



LAWS OF ALASKA

1982

Source

SCS CSHB 194 (Jud)

Chapter No.

53

AN ACT

Relating to prisoner employment and correctional industries;
and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 10

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: May 27, 1982
Actual Effective Date: July 1, 1982

AN ACT

Relating to prisoner employment and correctional industries; and providing for an effective date.

* Section 1. AS 33.30.225 is repealed and reenacted to read:

Sec. 33.30.225. INSTITUTIONAL EMPLOYMENT. (a) It is the policy of the state that prisoners be productively employed for as many hours each day as feasible, not to exceed 40 hours per week unless overtime has been specifically approved by the commissioner. The term "productively employed" includes the following kinds of employment:

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

(2) education including both academic and vocational;

(3) industrial, agricultural, and service activities conducted in accordance with AS 33.30.400 - 33.30.490;

(4) public conservation projects including but not limited to forest fire prevention and control, forest and watershed enhancement, recreational area development, construction and maintenance of trails and campsites, fish and game enhancement, soil conservation, and forest watershed revegetation; and

(5) other work performed inside or outside of a prison facility if the work has minimal negative impact on an existing private industry or labor force in the state as determined by the commissioner.

(b) The commissioner may enter into contracts or cooperative

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1 agreements with any public agency for the performance of conservation
2 projects.

3 (c) The commissioner may direct a prisoner to participate in a
4 type of productive employment listed in (a)(1), (4), and (5) of this
5 section while the prisoner is confined in prison. A prisoner who
6 refuses to participate in productive employment when directed under this
7 section is subject to disciplinary sanctions imposed in accordance with
8 regulations adopted by the commissioner.

9 * Sec. 2. AS 33.30 is amended by adding a new section to read:

10 Sec. 33.30.227. INMATE PAY. Each prisoner who is productively
11 employed, as defined in AS 33.30.225(a)(1) or (3) - (5), may receive for
12 that work compensation at a rate determined by the commissioner under
13 AS 33.30.450 if the money is available from legislative appropriations.
14 The provisions of AS 33.30.450 apply to prisoners employed in the
15 correctional industries program and to prisoners productively employed
16 in activities outside that program.

17 * Sec. 3. AS 33.30.250(c) is amended to read:

18 (c) Whenever the prisoner is not employed and between the hours or
19 periods of employment, he shall be confined in a prison facility, as
20 directed by the commissioner [THE JAIL UNLESS THE COURT DIRECTS OTHER-
21 WISE].

22 * Sec. 4. AS 33.30 is amended by adding new sections to read:

23 ARTICLE 4. CORRECTIONAL INDUSTRIES.

24 Sec. 33.30.400. PURPOSE. It is the purpose of AS 33.30.400 -
25 33.30.490 to:

26 (1) develop and operate agricultural, industrial, and service
27 enterprises employing prisoners under the jurisdiction of the commis-
28 sioner;

29 (2) provide realistic work experience for prisoners under

1 conditions as much like those that prevail in private industry as possi-
2 ble, consistent with proper penal administration, and to direct their
3 efforts toward financial responsibility, acquiring or improving ef-
4 fective work habits and occupational skills, and increasing the proba-
5 bility of opportunities for employment after release; and

6 (3) operate a work program for prisoners that will be as
7 nearly self-supporting as possible by generating a sufficient amount of
8 money from the sale of products and services to pay all or most of the
9 expenses of the program.

10 Sec. 33.30.410. POWERS AND DUTIES OF THE COMMISSIONER. (a) The
11 commissioner may establish and administer a correctional industries
12 program that is based on voluntary prisoner participation.

13 (b) The commissioner may

14 (1) subject to the Fiscal Procedures Act (AS 37.05), use,
15 purchase, lease, equip, and maintain buildings, machinery, and other
16 equipment, and may purchase materials and enter into contracts, which
17 may be necessary for the correctional industries program;

18 (2) provide for prisoners to be employed in rendering ser-
19 vices and producing articles, materials, and supplies needed by a state
20 agency, a political subdivision of the state, an agency of the federal
21 government, other states or their political subdivisions, or for use by
22 nonprofit organizations;

23 (3) if the Correctional Industries Commission established in
24 AS 33.30.470 approves, employ prisoners to provide services or products
25 as needed by private industry if the services or products have potential
26 for contributing to the economy of the state and will have minimal nega-
27 tive impact on an existing private industry or labor force in the state.

28 Sec. 33.30.420. CORRECTIONAL INDUSTRIES FUND. (a) There is
29 established in the department a fund to be known as the correctional

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1 industries fund. All expenses of the correctional industries program,
2 except salaries and benefits of state employees, are to be financed from
3 the correctional industries fund and budgeted in accordance with the
4 Executive Budget Act (AS 37.07). The commissioner shall report annually
5 to the legislature all activities and balances of the fund.

6 (b) The legislature may appropriate to the correctional industries
7 fund any amounts necessary to implement AS 33.30.400 - 33.30.490, which
8 may equal or exceed the amounts received by the state for services
9 rendered or products sold by the correctional industries program.

10 (c) Unless otherwise expressly provided, money appropriated to the
11 correctional industries fund is not a one-year appropriation under
12 AS 37.25.010. Any amount that is appropriated but that is not required
13 for the purposes of the fund in that fiscal year remains available for
14 spending in succeeding fiscal years.

