

---

HOUSE BILL 1227

---

State of Washington

65th Legislature

2017 Regular Session

By Representatives Pike, Goodman, Manweller, Springer, Vick, Griffey, and Harris

Read first time 01/13/17. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to correctional industries' insurance costs;  
2 amending RCW 72.09.100 and 51.12.045; and adding a new section to  
3 chapter 72.09 RCW.

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

5 **Sec. 1.** RCW 72.09.100 and 2012 c 220 s 2 are each amended to  
6 read as follows:

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

1 adopting any or all, or any variation of, the following classes of  
2 work programs:

3 (1) CLASS I: FREE VENTURE INDUSTRIES.

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

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

13 (c) The department shall review these proposed industries,  
14 including any potential new class I industries work program or the  
15 significant expansion of an existing class I industries work program,  
16 before the department contracts to provide such products or services.  
17 The review shall include the analysis required under RCW 72.09.115 to  
18 determine if the proposed correctional industries work program will  
19 compete with any Washington business. An agreement for a new class I  
20 correctional industries work program, or an agreement for a  
21 significant expansion of an existing class I correctional industries  
22 work program, that unfairly competes with any Washington business is  
23 prohibited.

24 (d) The department shall supply appropriate security and custody  
25 services without charge to the participating firms.

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

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

37 (2) CLASS II: TAX REDUCTION INDUSTRIES.

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

1 (b)(i) The industries selected for development within this class  
2 shall, as much as possible, match the available pool of inmate work  
3 skills and aptitudes with the work opportunities in the free  
4 community. The industries shall be closely patterned after private  
5 sector industries but with the objective of reducing public support  
6 costs rather than making a profit.

7 (ii) Except as provided in RCW (~~(43.19.534(3))~~) 39.26.251 and  
8 this section, the products and services of this industry, including  
9 purchased products and services necessary for a complete product  
10 line, may be sold to the following:

11 (A) Public agencies;

12 (B) Nonprofit organizations;

13 (C) Private contractors when the goods purchased will be  
14 ultimately used by a public agency or a nonprofit organization;

15 (D) An employee and immediate family members of an employee of  
16 the department;

17 (E) A person under the supervision of the department and his or  
18 her immediate family members; and

19 (F) A licensed health professional for the sole purpose of  
20 providing eyeglasses to enrollees of the state medical program at no  
21 more than the health professional's cost of acquisition.

22 (iii) The department shall authorize the type and quantity of  
23 items that may be purchased and sold under (b)(ii)(D) and (E) of this  
24 subsection.

25 (iv) It is prohibited to purchase any item purchased under  
26 (b)(ii)(D) and (E) of this subsection for the purpose of resale.

27 (v) Clothing manufactured by an industry in this class may be  
28 donated to nonprofit organizations that provide clothing free of  
29 charge to low-income persons.

30 (c) Under no circumstance shall offenders under the custody of  
31 the department of corrections make or assemble uniforms to be worn by  
32 correctional officers employed with the department.

33 (d)(i) Class II correctional industries products and services  
34 shall be reviewed by the department before offering such products and  
35 services for sale to private contractors.

36 (ii) The secretary shall conduct a yearly marketing review of the  
37 products and services offered under this subsection. Such review  
38 shall include an analysis of the potential impact of the proposed  
39 products and services on the Washington state business community. To  
40 avoid waste or spoilage and consequent loss to the state, when there

1 is no public sector market for such goods, by-products and surpluses  
2 of timber, agricultural, and animal husbandry enterprises may be sold  
3 to private persons, at private sale. Surplus by-products and  
4 surpluses of timber, agricultural and animal husbandry enterprises  
5 that cannot be sold to public agencies or to private persons may be  
6 donated to nonprofit organizations. All sales of surplus products  
7 shall be carried out in accordance with rules prescribed by the  
8 secretary.

9 (e) Security and custody services shall be provided without  
10 charge by the department.

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

16 (g) Provisions of RCW 41.06.142 shall not apply to contracts with  
17 Washington state businesses entered into by the department through  
18 class II industries.

19 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

20 (a) Industries in this class shall be operated by the department.  
21 They shall be designed and managed to accomplish the following  
22 objectives:

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

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

30 (iii) Whenever possible, to offset tax and other public support  
31 costs.

32 (b) Class III correctional industries shall be reviewed by the  
33 department to set policy for work crews. The department shall prepare  
34 quarterly detail statements showing where work crews worked, what  
35 correctional industry class, and the hours worked.

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

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

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

5 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

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

11 (b) Class IV correctional industries shall be reviewed by the  
12 department to set policy for work crews. The department shall prepare  
13 quarterly detail statements showing where work crews worked, what  
14 correctional industry class, and the hours worked. Class IV  
15 correctional industries operated in work camps established pursuant  
16 to RCW 72.64.050 are exempt from the requirements of this subsection  
17 (4)(b).

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

22 ~~((The department shall reimburse participating units of local  
23 government for liability and workers compensation insurance costs.~~

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

28 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

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

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

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

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 72.09  
2    RCW to read as follows:

3        (1) The department shall elect workers' compensation and pay any  
4    workers' compensation premiums or costs due for offenders under the  
5    custody of the department working or performing services for a local  
6    government or nonprofit organization under a work program adopted by  
7    the department under RCW 72.09.100.

8        (2) When an offender under the department's jurisdiction provides  
9    services to a public benefit nonprofit or a local government entity,  
10   the department's payment of offender labor and industries workers'  
11   compensation premiums does not in any way establish the department as  
12   the employer for department of labor and industries' purposes and  
13   statutes. Therefore, the department will not be required to behave  
14   as the employer, which includes, but is not limited to, supervising  
15   the work performed by offenders, training offenders for a specific  
16   work project, or ensuring work site compliance with department of  
17   labor and industries workplace safety standards.

18        **Sec. 3.**    RCW 51.12.045 and 2002 c 175 s 40 are each amended to  
19    read as follows:

20        (~~Offenders performing community restitution pursuant to court~~  
21   ~~order or under RCW 13.40.080 may be deemed employees and/or workers~~  
22   ~~under this title at the option of the state, county, city, town, or~~  
23   ~~nonprofit organization under whose authorization the community~~  
24   ~~restitution is performed.)) With the exception of an offender who is  
25   under the custody of the state, any premiums or assessments due under  
26   this title for community restitution work shall be the obligation of  
27   and be paid for by the ((state agency,)) county, city, town, or  
28   nonprofit organization for which the offender performed the community  
29   restitution. In the case of an offender who is under the custody of  
30   the state, any premiums or assessments due under this title for  
31   community work shall be the obligation of and be paid for by the  
32   state agency that has custody of the offender. Coverage commences  
33   when ((a)) the state agency, county, city, town, or nonprofit  
34   organization has given notice to the director that it (~~wishes to~~  
35   ~~cover~~) is covering offenders performing community restitution before  
36   the occurrence of an injury or contraction of an occupational  
37   disease.~~

--- END ---