

By: Representative Horan

To: Corrections

HOUSE BILL NO. 1131
(As Passed the House)

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 AMEND
6 SECTION 47-5-541, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
7 BOARD OF DIRECTORS OF MISSISSIPPI PRISON INDUSTRIES MAY SET
8 SUPPLEMENT COMPENSATION FOR CERTAIN DUTIES AND RESPONSIBILITIES
9 FOR ITS CHIEF EXECUTIVE OFFICER; TO BRING FORWARD SECTION
10 47-5-547, MISSISSIPPI CODE OF 1972, WHICH PERTAINS TO CERTAIN
11 TRAINING PROGRAMS, FOR PURPOSES OF AMENDMENT; TO BRING FORWARD
12 SECTION 47-5-577, MISSISSIPPI CODE OF 1972, WHICH PERTAINS TO THE
13 DATE OF REPEAL OF THE ACT, FOR PURPOSES OF AMENDMENT; TO BRING
14 FORWARD SECTION 47-5-1251, MISSISSIPPI CODE OF 1972, WHICH
15 PERTAINS TO THE PRISON INDUSTRY ENHANCEMENT PROGRAM, FOR PURPOSES
16 OF AMENDMENT; AND FOR RELATED PURPOSES.

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

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

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



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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

115 (2) The board of directors shall select and employ a chief
116 executive officer of the corporation who shall serve at the
117 pleasure of the board. The board shall set the compensation of
118 the chief executive officer. If the chief executive officer of
119 the corporation is also the acting Mississippi Department of
120 Corrections Deputy Commissioner for Workforce Development,
121 pursuant to Section 47-5-26(1)(e), the board may compensate the
122 chief executive officer for duties and responsibilities
123 independent of those required under Section 47-5-26(1)(e). The
124 chief executive officer shall be responsible for the general
125 business and entire operations of the corporation, and shall be



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

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

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

146 (5) Each member of the board of directors of the corporation
147 shall receive per diem as provided in Section 25-3-69 for each day
148 or fraction thereof spent in actual discharge of his official
149 duties and shall be reimbursed for mileage and actual expenses
150 incurred in the performance of his official duties in accordance



151 with the requirements of Section 25-3-41, Mississippi Code of
152 1972.

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

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

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

162 (b) Administer the daily operations of the corporation,
163 including establishing education, training and workforce
164 development programs in collaboration with the Office of Workforce
165 Development and other relevant state and federal agencies;

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

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

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



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

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

179 47-5-547. Except as otherwise specifically provided by law,
180 any training program or auxiliary program associated with any
181 existing prison industry shall be transferred to the corporation.
182 The corporation is empowered and authorized to establish in
183 participation with any community or junior college or state
184 institution of higher learning, any training or auxiliary program
185 for existing prison industries or for any industries which the
186 corporation might create. Such community or junior college or
187 state institution of higher learning shall provide assistance in
188 business planning, marketing and analysis of existing or projected
189 industries. These industrial services shall be contracted with
190 any appropriate community or junior college or state institution
191 of higher learning when these industries are developed at other
192 correction sites.

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

195 47-5-577. Sections 47-5-531 through 47-5-575, which create
196 the Mississippi Prison Industries Act of 1990, shall stand
197 repealed from and after July 1, 2024.

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



200 47-5-1251. (1) There is created the "Prison Industry
201 Enhancement Program," through which the Department of Corrections
202 may contract with the nonprofit corporation organized and formed
203 under the "Mississippi Prison Industries Act of 1990" to employ
204 offenders within the custody of the department or prison
205 industries.

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

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

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

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

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



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

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

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

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

242 **SECTION 7.** This act shall take effect and be in force from
243 and after July 1, 2023, and shall be repealed from and after June
244 30, 2023.

