVISE THE
13 COMPOSITION OF THE BOARD OF DIRECTORS OF THE CORPORATION; TO AMEND
14 SECTION 47-5-547, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
15 CORPORATION MAY ESTABLISH ANY TRAINING OR AUXILIARY PROGRAMS WITH
16 ANY COMMUNITY OR JUNIOR COLLEGE OR STATE INSTITUTION OF HIGHER
17 LEARNING RATHER THAN SOLELY WITH MISSISSIPPI DELTA COMMUNITY
18 COLLEGE; TO CREATE A NEW CODE SECTION TO ADD A DATE OF REPEAL OF
19 JULY 1, 2024, TO THE "MISSISSIPPI PRISON INDUSTRIES ACT OF 1990";
20 TO AMEND SECTION 47-5-1251, MISSISSIPPI CODE OF 1972, AS AMENDED
21 BY SENATE BILL NO. 2437, 2022 REGULAR SESSION, TO CONFORM TO THE
22 PRECEDING SECTIONS; AND FOR RELATED PURPOSES.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

24 **SECTION 1.** Section 47-5-535, Mississippi Code of 1972, is
25 amended as follows:

26 47-5-535. (1) Except as otherwise specifically provided by
27 law, it is the intent of the Legislature that a nonprofit
28 corporation be organized and formed, within sixty (60) days from



29 April 4, 1990, to lease and manage the prison industry programs of
30 the Mississippi Correctional Industries. The corporation created
31 and established shall be a body politic and corporate, may acquire
32 and hold real and personal property, may receive, hold and
33 dispense monies appropriated to it by the Legislature of the State
34 of Mississippi received from the federal government, received from
35 the sale of products, goods, and services which it produces, and
36 received from any other sources whatsoever.

37 (2) Except as otherwise specifically provided by law, it is
38 the further intent of the Legislature that the nonprofit
39 corporation shall create any additional prison industry program as
40 it deems fit, and any such program shall be created in compliance
41 with the provisions of Sections 47-5-531 through 47-5-575.

42 (3) Except as otherwise specifically provided by law, it is
43 the further intent of the Legislature that such nonprofit
44 corporation shall have exclusive rights to operate any prison
45 industry program and when such corporation is lawfully formed, no
46 other public or private entity shall be allowed to carry out the
47 provisions of Sections 47-5-531 through 47-5-575.

48 (4) It is the further intent of the Legislature, that the
49 nonprofit corporation which is required to be organized and formed
50 under Sections 47-5-531 through 47-5-575 shall locate and operate
51 prison industries at any state correctional facility with the
52 approval of the Commissioner of Corrections. It is the intent of
53 the Legislature that the nonprofit corporation locate and operate



54 such industries in an orderly and expeditious manner. Such
55 corporation may locate and operate prison industries at other
56 prison satellites, at community work centers in the state, at any
57 private correctional facility which houses state inmates and at
58 any regional correctional facility as authorized under Section
59 47-5-931. No industrial prison program shall be located at a site
60 other than state prison facilities approved by the commissioner.

61 * * *

62 **SECTION 2.** Section 47-5-539, Mississippi Code of 1972, as
63 amended by Senate Bill No. 2437, 2022 Regular Session, is amended
64 as follows:

65 47-5-539. For the purposes of Sections 47-5-531 through
66 47-5-575, the following terms shall have the following * * *
67 meaning unless the context shall provide otherwise:

68 (a) "Chief executive officer" means the chief executive
69 officer of the corporation established under this chapter.

70 (* * * b) "Corporation" means the private nonprofit
71 corporation which is required to be organized and formed to carry
72 out the provisions of Sections 47-5-531 through 47-5-575 regarding
73 prison industries.

74 (* * * c) "Department" means the State Department of
75 Corrections.

76 (* * * d) "Inmate" means any person incarcerated within
77 any state correctional facility.



78 (* * *e) "Prison industry program" means any program
79 which is considered to be a part of any prison industry in this
80 state.

81 (* * *f) "Prison agricultural enterprises" means all
82 agricultural endeavors as defined in Section 47-5-353.

