

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 HOUSE BILL 2437

By: Biggs

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5
6 AS INTRODUCED

7 An Act relating to corrections; amending 57 O.S.
8 2011, Section 549.1, as last amended by Section 40,
9 Chapter 15, O.S.L. 2013 (57 O.S. Supp. 2015, Section
10 549.1), which relates to the Oklahoma Corrections Act
11 of 1967; authorizing sale of products to the general
12 public; creating the Oklahoma Correctional Industries
13 Oversight Board; providing for membership; stating
14 terms of appointments; providing for travel
15 reimbursement; providing for the appointment of a
16 chair and vice-chair; establishing duties of the
17 Board; directing Board to submit annual report;
18 amending 74 O.S. 2011, Section 123f, as amended by
19 Section 813, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
20 2015, Section 123f), which relates to the sale or
21 distribution of convict-made goods; authorizing sale
22 of products to the general public; providing for
23 codification; and providing an effective date.

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28 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

29 SECTION 1. AMENDATORY 57 O.S. 2011, Section 549.1, as
30 last amended by Section 40, Chapter 15, O.S.L. 2013 (57 O.S. Supp.
31 2015, Section 549.1), is amended to read as follows:

32 Section 549.1 A. The Department of Corrections is authorized
33 to purchase in the manner prescribed by law, facilities, equipment,
34 raw materials and supplies, and to engage the supervisory personnel

1 necessary to establish and maintain for this state at the penal
2 institutions, now or hereafter under the control of the State Board
3 of Corrections, industries and agricultural programs for the
4 utilization of services of prisoners in the manufacture or
5 production of the articles or products as may be needed for the
6 construction, operation, maintenance or use of any office,
7 department, institution or agency supported in whole or in part by
8 this state and the political subdivisions thereof. Upon the request
9 of the Oklahoma Historical Society or the Oklahoma Tourism and
10 Recreation Department, the Department of Corrections shall provide
11 labor for and shall produce or manufacture articles, products or
12 materials needed for the repair, construction and maintenance of
13 historical sites and state parks including, but not limited to, the
14 production of materials and products needed for the reconstruction
15 of historic forts in the state.

16 B. All articles and services provided by the Department of
17 Corrections in the state correctional institutions, and not required
18 for use therein, shall be purchased as required by all offices,
19 departments, institutions, agencies, counties, schools, colleges,
20 universities, or political subdivisions or any agency thereof of
21 this state which are supported in whole or in part by this state, if
22 such article or service is the lowest and best bid, and no such
23 article or product may be purchased by any such office, department,
24 institution, agency, county, school, college, university, or

1 political subdivisions or agency thereof from any other source
2 unless excepted from the provisions as hereinafter provided.

3 Purchases made by the above-described state agencies may be made by
4 submitting the proper requisition through the Office of Management
5 and Enterprise Services or by direct order to the ~~prison industries~~
6 Oklahoma Correctional Industries program of the Department of
7 Corrections.

8 C. If a requisition is received by the Office of Management and
9 Enterprise Services or a direct order is received by the ~~Prison~~
10 Oklahoma Correctional Industries Program program of the Department
11 of Corrections from a state agency for any product or service
12 provided by the Department of Corrections and such product or
13 service is also available from a severely handicapped person or a
14 qualified nonprofit agency for the severely handicapped as provided
15 in Section 3001 et seq. of Title 74 of the Oklahoma Statutes at a
16 comparable price, then the product or service shall be purchased
17 from such severely handicapped person or qualified nonprofit agency
18 for the severely handicapped. If the product or service is not
19 available within the time period required by the purchasing state
20 agency, then such product or service shall be purchased from the
21 Department of Corrections under the provisions of this section.

22 D. All offices, departments, institutions, agencies, counties,
23 cities, districts or political subdivisions, schools, colleges, or
24 universities, or any agency thereof, or any agencies of the state,

1 which are supported in whole or in part by this state, may purchase
2 the goods or services produced by the ~~prison industries~~ Oklahoma
3 Correctional Industries program of the Department of Corrections
4 through their properly authorized purchasing authority, or they may
5 place a direct order without competitive bid, with the ~~prison~~
6 ~~industries~~ Oklahoma Correctional Industries program of the
7 Department of Corrections.

