

2SSB 6489 - S AMD 699

By Senators Hargrove, Stevens

ADOPTED AS AMENDED 02/17/2004

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 72.09.070 and 1994 sp.s. c 7 s 535 are each amended
4 to read as follows:

5 (1) There is created a correctional industries board of directors
6 which shall have the composition provided in RCW 72.09.080.

7 (2) Consistent with general department of corrections policies and
8 procedures pertaining to the general administration of correctional
9 facilities, the board shall establish and implement policy for
10 correctional industries programs designed to:

11 (a) Offer inmates meaningful employment, work experience, and
12 training in vocations that are specifically designed to reduce
13 recidivism and thereby enhance public safety by providing opportunities
14 for legitimate means of livelihood upon their release from custody;

15 (b) Provide industries which will reduce the tax burden of
16 corrections and save taxpayers money through production of goods and
17 services for sale and use;

18 (c) Operate correctional work programs in an effective and
19 efficient manner which are as similar as possible to those provided by
20 the private sector;

21 (d) Encourage the development of and provide for selection of,
22 contracting for, and supervision of work programs with participating
23 private enterprise firms;

24 (e) Develop and (~~design~~) select correctional industries work
25 programs that do not unfairly compete with Washington businesses;

26 (f) Invest available funds in correctional industries enterprises
27 and meaningful work programs that minimize the impact on in-state jobs
28 and businesses.

29 (3) The board of directors shall at least annually review the work

1 performance of the director of correctional industries division with
2 the secretary.

3 (4) The director of correctional industries division shall review
4 and evaluate the productivity, funding, and appropriateness of all
5 correctional work programs and report on their effectiveness to the
6 board and to the secretary.

7 (5) The board of directors shall have the authority to identify and
8 establish trade advisory or apprenticeship committees to advise them on
9 correctional industries work programs. The secretary shall appoint the
10 members of the committees.

11 Where a labor management trade advisory and apprenticeship
12 committee has already been established by the department pursuant to
13 RCW 72.62.050 the existing committee shall also advise the board of
14 directors.

15 (6) The board shall develop a strategic yearly marketing plan that
16 shall be consistent with and work towards achieving the goals
17 established in the six-year phased expansion of class I and class II
18 correctional industries established in RCW 72.09.111. This marketing
19 plan shall be presented to the appropriate committees of the
20 legislature by January 17 of each calendar year until the goals set
21 forth in RCW 72.09.111 are achieved.

22 **Sec. 2.** RCW 72.09.100 and 2002 c 175 s 49 are each amended to read
23 as follows:

24 It is the intent of the legislature to vest in the department the
25 power to provide for a comprehensive inmate work program and to remove
26 statutory and other restrictions which have limited work programs in
27 the past. It is also the intent of the legislature to ensure that the
28 correctional industries board of directors, in developing and selecting
29 correctional industries work programs, does not encourage the
30 development of, or provide for selection of or contracting for, or the
31 significant expansion of, any new or existing class I correctional
32 industries work programs that unfairly compete with Washington
33 businesses. The legislature intends that the requirements relating to
34 fair competition in the correctional industries work programs be
35 liberally construed to protect Washington businesses from unfair
36 competition.

1 For purposes of establishing such a comprehensive program, the
2 legislature recommends that the department consider adopting any or
3 all, or any variation of, the following classes of work programs:

4 (1) CLASS I: FREE VENTURE INDUSTRIES.

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

10 (b) The customer model industries in this class shall be operated
11 and managed by the department to provide Washington state manufacturers
12 or businesses with products or services currently produced or provided
13 by out-of-state or foreign suppliers.

14 (c) The correctional industries board of directors shall review
15 these proposed industries, including any potential new class I
16 industries work program or the significant expansion of an existing
17 class I industries work program, before the department contracts to
18 provide such products or services. The review shall include ~~((an))~~ the
19 ~~analysis ((of the potential impact of the proposed products and~~
20 ~~services on the Washington state business community and labor market))~~
21 required under section 4 of this act to determine if the proposed
22 correctional industries work program will compete with any Washington
23 business. An agreement for a new class I correctional industries work
24 program, or an agreement for a significant expansion of an existing
25 class I correctional industries work program, that unfairly competes
26 with any Washington business is prohibited.

27 (d) The department of corrections shall supply appropriate security
28 and custody services without charge to the participating firms.

