
SUBSTITUTE HOUSE BILL 2416

State of Washington

64th Legislature

2016 Regular Session

By House Public Safety (originally sponsored by Representatives Pike, Manweller, Klippert, Vick, Wilson, and Buys)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to correctional industries' insurance costs;
2 amending RCW 72.09.100 and 51.12.045; and adding a new section to
3 chapter 72.09 RCW.

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

5 **Sec. 1.** RCW 72.09.100 and 2012 c 220 s 2 are each amended to
6 read as follows:

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

1 adopting any or all, or any variation of, the following classes of
2 work programs:

3 (1) CLASS I: FREE VENTURE INDUSTRIES.

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

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

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

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

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

37 (2) CLASS II: TAX REDUCTION INDUSTRIES.

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

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

7 (ii) Except as provided in RCW (~~(43.19.534(3))~~) 39.26.251 and
8 this section, the products and services of this industry, including
9 purchased products and services necessary for a complete product
10 line, may be sold to the following:

11 (A) Public agencies;

12 (B) Nonprofit organizations;

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

15 (D) An employee and immediate family members of an employee of
16 the department;

17 (E) A person under the supervision of the department and his or
18 her immediate family members; and

19 (F) A licensed health professional for the sole purpose of
20 providing eyeglasses to enrollees of the state medical program at no
21 more than the health professional's cost of acquisition.

22 (iii) The department shall authorize the type and quantity of
23 items that may be purchased and sold under (b)(ii)(D) and (E) of this
24 subsection.

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

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

30 (c) Under no circumstance shall offenders under the custody of
31 the department of corrections make or assemble uniforms to be worn by
32 correctional officers employed with the department.

33 (d)(i) Class II correctional industries products and services
34 shall be reviewed by the department before offering such products and
35 services for sale to private contractors.

36 (ii) The secretary shall conduct a yearly marketing review of the
37 products and services offered under this subsection. Such review
38 shall include an analysis of the potential impact of the proposed
39 products and services on the Washington state business community. To
40 avoid waste or spoilage and consequent loss to the state, when there

1 is no public sector market for such goods, by-products and surpluses
2 of timber, agricultural, and animal husbandry enterprises may be sold
3 to private persons, at private sale. Surplus by-products and
4 surpluses of timber, agricultural and animal husbandry enterprises
5 that cannot be sold to public agencies or to private persons may be
6 donated to nonprofit organizations. All sales of surplus products
7 shall be carried out in accordance with rules prescribed by the
8 secretary.

9 (e) Security and custody services shall be provided without
10 charge by the department.

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

16 (g) Provisions of RCW 41.06.142 shall not apply to contracts with
17 Washington state businesses entered into by the department through
18 class II industries.

19 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

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

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

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

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

32 (b) Class III correctional industries shall be reviewed by the
33 department to set policy for work crews. The department shall prepare
34 quarterly detail statements showing where work crews worked, what
35 correctional industry class, and the hours worked.

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

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

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

5 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

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

11 (b) Class IV correctional industries shall be reviewed by the
12 department to set policy for work crews. The department shall prepare
13 quarterly detail statements showing where work crews worked, what
14 correctional industry class, and the hours worked. Class IV
15 correctional industries operated in work camps established pursuant
16 to RCW 72.64.050 are exempt from the requirements of this subsection
17 (4)(b).

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

22 ~~((The department shall reimburse participating units of local
23 government for liability and workers compensation insurance costs.~~

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

28 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

29 (a) Programs in this class shall be subject to supervision by the
30 department. The purpose of this class of industries is to enable an
31 inmate, placed on community supervision, to work off all or part of a
32 community restitution order as ordered by the sentencing court.

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

36 ~~((c) To the extent that funds are specifically made available
37 for such purposes, the department shall reimburse nonprofit agencies
38 for workers compensation insurance costs.))~~

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 72.09
2 RCW to read as follows:

3 (1) The department shall elect workers' compensation and pay any
4 workers' compensation premiums or costs due for offenders under the
5 custody of the department working or performing services for a local
6 government or nonprofit organization under a work program adopted by
7 the department under RCW 72.09.100.

8 (2) When an offender under the department's jurisdiction provides
9 services to a public benefit nonprofit or a local government entity,
10 the department's payment of offender labor and industries workers'
11 compensation premiums does not in any way establish the department as
12 the employer for department of labor and industries' purposes and
13 statutes. Therefore, the department will not be required to behave
14 as the employer, which includes, but is not limited to, supervising
15 the work performed by offenders, training offenders for a specific
16 work project, or ensuring work site compliance with department of
17 labor and industries workplace safety standards.

18 **Sec. 3.** RCW 51.12.045 and 2002 c 175 s 40 are each amended to
19 read as follows:

20 (~~Offenders performing community restitution pursuant to court~~
21 ~~order or under RCW 13.40.080 may be deemed employees and/or workers~~
22 ~~under this title at the option of the state, county, city, town, or~~
23 ~~nonprofit organization under whose authorization the community~~
24 ~~restitution is performed.)) With the exception of an offender who is
25 under the custody of the state, any premiums or assessments due under
26 this title for community restitution work shall be the obligation of
27 and be paid for by the ((state agency,)) county, city, town, or
28 nonprofit organization for which the offender performed the community
29 restitution. In the case of an offender who is under the custody of
30 the state, any premiums or assessments due under this title for
31 community work shall be the obligation of and be paid for by the
32 state agency that has custody of the offender. Coverage commences
33 when ((a)) the state agency, county, city, town, or nonprofit
34 organization has given notice to the director that it (~~wishes to~~
35 ~~cover~~) is covering offenders performing community restitution before
36 the occurrence of an injury or contraction of an occupational
37 disease.~~

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