AN ACT

Relating to the employment of prisoners; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1
AN ACT

Relating to the employment of prisoners; and providing for an effective date.

*Section 1.* AS 23.15.580(g) is amended to read:

(g) The board shall assess the programs listed in this subsection and make recommendations to the legislature in its report required under (b)(9) of this section about whether to include one or more of these programs under the requirements of (f) of this section:

(1) in the Department of Commerce, Community, and Economic Development or operated by the department:

(A) local government assistance training and development, including the rural utility business advisory program;

(B) energy operations, providing training in management and administration of electric utilities and bulk fuel storage systems;

(2) in the Department of Corrections:

(A) Correctional Academy, training individuals applying for a
correctional officer position;
   (B) inmate programs, providing vocational technical training
and education courses for inmates preparing to be released from a correctional
facility;
   (C) employment of prison inmates [CORRECTIONAL
INDUSTRIES PROGRAM], providing inmates with jobs while they are
incarcerated;
(3) in the Department of Environmental Conservation:
   (A) remote maintenance worker program, providing training
and technical assistance to communities to keep drinking water and sewage
disposal systems running, and providing on-the-job training to local operators;
   (B) water and wastewater operator training and assistance;
   (C) federal drinking water operator training and certification;
(4) in the Department of Military and Veterans' Affairs: educational
benefits for members of the Alaska National Guard and the Alaska Naval Militia;
(5) in the Department of Public Safety:
   (A) fire service training to maintain emergency training skills
for existing fire fighter staff and volunteers and individuals interested in
becoming fire fighters;
   (B) Public Safety Training Academy, training trooper recruits;
(6) in the Department of Transportation and Public Facilities:
   (A) engineer-in-training program, providing on-the-job training
for apprentice engineers to enable them to gain the experience necessary to be
certified;
   (B) statewide transportation improvement program, offered by
the United States National Highway Institute;
   (C) local technical assistance program, transferring technical
expertise to local governments;
   (D) Native technical assistance program, transferring technical
expertise to Native governments;
   (E) border technology exchange program, to coordinate
highway issues with the Yukon Territory;

(7) in the Department of Labor and Workforce Development: vocational rehabilitation client services and special work projects, employment services, including job development, assisting individuals in finding employment, and assisting employed individuals in finding other employment.

* Sec. 2. AS 33.30.191(b) is amended to read:

(b) The commissioner may enter into contracts or cooperative agreements with any public agency for the performance of conservation projects. After the effective date of this Act, the commissioner may enter into a contract with an individual or private organization or public agency for the employment of prisoners if the commissioner consults with local union organizations before contracting and ensures that the contract will not result in the displacement of employed workers, be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services. A contract with an individual or private organization must require payment to the commissioner of at least the minimum wage required by AS 23.10.065 for each hour worked by a prisoner. The wage required under the contract, multiplied by the total hours worked by inmates, must be paid weekly, or for another period as required by the contract [WORK TO BE PERFORMED WILL HAVE MINIMAL NEGATIVE IMPACT ON AN EXISTING PRIVATE INDUSTRY OR LABOR FORCE IN THE STATE AS DETERMINED BY THE CORRECTIONAL INDUSTRIES COMMISSION UNDER AS 33.32.015].

* Sec. 3. AS 33.30.191(c) is amended to read:

(c) The commissioner may direct a prisoner to participate in a type of productive employment listed in (d)(1) and (3) - (5) [(d)(1) AND (d)(4) - (6)] of this section while the prisoner is confined in a correctional facility. A prisoner who refuses to participate in productive employment inside a correctional facility when directed under this section is subject to disciplinary sanctions imposed in accordance with regulations adopted by the commissioner.

* Sec. 4. AS 33.30.191(d) is amended to read:

(d) In this section, "productively employed" includes the following kinds of
employment:

(1) routine maintenance and support services essential to the operation of a correctional facility;

(2) education, including both academic and vocational;

(3) [INDUSTRIAL, AGRICULTURAL, AND SERVICE ACTIVITIES CONDUCTED IN ACCORDANCE WITH AS 33.32;]

(4) public conservation projects, including forest fire prevention and control, forest and watershed enhancement, recreational area development, construction and maintenance of trails and camp sites, fish and game enhancement, soil conservation, and forest watershed revegetation;

(4) [(5)] renovation, repair, or alteration of existing correctional facilities as permitted by law [AS 44.65.050(d)]; and

(5) [(6)] other work performed inside or outside of a correctional facility under (b) of this section [IF THE WORK HAS MINIMAL NEGATIVE IMPACT ON AN EXISTING PRIVATE INDUSTRY OR LABOR FORCE IN THE STATE AS DETERMINED BY THE CORRECTIONAL INDUSTRIES COMMISSION UNDER AS 33.32.015].