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

35 (f) An inmate who is employed in the class I program of
36 correctional industries shall not be eligible for unemployment

1 compensation benefits pursuant to any of the provisions of Title 50 RCW
2 until released on parole or discharged.

3 (2) CLASS II: TAX REDUCTION INDUSTRIES.

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

7 (b) The industries selected for development within this class
8 shall, as much as possible, match the available pool of inmate work
9 skills and aptitudes with the work opportunities in the free community.
10 The industries shall be closely patterned after private sector
11 industries but with the objective of reducing public support costs
12 rather than making a profit. The products and services of this
13 industry, including purchased products and services necessary for a
14 complete product line, may be sold to public agencies, to nonprofit
15 organizations, and to private contractors when the goods purchased will
16 be ultimately used by a public agency or a nonprofit organization.
17 Clothing manufactured by an industry in this class may be donated to
18 nonprofit organizations that provide clothing free of charge to low-
19 income persons.

20 (c)(i) Class II correctional industries products and services shall
21 be reviewed by the correctional industries board of directors before
22 offering such products and services for sale to private contractors.

23 (ii) The board of directors shall conduct a yearly marketing review
24 of the products and services offered under this subsection. Such
25 review shall include an analysis of the potential impact of the
26 proposed products and services on the Washington state business
27 community. To avoid waste or spoilage and consequent loss to the
28 state((τ)) when there is no public sector market for such goods,
29 byproducts and surpluses of timber, agricultural, and animal husbandry
30 enterprises may be sold to private persons, at private sale. Surplus
31 byproducts and surpluses of timber, agricultural and animal husbandry
32 enterprises that cannot be sold to public agencies or to private
33 persons may be donated to nonprofit organizations. All sales of
34 surplus products shall be carried out in accordance with rules
35 prescribed by the secretary.

36 (d) Security and custody services shall be provided without charge
37 by the department of corrections.

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

6 (f) Subject to approval of the correctional industries board,
7 provisions of RCW 41.06.380 prohibiting contracting out work performed
8 by classified employees shall not apply to contracts with Washington
9 state businesses entered into by the department of corrections through
10 class II industries.

11 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

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

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

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

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

24 (b) Class III correctional industries shall be reviewed by the
25 correctional industries board of directors to set policy for work
26 crews. The department shall present to the board of directors
27 quarterly detail statements showing where work crews worked, what
28 correctional industry class, and the hours worked. The board of
29 directors may review any class III program at its discretion.

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.

1 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

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

7 (b) Class IV correctional industries shall be reviewed by the
8 correctional industries board of directors to set policy for work
9 crews. The department shall present to the board of directors
10 quarterly detail statements showing where work crews worked, what
11 correctional industry class, and the hours worked. The board of
12 directors may review any class IV program at its discretion. Class IV
13 correctional industries operated in work camps established pursuant to
14 RCW 72.64.050 are exempt from the requirements of this subsection
15 (4)(b).

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

20 (d) The department of corrections shall reimburse participating
21 units of local government for liability and workers compensation
22 insurance costs.

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

27 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

28 (a) Programs in this class shall be subject to supervision by the
29 department of corrections. The purpose of this class of industries is
30 to enable an inmate, placed on community supervision, to work off all
31 or part of a community restitution order as ordered by the sentencing
32 court.

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

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

1 **Sec. 3.** RCW 72.09.100 and 2002 c 354 s 238 and 2002 c 175 s 49 are
2 each reenacted and amended to read as follows:

3 It is the intent of the legislature to vest in the department the
4 power to provide for a comprehensive inmate work program and to remove
5 statutory and other restrictions which have limited work programs in
6 the past. It is also the intent of the legislature to ensure that the
7 correctional industries board of directors, in developing and selecting
8 correctional industries work programs, does not encourage the
9 development of, or provide for selection of or contracting for, or the
10 significant expansion of, any new or existing class I correctional
11 industries work programs that unfairly compete with Washington
12 businesses. The legislature intends that the requirements relating to
13 fair competition in the correctional industries work programs be
14 liberally construed to protect Washington businesses from unfair
15 competition. For purposes of establishing such a comprehensive
16 program, the legislature recommends that the department consider
17 adopting any or all, or any variation of, the following classes of work
18 programs:

19 (1) CLASS I: FREE VENTURE INDUSTRIES.

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

25 (b) The customer model industries in this class shall be operated
26 and managed by the department to provide Washington state manufacturers
27 or businesses with products or services currently produced or provided
28 by out-of-state or foreign suppliers.

