

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5631

Chapter 346, Laws of 2005

59th Legislature
2005 Regular Session

CORRECTIONAL INDUSTRIES

EFFECTIVE DATE: 7/24/05

Passed by the Senate April 18, 2005
YEAS 40 NAYS 2

BRAD OWEN

President of the Senate

Passed by the House April 7, 2005
YEAS 55 NAYS 41

FRANK CHOPP

Speaker of the House of Representatives

Approved May 9, 2005.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5631** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 9, 2005 - 3:50 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5631

AS AMENDED BY THE HOUSE

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Hargrove, Stevens, Brandland, Kline, McAuliffe, Franklin, Prentice, Esser, Delvin and Kohl-Welles)

READ FIRST TIME 02/15/05.

1 AN ACT Relating to inmate work programs; and amending RCW 72.09.100
2 and 28A.335.190.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 72.09.100 and 2004 c 167 s 3 are each amended to read
5 as follows:

6 It is the intent of the legislature to vest in the department the
7 power to provide for a comprehensive inmate work program and to remove
8 statutory and other restrictions which have limited work programs in
9 the past. It is also the intent of the legislature to ensure that the
10 correctional industries board of directors, in developing and selecting
11 correctional industries work programs, does not encourage the
12 development of, or provide for selection of or contracting for, or the
13 significant expansion of, any new or existing class I correctional
14 industries work programs that unfairly compete with Washington
15 businesses. The legislature intends that the requirements relating to
16 fair competition in the correctional industries work programs be
17 liberally construed by the correctional industries board of directors
18 to protect Washington businesses from unfair competition. For purposes

1 of establishing such a comprehensive program, the legislature
2 recommends that the department consider adopting any or all, or any
3 variation of, the following classes of work programs:

4 (1) CLASS I: FREE VENTURE INDUSTRIES.

5 (a) The employer model industries in this class shall be operated
6 and managed in total or in part by any profit or nonprofit organization
7 pursuant to an agreement between the organization and the department.
8 The organization shall produce goods or services for sale to both the
9 public and private sector.

10 (b) The customer model industries in this class shall be operated
11 and managed by the department to provide Washington state manufacturers
12 or businesses with products or services currently produced or provided
13 by out-of-state or foreign suppliers.

14 (c) The correctional industries board of directors shall review
15 these proposed industries, including any potential new class I
16 industries work program or the significant expansion of an existing
17 class I industries work program, before the department contracts to
18 provide such products or services. The review shall include the
19 analysis required under RCW 72.09.115 to determine if the proposed
20 correctional industries work program will compete with any Washington
21 business. An agreement for a new class I correctional industries work
22 program, or an agreement for a significant expansion of an existing
23 class I correctional industries work program, that unfairly competes
24 with any Washington business is prohibited.

25 (d) The department of corrections shall supply appropriate security
26 and custody services without charge to the participating firms.

27 (e) Inmates who work in free venture industries shall do so at
28 their own choice. They shall be paid a wage comparable to the wage
29 paid for work of a similar nature in the locality in which the industry
30 is located, as determined by the director of correctional industries.
31 If the director cannot reasonably determine the comparable wage, then
32 the pay shall not be less than the federal minimum wage.

33 (f) An inmate who is employed in the class I program of
34 correctional industries shall not be eligible for unemployment
35 compensation benefits pursuant to any of the provisions of Title 50 RCW
36 until released on parole or discharged.

37 (2) CLASS II: TAX REDUCTION INDUSTRIES.

1 (a) Industries in this class shall be state-owned and operated
2 enterprises designed primarily to reduce the costs for goods and
3 services for tax-supported agencies and for nonprofit organizations.

4 (b)(i) The industries selected for development within this class
5 shall, as much as possible, match the available pool of inmate work
6 skills and aptitudes with the work opportunities in the free community.
7 The industries shall be closely patterned after private sector
8 industries but with the objective of reducing public support costs
9 rather than making a profit.

10 (ii) The products and services of this industry, including
11 purchased products and services necessary for a complete product line,
12 may be sold to the following:

13 (A) Public agencies(~~(, - and -to))~~;

14 (B) Nonprofit organizations(~~(, - and -to))~~;

15 (C) Private contractors when the goods purchased will be ultimately
16 used by a public agency or a nonprofit organization;

17 (D) An employee and immediate family members of an employee of the
18 department of corrections; and

19 (E) A person under the supervision of the department of corrections
20 and his or her immediate family members.

21 (iii) The correctional industries board of directors shall
22 authorize the type and quantity of items that may be purchased and sold
23 under (b)(ii)(D) and (E) of this subsection.

