

By: Representative Horan

To: Corrections

HOUSE BILL NO. 1131

1 AN ACT TO BRING FORWARD SECTION 47-5-535, MISSISSIPPI CODE OF
 2 1972, WHICH PERTAINS TO THE LEGISLATIVE INTENT OF THE MISSISSIPPI
 3 PRISON INDUSTRIES ACT OF 1990, FOR PURPOSES OF AMENDMENT; TO BRING
 4 FORWARD SECTION 47-5-539, MISSISSIPPI CODE OF 1972, WHICH PERTAINS
 5 TO CERTAIN TERMS OF THE ACT, FOR PURPOSES OF AMENDMENT; TO BRING
 6 FORWARD SECTION 47-5-541, MISSISSIPPI CODE OF 1972, WHICH PERTAINS
 7 TO THE COMPOSITION OF THE BOARD OF DIRECTORS OF THE CORPORATION,
 8 FOR PURPOSES OF AMENDMENT; TO BRING FORWARD SECTION 47-5-547,
 9 MISSISSIPPI CODE OF 1972, WHICH PERTAINS TO CERTAIN TRAINING
 10 PROGRAMS, FOR PURPOSES OF AMENDMENT; TO BRING FORWARD SECTION
 11 47-5-577, MISSISSIPPI CODE OF 1972, WHICH PERTAINS TO THE DATE OF
 12 REPEAL OF THE ACT, FOR PURPOSES OF AMENDMENT; TO BRING FORWARD
 13 SECTION 47-5-1251, MISSISSIPPI CODE OF 1972, WHICH PERTAINS TO THE
 14 PRISON INDUSTRY ENHANCEMENT PROGRAM, FOR PURPOSES OF AMENDMENT;
 15 AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** Section 47-5-535, Mississippi Code of 1972, is
 18 brought forward as follows:

19 47-5-535. (1) Except as otherwise specifically provided by
 20 law, it is the intent of the Legislature that a nonprofit
 21 corporation be organized and formed, within sixty (60) days from
 22 April 4, 1990, to lease and manage the prison industry programs of
 23 the Mississippi Correctional Industries. The corporation created
 24 and established shall be a body politic and corporate, may acquire



25 and hold real and personal property, may receive, hold and
26 dispense monies appropriated to it by the Legislature of the State
27 of Mississippi received from the federal government, received from
28 the sale of products, goods, and services which it produces, and
29 received from any other sources whatsoever.

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

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

41 (4) It is the further intent of the Legislature, that the
42 nonprofit corporation which is required to be organized and formed
43 under Sections 47-5-531 through 47-5-575 shall locate and operate
44 prison industries at any state correctional facility with the
45 approval of the Commissioner of Corrections. It is the intent of
46 the Legislature that the nonprofit corporation locate and operate
47 such industries in an orderly and expeditious manner. Such
48 corporation may locate and operate prison industries at other
49 prison satellites, at community work centers in the state, at any



50 private correctional facility which houses state inmates and at
51 any regional correctional facility as authorized under Section
52 47-5-931. No industrial prison program shall be located at a site
53 other than state prison facilities approved by the commissioner.

54 **SECTION 2.** Section 47-5-539, Mississippi Code of 1972, is
55 brought forward as follows:

56 47-5-539. For the purposes of Sections 47-5-531 through
57 47-5-575, the following terms shall have the following meaning
58 unless the context shall provide otherwise:

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

61 (b) "Corporation" means the private nonprofit
62 corporation which is required to be organized and formed to carry
63 out the provisions of Sections 47-5-531 through 47-5-575 regarding
64 prison industries.

65 (c) "Department" means the State Department of
66 Corrections.

67 (d) "Inmate" means any person incarcerated within any
68 state correctional facility.

69 (e) "Prison industry program" means any program which
70 is considered to be a part of any prison industry in this state.

71 (f) "Prison agricultural enterprises" means all
72 agricultural endeavors as defined in Section 47-5-353.

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



75 **SECTION 3.** Section 47-5-541, Mississippi Code of 1972, is
76 brought forward as follows:

77 47-5-541. (1) The corporation shall be governed by a board
78 of directors. The terms of the board of directors in place before
79 July 1, 2022, shall expire June 30, 2022. From and after July 1,
80 2022, the board of directors of the nonprofit corporation shall be
81 composed of the following five (5) members:

82 (a) The Commissioner of the Department of Corrections
83 or his or her designee;

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

87 (c) One (1) representative of the business community,
88 appointed by the Commissioner of the Department of Corrections
89 with the advice and consent of the Senate;

90 (d) The Executive Director of AccelerateMS or his or
91 her designee; and

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

94 For the initial appointments, the representative of the
95 faith-based community shall serve for a term of one (1) year; the
96 representative of the business community shall serve for a term of
97 two (2) years; the Executive Director of the AccelerateMS or his
98 or her designee shall serve for a term of three (3) years and the
99 Executive Director of the Mississippi Community College Board



100 shall serve for a term of four (4) years. All succeeding terms
101 shall be for four (4) years from the expiration date of the
102 previous term. The term of the Commissioner of Corrections shall
103 run concurrent with his or her term or terms as commissioner.
104 Initial appointments shall be made within thirty (30) days after
105 July 1, 2022. Any vacancy on the board prior to the expiration of
106 a term for any reason, including resignation, removal,
107 disqualification, death or disability shall be filled in the
108 manner prescribed in paragraphs (a) through (e) of this subsection
109 for the balance of the unexpired term. The officers of the
110 corporation shall consist of a chairman, vice chairman and a
111 secretary-treasurer. The officers shall be selected by the
112 members of the board. However, the Commissioner of Corrections
113 shall not be eligible to serve as an officer of the corporation.