29 (c) The correctional industries board of directors shall review
30 these proposed industries, including any potential new class I
31 industries work program or the significant expansion of an existing
32 class I industries work program, before the department contracts to
33 provide such products or services. The review shall include ~~((an))~~ the
34 analysis ~~((of the potential impact of the proposed products and~~
35 ~~services on the Washington state business community and labor market))~~
36 required under section 4 of this act to determine if the proposed
37 correctional industries work program will compete with any Washington

1 business. An agreement for a new class I correctional industries work
2 program, or an agreement for a significant expansion of an existing
3 class I correctional industries work program, that unfairly competes
4 with any Washington business is prohibited.

5 (d) The department of corrections shall supply appropriate security
6 and custody services without charge to the participating firms.

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

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

17 (2) CLASS II: TAX REDUCTION INDUSTRIES.

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

21 (b) The industries selected for development within this class
22 shall, as much as possible, match the available pool of inmate work
23 skills and aptitudes with the work opportunities in the free community.
24 The industries shall be closely patterned after private sector
25 industries but with the objective of reducing public support costs
26 rather than making a profit. The products and services of this
27 industry, including purchased products and services necessary for a
28 complete product line, may be sold to public agencies, to nonprofit
29 organizations, and to private contractors when the goods purchased will
30 be ultimately used by a public agency or a nonprofit organization.
31 Clothing manufactured by an industry in this class may be donated to
32 nonprofit organizations that provide clothing free of charge to low-
33 income persons.

34 (c)(i) Class II correctional industries products and services shall
35 be reviewed by the correctional industries board of directors before
36 offering such products and services for sale to private contractors.

37 (ii) The board of directors shall conduct a yearly marketing review

1 of the products and services offered under this subsection. Such
2 review shall include an analysis of the potential impact of the
3 proposed products and services on the Washington state business
4 community. To avoid waste or spoilage and consequent loss to the
5 state, when there is no public sector market for such goods, byproducts
6 and surpluses of timber, agricultural, and animal husbandry enterprises
7 may be sold to private persons, at private sale. Surplus byproducts
8 and surpluses of timber, agricultural and animal husbandry enterprises
9 that cannot be sold to public agencies or to private persons may be
10 donated to nonprofit organizations. All sales of surplus products
11 shall be carried out in accordance with rules prescribed by the
12 secretary.

13 (d) Security and custody services shall be provided without charge
14 by the department of corrections.

15 (e) Inmates working in this class of industries shall do so at
16 their own choice and shall be paid for their work on a gratuity scale
17 which shall not exceed the wage paid for work of a similar nature in
18 the locality in which the industry is located and which is approved by
19 the director of correctional industries.

20 (f) Subject to approval of the correctional industries board,
21 provisions of RCW 41.06.142 shall not apply to contracts with
22 Washington state businesses entered into by the department of
23 corrections through class II industries.

24 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

25 (a) Industries in this class shall be operated by the department of
26 corrections. They shall be designed and managed to accomplish the
27 following objectives:

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

33 ~~((b))~~ (ii) Whenever possible, to provide forty hours of work or
34 work training per week.

35 ~~((c))~~ (iii) Whenever possible, to offset tax and other public
36 support costs.

1 (b) Class III correctional industries shall be reviewed by the
2 correctional industries board of directors to set policy for work
3 crews. The department shall present to the board of directors
4 quarterly detail statements showing where work crews worked, what
5 correctional industry class, and the hours worked. The board of
6 directors may review any class III program at its discretion.

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

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

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

15 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

16 (a) Industries in this class shall be operated by the department of
17 corrections. They shall be designed and managed to provide services in
18 the inmate's resident community at a reduced cost. The services shall
19 be provided to public agencies, to persons who are poor or infirm, or
20 to nonprofit organizations.

21 (b) Class IV correctional industries shall be reviewed by the
22 correctional industries board of directors to set policy for work
23 crews. The department shall present to the board of directors
24 quarterly detail statements showing where work crews worked, what
25 correctional industry class, and the hours worked. The board of
26 directors may review any class IV program at its discretion. Class IV
27 correctional industries operated in work camps established pursuant to
28 RCW 72.64.050 are exempt from the requirements of this subsection

29 (4)(b).

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

34 (d) The department of corrections shall reimburse participating
35 units of local government for liability and workers compensation
36 insurance costs.

