



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

(R75-654)

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ATTORNEY GENERAL

76-13

January 19, 1976

Honorable Susan L. James
Arizona House of Representatives
State Capitol
Phoenix, Arizona 85007

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Dear Representative James:

You have asked my opinion whether it is legal to sell products made by prisoners at the Arizona State Prison at any location other than the prison. The answer is yes, but only at other Department of Corrections facilities.

Prior to 1969, Arizona Revised Statutes Section 31-261 provided in pertinent part that no goods, wares, or merchandise manufactured or crafted in whole or in part by the labor of prisoners could be sold or exchanged on the "open market" within this state. This provision apparently meant that there could be no sale or exchange of prison products in competition with other goods. In 1969 that statute was repealed, and for a little over a year, Arizona had no proscription regarding the products of prisoner labor. In 1970, Chapter 127 of the Session Laws created a new A.R.S. § 31-261. The pertinent part of the new statute provided that the products of individual prisoner enterprise, hobby, craft or art could be sold to public visitors at the Department of Corrections facility at Florence. The legislation also provided that the Prison Superintendent could establish a trust fund or escrow fund account for the management of funds generated by such sales. In 1972, Chapter 132 of the Session Laws removed the restriction of such sales to the Florence location, but left intact the requirement that such sales occur at the "sites of the Department of Corrections institutions and facilities," i.e., Safford and Fort Grant. In 1973, A.R.S. § 31-261 was once again amended, this time by Chapter 165 of the Sessions Laws. The amendments were to Subsection B, and the changes therein did not relate to the location limitation of Subsection A. The changes in Sub-



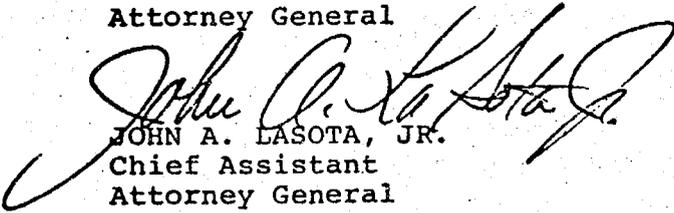
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section B were for the purposes of renaming the account to which inmate funds could be credited, and permitting inmate to provide funds earned by participation in other approved programs (e.g., medical research and plasmapheresis) could be placed in that same account.

Arizona Revised Statutes Section 31-261 has been unchanged since 1973. It would be easy to change the language of Subsection A to permit the marketing of the products of prisoner enterprise or craft virtually anywhere, but that of course takes legislative approval.

Sincerely,

BRUCE E. BABBITT
Attorney General



JOHN A. LASOTA, JR.
Chief Assistant
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