24 (iv) It is prohibited to purchase any item purchased under
25 (b)(ii)(D) and (E) of this subsection for the purpose of resale.

26 (v) Clothing manufactured by an industry in this class may be
27 donated to nonprofit organizations that provide clothing free of charge
28 to low-income persons.

29 (c)(i) Class II correctional industries products and services shall
30 be reviewed by the correctional industries board of directors before
31 offering such products and services for sale to private contractors.

32 (ii) The board of directors shall conduct a yearly marketing review
33 of the products and services offered under this subsection. Such
34 review shall include an analysis of the potential impact of the
35 proposed products and services on the Washington state business
36 community. To avoid waste or spoilage and consequent loss to the
37 state, when there is no public sector market for such goods, byproducts
38 and surpluses of timber, agricultural, and animal husbandry enterprises

1 may be sold to private persons, at private sale. Surplus byproducts
2 and surpluses of timber, agricultural and animal husbandry enterprises
3 that cannot be sold to public agencies or to private persons may be
4 donated to nonprofit organizations. All sales of surplus products
5 shall be carried out in accordance with rules prescribed by the
6 secretary.

7 (d) Security and custody services shall be provided without charge
8 by the department of corrections.

9 (e) Inmates working in this class of industries shall do so at
10 their own choice and shall be paid for their work on a gratuity scale
11 which shall not exceed the wage paid for work of a similar nature in
12 the locality in which the industry is located and which is approved by
13 the director of correctional industries.

14 (f) Subject to approval of the correctional industries board,
15 provisions of RCW 41.06.142 shall not apply to contracts with
16 Washington state businesses entered into by the department of
17 corrections through class II industries.

18 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

19 (a) Industries in this class shall be operated by the department of
20 corrections. They shall be designed and managed to accomplish the
21 following objectives:

22 (i) Whenever possible, to provide basic work training and
23 experience so that the inmate will be able to qualify for better work
24 both within correctional industries and the free community. It is not
25 intended that an inmate's work within this class of industries should
26 be his or her final and total work experience as an inmate.

27 (ii) Whenever possible, to provide forty hours of work or work
28 training per week.

29 (iii) Whenever possible, to offset tax and other public support
30 costs.

31 (b) Class III correctional industries shall be reviewed by the
32 correctional industries board of directors to set policy for work
33 crews. The department shall present to the board of directors
34 quarterly detail statements showing where work crews worked, what
35 correctional industry class, and the hours worked. The board of
36 directors may review any class III program at its discretion.

37 (c) Supervising, management, and custody staff shall be employees
38 of the department.

1 (d) All able and eligible inmates who are assigned work and who are
2 not working in other classes of industries shall work in this class.

3 (e) Except for inmates who work in work training programs, inmates
4 in this class shall be paid for their work in accordance with an inmate
5 gratuity scale. The scale shall be adopted by the secretary of
6 corrections.

7 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

8 (a) Industries in this class shall be operated by the department of
9 corrections. They shall be designed and managed to provide services in
10 the inmate's resident community at a reduced cost. The services shall
11 be provided to public agencies, to persons who are poor or infirm, or
12 to nonprofit organizations.

13 (b) Class IV correctional industries shall be reviewed by the
14 correctional industries board of directors to set policy for work
15 crews. The department shall present to the board of directors
16 quarterly detail statements showing where work crews worked, what
17 correctional industry class, and the hours worked. The board of
18 directors may review any class IV program at its discretion. Class IV
19 correctional industries operated in work camps established pursuant to
20 RCW 72.64.050 are exempt from the requirements of this subsection
21 (4)(b).

22 (c) Inmates in this program shall reside in facilities owned by,
23 contracted for, or licensed by the department of corrections. A unit
24 of local government shall provide work supervision services without
25 charge to the state and shall pay the inmate's wage.

26 (d) The department of corrections shall reimburse participating
27 units of local government for liability and workers compensation
28 insurance costs.

29 (e) Inmates who work in this class of industries shall do so at
30 their own choice and shall receive a gratuity which shall not exceed
31 the wage paid for work of a similar nature in the locality in which the
32 industry is located.

33 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

34 (a) Programs in this class shall be subject to supervision by the
35 department of corrections. The purpose of this class of industries is
36 to enable an inmate, placed on community supervision, to work off all
37 or part of a community restitution order as ordered by the sentencing
38 court.

1 (b) Employment shall be in a community restitution program operated
2 by the state, local units of government, or a nonprofit agency.

3 (c) To the extent that funds are specifically made available for
4 such purposes, the department of corrections shall reimburse nonprofit
5 agencies for workers compensation insurance costs.