83 (g) "Work Initiative" or "initiative" means the program
84 authorized in Section 47-5-579.

85 **SECTION 3.** Section 47-5-541, Mississippi Code of 1972, is
86 amended as follows:

87 47-5-541. (1) The corporation shall be governed by a board
88 of directors. The terms of the board of directors in place before
89 July 1, 2022, shall expire June 30, 2022. From and after July 1,
90 2022, the board of directors of the nonprofit corporation shall be
91 composed of the following * * * five (5) members * * *: * * *

92 (a) The Commissioner of the Department of Corrections
93 or his or her designee;

94 (b) One (1) representative of the faith-based
95 community, appointed by the Commissioner of the Department of
96 Corrections with the advice and consent of the Senate;

97 (c) One (1) representative of the business community,
98 appointed by the Commissioner of the Department of Corrections
99 with the advice and consent of the Senate;

100 (d) The Executive Director of AccelerateMS or his or
101 her designee; and



102 (e) The Executive Director of the Mississippi Community
103 College Board or his or her designee.

104 * * * For the initial appointments, * * * the representative
105 of the faith-based community shall serve for a term of one (1)
106 year; the representative of the business community shall serve for
107 a term of two (2) years; the Executive Director of the
108 AccelerateMS or his or her designee shall serve for a term of
109 three (3) years and the Executive Director of the Mississippi
110 Community College Board shall serve for a term of four (4) years.

111 All succeeding terms shall be for four (4) years from the
112 expiration date of the previous term. The term of the
113 Commissioner of Corrections shall run concurrent with his or her
114 term or terms as commissioner. Initial appointments shall be made
115 within thirty (30) days after * * * July 1, 2022. * * * Any
116 vacancy on the board prior to the expiration of a term for any
117 reason, including resignation, removal, disqualification, death or
118 disability shall be filled in the manner prescribed in paragraphs
119 (a) through (e) of this subsection for the balance of the
120 unexpired term. The officers of the corporation shall consist of
121 a chairman, vice chairman and a secretary-treasurer. The officers
122 shall be selected by the members of the board. However, the
123 Commissioner of Corrections * * * shall not be eligible to serve
124 as an officer of the corporation.

125 (2) The board of directors shall select and employ a chief
126 executive officer of the corporation who shall serve at the



127 pleasure of the board. The board shall set the compensation of
128 the chief executive officer. The chief executive officer shall be
129 responsible for the general business and entire operations of the
130 corporation, and shall be responsible for operating the
131 corporation in compliance with the bylaws of the corporation and
132 in compliance with any provision of law. The board shall be
133 authorized and empowered to do only those acts provided by law and
134 by the bylaws of the corporation. Except as otherwise
135 specifically provided by law, such board shall have the authority
136 to establish prison industries, to cease the operation of any
137 industry which it deems unsuitable or unprofitable, to enter into
138 any lease or contract for the corporation and it shall have the
139 full authority to establish prices for any industry good.

140 (3) No member of the board of directors shall vote on any
141 matter that comes before the board that could result in pecuniary
142 benefit for himself or for any entity in which such member has an
143 interest.

144 (4) In addition to the board of directors, an advisory board
145 may be set up for the benefit of each industry which is
146 established pursuant to the provisions of Sections 47-5-531
147 through 47-5-575. Such boards shall be advisory only, and may be
148 set up in the discretion of the board of directors of the
149 corporation.

150 (5) Each member of the board of directors of the corporation
151 shall receive per diem as provided in Section 25-3-69 for each day



152 or fraction thereof spent in actual discharge of his official
153 duties and shall be reimbursed for mileage and actual expenses
154 incurred in the performance of his official duties in accordance
155 with the requirements of Section 25-3-41, Mississippi Code of
156 1972.

157 (6) The board of directors shall make and publish policies,
158 rules and regulations governing all business functions, including
159 but not limited to accounting, marketing, purchasing and
160 personnel, not inconsistent with the terms of Sections 47-5-531
161 through 47-5-575, as may be necessary for the efficient
162 administration and operation of the corporation.

