

HB 2346 - S COMM AMD

By Committee on Human Services & Corrections

NOT ADOPTED 02/29/2012

1 Strike everything after the enacting clause and insert the
2 following:

3 "**Sec. 1.** RCW 43.19.534 and 2011 1st sp.s. c 43 s 227 and 2011 c
4 367 s 707 are each reenacted and amended to read as follows:

5 (1) State agencies, the legislature, and departments shall purchase
6 for their use all goods and services required by the legislature,
7 agencies, or departments that are produced or provided in whole or in
8 part from class II inmate work programs operated by the department of
9 corrections through state contract. These goods and services shall not
10 be purchased from any other source unless, upon application by the
11 department or agency: (a) The department finds that the articles or
12 products do not meet the reasonable requirements of the agency or
13 department, (b) are not of equal or better quality, or (c) the price of
14 the product or service is higher than that produced by the private
15 sector. However, the criteria contained in (a), (b), and (c) of this
16 subsection for purchasing goods and services from sources other than
17 correctional industries do not apply to goods and services produced by
18 correctional industries that primarily replace goods manufactured or
19 services obtained from outside the state. The department of
20 corrections and department shall adopt administrative rules that
21 implement this section.

22 (2) During the 2009-2011 and 2011-2013 fiscal biennia, and in
23 conformance with section 223(11), chapter 470, Laws of 2009 and section
24 221(2), chapter 367, Laws of 2011, this section does not apply to the
25 purchase of uniforms by the Washington state ferries.

26 (3) Effective July 1, 2012, this section does not apply to the
27 purchase of uniforms by the Washington state department of corrections
28 or its employees.

1 **Sec. 2.** RCW 72.09.100 and 2011 1st sp.s. c 21 s 37 and 2011 c 100
2 s 1 are each reenacted and amended to read as follows:

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

18 (1) CLASS I: FREE VENTURE INDUSTRIES.

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

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

28 (c) The department shall review these proposed industries,
29 including any potential new class I industries work program or the
30 significant expansion of an existing class I industries work program,
31 before the department contracts to provide such products or services.
32 The review shall include the analysis required under RCW 72.09.115 to
33 determine if the proposed correctional industries work program will
34 compete with any Washington business. An agreement for a new class I
35 correctional industries work program, or an agreement for a significant
36 expansion of an existing class I correctional industries work program,
37 that unfairly competes with any Washington business is prohibited.

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

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

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

13 (2) CLASS II: TAX REDUCTION INDUSTRIES.

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

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

23 (ii) Except as provided in RCW 43.19.534(3) and this section, the
24 products and services of this industry, including purchased products
25 and services necessary for a complete product line, may be sold to the
26 following:

27 (A) Public agencies;

28 (B) Nonprofit organizations;

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

31 (D) An employee and immediate family members of an employee of the
32 department;

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

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

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

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

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

9 (c) Under no circumstance shall offenders under the custody of the
10 department of corrections make or assemble uniforms to be worn by
11 department of corrections personnel.

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

15 (ii) The secretary shall conduct a yearly marketing review of the
16 products and services offered under this subsection. Such review shall
17 include an analysis of the potential impact of the proposed products
18 and services on the Washington state business community. To avoid
19 waste or spoilage and consequent loss to the state, when there is no
20 public sector market for such goods, by-products and surpluses of
21 timber, agricultural, and animal husbandry enterprises may be sold to
22 private persons, at private sale. Surplus by-products and surpluses of
23 timber, agricultural and animal husbandry enterprises that cannot be
24 sold to public agencies or to private persons may be donated to
25 nonprofit organizations. All sales of surplus products shall be
26 carried out in accordance with rules prescribed by the secretary.

27 ((+d)) (e) Security and custody services shall be provided without
28 charge by the department.

29 ((+e)) (f) Inmates working in this class of industries shall do so
30 at their own choice and shall be paid for their work on a gratuity
31 scale which shall not exceed the wage paid for work of a similar nature
32 in the locality in which the industry is located and which is approved
33 by the director of correctional industries.

34 ((+f)) (g) Provisions of RCW 41.06.142 shall not apply to
35 contracts with Washington state businesses entered into by the
36 department through class II industries.

37 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

1 (a) Industries in this class shall be operated by the department.
2 They shall be designed and managed to accomplish the following
3 objectives:

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

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

11 (iii) Whenever possible, to offset tax and other public support
12 costs.

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

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

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

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

25 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

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

31 (b) Class IV correctional industries shall be reviewed by the
32 department to set policy for work crews. The department shall prepare
33 quarterly detail statements showing where work crews worked, what
34 correctional industry class, and the hours worked. Class IV
35 correctional industries operated in work camps established pursuant to
36 RCW 72.64.050 are exempt from the requirements of this subsection
37 (4)(b).

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

5 (d) The department shall reimburse participating units of local
6 government for liability and workers compensation insurance costs.

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

11 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

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

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

18 (c) To the extent that funds are specifically made available for
19 such purposes, the department shall reimburse nonprofit agencies for
20 workers compensation insurance costs.

21 NEW SECTION. **Sec. 3.** If specific funding for the purposes of this
22 act, referencing this act by bill or chapter number, is not provided by
23 June 30, 2012, in the omnibus appropriations act, this act is null and
24 void."

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25 On page 1, line 3 of the title, after "industries;" strike the
26 remainder of the title and insert "reenacting and amending RCW
27 43.19.534 and 72.09.100; and creating a new section."

EFFECT: A null and void clause is added.

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