6 **Sec. 2.** RCW 28A.335.190 and 2000 c 138 s 201 are each amended to
7 read as follows:

8 (1) When, in the opinion of the board of directors of any school
9 district, the cost of any furniture, supplies, equipment, building,
10 improvements, or repairs, or other work or purchases, except books,
11 will equal or exceed the sum of fifty thousand dollars, complete plans
12 and specifications for such work or purchases shall be prepared and
13 notice by publication given in at least one newspaper of general
14 circulation within the district, once each week for two consecutive
15 weeks, of the intention to receive bids therefor and that
16 specifications and other information may be examined at the office of
17 the board or any other officially designated location: PROVIDED, That
18 the board without giving such notice may make improvements or repairs
19 to the property of the district through the shop and repair department
20 of such district when the total of such improvements or repair does not
21 exceed the sum of (a) fifteen thousand dollars, for districts with
22 fifteen thousand five hundred or more full-time equivalent students; or
23 (b) for districts with fewer than fifteen thousand five hundred full-
24 time equivalent students, fifteen thousand dollars if more than one
25 craft or trade is involved with the school district improvement or
26 repair, or ten thousand dollars if a single craft or trade is involved
27 with the school district improvement or repair. The cost of any public
28 work, improvement or repair for the purposes of this section shall be
29 the aggregate of all amounts to be paid for labor, material, and
30 equipment on one continuous or interrelated project where work is to be
31 performed simultaneously or in close sequence. The bids shall be in
32 writing and shall be opened and read in public on the date and in the
33 place named in the notice and after being opened shall be filed for
34 public inspection.

35 (2) Every purchase of furniture, equipment or supplies, except
36 books, the cost of which is estimated to be in excess of fifteen
37 thousand dollars, shall be on a competitive basis. The board of

1 directors shall establish a procedure for securing telephone and/or
2 written quotations for such purchases. Whenever the estimated cost is
3 from fifteen thousand dollars up to fifty thousand dollars, the
4 procedure shall require quotations from at least three different
5 sources to be obtained in writing or by telephone, and recorded for
6 public perusal. Whenever the estimated cost is in excess of fifty
7 thousand dollars, the public bidding process provided in subsection (1)
8 of this section shall be followed.

9 (3) Any school district may purchase goods produced or provided in
10 whole or in part from class II inmate work programs operated by the
11 department of corrections pursuant to RCW 72.09.100, including but not
12 limited to furniture, equipment, or supplies. School districts are
13 encouraged to set as a target to contract, beginning after June 30,
14 2006, to purchase up to one percent of the total goods required by the
15 school districts each year, goods produced or provided in whole or in
16 part from class II inmate work programs operated by the department of
17 corrections.

18 (4) Every building, improvement, repair or other public works
19 project, the cost of which is estimated to be in excess of (a) fifteen
20 thousand dollars, for districts with fifteen thousand five hundred or
21 more full-time equivalent students; or (b) for districts with fewer
22 than fifteen thousand five hundred full-time equivalent students,
23 fifteen thousand dollars if more than one craft or trade is involved
24 with the school district improvement or repair, or ten thousand dollars
25 if a single craft or trade is involved with the school district
26 improvement or repair, shall be on a competitive bid process. Whenever
27 the estimated cost of a public works project is fifty thousand dollars
28 or more, the public bidding process provided in subsection (1) of this
29 section shall be followed unless the contract is let using the small
30 works roster process in RCW 39.04.155 or under any other procedure
31 authorized for school districts. One or more school districts may
32 authorize an educational service district to establish and operate a
33 small works roster for the school district under the provisions of RCW
34 39.04.155.

35 ((+4)) (5) The contract for the work or purchase shall be awarded
36 to the lowest responsible bidder as defined in RCW 43.19.1911 but the
37 board may by resolution reject any and all bids and make further calls

1 for bids in the same manner as the original call. On any work or
2 purchase the board shall provide bidding information to any qualified
3 bidder or the bidder's agent, requesting it in person.

4 ~~((+5+))~~ (6) In the event of any emergency when the public interest
5 or property of the district would suffer material injury or damage by
6 delay, upon resolution of the board declaring the existence of such an
7 emergency and reciting the facts constituting the same, the board may
8 waive the requirements of this section with reference to any purchase
9 or contract: PROVIDED, That an "emergency", for the purposes of this
10 section, means a condition likely to result in immediate physical
11 injury to persons or to property of the school district in the absence
12 of prompt remedial action.

13 ~~((+6+))~~ (7) This section does not apply to the direct purchase of
14 school buses by school districts and educational services in accordance
15 with RCW 28A.160.195.

Passed by the Senate April 18, 2005.

Passed by the House April 7, 2005.

Approved by the Governor May 9, 2005.

Filed in Office of Secretary of State May 9, 2005.