114 (2) The board of directors shall select and employ a chief
115 executive officer of the corporation who shall serve at the
116 pleasure of the board. The board shall set the compensation of
117 the chief executive officer. The chief executive officer shall be
118 responsible for the general business and entire operations of the
119 corporation, and shall be responsible for operating the
120 corporation in compliance with the bylaws of the corporation and
121 in compliance with any provision of law. The board shall be
122 authorized and empowered to do only those acts provided by law and
123 by the bylaws of the corporation. Except as otherwise
124 specifically provided by law, such board shall have the authority



125 to establish prison industries, to cease the operation of any
126 industry which it deems unsuitable or unprofitable, to enter into
127 any lease or contract for the corporation and it shall have the
128 full authority to establish prices for any industry good.

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

133 (4) In addition to the board of directors, an advisory board
134 may be set up for the benefit of each industry which is
135 established pursuant to the provisions of Sections 47-5-531
136 through 47-5-575. Such boards shall be advisory only, and may be
137 set up in the discretion of the board of directors of the
138 corporation.

139 (5) Each member of the board of directors of the corporation
140 shall receive per diem as provided in Section 25-3-69 for each day
141 or fraction thereof spent in actual discharge of his official
142 duties and shall be reimbursed for mileage and actual expenses
143 incurred in the performance of his official duties in accordance
144 with the requirements of Section 25-3-41, Mississippi Code of
145 1972.

146 (6) The board of directors shall make and publish policies,
147 rules and regulations governing all business functions, including
148 but not limited to accounting, marketing, purchasing and
149 personnel, not inconsistent with the terms of Sections 47-5-531



150 through 47-5-575, as may be necessary for the efficient
151 administration and operation of the corporation.

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

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

155 (b) Administer the daily operations of the corporation,
156 including establishing education, training and workforce
157 development programs in collaboration with the Office of Workforce
158 Development and other relevant state and federal agencies;

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

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

163 (8) A member of the board of directors of the corporation
164 shall not be liable for any civil damages for any personal injury
165 or property damage caused to a person as a result of any acts or
166 omissions committed in good faith in the exercise of their duties
167 as members of the board of directors of the corporation, except
168 where a member of the board engages in acts or omissions which are
169 intentional, willful, wanton, reckless or grossly negligent.

170 **SECTION 4.** Section 47-5-547, Mississippi Code of 1972, is
171 brought forward as follows:

172 47-5-547. Except as otherwise specifically provided by law,
173 any training program or auxiliary program associated with any
174 existing prison industry shall be transferred to the corporation.



175 The corporation is empowered and authorized to establish in
176 participation with any community or junior college or state
177 institution of higher learning, any training or auxiliary program
178 for existing prison industries or for any industries which the
179 corporation might create. Such community or junior college or
180 state institution of higher learning shall provide assistance in
181 business planning, marketing and analysis of existing or projected
182 industries. These industrial services shall be contracted with
183 any appropriate community or junior college or state institution
184 of higher learning when these industries are developed at other
185 correction sites.

186 **SECTION 5.** Section 47-5-577, Mississippi Code of 1972, is
187 brought forward as follows:

188 47-5-577. Sections 47-5-531 through 47-5-575, which create
189 the Mississippi Prison Industries Act of 1990, shall stand
190 repealed from and after July 1, 2024.

191 **SECTION 6.** Section 47-5-1251, Mississippi Code of 1972, is
192 brought forward as follows:

193 47-5-1251. (1) There is created the "Prison Industry
194 Enhancement Program," through which the Department of Corrections
195 may contract with the nonprofit corporation organized and formed
196 under the "Mississippi Prison Industries Act of 1990" to employ
197 offenders within the custody of the department or prison
198 industries.



199 (2) Except as provided in Section 47-5-579, which is the
200 provision authorizing a Work Initiative, the offenders must be
201 under the supervision of the department at all times while
202 working. The offenders shall be paid, by the entity or entities,
203 wages at a rate which is not less than that paid for similar work
204 in the locality in which the work is performed. The wages may be
205 subject to deductions which shall not, in the aggregate, exceed
206 eighty percent (80%) of gross wages. The deductions shall be
207 limited to the following:

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

209 (b) To pay reasonable charges for room and board as
210 determined by regulations issued by the Commissioner of
211 Corrections;

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

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

218 (3) Notwithstanding any other provision of the law to the
219 contrary, the offenders shall not be qualified to receive any
220 payments for unemployment compensation while incarcerated.
221 However, the offenders shall not solely by their status as
222 offenders be deprived of the right to participate in benefits made



223 available by the federal or state government to other individuals
224 on the basis of their employment, such as workers' compensation.

225 (4) Offenders who participate in the employment must do so
226 voluntarily and must agree in advance to the specific deductions
227 made from gross wages pursuant to this section and to all other
228 financial arrangements or benefits resulting from participation in
229 the employment.

230 (5) The Department of Corrections shall develop rules and
231 regulations to meet the criteria established by the Bureau of
232 Justice Assistance under the Prison Industry Enhancement
233 Certification Program.

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

235 **SECTION 7.** This act shall take effect and be in force from
236 and after July 1, 2023.

