

1 **2ESSB 5451** - H AMD TO H AMD H-2670.1 000719 ADOPTED 4-23-93

2 By Representatives Mielke, Long and Morris

3 On page 48, after line 21, insert the following:

4 "Sec. 19. RCW 9.95.070 and 1955 c 133 s 8 are each amended to  
5 read as follows:

6 (1) Except as provided in subsection (2) of this section,  
7 every prisoner who has a favorable record of conduct at the  
8 penitentiary or the reformatory, and who performs in a faithful,  
9 diligent, industrious, orderly and peaceable manner the work,  
10 duties, and tasks assigned to him or her to the satisfaction of the  
11 superintendent of the penitentiary or reformatory, and in whose  
12 behalf the superintendent of the penitentiary or reformatory files  
13 a report certifying that his or her conduct and work have been  
14 meritorious and recommending allowance of time credits to him or  
15 her, shall upon, but not until, the adoption of such recommendation  
16 by the indeterminate sentence review board (~~of prison terms and~~  
17 paroles)), be allowed time credit reductions from the term of  
18 imprisonment fixed by the indeterminate sentence review board (~~of~~  
19 prison terms and paroles)).

20 (2)(a) Every person sentenced to a correctional institution  
21 under the jurisdiction of the department of corrections shall be  
22 making satisfactory progress towards completing a high school  
23 education, achieve an equivalent score on the general educational  
24 development test, or be actively enrolled in a similar educational  
25 program or adult basic education program approved by the department  
26 of corrections before any earned time credits may be used to reduce  
27 the person's term of total confinement. This applies only if  
28 educational programs are available for inmate enrollment.

29 (b) This subsection does not apply to any person who already  
30 has a high school diploma or achieved an equivalent score on the  
31 general educational development test, is serving life in prison  
32 without parole, or is determined by the director of education

1 programs within the department of corrections to be incapable of  
2 completing the educational program. A person may be determined to  
3 be incapable due to one of the following reasons only:

4 (i) The person has a chronic mental deficiency;

5 (ii) The person is considered mentally retarded;

6 (iii) A physical or mental disability makes participation in  
7 the educational program impossible.

8 (c) Failure to complete the requirements of this subsection  
9 (2) may not be used as the basis for extending a person's original  
10 term of confinement.

11 (d) This subsection (2) may not be used to control inmate  
12 population levels.

13 **Sec. 20.** RCW 72.09.130 and 1981 c 136 s 17 are each amended  
14 to read as follows:

15 (1) The department shall adopt a system providing incentives  
16 for good conduct and disincentives for poor conduct. The system  
17 may include increases or decreases in the degree of liberty granted  
18 the inmate within the programs operated by the department and  
19 recommended increases or decreases in the number of earned early  
20 release days that an inmate can earn for good conduct and good  
21 performance. Earned early release days shall be recommended by the  
22 department as a form of tangible reward for accomplishment. The  
23 system shall be fair, measurable, and understandable to offenders,  
24 staff, and the public. At least once in each twelve-month period,  
25 the department shall inform the offender in writing as to his or  
26 her conduct and performance. This written evaluation shall include  
27 reasons for awarding or not awarding recommended earned early  
28 release days for good conduct and good performance. The term "good  
29 performance" as used in this section means successfully performing  
30 a work, work training, or educational task to levels of expectation  
31 as specified in writing by the department. The term "good conduct"  
32 as used in this section refers to compliance with department rules.

33 Within one year after July 1, 1981, the department shall  
34 adopt, and provide a written description of, the system. The

1 department shall provide a copy of this description to each  
2 offender in its custody.