163 (7) The chief executive officer of the corporation shall:

164 (a) Employ all necessary employees of the corporation
165 and dismiss them as is necessary;

166 (b) Administer the daily operations of the corporation;

167 (c) Upon approval of the board of directors, execute
168 any contracts on behalf of the corporation; and

169 (d) Take any further actions which are necessary and
170 proper toward the achievement of the corporation purposes.

171 (8) A member of the board of directors of the corporation
172 shall not be liable for any civil damages for any personal injury
173 or property damage caused to a person as a result of any acts or
174 omissions committed in good faith in the exercise of their duties
175 as members of the board of directors of the corporation, except



176 where a member of the board engages in acts or omissions which are
177 intentional, willful, wanton, reckless or grossly negligent.

178 **SECTION 4.** Section 47-5-547, Mississippi Code of 1972, is
179 amended as follows:

180 47-5-547. Except as otherwise specifically provided by law,
181 any training program or auxiliary program associated with any
182 existing prison industry shall be transferred to the corporation.
183 The corporation is empowered and authorized to establish in
184 participation with * * * any community or junior college or state
185 institution of higher learning, any training or auxiliary program
186 for existing prison industries or for any industries which the
187 corporation might create. * * * Such community or junior college
188 or state institution of higher learning shall provide assistance
189 in business planning, marketing and analysis of existing or
190 projected industries. These industrial services shall be
191 contracted with any appropriate * * * community or junior college
192 or state institution of higher learning when these industries are
193 developed at other correction sites.

194 **SECTION 5.** The following shall be codified as Section
195 47-5-577, Mississippi Code of 1972:

196 47-5-577. Sections 47-5-531 through 47-5-575, which create
197 the Mississippi Prison Industries Act of 1990, shall stand
198 repealed from and after July 1, 2024.



199 **SECTION 6.** Section 47-5-1251, Mississippi Code of 1972, as
200 amended by Senate Bill No. 2437, 2022 Regular Session, is amended
201 as follows:

202 47-5-1251. (1) There is created the "Prison Industry
203 Enhancement Program," through which the Department of Corrections
204 may contract with the nonprofit corporation organized and formed
205 under the "Mississippi Prison Industries Act of 1990" to employ
206 offenders within the custody of the department or prison
207 industries.

208 (2) Except as provided in Section 47-5-579, which is the
209 provision authorizing a Work Initiative, the offenders must be
210 under the supervision of the department at all times while
211 working. The offenders shall be paid, by the entity or entities,
212 wages at a rate which is not less than that paid for similar work
213 in the locality in which the work is performed. The wages may be
214 subject to deductions which shall not, in the aggregate, exceed
215 eighty percent (80%) of gross wages. The deductions shall be
216 limited to the following:

217 (a) To pay federal, state and local taxes;

218 (b) To pay reasonable charges for room and board as
219 determined by regulations issued by the Commissioner of
220 Corrections;

221 (c) To support the offender's family pursuant to state
222 statute, court order or agreement by the offender; and



223 (d) To pay contributions equaling not less than five
224 percent (5%) but not more than twenty percent (20%) of the
225 offender's gross wages into the Crime Victims' Compensation Fund
226 as created in Section 99-41-29.

227 (* * *3) Notwithstanding any other provision of the law to
228 the contrary, the offenders shall not be qualified to receive any
229 payments for unemployment compensation while incarcerated.
230 However, the offenders shall not solely by their status as
231 offenders be deprived of the right to participate in benefits made
232 available by the federal or state government to other individuals
233 on the basis of their employment, such as workers' compensation.

234 (* * *4) Offenders who participate in the employment must
235 do so voluntarily and must agree in advance to the specific
236 deductions made from gross wages pursuant to this section and to
237 all other financial arrangements or benefits resulting from
238 participation in the employment.

239 (* * *5) The Department of Corrections shall develop rules
240 and regulations to meet the criteria established by the Bureau of
241 Justice Assistance under the Prison Industry Enhancement
242 Certification Program.

243 (6) This section shall stand repealed on July 1, 2024.

244 **SECTION 7.** This act shall take effect and be in force from
245 and after July 1, 2022.