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

5 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

6 (a) Programs in this class shall be subject to supervision by the
7 department of corrections. The purpose of this class of industries is
8 to enable an inmate, placed on community supervision, to work off all
9 or part of a community restitution order as ordered by the sentencing
10 court.

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

13 (c) To the extent that funds are specifically made available for
14 such purposes, the department of corrections shall reimburse nonprofit
15 agencies for workers compensation insurance costs.

16 NEW SECTION. Sec. 4. A new section is added to chapter 72.09 RCW
17 to read as follows:

18 (1) The department must prepare a threshold analysis for any
19 proposed new class I correctional industries work program or the
20 significant expansion of an existing class I correctional industries
21 work program before the department enters into an agreement to provide
22 such products or services. The analysis must state whether the
23 proposed new or expanded program will impact any Washington business
24 and must be based on information sufficient to evaluate the impact on
25 Washington business.

26 (2) If the threshold analysis determines that a proposed new or
27 expanded class I correctional industries work program will impact a
28 Washington business, the department must complete a business impact
29 analysis before the department enters into an agreement to provide such
30 products or services. The business impact analysis must include:

31 (a) A detailed statement identifying the scope and types of impacts
32 caused by the proposed new or expanded correctional industries work
33 program on Washington businesses; and

34 (b) A detailed statement of the business costs of the proposed
35 correctional industries work program compared to the business costs of
36 the Washington businesses that may be impacted by the proposed class I

1 correctional industries work program. Business costs of the proposed
2 correctional industries work program include rent, water, sewer,
3 electricity, disposal, labor costs, and any other quantifiable expense
4 unique to operating in a prison. Business costs of the impacted
5 Washington business include rent, water, sewer, electricity, disposal,
6 property taxes, and labor costs including employee taxes, unemployment
7 insurance, and workers' compensation.

8 (3) The completed threshold analysis and any completed business
9 impact analysis with all supporting documents must be shared in a
10 meaningful and timely manner with local chambers of commerce, trade or
11 business associations, local and state labor union organizations, and
12 government entities before a finding required under subsection (4) of
13 this section is made on the proposed new or expanded class I
14 correctional industries work program.

15 (4) If a business impact analysis is completed, the department must
16 conduct a public hearing to take public testimony on the business
17 impact analysis. The department must, at a minimum, establish a
18 publicly accessible web site containing information reasonably
19 calculated to provide notice to each Washington business assigned the
20 same three-digit standard industrial classification code, or the
21 corresponding North American industry classification system code, as
22 the organization seeking the class I correctional industries work
23 program agreement of the date, time, and place of the hearing. Notice
24 of the hearing shall be posted at least thirty days prior to the
25 hearing.

26 (5) Following the public hearing, the department shall adopt a
27 finding that the proposed new or expanded class I correctional
28 industries work program: (a) Will not compete with any Washington
29 business; (b) will not compete unfairly with any Washington business;
30 or (c) will compete unfairly with any Washington business and is
31 therefore prohibited under this act.

32 **Sec. 5.** RCW 72.09.460 and 1998 c 244 s 10 are each amended to read
33 as follows:

34 (1) The legislature intends that all inmates be required to
35 participate in department-approved education programs, work programs,
36 or both, unless exempted under subsection (4) of this section.

1 Eligible inmates who refuse to participate in available education or
2 work programs available at no charge to the inmates shall lose
3 privileges according to the system established under RCW 72.09.130.
4 Eligible inmates who are required to contribute financially to an
5 education or work program and refuse to contribute shall be placed in
6 another work program. Refusal to contribute shall not result in a loss
7 of privileges. The legislature recognizes more inmates may agree to
8 participate in education and work programs than are available. The
9 department must make every effort to achieve maximum public benefit by
10 placing inmates in available and appropriate education and work
11 programs.

12 (2) The department shall provide access to a program of education
13 to all offenders who are under the age of eighteen and who have not met
14 high school graduation or general equivalency diploma requirements in
15 accordance with chapter 28A.193 RCW. The program of education
16 established by the department and education provider under RCW
17 28A.193.020 for offenders under the age of eighteen must provide each
18 offender a choice of curriculum that will assist the inmate in
19 achieving a high school diploma or general equivalency diploma. The
20 program of education may include but not be limited to basic education,
21 prevocational training, work ethic skills, conflict resolution
22 counseling, substance abuse intervention, and anger management
23 counseling. The curriculum may balance these and other rehabilitation,
24 work, and training components.

