

# SENATE BILL REPORT

## SB 5838

---

---

As of February 19, 2019

**Title:** An act relating to correctional industries.

**Brief Description:** Concerning correctional industries.

**Sponsors:** Senators Darneille, Rolfes and Nguyen.

**Brief History:**

**Committee Activity:** Human Services, Reentry & Rehabilitation: 2/14/19, 2/19/19.

**Brief Summary of Bill**

- Defines market share for correctional industries, Class II industries.
- Modifies the correctional industries advisory committee to a decision making committee, which sets the market share thresholds every two years.

---

### SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

**Staff:** Keri Waterland (786-7490)

**Background:** On May 4, 2017, the State Auditor's Office (SAO) conducted a performance audit titled, *Correctional Industries: Planning, Pricing and Market Share*. During the audit, the SAO analyzed the practices of correctional industries (CI), not the policy behind the program. The audit was designed to answer three questions:

- how effective CI is in maintaining and expanding its inmate work training programs;
- whether CI prices products in such a way as to meet its legal requirements and goals; and
- whether CI competes unfairly with Washington businesses.

The Department of Corrections (DOC) CI has authority over two work programs, Class I and Class II.

Class I. Free Venture Industries. In cooperation with for-profit or nonprofit organizations, inmate workers produce goods and services for sale to both the public and private sector. Currently, CI does not have any Class I industries in operation.

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Class II. Tax Reduction Industries. These are state-owned and operated industries designed primarily to reduce the costs of goods and services for tax-supported agencies and for nonprofit organizations. Class II manufacturing and service operations generate funds from selling their goods and services to support their activities.

Although this audit focused on CI's existing Class II industries, the SAO offered recommendations that may also help CI with Class I ventures.

The SAO offered the following recommendations to DOC.

1. Use leading practices to establish a formal business planning policy for new and expanding industries.
2. Develop a documented process to regularly assess the demand for the skills taught to inmates based on input from private industry and current labor market data.
3. Improve existing efforts to obtain customer feedback on prices and products by:
  - expanding its customer survey to include questions about product quality and prices, and customer needs; and
  - analyzing feedback to determine if CI's products and services adequately meet customer needs.
4. Develop, track, and publish the following industry-specific performance measures:
  - inmate post-release employment outcomes;
  - accuracy of CI's cost of goods sold forecast;
  - accuracy of CI's operating expense forecast; and
  - profitability.
5. Establish a formal agency-wide pricing policy and a timeframe for implementing the policy. The pricing policy should include a documented process for:
  - comparing prices for new and existing products to ensure prices are competitive;
  - approving prices to ensure they are set in accordance with policy; and
  - reviewing prices at specified intervals, with formalized roles and responsibilities for reviewers.

The SAO recommend the Legislature clarify how CI should measure compliance with unfair competition restrictions for its Class II industries.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** Market share is defined as the percentage of a Class II industry's gross business income, earned over an annual basis compared to the total gross business income of all comparable industry's in Washington State.

The CI committee shall set the market share thresholds by respective industry every two years, and shall consider a variety of factors when making the decision, including but not limited to, gross business income in Washington State and the number of business reporting income for each respective industry. Additionally, the CI committee may include input from the business community and any other relevant factors.

The CI committee must provide written notice of the determined market share thresholds by respective industry, and the factors used to determine the thresholds, to the Legislature, within 30 days of the determination.

**Appropriation:** None.

**Fiscal Note:** Requested on February 9, 2019.

**Creates Committee/Commission/Task Force that includes Legislative members:** Yes.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Proposed Substitute:** PRO: I am interested in how to make sure that CI does not compete with private market industries unfairly. In 2011, the CI board went from policy to advisory. We are supportive of this changing from advisory back to a decision making board. The makeup would change a little, but they would be able to make the decisions and are appointed by the secretary of DOC. DOC looks forward to partners to expand and not unfairly compete. DOC is a manufacturer not just a distributor, and teaches marketable skills through CI, and has hundreds of actual different products and commodities.

**Persons Testifying:** PRO: Senator Jeannie Darneille, Prime Sponsor.

**Persons Signed In To Testify But Not Testifying:** No one.