
HOUSE BILL 2163

State of Washington

57th Legislature

2001 Regular Session

By Representatives O'Brien, Cairnes, Conway and Delvin

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1 AN ACT Relating to inmate labor; and amending RCW 72.09.010,
2 72.09.100, and 72.09.111.

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

4 **Sec. 1.** RCW 72.09.010 and 1995 1st sp.s. c 19 s 2 are each amended
5 to read as follows:

6 It is the intent of the legislature to establish a comprehensive
7 system of corrections for convicted law violators within the state of
8 Washington to accomplish the following objectives.

9 (1) The system should ensure the public safety. The system should
10 be designed and managed to provide the maximum feasible safety for the
11 persons and property of the general public, the staff, and the inmates.

12 (2) The system should punish the offender for violating the laws of
13 the state of Washington. This punishment should generally be limited
14 to the denial of liberty of the offender.

15 (3) The system should positively impact offenders by stressing
16 personal responsibility and accountability and by discouraging
17 recidivism.

1 (4) The system should treat all offenders fairly and equitably
2 without regard to race, religion, sex, national origin, residence, or
3 social condition.

4 (5) The system, as much as possible, should reflect the values of
5 the community including:

6 (a) Citizens who live and work in the community shall not be
7 displaced from their jobs by inmates.

8 (b) Avoiding idleness. Idleness is not only wasteful but
9 destructive to the individual and to the community.

10 ~~((b))~~ (c) Adoption of the work ethic. It is the community
11 expectation that all individuals should work and through their efforts
12 benefit both themselves and the community.

13 ~~((e))~~ (d) Providing opportunities for self improvement. All
14 individuals should have opportunities to grow and expand their skills
15 and abilities so as to fulfill their role in the community.

16 ~~((d))~~ (e) Linking the receipt or denial of privileges to
17 responsible behavior and accomplishments. The individual who works to
18 improve himself or herself and the community should be rewarded for
19 these efforts. As a corollary, there should be no rewards for no
20 effort.

21 ~~((e))~~ (f) Sharing in the obligations of the community. All
22 citizens, the public and inmates alike, have a personal and fiscal
23 obligation in the corrections system. All communities must share in
24 the responsibility of the corrections system.

25 (6) The system should provide for prudent management of resources.
26 The avoidance of unnecessary or inefficient public expenditures on the
27 part of offenders and the department is essential. Offenders must be
28 accountable to the department, and the department to the public and the
29 legislature. The human and fiscal resources of the community are
30 limited. The management and use of these resources can be enhanced by
31 wise investment, productive programs, the reduction of duplication and
32 waste, and the joining together of all involved parties in a common
33 endeavor. Since most offenders return to the community, it is wise for
34 the state and the communities to make an investment in effective
35 rehabilitation programs for offenders and the wise use of resources.

36 (7) The system should provide for inmate work programs. Inmates
37 shall be paid a wage comparable to the wage paid for work of a similar
38 nature in the locality in which the industry is located as determined
39 by the director of correctional industries in consultation with the

1 director of employment security. If the directors cannot reasonably
2 determine the comparable wage, then the pay shall not be less than the
3 federal minimum wage.

4 (8) The system should provide for restitution. Those who have
5 damaged others, persons or property, have a responsibility to make
6 restitution for these damages.

7 ((+8)) (9) The system should be accountable to the citizens of the
8 state. In return, the individual citizens and local units of
9 government must meet their responsibilities to make the corrections
10 system effective.

11 ((+9)) (10) The system should meet those national standards which
12 the state determines to be appropriate.

13 **Sec. 2.** RCW 72.09.100 and 1995 1st sp.s. c 19 s 33 are each
14 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. For purposes of establishing such a comprehensive program,
19 the legislature recommends that the department consider adopting any or
20 all, or any variation of, the following classes of work programs:

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

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

36 The department of corrections shall supply appropriate security and
37 custody services without charge to the participating firms.