* Sec. 5. AS 33.30.191 is amended by adding new subsections to read:

(e) In employing prison inmates, the department shall comply with federal and state health and safety regulations, except for providing workers' compensation under AS 23.30.

(f) The provisions of AS 23 do not apply to the employment of prison inmates.

(g) Prison inmates productively employed under this section are not state employees nor do they have the rights or privileges given to state employees, including the right to participate in collective bargaining.

* Sec. 6. AS 33.30.201 is amended to read:

Sec. 33.30.201. Compensation [PAY] of prison inmates. Each prisoner who is productively employed, as defined in AS 33.30.191(d)(1) or (3) - (5) [AS 33.30.191(d)(1) OR 33.191(d)(3) - (6)], may receive for that work compensation at a rate determined by the commissioner under this section [AS 33.32.050] if the money is available from legislative appropriations.
Compensation established by the commissioner under this section may not exceed 50 percent of the minimum wage established in AS 23.10.065; however, if required to comply with a federal statute or regulation, a higher compensation may be established by the commissioner [THE PROVISIONS OF AS 33.32.050 AND AS 33.32.040(b) APPLY TO PRISONERS EMPLOYED IN THE CORRECTIONAL INDUSTRIES PROGRAM AND TO PRISONERS PRODUCTIVELY EMPLOYED IN ACTIVITIES OUTSIDE THAT PROGRAM].

* Sec. 7. AS 33.30.201 is amended by adding new subsections to read:

(b) If compensation established under (a) of this section is 50 percent or more of the minimum wage established in AS 23.10.065, the commissioner may deduct the cost of confinement of the prisoner up to the statewide average cost of confinement before disbursements are made under (c) of this section.

(c) The commissioner shall disburse compensation received under (a) of this section, after any deduction required by (b) of this section, in the following order of priority:

(1) for support of the prisoner's dependents, if any;
(2) to reimburse the state for compensation awarded under AS 18.67 resulting from the prisoner's criminal conduct;
(3) to pay a civil judgment resulting from the prisoner's criminal conduct;
(4) to pay a restitution or fine of the prisoner ordered by a sentencing court;
(5) for the payment of fees for the prisoner's utilities services under AS 33.30.017;
(6) for the purchase of clothing and commissary items for the prisoner's personal use.

(d) A prisoner's compensation remaining after any deductions under (b) of this section and disbursements under (c) of this section is to be credited to the prisoner and, except as provided in (e) of this section, must be retained by the department for the primary purpose of being available to the prisoner at the time of release. The commissioner shall maintain individual prisoner accounts for those earnings. The
commissioner may, however, permit the prisoner to draw on a portion of that money for other purposes that the commissioner considers appropriate.

(e) If a prisoner escapes, a portion of the retained compensation of the prisoner, as determined by the commissioner, is to be forfeited. The commissioner shall deposit forfeited compensation in the general fund.

(f) Except for execution by the state under AS 09.38.030(f), only the prisoner compensation retained by the commissioner under (d) of this section is subject to lien, attachment, garnishment, execution, or similar procedures to encumber money or property.

* Sec. 8. AS 36.30.313 is amended to read:

Sec. 36.30.313. Procurements provided through employment of prison inmates [CORRECTIONAL INDUSTRIES PROCUREMENTS]. A procurement of products or services provided through [BY] the employment of prison inmates [CORRECTIONAL INDUSTRIES PROGRAM ESTABLISHED] under AS 33.30.191 [AS 33.32] may be made without competitive sealed bidding or competitive sealed proposals, in accordance with regulations adopted by the commissioner.

* Sec. 9. AS 37.05.146(c) is amended by adding a new paragraph to read:

(81) proceeds from prison employment, including deductions from prisoner wages for the cost of confinement under AS 33.30.201(b) and forfeited wages under AS 33.30.201(e).

* Sec. 10. AS 36.30.850(b)(36); AS 37.05.146(c)(2); and AS 39.50.200(b)(52) are repealed.

* Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: FORMER CORRECTIONAL INDUSTRIES FUND. The legislature may appropriate the balance on July 1, 2005, of the former correctional industries fund (former AS 33.32.020(a)) to the Department of Corrections as program receipts under AS 37.05.146(c)(81). The commissioner of corrections shall consider all valid claims for payment presented to the former correctional industries fund (former AS 33.32.020(a)) for payment from the program receipts.

* Sec. 12. The uncodified law of the State of Alaska is amended by adding a new section to
TRANSITION: NONCOVERAGE OF AS 23.30. For the period July 1, 2005, through the day before the effective date of this Act, the provisions of AS 23.30 (Alaska Workers' Compensation Act) do not apply to inmates employed in a prison employment program operated by the Department of Corrections.

* Sec. 13. The uncodified law of the State of Alaska is amended by adding a new section to read:


* Sec. 14. This Act takes effect immediately under AS 01.10.070(c).