25 (3) The department shall, to the extent possible and considering
26 all available funds, prioritize its resources to meet the following
27 goals for inmates in the order listed:

28 (a) Achievement of basic academic skills through obtaining a high
29 school diploma or its equivalent and achievement of vocational skills
30 necessary for purposes of work programs and for an inmate to qualify
31 for work upon release;

32 (b) Additional work and education programs based on assessments and
33 placements under subsection (5) of this section; and

34 (c) Other work and education programs as appropriate.

35 (4) The department shall establish, by rule, objective medical
36 standards to determine when an inmate is physically or mentally unable
37 to participate in available education or work programs. When the

1 department determines an inmate is permanently unable to participate in
2 any available education or work program due to a medical condition, the
3 inmate is exempt from the requirement under subsection (1) of this
4 section. When the department determines an inmate is temporarily
5 unable to participate in an education or work program due to a medical
6 condition, the inmate is exempt from the requirement of subsection (1)
7 of this section for the period of time he or she is temporarily
8 disabled. The department shall periodically review the medical
9 condition of all temporarily disabled inmates to ensure the earliest
10 possible entry or reentry by inmates into available programming.

11 (5) The department shall establish, by rule, standards for
12 participation in department-approved education and work programs. The
13 standards shall address the following areas:

14 (a) Assessment. The department shall assess all inmates for their
15 basic academic skill levels using a professionally accepted method of
16 scoring reading, math, and language skills as grade level equivalents.
17 The department shall determine an inmate's education history, work
18 history, and vocational or work skills. The initial assessment shall
19 be conducted, whenever possible, within the first thirty days of an
20 inmate's entry into the correctional system, except that initial
21 assessments are not required for inmates who are sentenced to life
22 without the possibility of release, assigned to an intensive management
23 unit within the first thirty days after entry into the correctional
24 system, are returning to the correctional system within one year of a
25 prior release, or whose physical or mental condition renders them
26 unable to complete the assessment process. The department shall track
27 and record changes in the basic academic skill levels of all inmates
28 reflected in any testing or assessment performed as part of their
29 education programming;

30 (b) Placement. The department shall follow the policies set forth
31 in subsection (1) of this section in establishing criteria for placing
32 inmates in education and work programs. The department shall, to the
33 extent possible, place all inmates whose composite grade level score
34 for basic academic skills is below the eighth grade level in a combined
35 education and work program. The placement criteria shall include at
36 least the following factors:

1 (i) An inmate's release date and custody level(~~(, except)~~). An
2 inmate shall not be precluded from participating in an education or
3 work program solely on the basis of his or her release date, except
4 that inmates with a release date of more than one hundred twenty months
5 in the future shall not comprise more than ten percent of inmates
6 participating in a new class I correctional industry not in existence
7 on the effective date of this section;

8 (ii) An inmate's education history and basic academic skills;

9 (iii) An inmate's work history and vocational or work skills;

10 (iv) An inmate's economic circumstances, including but not limited
11 to an inmate's family support obligations; and

12 (v) Where applicable, an inmate's prior performance in department-
13 approved education or work programs;

14 (c) Performance and goals. The department shall establish, and
15 periodically review, inmate behavior standards and program goals for
16 all education and work programs. Inmates shall be notified of
17 applicable behavior standards and program goals prior to placement in
18 an education or work program and shall be removed from the education or
19 work program if they consistently fail to meet the standards or goals;

20 (d) Financial responsibility. (i) The department shall establish
21 a formula by which inmates, based on their ability to pay, shall pay
22 all or a portion of the costs or tuition of certain programs. Inmates
23 shall, based on the formula, pay a portion of the costs or tuition of
24 participation in:

25 (A) Second and subsequent vocational programs associated with an
26 inmate's work programs; and

27 (B) An associate of arts or baccalaureate degree program when
28 placement in a degree program is the result of a placement made under
29 this subsection;

30 (ii) Inmates shall pay all costs and tuition for participation in:

31 (A) Any postsecondary academic degree program which is entered
32 independently of a placement decision made under this subsection; and

33 (B) Second and subsequent vocational programs not associated with
34 an inmate's work program.

35 Enrollment in any program specified in (d)(ii) of this subsection
36 shall only be allowed by correspondence or if there is an opening in an

1 education or work program at the institution where an inmate is
2 incarcerated and no other inmate who is placed in a program under this
3 subsection will be displaced; and

4 (e) Notwithstanding any other provision in this section, an inmate
5 sentenced to life without the possibility of release:

6 (i) Shall not be required to participate in education programming;
7 and

8 (ii) May receive not more than one postsecondary academic degree in
9 a program offered by the department or its contracted providers.

