

# HOUSE BILL REPORT

## HJR 4221

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**As Reported by House Committee On:**  
Criminal Justice & Corrections

**Brief Description:** Amending the constitutional provision on inmate labor.

**Sponsors:** Representatives O'Brien, Kagi and Darneille.

**Brief History:**

**Committee Activity:**

Criminal Justice & Corrections: 2/2/06 [DP].

**Brief Summary of Bill**

- Proposes an amendment to the Washington Constitution that would permit prison inmates to be let out by contract to any person, copartnership, company or corporation provided that their labor is compensated, voluntary, and their jobs meet applicable worker safety requirements.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass. Signed by 6 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Pearson, Ranking Minority Member; Kirby, Strow and Williams.

**Minority Report:** Do not pass. Signed by 1 member: Representative Ahern, Assistant Ranking Minority Member.

**Staff:** Yvonne Walker (786-7841).

**Background:**

The Department of Corrections (DOC) operates five classes of correctional industry work programs. All inmates working in class I - IV employment receive financial compensation for their work. Class V jobs are court ordered community work that is preformed for the benefit of the community without financial compensation.

Class I Industries. Inmates working in class I ("free venture") industries are paid according to the prevailing wage for comparable work in that locality. There are two models for class I industries authorized under state law — an employer model and a customer model.

Employer model industries are operated and managed by for-profit or nonprofit organizations under contract with the DOC. They produce goods and services for sale to both the public and private sector. Customer model class I industries are operated and managed by the DOC to

produce and provide Washington businesses with products or services currently produced only by out-of-state or foreign suppliers.

Inmates working in free venture industries do so at their own choice and are paid a wage comparable to the wage paid for work of a similar nature in the locality in which the industry is located (ranging from \$7.16 to \$14.76 per hour). The production of window blinds, metal fabrication, upholstery, concrete work, water-jet cutting, sewing, cabiners, and multi packaging services, are examples of jobs found in the class I industries work program. Security and custody services are supplied to the participating firm without charge.

All class I industries were eliminated in 2004, due to a Washington State Supreme Court (Supreme Court) decision.

Court Decision. The Supreme Court decision of August 18, 2004, reaffirmed the initial opinion issued on May 9, 2004, that determined class I "free venture" industries were unconstitutional. The Supreme Court determined that the law authorizing class I industries conflicts with Article II, Section 29 of the Washington Constitution, that states, "[a]fter the first day of January eighteen hundred ninety the labor of convicts of this state shall not be let out by contract to any person, copartnership, company or corporation, and the Legislature shall by law provide for the working of convicts for the benefit of the state."

Since the Supreme Court's decision in May 2004, all class I industries has stopped employing inmates and have withdrawn their businesses from the DOC prisons. Nine businesses and approximately 300 class I jobs were lost at the Airway Heights Corrections Center, Twin Rivers Corrections Center, and the Washington Corrections Center for Women.

In order to amend the Constitution, a joint resolution must be passed by a two-thirds majority of both houses of the Legislature. To be enacted, the proposed amendment must be placed on the next general election ballot and must be approved by a simple majority of the voters.

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### **Summary of Bill:**

At the next general election, an amendment to the Constitution will be submitted to the voters authorizing that prison inmates be let out by contract to any person, copartnership, company or corporation. In addition, the Legislature must provide for the working of inmates for the benefit of the state, including those in state-run inmate labor programs. The state cannot contract out inmate labor for involuntary servitude. All contracted inmate labor must be compensated and voluntary. Inmate labor programs that are operated and managed, in total or in part, by profit or nonprofit entities must be operated so that the programs do not unfairly compete with Washington businesses and they must meet applicable worker safety requirements for comparable noninmate labor.

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**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Testimony For:** Over 50 percent of the inmates confined in prisons were not gainfully employed when they committed their crime. Meaningful employment has a direct link to recidivism. Class I industries will provide offenders with transferrable skills that they can use elsewhere. Inmate work programs help to reduce the re-offending problem that the DOC has within the prisons.

In 2004, there was a bill that several groups worked on to ensure that inmate work programs would not impact Washington businesses. This bill as passed was agreed upon by the business and labor communities and it required the Correctional Industries Board to try to minimize the inmate labor impact on citizens and businesses in Washington. The Supreme Court's decision really hampered the legislation as passed by the Legislature. As a result, when the DOC lost the ability to use class I industries, the DOC not only lost inmate jobs but the deductions that were taken from the inmates paychecks were also impacted. In addition, legal financial obligations, family support, and restitution were impacted. The Supreme Court's decision severely impacted the DOC correctional industry program.

House Joint Resolution 4221 amends Washington's Constitution to make it legal for the DOC to operate a prison industries advancement certification program which currently operates in 48 other states. Passage of this bill will put the measure before the citizens of this state for ratification. It would permit private business to hire inmates inside the prisons but only after close scrutiny and approval from the Correctional Industries Board.

Inmates participating in class I correctional industry programs are less likely to re-offend and the programs also contribute to the positive management of prison. The voters should have the option to decide once and for all whether class I industries are good for the state and for the inmates.

**Testimony Against:** None.

**Persons Testifying:** Harold Clarke, Department of Corrections; Don McCloud, Correctional Industries Board; and Bob Abbott, Laborers District Council.

**Persons Signed In To Testify But Not Testifying:** None.