

**ALEC EXPOSED**

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda-underwritten by global corporations-includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

**ALEC's Corporate Board**  
--in recent past or present

- AT&T Services, Inc.
- centerpoint360
- UPS
- Bayer Corporation
- GlaxoSmithKline
- Energy Future Holdings
- Johnson & Johnson
- Coca-Cola Company
- PhRMA
- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at [www.SourceWatch.org](http://www.SourceWatch.org).

**DID YOU KNOW?** Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

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**Prison Industries Act**

Did you know the NRA--the National Rifle Association--was the corporate co-chair in 2011?

**Summary:**

This Act provides for the employment of inmate labor in state correctional institutions and in the private manufacturing of certain products under specific conditions, and includes limitations on how prison industries may impact non-prison industries within the state. The Act also sets forth the requirements and responsibilities of the state commission of corrections, the governor, and other officers and agencies in relation to inmate employment in correctional institutions and distribution of products and proceeds from inmate employment. The purpose of this Act is to reduce recidivism and reduce state prison costs.

**Model Legislation:**

CHAPTER \_\_. Prison Industry

SUBCHAPTER A. GENERAL PROVISIONS

**Sec. \_\_\_\_ . Definitions.**

In this chapter:

(1) "Articles and products" includes services provided through the use of work program participant labor.

(2) "Board" means the governing body with oversight authority over the state agency charged with the day-to-day operation of the state prison system.

(3) "Department" means the state agency charged with the day-to-day operation of the state prison system.

(4) "Division" means the correctional industries division of the department.

(5) "Work program participant" means a person who:

(A) is an inmate confined in a facility operated by or under contract with the department or a defendant or releasee housed in a facility operated by or under contract with the department; and

(B) works at a job assigned by the division.

#### SUBCHAPTER B. CORRECTIONAL INDUSTRIES

#### **Sec. \_\_\_\_ . Purpose; Implementation.**

(1) The purposes of the division are to implement this chapter to:

(A) provide work program participants with marketable job skills to help reduce recidivism through a coordinated program of:

(i) job skills training;

(ii) documentation of work history; and

(iii) access to reintegration resources provided by state agencies; and

(B) reduce department costs by providing products and, articles, and services for the department and providing products and, articles, and services for sale on a for profit basis to the public or to agencies of the state or political subdivisions of the state.

(2) To implement the purposes of the division, the department may establish and operate a prison industries program at each correctional facility that the department considers suitable for such a program.

#### **Sec. \_\_\_\_ . Advisory Committee.**

(1) The board shall establish a prison industries advisory committee. The advisory committee must be composed of \_\_\_\_ members appointed by the board. In appointing members under this subsection, the board shall appoint persons who represent business and industry.

(2) The prison industries advisory committee shall advise the board on all aspects of prison industry operations and shall make recommendations to the board on the effective use of prison industries programs to assist work program participants in the development of job skills necessary for successful reintegration into the community after release from imprisonment.

#### **Sec. \_\_\_\_ . Labor; Pay.**

(1) The board may develop by rule and the department may administer an incentive pay scale for work program participants consistent with rules adopted by the Private Sector Prison Industries Oversight Authority under Subchapter D. Prison industries may be financed through contributions donated for this purpose by private businesses contracting with the department. The department shall apportion pay earned by a work program participant in the same manner as is required by rules adopted by the Private Sector Prison Industries Oversight Authority under Subchapter D.

(2) In assigning work program participants to available job training positions in factories, the department shall consider each participant's classification and availability for work. The department shall give priority to work program participants closest to release from imprisonment or supervision in making assignment to those job training positions that provide the most marketable skills.

#### **Sec. \_\_\_\_ . Industrial Receipts.**

The division may use money appropriated to the division in amounts corresponding to receipts from the sale of articles and products under this subchapter to purchase real property, erect buildings, improve facilities, buy equipment and tools, install or replace equipment, buy industrial raw materials and supplies, and pay for other necessary expenses for the administration of this subchapter and Subchapter C.