10 If an inmate sentenced to life without the possibility of release
11 requires prevocational or vocational training for a work program, he or
12 she may participate in the training subject to this section.

13 (6) The department shall coordinate education and work programs
14 among its institutions, to the greatest extent possible, to facilitate
15 continuity of programming among inmates transferred between
16 institutions. Before transferring an inmate enrolled in a program, the
17 department shall consider the effect the transfer will have on the
18 inmate's ability to continue or complete a program. This subsection
19 shall not be used to delay or prohibit a transfer necessary for
20 legitimate safety or security concerns.

21 (7) Before construction of a new correctional institution or
22 expansion of an existing correctional institution, the department shall
23 adopt a plan demonstrating how cable, closed-circuit, and satellite
24 television will be used for education and training purposes in the
25 institution. The plan shall specify how the use of television in the
26 education and training programs will improve inmates' preparedness for
27 available work programs and job opportunities for which inmates may
28 qualify upon release.

29 (8) The department shall adopt a plan to reduce the per-pupil cost
30 of instruction by, among other methods, increasing the use of volunteer
31 instructors and implementing technological efficiencies. The plan
32 shall be adopted by December 1996 and shall be transmitted to the
33 legislature upon adoption. The department shall, in adoption of the
34 plan, consider distance learning, satellite instruction, video tape
35 usage, computer-aided instruction, and flexible scheduling of offender
36 instruction.

1 (9) Following completion of the review required by section 27(3),
2 chapter 19, Laws of 1995 1st sp. sess. the department shall take all
3 necessary steps to assure the vocation and education programs are
4 relevant to work programs and skills necessary to enhance the
5 employability of inmates upon release.

6 **Sec. 6.** RCW 72.09.015 and 1995 1st sp.s. c 19 s 3 are each amended
7 to read as follows:

8 The definitions in this section apply throughout this chapter.

9 (1) "Base level of correctional services" means the minimum level
10 of field services the department of corrections is required by statute
11 to provide for the supervision and monitoring of offenders.

12 (2) "Contraband" means any object or communication the secretary
13 determines shall not be allowed to be: (a) Brought into; (b) possessed
14 while on the grounds of; or (c) sent from any institution under the
15 control of the secretary.

16 (3) "County" means a county or combination of counties.

17 (4) "Department" means the department of corrections.

18 (5) "Earned early release" means earned (~~early~~) release as
19 authorized by RCW 9.94A.728.

20 (6) "Extended family visit" means an authorized visit between an
21 inmate and a member of his or her immediate family that occurs in a
22 private visiting unit located at the correctional facility where the
23 inmate is confined.

24 (7) "Good conduct" means compliance with department rules and
25 policies.

26 (8) "Good performance" means successful completion of a program
27 required by the department, including an education, work, or other
28 program.

29 (9) "Immediate family" means the inmate's children, stepchildren,
30 grandchildren, great grandchildren, parents, stepparents, grandparents,
31 great grandparents, siblings, and a person legally married to an
32 inmate. "Immediate family" does not include an inmate adopted by
33 another inmate or the immediate family of the adopted or adopting
34 inmate.

35 (10) "Indigent inmate," "indigent," and "indigency" mean an inmate

1 who has less than a ten-dollar balance of disposable income in his or
2 her institutional account on the day a request is made to utilize funds
3 and during the thirty days previous to the request.

4 (11) "Inmate" means a person committed to the custody of the
5 department, including but not limited to persons residing in a
6 correctional institution or facility and persons released on furlough,
7 work release, or community custody, and persons received from another
8 state, state agency, county, or federal jurisdiction.

9 (12) "Privilege" means any goods or services, education or work
10 programs, or earned early release days, the receipt of which are
11 directly linked to an inmate's (a) good conduct; and (b) good
12 performance. Privileges do not include any goods or services the
13 department is required to provide under the state or federal
14 Constitution or under state or federal law.

15 (13) "Secretary" means the secretary of corrections or his or her
16 designee.

17 (14) "Significant expansion" includes any expansion into a new
18 product line or service or an increase in production of the same
19 product or service that results from an increase in benefits to the
20 class I business provided by the department, including a decrease in
21 labor costs, rent, or utility rates (water, sewer, electricity, and
22 disposal), an increase in work program space, tax advantages, or other
23 overhead costs.