8 E. Not-for-profit corporations or charitable agencies chartered
9 in Oklahoma or other states may purchase such goods and services.
10 Units of the federal government and units of government in other
11 states may also purchase such goods and services. All entities
12 which contract with the state, its political units, its agencies,
13 its public institutions, not-for-profit corporations or charitable
14 agencies chartered in Oklahoma may purchase goods or services from
15 the Department of Corrections which are used in the performance of
16 such contracts. Any church located in the State of Oklahoma may
17 also purchase goods and services produced by the ~~prison industries~~
18 Oklahoma Correctional Industries program of the Department of
19 Corrections. Any community action agency or council of governments
20 within this state may purchase housing components produced by the
21 ~~prison industries~~ Oklahoma Correctional Industries program of the
22 Department of Corrections. Nothing shall prohibit the Department
23 from bidding on portions of a state contract which are subcontracted
24 by the primary contractor.

1 F. ~~Others are prohibited from purchasing such goods and~~
2 ~~services, with the exception that all~~ 1. All surplus agricultural
3 products may be sold on the open market or bartered and exchanged
4 for other food, feed or seed products of comparable value. The
5 Department of Corrections shall keep complete and accurate records
6 of any such barters or exchanges in such form and manner as the
7 Office of Management and Enterprise Services may prescribe. A copy
8 of such records shall be filed with the Office of Management and
9 Enterprise Services no later than March 1 of each year for all
10 barters or exchanges occurring in the previous calendar year. When
11 practicable, the Department of Corrections may accept and process
12 agricultural products from the public and may export the resulting
13 products to foreign markets.

14 2. All products, wares and merchandise produced or manufactured
15 by the Oklahoma Correctional Industries program of the Department of
16 Corrections may be sold to the general public.

17 G. Products manufactured by the Oklahoma Correctional
18 Industries program of the Department of Corrections shall be of
19 styles, patterns, designs and quantities specified by the Department
20 of Corrections except where the same have been or may be specified
21 by the Office of Management and Enterprise Services. Products shall
22 be provided at a fair market price for comparable quality.

23 H. State agencies shall make maximum utilization of such
24 products and no similar products shall be purchased by state

1 agencies from any other source than the Department of Corrections
2 except as provided in subsection C of this section, unless the
3 Department of Corrections certifies to the State Purchasing Director
4 that it is not able to provide products, and no claim therefor shall
5 be paid without such certification.

6 I. Exceptions from the mandatory provisions hereof may be made
7 in any case where, in the opinion of the Office of Management and
8 Enterprise Services, the article or product does not meet the
9 reasonable requirements of or for such offices, departments,
10 institutions or agencies, or in any case where the requisitions made
11 cannot be reasonably complied with. No such offices, departments,
12 institutions or agencies, shall be allowed to evade the intent and
13 meaning of this section by slight variations from standards adopted
14 by the Office of Management and Enterprise Services, when the
15 articles, services or products produced or manufactured by the
16 Oklahoma Correctional Industries program of the Department of
17 Corrections, in accordance with established standards, are
18 reasonably adapted to the actual needs of such offices, departments,
19 institutions or agencies.

20 J. In the event of disagreement between the Department of
21 Corrections and the State Purchasing Director on fairness of price,
22 ability to comply to specifications, reasonableness of
23 specifications and timeliness of delivery of products the matter
24 will be resolved by the Central Purchasing Director.

1 K. The Office of Management and Enterprise Services shall
2 cooperate with the Department of Corrections in seeking to promote
3 for use in state agencies and by all other eligible customers,
4 including the general public, the products manufactured and services
5 provided by the ~~prison industries~~ Oklahoma Correctional Industries
6 program of the Department of Corrections.

7 L. The Department of Corrections shall prepare catalogs
8 containing the description of all goods and services provided, with
9 the pricing of each item. Copies of such catalog shall be sent by
10 the Department of Corrections to all offices, departments,
11 institutions and agencies of this state, and shall be available for
12 distribution to all other eligible customers, including the general
13 public.

14 SECTION 2. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 549.3 of Title 57, unless there
16 is created a duplication in numbering, reads as follows:

17 A. There is hereby created, to continue until January 1, 2023,
18 in accordance with the provisions of the Oklahoma Sunset Law, an
19 oversight board to be known as the Oklahoma Correctional Industries
20 Oversight Board, to be composed of the following members:

21 1. One member of the Oklahoma House of Representatives, to be
22 appointed by the Speaker of the Oklahoma House of Representatives;

23 2. One member of the Oklahoma State Senate, to be appointed by
24 the President Pro Tempore of the Oklahoma State Senate;

1 3. One member of the State Board of Corrections, to be
2 appointed by the chair of the State Board of Corrections;

3 4. One member of the State Board of Career and Technology
4 Education, to be appointed by the chair of the State Board of Career
5 and Technology Education; and

6 5. One member who is the administrator of the Oklahoma
7 Correctional Industries program.

