

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2346

62nd Legislature
2012 Regular Session

Passed by the House March 3, 2012
Yeas 92 Nays 3

Speaker of the House of Representatives

Passed by the Senate February 29, 2012
Yeas 45 Nays 3

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2346** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 2346

AS AMENDED BY THE SENATE

Passed Legislature - 2012 Regular Session

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Walsh, Reykdal, Pearson, Hurst, Kristiansen, Nealey, McCune, Appleton, Orwall, Moscoso, Goodman, DeBolt, Rivers, Shea, Armstrong, Maxwell, Johnson, Springer, Darneille, Sells, Fitzgibbon, Eddy, Angel, Upthegrove, Kelley, Ryu, Stanford, Hudgins, Seaquist, and Ormsby

Read first time 01/11/12. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to removing the requirement that correctional
2 officers of the department of corrections purchase uniforms from
3 correctional industries; reenacting and amending RCW 43.19.534 and
4 72.09.100; and creating a new section.

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

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

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

1 correctional industries do not apply to goods and services produced by
2 correctional industries that primarily replace goods manufactured or
3 services obtained from outside the state. The department of
4 corrections and department shall adopt administrative rules that
5 implement this section.

6 (2) During the 2009-2011 and 2011-2013 fiscal biennia, and in
7 conformance with section 223(11), chapter 470, Laws of 2009 and section
8 221(2), chapter 367, Laws of 2011, this section does not apply to the
9 purchase of uniforms by the Washington state ferries.

10 (3) Effective July 1, 2012, this section does not apply to the
11 purchase of uniforms for correctional officers employed with the
12 Washington state department of corrections.

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

15 It is the intent of the legislature to vest in the department the
16 power to provide for a comprehensive inmate work program and to remove
17 statutory and other restrictions which have limited work programs in
18 the past. It is also the intent of the legislature to ensure that the
19 department, in developing and selecting correctional industries work
20 programs, does not encourage the development of, or provide for
21 selection of or contracting for, or the significant expansion of, any
22 new or existing class I correctional industries work programs that
23 unfairly compete with Washington businesses. The legislature intends
24 that the requirements relating to fair competition in the correctional
25 industries work programs be liberally construed by the department to
26 protect Washington businesses from unfair competition. For purposes of
27 establishing such a comprehensive program, the legislature recommends
28 that the department consider adopting any or all, or any variation of,
29 the following classes of work programs:

30 (1) CLASS I: FREE VENTURE INDUSTRIES.

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

36 (b) The customer model industries in this class shall be operated

1 and managed by the department to provide Washington state manufacturers
2 or businesses with products or services currently produced or provided
3 by out-of-state or foreign suppliers.

4 (c) The department shall review these proposed industries,
5 including any potential new class I industries work program or the
6 significant expansion of an existing class I industries work program,
7 before the department contracts to provide such products or services.
8 The review shall include the analysis required under RCW 72.09.115 to
9 determine if the proposed correctional industries work program will
10 compete with any Washington business. An agreement for a new class I
11 correctional industries work program, or an agreement for a significant
12 expansion of an existing class I correctional industries work program,
13 that unfairly competes with any Washington business is prohibited.

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

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

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

26 (2) CLASS II: TAX REDUCTION INDUSTRIES.

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

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

36 (ii) Except as provided in RCW 43.19.534(3) and this section, the
37 products and services of this industry, including purchased products

1 and services necessary for a complete product line, may be sold to the
2 following:

- 3 (A) Public agencies;
- 4 (B) Nonprofit organizations;
- 5 (C) Private contractors when the goods purchased will be ultimately
6 used by a public agency or a nonprofit organization;
- 7 (D) An employee and immediate family members of an employee of the
8 department;
- 9 (E) A person under the supervision of the department and his or her
10 immediate family members; and

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

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

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

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

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

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

28 (ii) The secretary shall conduct a yearly marketing review of the
29 products and services offered under this subsection. Such review shall
30 include an analysis of the potential impact of the proposed products
31 and services on the Washington state business community. To avoid
32 waste or spoilage and consequent loss to the state, when there is no
33 public sector market for such goods, by-products and surpluses of
34 timber, agricultural, and animal husbandry enterprises may be sold to
35 private persons, at private sale. Surplus by-products and surpluses of
36 timber, agricultural and animal husbandry enterprises that cannot be
37 sold to public agencies or to private persons may be donated to

1 nonprofit organizations. All sales of surplus products shall be
2 carried out in accordance with rules prescribed by the secretary.

3 ~~((d))~~ (e) Security and custody services shall be provided without
4 charge by the department.

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

10 ~~((f))~~ (g) Provisions of RCW 41.06.142 shall not apply to
11 contracts with Washington state businesses entered into by the
12 department through class II industries.

13 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

14 (a) Industries in this class shall be operated by the department.
15 They shall be designed and managed to accomplish the following
16 objectives:

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

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

24 (iii) Whenever possible, to offset tax and other public support
25 costs.

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

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

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

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

38 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

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

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

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

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

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

23 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

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

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

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

33 NEW SECTION. **Sec. 3.** If specific funding for the purposes of this
34 act, referencing this act by bill or chapter number, is not provided by
35 June 30, 2012, in the omnibus appropriations act, this act is null and

1 void.

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