**Sec. \_\_\_\_ . Contracts With Private Business.**

To encourage the development and expansion of prison industries, the division may enter into necessary contracts related to the prison industries program. With the approval of the board, the division may enter into a contract with a private business to conduct a program on or off property operated by the department. A contract entered into under this section must comply with the Private Sector/Prison Industry Enhancement Certification Program operated by the Bureau of Justice Assistance and authorized by 18 U.S.C. Section 1761.

**Sec. \_\_\_\_ . Grants.**

The division may accept any grant designated for work program participant vocational rehabilitation. The division shall maintain records relating to the receipt and disbursement of grant funds and shall annually report to the board on the administration of grant funds.

**Sec. \_\_\_\_ . Lease of Land.**

To further the expansion and development of prison industries, the department may lease prison land to a private business. A lease under this section may not exceed a term of 50 years. The business must lease the land at a mutually agreed upon price and may construct or convert plant facilities on the land.

**Sec. \_\_\_\_ . Offense: Sale or Offer of Sale of Prison Produced Articles or Products.**

(1) A person commits an offense if the person intentionally sells or offers to sell on the open market in this state an article or product the person knows was manufactured in whole or in part by an inmate of the department or an inmate in any correctional facility or reformatory institution in this state or in any other state, other than an inmate:

(A) who was on community supervision, parole, or mandatory supervision;

(B) employed to provide goods or services as permitted by Subchapter C; or

(C) participating in a federally certified prison industry enhancement program.

(2) An offense under this section is a misdemeanor punishable by a fine not to exceed \$5,000 and confinement in county jail for a term not to exceed six months.

**Sec. \_\_\_\_ . Certain Contracts Prohibited.**

The department may not enter into a contract with a private business or public entity that requires or permits an inmate confined in a correctional facility operated by or for the department to perform data entry, telemarketing, or related tasks, however, public safety and privacy must be maintained through technology requiring that inmates do not have access to personal information about persons who are not confined in facilities operated by or for the department.

**SUBCHAPTER C. SALES OF PRISON MADE ARTICLES OR PRODUCTS****Sec. \_\_\_\_ . Authority.**

This subchapter governs the sale of prison made products to governmental agencies.

**Sec. \_\_\_\_ . Contracts.**

The department may contract with:

(1) another state, the federal government, a foreign government, or an agency of any of those governments to manufacture for or sell to those governments prison made articles or products; or

(2) a private school or a visually handicapped person in this state to manufacture Braille textbooks or other instructional aids for the education of visually handicapped persons.

**Sec. \_\_\_\_ . Priorities.**

Under this subchapter and Subchapter B, the division shall produce products and articles first to fulfill the needs of agencies of the state and second to fulfill the needs of political subdivisions or other purchasers.

**Sec. \_\_\_\_ . Agencies and Political Subdivisions: Duties to Purchase.**

(1) If the division produces an article or product under this subchapter, an agency of the state or a political subdivision may purchase the article or product only from the division.

(2) If the \_\_\_\_\_ determines that an article or product produced by the division under this subchapter does not meet the requirements of an agency of the state or a political subdivision, or that the division has determined that the division is unable to fill a requisition for an article or product, the agency or subdivision may purchase the article or product from another source.

(3) An agency of the state or a political subdivision may not evade the intent of this subchapter by requesting an article or product that varies slightly from standards for articles or products established under this subchapter if the division produces a similar article or product that is in compliance with established standards and is reasonably suited to the actual needs of the agency or subdivision.

(4) This section applies to the department in the same manner as it applies to other agencies of the state.

(5) The division at least once each year shall determine whether there are articles or products needed by the department that are not produced by but could be produced by the office at a reduced cost or savings to the department.

**Sec. \_\_\_\_ . Purchasing Procedure.**

(1) An agency of the state that purchases articles and products under this subchapter must requisition the purchase through the \_\_\_\_\_ except for purchases of articles or products not included in an established contract. The purchase of articles or products not included in an established contract and that do not exceed \$\_\_\_ may be acquired directly from the division on the agency's obtaining an informal or a formal quotation for the item and issuing a proper purchase order to the division.

(2) A political subdivision may purchase articles and products under this subchapter directly from the division.

(3) If an agency or political subdivision purchasing goods under this subchapter desires to purchase goods or articles from the division, it may do so without complying with any other state law otherwise requiring the agency or political subdivision to request competitive bids for the article or product. A political subdivision is not required to purchase goods or articles from the division if the political subdivision determines that the goods or articles can be purchased elsewhere at a lower price. An agency may decline to purchase goods or articles from the division if the agency determines, after giving the division a final opportunity to negotiate on price, that the goods or articles can be purchased elsewhere at a lower price.

**Sec. \_\_\_\_ . Prices.**

The division shall determine the sales price of articles and products produced under this subchapter.

**Sec. \_\_\_\_ . Specifications.**

The department shall establish specifications for articles and products produced under this subchapter. An article or product produced under this subchapter must meet specifications established under this subsection in effect when the article or product is produced.

**Sec. \_\_\_\_ . Catalogs.**

The division shall prepare catalogs that accurately and completely describe articles and products produced under this subchapter. The division shall send copies of the catalogs to all state agencies and make the catalogs available to political subdivisions.

SUBCHAPTER D. PRIVATE SECTOR PRISON INDUSTRIES OVERSIGHT AUTHORITY

**Sec. \_\_\_\_ . Purpose; Definition.**

(1) The Private Sector Prison Industries Oversight Authority is created to approve, certify, and oversee the operation of private sector prison industries programs in the department, the youth commission, and in county correctional facilities in compliance with the federal prison enhancement certification program established under 18 U.S.C. Section 1761. The executive director shall provide the authority with clerical and technical support as necessary for the authority to perform duties imposed on the authority by this subchapter and shall ensure that the department implements the policies adopted by the authority that relate to the operation of private sector prison industries programs.

(2) In this subchapter:

- (A) "Authority" means the Private Sector Prison Industries Oversight Authority.
- (B) "Participant" means a participant in a private sector prison industries program.

**Sec. \_\_\_\_ . Membership.**

(1) The authority is composed of eight members appointed by the governor:

- (A) one of whom is representative of organized labor;
- (B) one of whom is representative of employers;
- (C) one of whom is representative of groups advocating the rights of victims of criminal offenses;
- (D) one of whom is representative of groups advocating the rights of inmates;
- (E) one of whom is experienced in the field of vocational rehabilitation; and
- (F) three of whom are public members.

(2) The following individuals shall serve as ex officio members of the authority:

- (A) a member of the house of representatives designated by the speaker of the house;
- (B) a member of the senate designated by the lieutenant governor;
- (C) the executive director of the department or the designee of the executive director;
- (D) the executive director of the state agency charged with the day-to-day operation or employment programs for residents of the state or the designee of the executive director; and
- (E) the executive director of the youth commission or the designee of the executive director.

(3) The governor shall appoint as an employer liaison to the authority one person who is an employer in the private sector prison industries program that is certified as in compliance with the federal prison enhancement certification program established under 18 U.S.C. Section 1761. The employer liaison is entitled to attend meetings of the authority and offer advice to the authority from the perspective of a prison industries employer. The employer liaison serves at the pleasure of the governor, is not entitled to vote on any issue considered by the authority, and is entitled to reimbursement for travel expenses in the same manner as is a member of the authority under this subchapter.

(4) A person may not be a public member of the authority if the person or the person's spouse:

(A) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the authority;

(B) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the authority; or

(C) uses or receives a substantial amount of tangible goods, services, or money from the authority other than compensation or reimbursement authorized by law for authority membership, attendance, or expenses.

(5) Appointments to the authority shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

#### **Sec. \_\_\_\_ . Presiding Officer.**

The governor shall designate the presiding officer from among the members of the authority, and the presiding officer shall serve in that capacity at the pleasure of the governor.

#### **Sec. \_\_\_\_ . Reimbursement.**

A member of the authority is not entitled to compensation but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the authority as provided in the General Appropriations Act.

#### **Sec. \_\_\_\_ . Private Sector Prison Industries Expansion Account.**

(1) The department shall forward money collected under this subchapter to the comptroller of public accounts. The comptroller shall deposit the money in the general revenue fund.

(2) To construct more facilities and increase the number of participants, the private sector prison industry expansion account is created as an account in the general revenue fund. Money in the account may be appropriated only to construct work facilities, recruit

corporations to participate as private sector industries programs, and pay costs of the authority and department in implementing this subchapter, including the cost to the department in reimbursing authority members and the employer liaison for expenses.

(3) On each certification by the department that an amount has been deposited to the credit of the general revenue fund from deductions from participants' wages under this subchapter, the comptroller of public accounts shall transfer an equivalent amount from the general revenue fund to the private sector prison industry expansion account until the balance in the account is \$2 million. On a certification occurring when the balance in the account is more than \$2 million, the comptroller shall transfer to the account an amount equal to one half of the amount deposited to the credit of the general revenue fund from deductions from participants' wages.

(4) The department during each calendar quarter shall make a certification of the amount deposited during the previous calendar quarter to the credit of the general revenue fund from deductions from participants' wages under this subchapter.

#### **Sec. \_\_\_\_ . Rules.**

The authority shall adopt rules as necessary to ensure that the private sector prison industries program authorized by this subchapter is in compliance with the federal prison enhancement certification program established under 18 U.S.C. 1761.

#### **Sec. \_\_\_\_ . PIECP Wage.**

(1) The authority by rule shall require that participants at each private sector prison industries program be paid not less than the prison industry enhancement certification program (PIECP) wage as computed by the state agency charged with the day-to-day operation of employment programs in the state, except that:

(A) the authority may permit employers to pay a participant the federal minimum wage for the two month period beginning on the date participation begins; and

(B) the minimum wage for participants under the supervision of the youth commission, because of the age of the participants and the extensive training component of their employment, is the federal minimum wage.

(2) For the purposes of computations required by this section:

(A) the PIECP wage is the wage paid by the employer for work of a similar nature in the location in which the work is performed;

(B) in the event that the employer has no employees other than those employed under this subchapter performing work of a similar nature within the location, the prevailing wage for work of a similar nature is determined by reference to openings and wages by occupation data collected by the state agency charged with the day-to-day operation of employment programs in the state; and

(C) the location in which work is performed is the local workforce development area in which the work is performed.

#### **Sec. \_\_\_\_ . Participant Contributions; Assistance Account.**

(1) The authority by rule shall determine the amount of deductions to be taken from wages received by the participant under this subchapter. The authority may establish deductions for participants under the supervision of the youth commission that are different than deductions established for other participants in the program. In determining the amount of deductions under this section, the authority shall ensure that the deductions do not place the private sector prison industries programs in the department in noncompliance with the federal prison enhancement certification program established under 18 U.S.C. Section 1761.

(2) The private sector prison industry crime victims assistance account is created as an account in the general revenue fund. Money in the account may be appropriated only to

the authority for the purpose of aiding victims of crime, under rules adopted by the authority.

**Sec. \_\_\_\_ . Limiting Impact on Non Prison Industry.**

(1) The authority may not grant initial certification to a private sector prison industries program if the authority determines that the operation of the program would result in the loss of existing jobs provided by the employer in this state.

(2) The authority shall adopt rules to determine whether a program would cause the loss of existing jobs of a specific type provided by the employer in this state.

(3) For the purposes of this section, a program does not result in the loss of existing jobs if, at the time of initial certification, the jobs are performed by workers in a foreign country.

**Sec. \_\_\_\_ . Workers' Compensation.**

The authority by rule shall require private sector prison industries program employers to meet or exceed all federal requirements for providing compensation to participants injured while working.

**Sec. \_\_\_\_ . Recidivism Studies.**

The authority, with the cooperation of the department, shall gather data to determine whether participation in a private sector prison industries program is a factor that reduces recidivism among participants.

*Adopted by ALEC's Criminal Justice Task Force at the Spring Task Force Summit May 1, 2004; amended at the Annual Meeting July 29, 2004. Approved by full ALEC Board of Directors August, 2004.*

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