

197.105 Prison Industry Enhancement Certification Program (PIECP) -- Lease of labor of state prisoners within department's facilities for production of nonagricultural goods for sale to public and private buyers.

- (1) The department may administer a Prison Industry Enhancement Certification Program (PIECP) and may lease the labor of state prisoners within the boundaries of the state's Department of Corrections facilities for the production of nonagricultural goods for sale to both public and private buyers, if the department meets the conditions set out in this section. This section shall apply only to the leasing of labor in accordance with a PIECP and not to programs otherwise operated by Kentucky Correctional Industries.
- (2) The department shall not lease the labor of a prisoner who does not consent in writing to the leasing of that prisoner's labor.
- (3) The department shall retain full responsibility for the care, custody, and control of the prisoner and shall supply appropriate security and custody services without cost to the person leasing the labor.
- (4) The department shall ensure that the prisoner is paid wages at a rate not less than that paid for work of a similar nature in the locality in which the work takes place, as determined by the Labor Cabinet, and never less than the federal minimum wage. The final decision on the appropriate wage, in keeping with federal and state labor and wage laws, shall be made by the Labor Cabinet.
- (5) The department shall not allow a prisoner whose labor has been leased under this section to:
 - (a) Engage in work that would result in the displacement of employed workers in the specific Department of Corrections locale. As used in this paragraph, a displaced employed worker is:
 1. A civilian worker employed in the same task by the employer leasing or applying to lease prisoner labor, who would lose his or her job if the prisoner labor were leased; or
 2. A civilian worker who is employed full-time and, as a result of the prisoner labor lease, is forced to work part-time, regardless of wage increase.

A civilian worker is not considered displaced for the purposes of this paragraph if the civilian worker remains employed in a job acceptable to that worker and at equal or higher wages than that worker previously received. The employer shall provide whatever retraining is required of the civilian worker at no cost to the civilian worker;
 - (b) Labor in a skill, craft, or trade in which there is a surplus of labor for that skill, craft, or trade in that specific Department of Corrections locale;
 - (c) Perform any work that would impair existing contracts for goods or services;
 - (d) Perform leased work outside of Department of Corrections facilities; or
 - (e) Perform leased construction work inside or outside Department of Corrections facilities.

- (6) Before the commencement of any leased labor project at a Department of Corrections facility under this section, the department shall:
 - (a) Receive a written projection from the Labor Cabinet that the leased labor project shall not result in acts prohibited by subsection (5)(a) to (c) of this section;
 - (b) Receive written documentation from the employer leasing or applying to lease prisoner labor agreeing to not displace any of its nonprisoner employees with leased prisoner labor;
 - (c) Have written documentation of consultation with local unions representing labor in the specific Department of Corrections facility's locale in any skill, craft, or trade in which a prisoner may labor at that facility. If a local union is not available, the department shall consult with a similar statewide union. The department shall present this information to the Kentucky State Corrections Commission;
 - (d) Have written documentation of consultation with local private businesses that may be economically impacted by the leased labor project. The department shall present this information to the Kentucky State Corrections Commission; and
 - (e) Have written documentation of compliance with the National Environmental Policy Act (NEPA).
- (7) The leasing of prisoner labor shall not be deemed to create an employer-employee relationship between the person leasing the labor of the prisoner and the prisoner. However, the person leasing the labor of the prisoner shall provide for workers' compensation coverage for the prisoner and, if applicable, Social Security coverage for the prisoner.
- (8) A prisoner, as a condition of participation in a program operating under the provisions of this section, shall agree to the deductions from the prisoner's earnings set out in this subsection. The department or the person leasing the labor of the prisoner shall deduct, in the following order, from a prisoner's gross wages:
 - (a) If the prisoner is the subject of a court or administrative order for the support of a dependent, no less than twenty-five percent (25%) for the payment of the court or administratively ordered support. These deducted wages shall be paid to the Cabinet for Health and Family Services' Child Support Enforcement Program for disbursement in accordance with federal and state law;
 - (b) Twenty percent (20%) to be paid to the crime victim's compensation fund established in KRS 49.480;
 - (c) Applicable federal, state, and local taxes, including Social Security if applicable; and
 - (d) Reasonable room and board fees established by the department by administrative regulation.Total deductions from a prisoner's gross wages shall not exceed eighty percent (80%).
- (9) The department shall require any person leasing the labor of a prisoner to post bond,

with good surety, in an amount determined by the department, against any judgment that may be entered against the department arising from the leasing of prisoner labor to that person.

- (10) In leasing prisoner labor under this section, the department shall seek to have the labor leased to the highest responsible bidder.
- (11) The department shall provide for reasonable access to the grounds of the Department of Corrections facilities for the person leasing the inmate labor and for the location of the work and the transporting and siting of equipment and supplies, with the security of the public being paramount.
- (12) The department may promulgate administrative regulations to implement the provisions of this section.

Effective: June 29, 2017

History: Created 2017 Ky. Acts ch. 158, sec. 27, effective June 29, 2017; and ch. 167, sec. 21, effective June 29, 2017.

Legislative Research Commission Note (6/28/2019). Subsection (8)(b) of this statute, as created under 2017 Ky. Acts ch. 158, sec. 27, and amended in ch. 167, sec. 21, contained a reference to "the crime victims' compensation fund created under KRS 346.185." This reference has been changed to read "the crime victims' compensation fund created under KRS 49.480." KRS 346.185 was repealed, reenacted as KRS 49.480, and amended by 2017 Ky. Acts ch. 74, sec. 48, but the reference noted above was not changed to conform with the renumbering during codification. The Reviser of Statutes has made this change under the authority of KRS 7.136(1)(e).

Legislative Research Commission Note (6/29/2017). The text of this statute was created in 2017 Ky. Acts ch. 158, sec. 27 and amended in 2017 Ky. Acts ch. 167, sec. 21.