An Act

ENROLLED SENATE
BILL NO. 1539

By: Brecheen and Allen of the Senate

and

Armes, Condit, Roberts (Dustin) and Walker of the House

An Act relating to prisons and reformatories; amending 57 O.S. 2011, Section 222, which relates to the Prisoners Public Works Act; expanding definition; amending 57 O.S. 2011, Section 549.1, which relates to purchase of prison industries goods and services; authorizing the Department of Corrections to accept, process and export certain agriculture products; and providing an effective date.

SUBJECT: Prisons and reformatories

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

SECTION 1. AMENDATORY 57 O.S. 2011, Section 222, is amended to read as follows:

Section 222. A. It shall be unlawful to use prisoners assigned to said public works project on any property other than public property, except that inmate labor may be used on private property for a public purpose.

B. As used in this section "public purpose" means a purpose affecting the inhabitants of the state or political subdivision utilizing the inmate labor, as a group, and not merely as individuals. The work performed shall be essentially public and for

the general good of the inhabitants of the state or political subdivision, and may include eradication of graffiti on private buildings or harvesting Eastern Red Cedar trees. For purposes of this section:

1. "Graffiti" shall include but not be limited to any inscription, slogan or drawing, crudely scratched, drawn, printed, painted or scribbled on a wall or other surface visible to the public and which is likely to endanger the health or safety of the public. Provided, however, that this definition shall never be construed to include any sign or advertising device lawfully erected or installed by the owner of property ~~or his~~, lessee or authorized agent; and

2. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer.

C. The purpose of the work performed shall be to aid the federal government, a state agency or a political subdivision, utilizing the inmate labor in the exercise of a governmental function. Any person convicted of willfully violating the provisions of this section shall be guilty of a felony.

SECTION 2. AMENDATORY 57 O.S. 2011, Section 549.1, is amended to read as follows:

Section 549.1. A. The Department of Corrections is authorized to purchase in the manner prescribed by law, facilities, equipment, raw materials and supplies, and to engage the supervisory personnel necessary to establish and maintain for this state at the penal institutions, now or hereafter under the control of the State Board of Corrections, industries and agricultural programs for the utilization of services of prisoners in the manufacture or production of the articles or products as may be needed for the construction, operation, maintenance or use of any office, department, institution or agency supported in whole or in part by this state and the political subdivisions thereof. Upon the request of the Oklahoma Historical Society or the Oklahoma Tourism and Recreation Department, the Department of Corrections shall provide labor for and shall produce or manufacture articles, products or materials needed for the repair, construction and maintenance of historical sites and state parks including, but not limited to, the

production of materials and products needed for the reconstruction of historic forts in the state.

B. All articles and services provided by the Department of Corrections in the state correctional institutions, and not required for use therein, shall be purchased as required by all offices, departments, institutions, agencies, counties, schools, colleges, universities, or political subdivisions or any agency thereof of this state which are supported in whole or in part by this state, if such article or service is the lowest and best bid, and no such article or product may be purchased by any such office, department, institution, agency, county, school, college, university, or political subdivisions or agency thereof from any other source unless excepted from the provisions as hereinafter provided. Purchases made by the above-described state agencies may be made by submitting the proper requisition through the Department of Central Services or by direct order to the prison industries program of the Department of Corrections.

C. If a requisition is received by the Department of Central Services or a direct order is received by the Prison Industries Program of the Department of Corrections from a state agency for any product or service provided by the Department of Corrections and such product or service is also available from a severely handicapped person or a qualified nonprofit agency for the severely handicapped as provided in Section 3001 et seq. of Title 74 of the Oklahoma Statutes at a comparable price, then the product or service shall be purchased from such severely handicapped person or qualified nonprofit agency for the severely handicapped. If the product or service is not available within the time period required by the purchasing state agency, then such product or service shall be purchased from the Department of Corrections under the provisions of this section.

D. All offices, departments, institutions, agencies, counties, cities, districts or political subdivisions, schools, colleges, or universities, or any agency thereof, or any agencies of the state, which are supported in whole or in part by this state, may purchase the goods or services produced by the prison industries of the Department of Corrections through their properly authorized purchasing authority, or they may place a direct order without

competitive bid, with the prison industries of the Department of Corrections.

E. Not-for-profit corporations or charitable agencies chartered in Oklahoma or other states may purchase such goods and services. Units of the federal government and units of government in other states may also purchase such goods and services. All entities which contract with the state, its political units, its agencies, its public institutions, not-for-profit corporations or charitable agencies chartered in Oklahoma may purchase goods or services from the Department of Corrections which are used in the performance of such contracts. Any church located in the State of Oklahoma may also purchase goods and services produced by the prison industries of the Department of Corrections. Any community action agency or council of governments within this state may purchase housing components produced by the prison industries of the Department of Corrections. Nothing shall prohibit the Department from bidding on portions of a state contract which are subcontracted by the primary contractor.

F. Others are prohibited from purchasing such goods and services, with the exception that all surplus agricultural products may be sold on the open market or bartered and exchanged for other food, feed or seed products of comparable value. The Department of Corrections shall keep complete and accurate records of any such barters or exchanges in such form and manner as the Department of Central Services may prescribe. A copy of such records shall be filed with the Department of Central Services no later than March 1 of each year for all barters or exchanges occurring in the previous calendar year. <u>When practicable, the Department of Corrections may accept and process agricultural products from the public and may export the resulting products to foreign markets.</u>

G. Products manufactured by the Department of Corrections shall be of styles, patterns, designs and quantities specified by the Department of Corrections except where the same have been or may be specified by the Department of Central Services. Products shall be provided at a fair market price for comparable quality.

H. State agencies shall make maximum utilization of such products and no similar products shall be purchased by state agencies from any other source than the Department of Corrections

except as provided in subsection C of this section, unless the Department of Corrections certifies to the State Purchasing Director that it is not able to provide products, and no claim therefor shall be paid without such certification.

I. Exceptions from the mandatory provisions hereof may be made in any case where, in the opinion of the Department of Central Services, the article or product does not meet the reasonable requirements of or for such offices, departments, institutions or agencies, or in any case where the requisitions made cannot be reasonably complied with. No such offices, departments, institutions or agencies, shall be allowed to evade the intent and meaning of this section by slight variations from standards adopted by the Department of Central Services, when the articles, services or products produced or manufactured by the Department of Corrections, in accordance with established standards, are reasonably adapted to the actual needs of such offices, departments, institutions or agencies.

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

K. The Department of Central Services shall cooperate with the Department of Corrections in seeking to promote for use in state agencies and by all other eligible customers, the products manufactured and services provided by the prison industries.

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

SECTION 3. This act shall become effective November 1, 2012.

Passed the Senate the 2nd day of May, 2012.

Presiding Officer of the Senate

Passed the House of Representatives the 16th day of April, 2012.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Governor this 3rd

day of May, **20** 12,

at 2:45 **o'clock** PM.

By: Jessica R Rogers

Approved by the Governor of the State of Oklahoma the 8th **day of**

May, **20** 12, **at** 11:50 **o'clock** AM.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

8th **day of** May, **20** 12,

at 1:33 **o'clock** P **M.**

By: Michelle R Day