24 (15) "Superintendent" means the superintendent of a correctional
25 facility under the jurisdiction of the Washington state department of
26 corrections, or his or her designee.

27 ((+15+)) (16) "Unfair competition" means any net competitive
28 advantage that a business may acquire as a result of a correctional
29 industries contract, including labor costs, rent, tax advantages,
30 utility rates (water, sewer, electricity, and disposal), and other
31 overhead costs. To determine net competitive advantage, the
32 correctional industries board shall review and quantify any expenses
33 unique to operating a for-profit business inside a prison.

34 (17) "Washington business" means an existing in-state manufacturer
35 or service provider subject to chapter 82.04 RCW.

36 (18) "Work programs" means all classes of correctional industries
37 jobs authorized under RCW 72.09.100.

1 **Sec. 7.** RCW 72.09.111 and 2003 c 379 s 25 and 2003 c 271 s 2 are
2 each reenacted and amended to read as follows:

3 (1) The secretary shall deduct taxes and legal financial
4 obligations from the gross wages, gratuities, or workers' compensation
5 benefits payable directly to the inmate under chapter 51.32 RCW, of
6 each inmate working in correctional industries work programs, or
7 otherwise receiving such wages, gratuities, or benefits. The secretary
8 shall also deduct child support payments from the gratuities of each
9 inmate working in class II through class IV correctional industries
10 work programs. The secretary shall develop a formula for the
11 distribution of offender wages, gratuities, and benefits. The formula
12 shall not reduce the inmate account below the indigency level, as
13 defined in RCW 72.09.015.

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

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

18 (ii) Ten percent to a department personal inmate savings account;

19 (iii) Twenty percent to the department to contribute to the cost of
20 incarceration; and

21 (iv) Twenty percent for payment of legal financial obligations for
22 all inmates who have legal financial obligations owing in any
23 Washington state superior court.

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

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

28 (ii) Ten percent to a department personal inmate savings account;

29 (iii) Fifteen percent to the department to contribute to the cost
30 of incarceration;

31 (iv) Twenty percent for payment of legal financial obligations for
32 all inmates who have legal financial obligations owing in any
33 Washington state superior court; and

34 (v) Fifteen percent for any child support owed under a support
35 order.

36 (c) The formula shall include the following minimum deductions from
37 any workers' compensation benefits paid pursuant to RCW 51.32.080:

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

3 (ii) Ten percent to a department personal inmate savings account;

4 (iii) Twenty percent to the department to contribute to the cost of
5 incarceration; and

6 (iv) An amount equal to any legal financial obligations owed by the
7 inmate established by an order of any Washington state superior court
8 up to the total amount of the award.

9 (d) The formula shall include the following minimum deductions from
10 class III gratuities:

11 (i) Five percent for the purpose of crime victims' compensation;
12 and

13 (ii) Fifteen percent for any child support owed under a support
14 order.

15 (e) The formula shall include the following minimum deduction from
16 class IV gross gratuities:

17 (i) Five percent to the department to contribute to the cost of
18 incarceration; and

19 (ii) Fifteen percent for any child support owed under a support
20 order.

21 (2) Any person sentenced to life imprisonment without possibility
22 of release or parole under chapter 10.95 RCW or sentenced to death
23 shall be exempt from the requirement under subsection (1)(a)(ii),
24 (b)(ii), or (c)(ii).

25 (3) The department personal inmate savings account, together with
26 any accrued interest, shall only be available to an inmate at the time
27 of his or her release from confinement, unless the secretary determines
28 that an emergency exists for the inmate, at which time the funds can be
29 made available to the inmate in an amount determined by the secretary.
30 The management of classes I, II, and IV correctional industries may
31 establish an incentive payment for offender workers based on
32 productivity criteria. This incentive shall be paid separately from
33 the hourly wage/gratuity rate and shall not be subject to the specified
34 deduction for cost of incarceration.

