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# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



# ENROLLED

## House Bill No. 2274

(By Mr. Speaker, Mr. Kiss, and Delegates Walters,  
Leach, Clements and Webb)



Passed March 14, 1998

In Effect Ninety Days from Passage

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## ENROLLED

COMMITTEE SUBSTITUTE

FOR

# H. B. 2274

(BY MR. SPEAKER, MR. KISS, AND DELEGATES WALTERS,  
LEACH, CLEMENTS AND WEBB)

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[Passed March 14, 1998; in effect ninety days from passage.]

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AN ACT to amend and reenact section fifteen, article five-b, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the sale of prison-made goods; exception to prohibition for waste tire products; prohibition against sales of waste tire products at a loss; and profits to be divided equally between prison industries fund and crime victims fund.

*Be it enacted by the Legislature of West Virginia:*

That section fifteen, article five-b, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

### **ARTICLE 5B. PRISON-MADE GOODS.**

#### **§28-5B-15. Sale of prison-made goods on open market prohibited; penalty; exceptions.**

- 1 (a) Subject to the provisions of subsections (b) and (c)
- 2 of this section, it is unlawful to sell or offer for sale on the
- 3 open market of this state any articles or products
- 4 manufactured or produced, wholly or in part, in this or

5 any other state, by convicts or prisoners of this state, or  
6 any other state, except convicts or prisoners on parole or  
7 probation. This provision does not apply to the sale of  
8 products made with waste tires: *Provided*, That any use of  
9 waste tires shall comply with applicable laws and rules of  
10 the division of environmental protection: *Provided*,  
11 *however*, That any products made by inmates from waste  
12 tires and sold on the open market must be competitively  
13 priced with privately produced goods of the same nature  
14 and may not be sold at a loss: *Provided further*, That any  
15 profits earned from the sale of products made by inmates  
16 from waste tires shall be distributed as follows: First, to the  
17 prison industries fund to reimburse all moneys expended  
18 in the collection of waste tires and the production of waste  
19 tire products, including a reasonable amount to be set  
20 aside for the periodic replacement of outdated, obsolete or  
21 inoperable machinery or equipment used in collection or  
22 production, and second, any moneys remaining shall be  
23 divided equally between the prison industries fund and the  
24 crime victims compensation fund established by the  
25 provisions of section two, article two-a, chapter fourteen of  
26 this code.

27 (b) Any person violating the provisions of this section  
28 is guilty of a misdemeanor and, upon conviction, shall be  
29 punished by a fine of not less than two hundred dollars  
30 nor more than five thousand dollars, or by imprisonment  
31 in jail not less than three months nor more than one year,  
32 or by both fine and imprisonment. Each sale or offer for  
33 sale shall constitute a separate offense under this section.

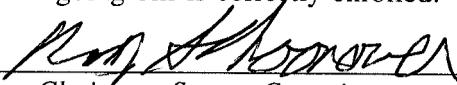
34 (c) Notwithstanding the provisions of subsection (a) of  
35 this section, any articles or products manufactured or  
36 produced, wholly or in part, by inmates of West Virginia  
37 penal and correctional institutions and facilities which are  
38 designed and intended to be used solely by blind and  
39 handicapped persons, including, but not limited to, braille  
40 books and reading materials, may be sold or offered for  
41 sale or distributed on the open market by the department  
42 of corrections or other state department or agency.

43 (d) Notwithstanding the provisions of subsection (a) of  
44 this section, arts and crafts produced by inmates may be

45 sold to the general public by the department of  
46 corrections or by other agencies or departments of state  
47 government as the commissioner of corrections may  
48 designate. The arts and crafts shall be sold only on a  
49 consignment basis so that inmates whose arts and crafts  
50 products are sold shall receive payment for the products.  
51 The payments shall be deposited in the accounts or funds  
52 and managed in a manner as provided by section six,  
53 article five of this chapter: *Provided*, That where the state  
54 department of corrections or any other agency or  
55 department of state government provides any materials  
56 used in the production of an arts and crafts product, the  
57 fair market value of the materials may be deducted from  
58 the account of the individual inmate after the sale of the  
59 product.

60 (e) For purposes of this section, "arts and crafts" means  
61 articles produced individually by artistic or craft skill such  
62 as, but not limited to, painting, sculpture, pottery and  
63 jewelry.

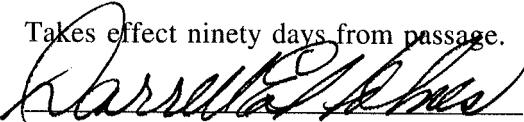
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

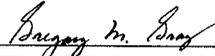
  
Chairman Senate Committee

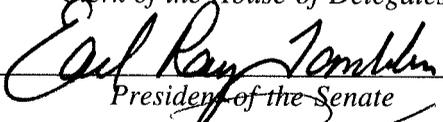
  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

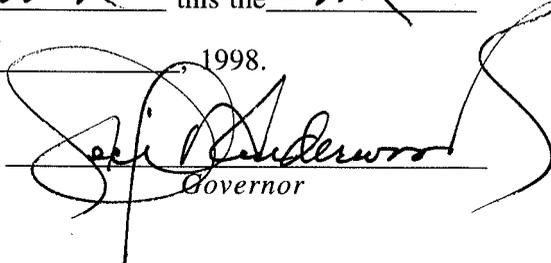
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within approved this the 27th  
day of March, 1998.

  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/26/98

Time 10:05 am