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

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

12 (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class
13 shall be state-owned and operated enterprises designed to reduce the
14 costs for goods and services for tax-supported agencies and for
15 nonprofit organizations. The industries selected for development
16 within this class shall, as much as possible, match the available pool
17 of inmate work skills and aptitudes with the work opportunities in the
18 free community. The industries shall be closely patterned after
19 private sector industries but with the objectives ~~((of reducing public~~
20 ~~support costs rather than making a profit))~~ following the legislative
21 intent under RCW 72.09.010. The products and services of this
22 industry, including purchased products and services necessary for a
23 complete product line, may be sold to public agencies, to nonprofit
24 organizations, and to private contractors when the goods purchased will
25 be ultimately used by a public agency or a nonprofit organization.
26 Clothing manufactured by an industry in this class may be donated to
27 nonprofit organizations that provide clothing free of charge to low-
28 income persons. Correctional industries products and services shall be
29 reviewed by the correctional industries board of directors before
30 offering such products and services for sale to private contractors.
31 The board of directors shall conduct a yearly marketing review of the
32 products and services offered under this subsection. Such review shall
33 include an analysis of the potential impact of the proposed products
34 and services on the Washington state business community and labor
35 market. To avoid waste or spoilage and consequent loss to the state,
36 when there is no public sector market for such goods, byproducts and
37 surpluses of timber, agricultural, and animal husbandry enterprises may
38 be sold to private persons, at private sale. Surplus byproducts and
39 surpluses of timber, agricultural and animal husbandry enterprises that

1 cannot be sold to public agencies or to private persons may be donated
2 to nonprofit organizations. All sales of surplus products shall be
3 carried out in accordance with rules prescribed by the secretary.

4 Security and custody services shall be provided without charge by
5 the department of corrections.

6 Inmates working in this class of industries shall do so at their
7 own choice and shall be paid (~~for their work on a gratuity scale which~~
8 ~~shall not exceed the wage paid for work of a similar nature in the~~
9 ~~locality in which the industry is located and which is approved by the~~
10 ~~director of correctional industries~~) a wage comparable to the wage
11 paid for work of a similar nature in the locality in which the industry
12 is located as determined by the director of correctional industries in
13 consultation with the director of employment security. If the
14 directors cannot reasonably determine the comparable wage, then the pay
15 shall not be less than the federal minimum wage.

16 Subject to approval of the correctional industries board,
17 provisions of RCW 41.06.380 prohibiting contracting out work performed
18 by classified employees shall not apply to contracts with Washington
19 state businesses entered into by the department of corrections through
20 class II industries.

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

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

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

31 (c) Whenever possible, to offset tax and other public support
32 costs.

33 Supervising, management, and custody staff shall be employees of
34 the department.

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

37 Except for inmates who work in work training programs, inmates in
38 this class shall be paid (~~for their work in accordance with an inmate~~
39 ~~gratuity scale. The scale shall be adopted by the secretary of~~

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

7 (4) CLASS IV: COMMUNITY WORK INDUSTRIES. Industries in this class
8 shall be operated by the department of corrections. They shall be
9 designed and managed to provide services in the inmate's resident
10 community at a reduced cost. The services shall be provided to public
11 agencies, to persons who are poor or infirm, or to nonprofit
12 organizations.

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

17 The department of corrections shall reimburse participating units
18 of local government for liability and workers compensation insurance
19 costs.

20 Inmates who work in this class of industries shall do so at their
21 own choice and shall (~~receive a gratuity which shall not exceed the~~
22 ~~wage paid for work of a similar nature in the locality in which the~~
23 ~~industry is located)) be paid a wage comparable to the wage paid for
24 work of a similar nature in the locality in which the industry is
25 located, as determined by the director of correctional industries in
26 consultation with the director of employment security. If the
27 directors cannot reasonably determine the comparable wage, then the pay
28 shall not be less than the federal minimum wage.~~

29 (5) CLASS V: COMMUNITY SERVICE PROGRAMS. Programs in this class
30 shall be subject to supervision by the department of corrections. The
31 purpose of this class of industries is to enable an inmate, placed on
32 community supervision, to work off all or part of a community service
33 order as ordered by the sentencing court.

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

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

1 **Sec. 3.** RCW 72.09.111 and 1999 c 325 s 2 are each amended to read
2 as follows:

3 (1) The secretary shall deduct from the gross wages or gratuities
4 of each inmate working in correctional industries work programs, taxes
5 and legal financial obligations. The secretary shall develop a formula
6 for the distribution of offender wages and gratuities following the
7 legislative intent under RCW 72.09.010.

