

CHAPTER 737

H.B. No. 1718

AN ACT

relating to work programs for inmates and former inmates of a county jail or state prison.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 171, Tax Code, is amended by adding Subchapter L to read as follows:

**SUBCHAPTER L. TAX CREDIT FOR WAGES PAID
TO INMATES OR FORMER INMATES**

Sec. 171.651. **DEFINITIONS.** *In this subchapter:*

(1) "Inmate" means an inmate in a prison industries program operated by the prison industries office of the institutional division under Subchapter A, Chapter 497, Government Code.

(2) "Institutional division" means the institutional division of the Texas Department of Criminal Justice.

Sec. 171.652. **CREDIT.** *A corporation that meets the eligibility requirements under this subchapter is entitled to a credit in the amount allowed by this subchapter against the tax imposed under this chapter.*

Sec. 171.653. **CREDIT FOR WAGES PAID TO INMATE.** (a) *The amount of the credit for wages paid by a corporation to an inmate is equal to 10 percent of that portion of the wages paid that the institutional division apportions to the state under Section 497.004(b)(3), Government Code, as reimbursement for the cost of the inmate's confinement.*

(b) A corporation is eligible for the credit under this section only if it receives before the due date of its franchise tax report for the privilege period for which the credit is claimed a written certification from the institutional division stating the amount of the wages that the corporation paid to an inmate during the privilege period and the amount of those wages that the institutional division apportioned to the state as reimbursement for the cost of the inmate's confinement.

(c) A corporation is eligible for the credit under this section only if the inmate for whom it is paid has been continuously employed for not less than six months.

Sec. 171.654. CREDIT FOR WAGES PAID TO EMPLOYEE WHO WAS AN INMATE.

(a) The amount of the credit for wages paid by a corporation to an employee who was employed by the corporation when the employee was an inmate is equal to 10 percent of that portion of the wages paid that, were the employee still an inmate, the institutional division would apportion to the state under Section 497.004(b)(3), Government Code, as reimbursement for the cost of the inmate's confinement.

(b) A corporation is eligible for the credit under this section only if:

(1) the employee who was formerly an inmate was continuously employed for not less than six months while an inmate and has been continuously employed by the corporation for at least one year after the date that the employee was released from prison;

(2) the nature of the employment is substantially similar to the employment the employee had with the corporation when the employee was an inmate or the employment requires more skills or provides greater opportunities for the employee;

(3) the corporation has provided the institutional division a statement of the amount of wages paid the employee during the accounting period on which the credit is computed; and

(4) the corporation receives before the due date of its franchise tax report for the privilege period for which the credit is claimed a written certification from the institutional division stating the amount of the wages that, were the employee still an inmate, the institutional division would have apportioned to the state as reimbursement for the cost of the inmate's confinement.

(c) A corporation may claim a credit under this section only for:

(1) wages paid an employee after the employee has been employed by the corporation for more than one year after the date of the employee's release from prison; and

(2) wages paid the employee for not longer than one year.

Sec. 171.655. LIMITATION. The credit claimed for each privilege period may not exceed 50 percent of the amount of net franchise tax due for the privilege period after any other applicable tax credits.

Sec. 171.656. APPLICATION FOR CREDIT. (a) A corporation must apply for a credit under this subchapter on or with the tax report for the period for which the credit is claimed.

(b) The comptroller shall promulgate a form for the application for the credit. A corporation must use this form in applying for the credit.

Sec. 171.657. PERIOD FOR WHICH CREDIT MAY BE CLAIMED. A corporation may claim a credit under this subchapter for wages paid during an accounting period only against the tax owed for the corresponding privilege period.

SECTION 2. Subchapter A, Chapter 497, Government Code, is amended by adding Section 497.009 to read as follows:

Sec. 497.009. CERTIFICATION FOR FRANCHISE TAX CREDIT. The institutional division or the prison industries office on behalf of the institutional division shall prepare and issue a certification that a corporation requires to establish eligibility for the franchise tax credit for wages paid to inmates or employees who were inmates under Subchapter L, Chapter 171, Tax Code.

SECTION 3. Subchapter A, Chapter 497, Government Code, is amended by adding Section 497.010 to read as follows:

Sec. 497.010. COMPLIANCE. The prison industries office may enter into a contract with a private business under Section 497.006 only if the contract specifies that the prison

industries office and the private business will comply with the Private Sector/Prison Industry Enhancement Certification Program operated by the Bureau of Justice Assistance and authorized by 42 U.S.C. Section 3701 et seq.

SECTION 4. Section 497.022, Government Code, is amended to read as follows:

Sec. 497.022. PURPOSE. The purpose of this subchapter is to:

(1) provide adequate, regular, and suitable employment for the vocational training and rehabilitation of inmates, consistent with proper penal purposes;

(2) use the labor of inmates for self-maintenance;

(3) reimburse the state for expenses caused by the crimes of inmates and the cost of their confinement; ~~and~~

(4) provide for the requisition and disbursement of institutional division articles and products through established state authorities to eliminate the possibility of private profits from the distribution of those articles and products; *and*

(5) *provide materials, products, or articles for sale to a private person or for the use of the state or a political subdivision of the state.*

SECTION 5. Section 497.035(a), Government Code, is amended to read as follows:

Sec. 497.035. OFFENSE: SALE OR OFFER OF SALE OF PRISON-PRODUCED ARTICLES OR PRODUCTS. (a) A person commits an offense if the person intentionally sells or offers to sell on the open market in this state an article or product the person knows was manufactured in whole or in part by an inmate of the institutional division or an inmate in a correctional facility in any other state, other than an inmate who was on probation or parole *or employed by an enterprise who has employed the inmate to advantage themselves of the Franchise Tax Credit offered under Subchapter L, Chapter 171, Tax Code, at the time of manufacture.*

SECTION 6. A corporation may claim the credit under Subchapter L, Chapter 171, Tax Code, as added by this Act, only for any wages paid or incurred on or after the effective date of this Act and only on a franchise tax report due under Chapter 171, Tax Code, on or after January 1, 1994.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 11, 1993, by a non-record vote; the House concurred in Senate amendments to H.B. No. 1718 on May 27, 1993, by a non-record vote; passed by the Senate, with amendments, on May 25, 1993, by a viva-voce vote.

Approved June 16, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.