35 (4)(a) Within the funds appropriated for the correctional
36 industries program, the expansion of inmate employment in class I and

1 class II correctional industries shall be implemented according to the
2 following schedule:

3 (i) Not later than June 30, 2005, the secretary shall achieve a net
4 increase of at least two hundred in the number of inmates employed in
5 class I or class II correctional industries work programs above the
6 number so employed on June 30, 2003;

7 (ii) Not later than June 30, 2006, the secretary shall achieve a
8 net increase of at least four hundred in the number of inmates employed
9 in class I or class II correctional industries work programs above the
10 number so employed on June 30, 2003;

11 (iii) Not later than June 30, 2007, the secretary shall achieve a
12 net increase of at least six hundred in the number of inmates employed
13 in class I or class II correctional industries work programs above the
14 number so employed on June 30, 2003;

15 (iv) Not later than June 30, 2008, the secretary shall achieve a
16 net increase of at least nine hundred in the number of inmates employed
17 in class I or class II correctional industries work programs above the
18 number so employed on June 30, 2003;

19 (v) Not later than June 30, 2009, the secretary shall achieve a net
20 increase of at least one thousand two hundred in the number of inmates
21 employed in class I or class II correctional industries work programs
22 above the number so employed on June 30, 2003;

23 (vi) Not later than June 30, 2010, the secretary shall achieve a
24 net increase of at least one thousand five hundred in the number of
25 inmates employed in class I or class II correctional industries work
26 programs above the number so employed on June 30, 2003.

27 (b) Failure to comply with the schedule in this subsection does not
28 create a private right of action.

29 (5) In the event that the offender worker's wages, gratuity, or
30 workers' compensation benefit is subject to garnishment for support
31 enforcement, the crime victims' compensation, savings, and cost of
32 incarceration deductions shall be calculated on the net wages after
33 taxes, legal financial obligations, and garnishment.

34 ~~((+5))~~ (6) The department shall explore other methods of
35 recovering a portion of the cost of the inmate's incarceration and for
36 encouraging participation in work programs, including development of

1 incentive programs that offer inmates benefits and amenities paid for
2 only from wages earned while working in a correctional industries work
3 program.

4 ~~((6))~~ (7) The department shall develop the necessary
5 administrative structure to recover inmates' wages and keep records of
6 the amount inmates pay for the costs of incarceration and amenities.
7 All funds deducted from inmate wages under subsection (1) of this
8 section for the purpose of contributions to the cost of incarceration
9 shall be deposited in a dedicated fund with the department and shall be
10 used only for the purpose of enhancing and maintaining correctional
11 industries work programs.

12 ~~((7) The expansion of inmate employment in class I and class II~~
13 ~~correctional industries shall be implemented according to the following~~
14 ~~schedule:~~

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

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

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

27 ~~(d) Not later than June 30, 1998, the secretary shall achieve a net~~
28 ~~increase of at least nine hundred in the number of inmates employed in~~
29 ~~class I or class II correctional industries work programs above the~~
30 ~~number so employed on June 30, 1994;~~

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

35 ~~(f) Not later than June 30, 2000, the secretary shall achieve a net~~
36 ~~increase of at least one thousand five hundred in the number of inmates~~

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

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

6 (9) Nothing in this section shall limit the authority of the
7 department of social and health services division of child support from
8 taking collection action against an inmate's moneys, assets, or
9 property pursuant to chapter 26.23, 74.20, or 74.20A RCW.

10 NEW SECTION. **Sec. 8.** A new section is added to chapter 72.09 RCW
11 to read as follows:

12 All records, documents, data, and other materials obtained under
13 the requirements of section 4 of this act from an existing correctional
14 industries class I work program participant or an applicant for a
15 proposed new or expanded class I correctional industries work program
16 are exempt from public disclosure under chapter 42.17 RCW.

17 NEW SECTION. **Sec. 9.** A new section is added to chapter 42.17 RCW
18 to read as follows:

19 All records, documents, data, and other materials obtained under
20 the requirements of section 4 of this act from an existing correctional
21 industries class I work program participant or an applicant for a
22 proposed new or expanded class I correctional industries work program
23 are exempt from public disclosure under this chapter.

24 NEW SECTION. **Sec. 10.** Section 3 of this act takes effect July 1,
25 2005.

26 NEW SECTION. **Sec. 11.** Section 2 of this act expires July 1,
27 2005."

2SSB 6489 - S AMD 699

By Senators Hargrove, Stevens

ADOPTED AS AMENDED 02/17/2004

1 On page 1, line 1 of the title, after "industries;" strike the
2 remainder of the title and insert "amending RCW 72.09.070, 72.09.100,
3 72.09.460, and 72.09.015; reenacting and amending RCW 72.09.100 and
4 72.09.111; adding new sections to chapter 72.09 RCW; adding a new
5 section to chapter 42.17 RCW; providing an effective date; and
6 providing an expiration date."

--- END ---