8 (a) The formula shall include the following minimum deductions from
9 class I gross wages and from all others earning at least minimum wage:

10 (i) Five percent to the public safety and education account for the
11 purpose of crime victims' compensation;

12 (ii) Ten percent to a department personal inmate savings account;
13 and

14 (iii) Twenty percent to the department to contribute to the cost of
15 incarceration.

16 (b) The formula shall include the following minimum deductions from
17 class II gross gratuities:

18 (i) Five percent to the public safety and education account for the
19 purpose of crime victims' compensation;

20 (ii) Ten percent to a department personal inmate savings account;
21 and

22 (iii) Fifteen percent to the department to contribute to the cost
23 of incarceration.

24 (c) The formula shall include the following minimum deduction from
25 class IV gross gratuities: Five percent to the department to
26 contribute to the cost of incarceration.

27 (d) The formula shall include the following minimum deductions from
28 class III gratuities: Five percent for the purpose of crime victims'
29 compensation.

30 Any person sentenced to life imprisonment without possibility of
31 release or parole under chapter 10.95 RCW or sentenced to death shall
32 be exempt from the requirement under (a)(ii) or (b)(ii) of this
33 subsection.

34 The department personal inmate savings account, together with any
35 accrued interest, shall only be available to an inmate at the time of
36 his or her release from confinement, unless the secretary determines
37 that an emergency exists for the inmate, at which time the funds can be
38 made available to the inmate in an amount determined by the secretary.
39 The management of classes I, II, and IV correctional industries may

1 establish an incentive payment for offender workers based on
2 productivity criteria. This incentive shall be paid separately from
3 the hourly wage/gratuity rate and shall not be subject to the specified
4 deduction for cost of incarceration.

5 In the event that the offender worker's wages or gratuity is
6 subject to garnishment for support enforcement, the crime victims'
7 compensation, savings, and cost of incarceration deductions shall be
8 calculated on the net wages after taxes, legal financial obligations,
9 and garnishment.

10 (2) The department shall explore other methods of recovering a
11 portion of the cost of the inmate's incarceration and for encouraging
12 participation in work programs, including development of incentive
13 programs that offer inmates benefits and amenities paid for only from
14 wages earned while working in a correctional industries work program.

15 (3) The department shall develop the necessary administrative
16 structure to recover inmates' wages and keep records of the amount
17 inmates pay for the costs of incarceration and amenities. All funds
18 deducted from inmate wages under subsection (1) of this section for the
19 purpose of contributions to the cost of incarceration shall be
20 deposited in a dedicated fund with the department and shall be used
21 only for the purpose of enhancing and maintaining correctional
22 industries work programs.

23 (4) The expansion of inmate employment in class I and class II
24 correctional industries shall be implemented according to the following
25 schedule, and following the legislative intent under RCW 72.09.010:

26 (a) Not later than June 30, 1995, the secretary shall achieve a net
27 increase of at least two hundred in the number of inmates employed in
28 class I or class II correctional industries work programs above the
29 number so employed on June 30, 1994;

30 (b) Not later than June 30, 1996, the secretary shall achieve a net
31 increase of at least four hundred in the number of inmates employed in
32 class I or class II correctional industries work programs above the
33 number so employed on June 30, 1994;

34 (c) Not later than June 30, 1997, the secretary shall achieve a net
35 increase of at least six hundred in the number of inmates employed in
36 class I or class II correctional industries work programs above the
37 number so employed on June 30, 1994;

38 (d) Not later than June 30, 1998, the secretary shall achieve a net
39 increase of at least nine hundred in the number of inmates employed in

1 class I or class II correctional industries work programs above the
2 number so employed on June 30, 1994;

3 (e) Not later than June 30, 1999, the secretary shall achieve a net
4 increase of at least one thousand two hundred in the number of inmates
5 employed in class I or class II correctional industries work programs
6 above the number so employed on June 30, 1994;

7 (f) Not later than June 30, 2000, the secretary shall achieve a net
8 increase of at least one thousand five hundred in the number of inmates
9 employed in class I or class II correctional industries work programs
10 above the number so employed on June 30, 1994.

11 (5) It shall be in the discretion of the secretary to apportion the
12 inmates between class I and class II depending on available contracts
13 and resources.

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