3 (2)(a) The system adopted pursuant to this section shall  
4 provide that every person sentenced to a correctional institution  
5 under the jurisdiction of the department of corrections shall be  
6 making satisfactory progress towards completing a high school  
7 education, achieve an equivalent score on the general educational  
8 development test, or be actively enrolled in a similar educational  
9 program or adult basic education program approved by the department  
10 of corrections before any earned early release time may be used to  
11 reduce the person's term of total confinement. This applies only  
12 for those inmates who do not already have a high school diploma or  
13 have not achieved an equivalent score on the general educational  
14 development test, and only if educational programs are available  
15 for inmate enrollment.

16 (b) This subsection does not apply to any person serving a  
17 life sentence without parole or who is determined by the director  
18 of education programs within the department of corrections to be  
19 incapable of participating in the educational program. A person  
20 may be determined to be incapable due to one of the following  
21 reasons only:

22 (i) The person has a chronic mental deficiency;

23 (ii) The person is considered mentally retarded;

24 (iii) A physical or mental disability makes participation in  
25 the educational program impossible.

26 (c) Failure to complete the requirements of this subsection  
27 (2) may not be used as the basis for extending a person's original  
28 term of confinement.

29 (d) This subsection (2) may not be used to control inmate  
30 population levels.

31 **Sec. 21.** RCW 72.09.100 and 1992 c 123 s 1 are each amended to  
32 read as follows:

33 It is the intent of the legislature to vest in the department  
34 the power to provide for a comprehensive inmate work program and to  
35 remove statutory and other restrictions which have limited work

1 programs in the past. The department shall not allow inmates to  
2 participate in class I, II, or IV work programs unless they have  
3 completed a high school education, have achieved an equivalent  
4 score on the general educational development test, or are currently  
5 enrolled and making satisfactory progress in a similar educational  
6 program approved by the department, and if such educational  
7 programs are available. In the event that an inmate's educational  
8 program schedule is in conflict with the inmate's class I, II, or  
9 IV work program schedule, the inmate may be allowed to continue his  
10 or her work program schedule and shall be responsible for  
11 identifying and scheduling another time when the educational  
12 program schedule can be accommodated without being in conflict with  
13 his or her work program schedule. For purposes of establishing  
14 such a comprehensive program, the legislature recommends that the  
15 department consider adopting any or all, or any variation of, the  
16 following classes of work programs:

17 (1) CLASS I: FREE VENTURE INDUSTRIES. The employer model  
18 industries in this class shall be operated and managed in total or  
19 in part by any profit or nonprofit organization pursuant to an  
20 agreement between the organization and the department. The  
21 organization shall produce goods or services for sale to both the  
22 public and private sector.

23 The customer model industries in this class shall be operated  
24 and managed by the department to provide Washington state  
25 manufacturers or businesses with products or services currently  
26 produced or provided by out-of-state or foreign suppliers. The  
27 correctional industries board of directors shall review these  
28 proposed industries before the department contracts to provide such  
29 products or services. The review shall include an analysis of the  
30 potential impact of the proposed products and services on the  
31 Washington state business community and labor market.

32 The department of corrections shall supply appropriate  
33 security and custody services without charge to the participating  
34 firms.

35 Inmates who work in free venture industries shall do so at  
36 their own choice. They shall be paid a wage comparable to the wage

1 paid for work of a similar nature in the locality in which the  
2 industry is located, as determined by the director of correctional  
3 industries. If the director cannot reasonably determine the  
4 comparable wage, then the pay shall not be less than the federal  
5 minimum wage.