15 Sec. 33.30.430. MARKETING OF CORRECTIONAL INDUSTRIES PRODUCTS.

16 (a) The commissioner shall market correctional industries products to
17 appropriate entities as provided for in AS 33.30.410(b)(2). Because of
18 the potential for contributing to the economy of the state, agricultural
19 produce may be sold to commercial processors, wholesalers, or distri-
20 butors, in addition to the entities provided for in AS 33.30.410(b)(2).

21 (b) The commissioner may sell a product or service of a correc-
22 tional industries program to a private industry, subject to the approval
23 of the Correctional Industries Commission established in AS 33.30.470.
24 Before giving its approval, the Correctional Industries Commission must
25 determine that the product or service has potential for contributing to
26 the economy of the state and will have minimal negative impact on an
27 existing private industry or labor force in the state.

28 (c) A product or service provided by correctional industries that
29 meets marketable standards of quality and that meets the needs of state

1 agencies at reasonable cost, as determined by the commissioner of ad-
2 ministration, shall be purchased by state agencies through procedures
3 established by the Department of Administration in such a manner as to
4 facilitate the purchase. A product or service of the type and quality
5 of that supplied by the correctional industries may not be obtained from
6 a source outside correctional industries unless the commissioner certi-
7 fies to the Department of Administration that correctional industries is
8 not able to provide the product or service on a basis that is competitive
9 with other sources. State agencies shall make maximum use of the
10 resources of the correctional industries program both in the purchase of
11 existing products and by assisting in the development of new products or
12 adaptation of existing products to meet future needs.

13 (d) The commissioner shall periodically determine the prices at
14 which products and services will be sold. Prices must approximate the
15 fair market value of products and services of comparable quality offered
16 by commercial sources.

17 (e) The commissioner of administration shall establish suitable
18 methods of accounting and purchasing to facilitate the production and
19 marketing of correctional industries products and to assure accurate
20 cost data.

21 Sec. 33.30.440. LEGAL RIGHTS OF PRISONER WORKERS. (a) In ad-
22 ministering the correctional industries program, the department shall
23 comply with federal and state health and safety regulations, except for
24 the provision of workers' compensation under AS 23.30.

25 (b) The provisions of AS 23 do not apply to correctional indus-
26 tries nor to prisoners who work in correctional industries.

27 (c) Prisoners working in correctional industries are not state
28 employees nor do they have the rights or privileges accorded to state
29 employees, including the right to participate in collective bargaining.

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1 Sec. 33.30.450. PRISONER PAYMENT; FORFEITURE. (a) The commis-
2 sioner shall establish a pay plan for prisoners working in correctional
3 industries based on the quantity and quality of work performed and the
4 skill required. A wage established under the pay plan may not exceed 50
5 percent of the minimum wage established under AS 23.10.065. Wage incen-
6 tive plans to increase productivity may be included in the pay plan.
7 The commissioner shall determine the amount to be credited to the pris-
8 oner after disbursements made under (c) of this section.

9 (b) The commissioner may establish a wage for work performed in
10 the production of a product that is higher than the maximum wage autho-
11 rized under (a) of this section to comply with federal law or regulation
12 if that compliance is required before the product may be sold to the
13 federal government.

14 (c) The commissioner shall disburse prisoners' payments in amounts
15 determined to be appropriate under procedures adopted by the commissioner
16 based on the following order of priority:

- 17 (1) for support of the prisoner's dependents, if any;
- 18 (2) to reimburse the state for compensation awarded under
19 AS 18.67 resulting from the prisoner's criminal conduct;
- 20 (3) to pay a civil judgment resulting from the prisoner's
21 criminal conduct;
- 22 (4) for the purchase of clothing and commissary items for the
23 prisoner's personal use;
- 24 (5) to pay a restitution or fine of the prisoner ordered by a
25 sentencing court.

26 (d) Money credited to a prisoner must be retained by the com-
27 missioner for the primary purpose of being available to the prisoner at
28 the time of his release. The commissioner may, however, permit the
29 prisoner to draw upon a portion of the money for other purposes that the

1 commissioner considers appropriate.

2 (e) If a prisoner escapes, a portion of his earnings, as deter-
3 mined by the commissioner, is to be forfeited. The commissioner shall
4 deposit forfeited earnings in the general fund.

5 Sec. 33.30.460. ATTACHMENT OF PRISONER PAYMENTS. Only the prisoner
6 payments retained by the commissioner under AS 33.30.450(d) are subject
7 to lien, attachment, garnishment, execution, or similar procedures to
8 encumber funds or property.

9 Sec. 33.30.470. CORRECTIONAL INDUSTRIES COMMISSION. (a) The
10 Correctional Industries Commission is established to provide general
11 policy direction to the correctional industries program through the
12 commissioner of health and social services. The commission consists of
13 seven members, five of whom are to be appointed by the governor to serve
14 staggered terms of four years. The appointed members must include a
15 representative of private industry, organized labor, agriculture, and
16 the general public, and one ex-offender. The commissioner of adminis-
17 tration is also a member, as is the commissioner of health and social
18 services who is to serve as chairperson.

19 (b) The Correctional Industries Commission shall meet at least four
20 times during each fiscal year and may hold additional meetings at the
21 call of the chairperson. Four members of the Correctional Industries
22 Commission constitute a quorum and a vote of a majority of the quorum is
23 necessary for the transaction of the business of the commission.

24 (c) