

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 1612

INTRODUCER: Senator Baxley

SUBJECT: Prison Industry Programs

DATE: March 22, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cox	Jones	CJ	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 1612 amends s. 287.095, F.S., repealing a legislatively imposed cap on the amount of non-inmate made goods that may be provided by the Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE Enterprises) to its customers. The current cap for non-inmate made products is no more than two percent of total sales of the corporation. The PRIDE Enterprises reports that this will allow it to provide certain items complimentary to its customers that are customary for the specified industry.

The bill does not appear to have an impact on government revenues since the PRIDE Enterprises does not receive state funding or contribute to state revenues. However, the ability to provide such customary products free of charge without the additional costs of having to maintain and audit records to verify compliance with the two percent cap will likely result in a positive fiscal impact on the PRIDE Enterprises.

The bill is effective July 1, 2019.

II. Present Situation:

The PRIDE Enterprises - Background

The PRIDE Enterprises was incorporated in December 1981 and was formally established by the Legislature in 1983 to act as a private not-for-profit corporation¹ operating correctional work programs in Florida's prisons.² The final transfer of correctional work programs was completed

¹ Section 946.503(1), F.S., defines "corporation" for this chapter to mean the private nonprofit corporation established pursuant to s. 946.504(1), F.S., or a private nonprofit corporation whose sole member is the private nonprofit corporation established pursuant to s. 946.504(1), F.S., and at least 51 percent of the board of which contains members of the board of directors of the private nonprofit corporation established pursuant to s. 946.504(1), F.S., to carry out this part.

² Sections 946.501 and 946.502, F.S.; Ch. 83-209, L.O.F.

in July 1984.³ The PRIDE Enterprises does not receive funding from the Legislature and is supported by the earnings that it generates from the sale of its products and services.⁴

A correctional work program is defined to mean any program presently a part of the prison industries program operated by the Department of Corrections (DOC) or any other correctional work program carried on at any state correctional facility presently or in the future.⁵ The DOC is required to lease buildings and land to the PRIDE Enterprises to operate these correctional work programs.⁶

The PRIDE Enterprises currently operates 35 different work programs in 21 prison correctional facilities.⁷ These programs serve an average of 3,000 inmates a year, including 3,117 inmates in 2017.⁸ The inmates of these programs produce over 3,000 unique products, such as janitorial products, metal products, seating, and office and detention furniture.⁹ The PRIDE Enterprises manufactures and sells products to all levels of government as well as nonstate and private entities.¹⁰

The PRIDE Enterprises reports that it provides a number of “pass through” items to its clients at a small mark-up that it ships with the products that the PRIDE Enterprises produces. This allows the PRIDE Enterprises to serve as a single source for its customers. The PRIDE Enterprises reports that the two percent cap restricts them from being able to pass through these customary items in an amount that it would prefer.¹¹

Cap on Non-Inmate Made Goods

Section 287.095, F.S., provides, in part, that all products offered for purchase to a state agency by the PRIDE Enterprises must be produced primarily by inmate labor. The PRIDE Enterprises is able to provide products that are not made by inmates when the products are contractually allied to products made by inmates which are offered by the corporation. However, the PRIDE Enterprises may not offer these non-inmate made products in an amount that exceeds two percent of the total sales of the corporation in any year.¹²

³ The PRIDE Enterprises, *Annual Report 2017*, p. 29, available at https://www.pride-enterprises.org/Themes/PrideDefault/MediaContent/About/2017%20Annual%20Report/2017_Annual_Report.pdf (last visited March 17, 2019)(hereinafter cited as “Annual Report”).

⁴ *Id.*

⁵ Section 946.503(2), F.S. However, the term does not include any program authorized by s. 945.091, F.S. (extension of the limits on confinement, specifically work release), or s. 946.40, F.S. (use of prisoners in public works).

⁶ Section 946.504, F.S.

⁷ The PRIDE Enterprises, *Company Overview*, available at <https://www.pride-enterprises.org/content.aspx?page=CompanyOverview>; See also The PRIDE Enterprises, *PRIDE locations*, February 2, 2019, available at <https://www.pride-enterprises.org/content.aspx?page=Locations> (all sites last visited on March 17, 2019).

⁸ Annual Report, p. 19.

⁹ The PRIDE Enterprises, *PRIDE Enterprises Company Profile*, January 2019 (on file with the Senate Criminal Justice Committee).

¹⁰ Annual Report, p. 23.

¹¹ The PRIDE Enterprises, *SB 1612, HB 6055 Prison Industry Programs Repealer Bill, Explanation of Repealer Bill* (on file with the Senate Criminal Justice Committee).

¹² Section 287.095(3), F.S.

Prison Industry Enhancement Program

The Prison Industry Enhancement Program (PIE) allows for inmate-produced goods to enter into interstate commerce if produced under a Prison Industry Enhancement Certification Program (PIECP)¹³ designated authority.¹⁴ The PRIDE Enterprises is the PIECP certificate holder for the state of Florida, which allows inmates assigned to these PRIDE Enterprise industries to have the opportunity to earn wages comparable to those paid to free-world workers in the locality of the prison industry. As proscribed by law and discussed below, authorized deductions from wages are required and give inmates the opportunity to pay restitution to victims and to provide support for their families.¹⁵

The PRIDE Enterprises is authorized to operate or contract with the private sector for substantial involvement in a PIE program that includes, but is not limited to, contracts for the operation of a direct private sector business within a prison and the hiring of inmates. Any contract authorized must be in compliance with federal law governing inmate work programs and must not result in the significant displacement of employed workers in the community.¹⁶

The PRIDE Enterprises is authorized to deposit and withdraw funds from the Prison Industries Trust Fund (Trust Fund). Deposits to the fund are generated through a 50 percent withholding on all PIE inmate wages.¹⁷ The Trust Fund must consist of moneys authorized to be deducted pursuant to 18 U.S.C. s. 1761(c), U.S.C., and the applicable federal guidelines, to be appropriated by the Legislature, and moneys deposited by the PRIDE Enterprises to manage and operate correctional work programs.¹⁸

The appropriated funds must be used by the PRIDE Enterprises for purposes of construction or renovation of its facilities or for the expansion or establishment of correctional work programs or for PIE programs.¹⁹ Further, the funds must be deposited in the State Treasury and may only be paid out on warrants drawn by the Chief Financial Officer upon receipt of an authorized corporate resolution. The PRIDE Enterprises is required to maintain all necessary records and accounts relative to such funds.²⁰ Any balance in the trust fund at the end of any fiscal year must

¹³ The Bureau of Justice Assistance provides that the PIECP is “an effective inmate employment program that enables prisoners to repay their debt to society, reduce incarceration costs, and prepare for release with improved work prospects. In the process, PIECP supports victims’ families, decreases recidivism, generates products and tax income for local economies, and uses free-market principles and private-sector participation to improve efficiency in the corrections industry.” See Bureau of Justice Assistance, *PIECP Program Brief*, August 2018, available at https://www.bja.gov/Publications/PIECP-Program-Brief_2018.pdf (last visited on March 17, 2019).

¹⁴ U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, Program Brief, p. 1, March 2004, available at <https://www.ncjrs.gov/pdffiles1/bja/203483.pdf>; See also The PRIDE Enterprises, *Governing Laws*, available at <https://www.pride-enterprises.org/content.aspx?page=GoverningLaws#StatutoryMissions> (all sites last visited on March 17, 2019).

¹⁵ *Id.* In 2018, inmate workers contributed over \$112,000 to the State Crime Compensation Fund and paid over \$110,000 toward court-ordered restitution and family support.

¹⁶ Section 946.523(1), F.S.

¹⁷ The PRIDE Enterprises, *Governing Laws*, available at <https://www.pride-enterprises.org/content.aspx?page=GoverningLaws#StatutoryMissions> (last visited on March 17, 2019).

¹⁸ Section 946.522(1), F.S.

¹⁹ Such programs are authorized under s. 946.523, F.S.

²⁰ Section 946.522(2), F.S.

remain in the trust fund at the end of that year and will be available for carrying out the purposes of the trust fund.²¹

Other Statutory Requirements Placed on the PRIDE Enterprises

An inmate may be employed by the PRIDE Enterprises or by any other private entity operating on the grounds of a correctional institution during the last 24 months of the inmate's imprisonment.²² The PRIDE Enterprises is required to establish a compensation plan that provides for a specific amount to be paid to the DOC to be credited to an account for an inmate performing labor and a portion to be used to make any court-ordered payments, including restitution to the victim. Additionally, a specific amount must be paid to the Trust Fund.²³

III. Effect of Proposed Changes:

The bill amends s. 287.095, F.S., repealing the restriction that the PRIDE Enterprises is not able to provide non-inmate made goods to its customers in an amount that is more than two percent of the total corporation sales.

The removal of this cap will allow the PRIDE Enterprises to provide non-inmate made products to its customers in any amount and will remove the requirement for the PRIDE Enterprises to have to perform an audit to show compliance with this provision. The PRIDE Enterprises reports that this will allow it to provide certain items to its customers that are customary for the specified industry.²⁴

The bill is effective July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

²¹ Section 946.522(3), F.S.

²² Section 946.513(1), F.S.

²³ Section 946.512, F.S.

²⁴ *Supra*, n. 11.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill removes the statutorily imposed cap for the percentage of overall non-inmate goods which will allow the PRIDE Enterprises to provide such customary products free of charge without the additional costs of having to maintain and audit records to verify compliance. This will likely result in a positive fiscal impact on the PRIDE Enterprises.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 287.095 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.