8 The terms of the initially appointed members shall commence on
9 January 1, 2017. Appointed members shall serve a term of two (2)
10 years and may be removed for cause by the appointing authority.

11 Members may be appointed for additional terms. Any vacancies in the
12 appointive membership of the Oklahoma Correctional Industries
13 Oversight Board shall be filled in the same manner as the original
14 appointment. A majority of the members appointed to the Oversight
15 Board shall constitute a quorum and a majority present may transact
16 any business on behalf of the Oversight Board.

17 B. Members shall be reimbursed for travel in the performance of
18 their official duties in accordance with the State Travel
19 Reimbursement Act.

20 C. The Oversight Board shall select one of its members as chair
21 and one as vice-chair of the Oversight Board. The Oversight Board
22 shall meet at such other times and places as may be set by the chair
23 of the Oversight Board.
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1 D. The duties of the Oversight Board shall be to provide
2 oversight of the Oklahoma Correctional Industries program to ensure
3 that all inmate work and on-the-job training programs are cost-
4 effective and designed to reduce recidivism.

5 E. The Oklahoma Correctional Industries Oversight Board shall
6 provide an annual written report regarding the activities, findings
7 and recommendations of the Oversight Board relating to the Oklahoma
8 Correctional Industries program to the Speaker of the Oklahoma House
9 of Representatives and the President Pro Tempore of the Oklahoma
10 State Senate on or before March 1 of each year.

11 SECTION 3. AMENDATORY 74 O.S. 2011, Section 123f, as
12 amended by Section 813, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
13 2015, Section 123f), is amended to read as follows:

14 Section 123f. ~~No products~~ A. Products, wares, or merchandise
15 produced, manufactured, or mined, wholly or in part, by convicts or
16 prisoners of this state, who are employed ~~in~~ by the ~~state prison~~
17 ~~industries~~ Oklahoma Correctional Industries program or Agri-Services
18 Division of the Department of Corrections, may be offered for sale,
19 sold, exchanged, or distributed in this state, whether contained in
20 the original package or otherwise. ~~This section shall not prohibit~~
21 ~~the sale or distribution of such products, wares, or merchandise by~~
22 ~~or for the state~~ to the general public and to departments:

23 1. Departments, institutions, or agencies administered and
24 supported by the state or its political subdivisions, and any other

1 wholly or partially tax-supported institutions, or nonprofit
2 charitable agencies for distribution to the needy. ~~This section~~
3 ~~shall not prohibit the sale or distribution of such products, wares,~~
4 ~~or merchandise produced by Oklahoma Correctional Industries or~~
5 ~~products produced by the Agri-Services Division of the Department of~~
6 ~~Corrections by or for sale to employees; or~~

7 2. Employees or retirees of the State of Oklahoma, or to
8 employees or retirees of any political subdivision of the state.

9 B. This section ~~shall not prohibit the~~ further authorizes:

10 1. The sale or distribution of housing components produced by
11 the Oklahoma Correctional Industries program by or for sale to any
12 community action agency or council of governments within this state.
13 ~~This section shall not prohibit the; and~~

14 2. The sale of brick and building tile or furniture
15 manufactured by said state institutions to churches which are
16 located in the State of Oklahoma. All purchase orders made pursuant
17 to the provisions of this ~~section~~ paragraph for such brick or
18 building tile or furniture shall contain an affidavit stating that
19 the brick or building tile shall not be used for purposes other than
20 for the building of churches, or that the furniture shall not be
21 used for any purpose other than church purposes.

22 C. If said state departments, institutions, agencies, or
23 nonprofit charitable agencies do not buy or contract to buy in
24 advance of the season for which said wares or goods are made, and

1 make a satisfactory guarantee to the Office of Management and
2 Enterprise Services for fulfillment of their contract to purchase
3 all the output, the state may then sell in open market any such
4 goods or wares not generally manufactured in this state.

5 D. The provisions of this section shall not apply to the sale
6 or distribution of surplus perishable, agricultural products nor to
7 individual articles made by hand by prisoners during their leisure
8 time.

9 E. This section shall not be construed as preventing the Office
10 of Management and Enterprise Services or other state agency or
11 agencies from manufacturing and selling such goods, wares, or
12 merchandise as are not generally manufactured in this state.

13 SECTION 4. This act shall become effective November 1, 2016.

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