

107TH CONGRESS
1ST SESSION

S. 1295

To amend title 18, United States Code, to revise the requirements for procurement of products of Federal Prison Industries to meet needs of Federal agencies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2001

Mr. LEVIN (for himself and Mr. THOMAS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to revise the requirements for procurement of products of Federal Prison Industries to meet needs of Federal agencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PURCHASES FROM FEDERAL PRISON INDUS-**
4 **TRIES.**

5 (a) REVISION OF PREFERENCE.—Section 4124 of
6 title 18, United States Code, is amended by striking sub-
7 sections (a) and (b) and inserting the following:

1 “(a) A Federal agency that has a requirement for a
2 specific product listed in the current edition of the catalog
3 required by subsection (d) shall—

4 “(1) provide a copy of the notice required by
5 section 18 of the Office of Federal Procurement Pol-
6 icy Act (41 U.S.C. 416) to Federal Prison Indus-
7 tries at least 15 days before the issuance of a solici-
8 tation of offers for the procurement of such product;

9 “(2) use competitive procedures for the procure-
10 ment of that product unless—

11 “(A) the head of that agency justifies the
12 use of procedures other than competitive proce-
13 dures in accordance with section 2304(f) of title
14 10 or section 303(f) of the Federal Property
15 and Administrative Services Act of 1949 (41
16 U.S.C. 253(f)); or

17 “(B) the Attorney General makes the de-
18 termination described in subsection (b)(1) with-
19 in 15 days after receiving a notice of the re-
20 quirement pursuant to paragraph (1); and

21 “(3) consider a timely offer from Federal Pris-
22 on Industries for award in accordance with the spec-
23 ifications and evaluation factors specified in the so-
24 licitation.

1 “(b) A Federal agency that has a requirement for a
2 product referred to in subsection (a) shall—

3 “(1) enter into negotiations with Federal Prison
4 Industries on a contract for the purchase of the
5 product on a noncompetitive basis if the Attorney
6 General personally determines, within the period de-
7 scribed in subsection (a)(2)(B), that—

8 “(A) it is not reasonable to expect that
9 Federal Prison Industries would be selected for
10 award of the contract on a competitive basis;
11 and

12 “(B) it is necessary to award the contract
13 to Federal Prison Industries in order—

14 “(i) to maintain work opportunities
15 that are essential to the safety and effec-
16 tive administration of the penal facility at
17 which the contract would be performed; or

18 “(ii) to permit diversification into the
19 manufacture of a new product that has
20 been approved for sale by the Federal Pris-
21 on Industries board of directors in accord-
22 ance with this chapter; and

23 “(2) award the contract to Federal Prison In-
24 dustries if the contracting officer determines that
25 Federal Prison Industries can meet the requirements

1 of the agency with respect to the product in a timely
2 manner and at a fair and reasonable price.”.

3 (b) CONFORMING AMENDMENTS.—Subsection (c) of
4 such section is amended—

5 (1) by striking “Federal department, agency,
6 and institution” in the first sentence and inserting
7 “Federal agency”; and

8 (2) by striking “department, agency, or institu-
9 tion” in the second sentence and inserting “Federal
10 agency”.

11 **SEC. 2. LIMITATION ON NEW PRODUCTS AND EXPANSION**
12 **OF PRODUCTION.**

13 Section 4122(b) of title 18, United States Code, is
14 amended—

15 (1) by redesignating paragraphs (4), (5), and
16 (6) as paragraphs (5), (6), and (7), respectively;

17 (2) by inserting after paragraph (3) the fol-
18 lowing new paragraph (4):

19 “(4) Federal Prison Industries shall, to the maximum
20 extent practicable, concentrate any effort to produce a new
21 product or to expand significantly the production of an
22 existing product on products that are otherwise produced
23 with non-United States labor.”; and

1 (3) in paragraph (6), as so redesignated, by
2 striking out “paragraph (4)(B)” and inserting in
3 lieu thereof “paragraph (5)(B)”.

4 **SEC. 3. RESTRICTION ON INMATE ACCESS TO SENSITIVE IN-**
5 **FORMATION.**

6 (a) IN GENERAL.—Chapter 307 of title 18, United
7 States Code, is amended by adding at the end the fol-
8 lowing new section:

9 **“§ 4130. Restriction on inmate access to sensitive in-**
10 **formation**

11 “The board of directors of Federal Prison Industries
12 may not approve a proposal for inmates to provide a serv-
13 ice in which an inmate worker has access to any of the
14 following information:

15 “(1) Personal or financial information about an
16 individual (including any information that relates to
17 the individual’s real property, however described)
18 unless the individual has been notified that the in-
19 mate is to have access to the information.

20 “(2) Any data that—

21 “(A) is classified in the interest of national
22 defense or foreign policy; or

23 “(B) will become classified in such interest
24 after being merged with other data.

1 “(3) Geographic data regarding the location
2 of—

3 “(A) any surface or subsurface infrastruc-
4 ture for providing communications, water, or
5 electrical power distribution;

6 “(B) any pipeline for the distribution of
7 natural gas, bulk petroleum products, or other
8 commodity; and

9 “(C) any other utility.”.

10 (b) CLERICAL AMENDMENT.—The table of sections
11 at the beginning of such chapter is amended by adding
12 at the end the following new item:

“4130. Restriction on inmate access to sensitive information.”.

13 **SEC. 4. PROHIBITIONS ON REQUIRING SUBCONTRACTING**
14 **WITH FEDERAL PRISON INDUSTRIES.**

15 (a) IN GENERAL.—Chapter 307 of title 18, United
16 States Code, as amended by section 3, is further amended
17 by adding at the end the following new section:

18 **“§ 4131. Prohibition on requiring subcontracting with**
19 **Federal Prison Industries**

20 “(a) A contractor or potential contractor of the
21 United States may not be required to use Federal Prison
22 Industries as a subcontractor or supplier of products, or
23 as a provider of services, under a contract of the United
24 States by any means, including such means as—

1 “(1) a contract solicitation of offers for a con-
2 tract that requires offers to contain a commitment
3 to use Federal Prison Industries, its products, or its
4 services in the performance of the contract;

5 “(2) a contract specification that requires the
6 contractor to use a specific product or service (or
7 class of products or services) offered by Federal
8 Prison Industries in the performance of the contract;
9 and

10 “(3) any contract modification that imposes a
11 requirement to use Federal Prison Industries, its
12 products, or its services in the performance of the
13 contract.

14 “(b) In this section, the term ‘contractor’ includes a
15 subcontractor of a contractor at any tier under a con-
16 tract.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 of the beginning of such chapter, as amended by section
19 3, is further amended by adding at the end the following
20 new item:

“4131. Prohibition on requiring subcontracting with Federal Prison Indus-
tries.”.

1 **SEC. 5. UNLAWFUL TRANSPORTATION OR IMPORTATION OF**
2 **PRODUCTS, SERVICES, OR MINERALS RE-**
3 **SULTING FROM CONVICT LABOR.**

4 Section 1761 of title 18, United States Code, is
5 amended—

6 (1) in subsection (a), by inserting after “any
7 goods, wares, or merchandise manufactured, pro-
8 duced, or mined, wholly or in part by convicts or
9 prisoners,” the following: “or sells in interstate com-
10 merce any services furnished wholly or in part by
11 convicts or prisoners,”; and

12 (2) in subsection (c), by inserting “, or services
13 furnished,” after “or mined” in the matter pre-
14 ceding paragraph (1).

15 **SEC. 6. EFFECTIVE DATE.**

16 The amendments made by this Act shall take effect
17 180 days after the date of the enactment of this Act.

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