6 (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this  
7 class shall be state-owned and operated enterprises designed to  
8 reduce the costs for goods and services for tax-supported agencies  
9 and for nonprofit organizations. The industries selected for  
10 development within this class shall, as much as possible, match the  
11 available pool of inmate work skills and aptitudes with the work  
12 opportunities in the free community. The industries shall be  
13 closely patterned after private sector industries but with the  
14 objective of reducing public support costs rather than making a  
15 profit. The products and services of this industry, including  
16 purchased products and services necessary for a complete product  
17 line, may be sold to public agencies, to nonprofit organizations,  
18 and to private contractors when the goods purchased will be  
19 ultimately used by a public agency or a nonprofit organization.  
20 Clothing manufactured by an industry in this class may be donated  
21 to nonprofit organizations that provide clothing free of charge to  
22 low-income persons. Correctional industries products and services  
23 shall be reviewed by the correctional industries board of directors  
24 before offering such products and services for sale to private  
25 contractors. The board of directors shall conduct a yearly  
26 marketing review of the products and services offered under this  
27 subsection. Such review shall include an analysis of the potential  
28 impact of the proposed products and services on the Washington  
29 state business community. To avoid waste or spoilage and  
30 consequent loss to the state, when there is no public sector market  
31 for such goods, byproducts and surpluses of timber, agricultural,  
32 and animal husbandry enterprises may be sold to private persons, at  
33 private sale. Surplus byproducts and surpluses of timber,  
34 agricultural and animal husbandry enterprises that cannot be sold  
35 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 Security and custody services shall be provided without charge  
4 by the department of corrections.

5 Inmates working in this class of industries shall do so at  
6 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  
8 nature in the locality in which the industry is located and which  
9 is approved by the director of correctional industries.

10 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES. Industries  
11 in this class shall be operated by the department of corrections.  
12 They shall be designed and managed to accomplish the following  
13 objectives:

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

20 (b) Whenever possible, to provide forty hours of work or work  
21 training per week.

22 (c) Whenever possible, to offset tax and other public support  
23 costs.

24 Supervising, management, and custody staff shall be employees  
25 of the department.

26 All able and eligible inmates who are assigned work and who  
27 are not working in other classes of industries shall work in this  
28 class.

29 Except for inmates who work in work training programs, inmates  
30 in this class shall be paid for their work in accordance with an  
31 inmate gratuity scale. The scale shall be adopted by the secretary  
32 of corrections.

33 (4) CLASS IV: COMMUNITY WORK INDUSTRIES. Industries in this  
34 class shall be operated by the department of corrections. They  
35 shall be designed and managed to provide services in the inmate's  
36 resident community at a reduced cost. The services shall be

1 provided to public agencies, to persons who are poor or infirm, or  
2 to nonprofit organizations.

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

7 The department of corrections shall reimburse participating  
8 units of local government for liability and workers compensation  
9 insurance costs.

10 Inmates who work in this class of industries shall do so at  
11 their own choice and shall receive a gratuity which shall not  
12 exceed the wage paid for work of a similar nature in the locality  
13 in which the industry is located.

14 (5) CLASS V: COMMUNITY SERVICE PROGRAMS. Programs in this  
15 class shall be subject to supervision by the department of  
16 corrections. The purpose of this class of industries is to enable  
17 an offender, placed on community supervision, to work off all or  
18 part of a community service order as ordered by the sentencing  
19 court.

20 Employment shall be in a community service program operated by  
21 the state, local units of government, or a nonprofit agency.

22 To the extent that funds are specifically made available for  
23 such purposes, the department of corrections shall reimburse  
24 nonprofit agencies for workers compensation insurance costs.

25 NEW SECTION. **Sec. 22.** Sections 19, 20 and 21 of this act  
26 apply prospectively only and shall not affect time credits, early  
27 release time, or other "good time" earned before the effective date  
28 of this act. Sections 19, 20 and 21 of this act shall not apply to  
29 offenders who have already received a high school diploma or  
30 achieved an equivalent score on the general educational development  
31 test or offenders sentenced to life imprisonment without parole."

32 Renumber the remaining sections consecutively and correct  
33 internal references accordingly.

EFFECT: Provides that every person, with certain exceptions, sentenced to a correctional institution shall be making satisfactory progress towards completing a high school education, achieve an equivalent score on the general educational development test, or be actively enrolled in a similar educational program or adult basic education program before any earned time credits may be used to reduce the person's term of total confinement, or they can participate in class I, II, or IV work programs, if such educational programs are available.

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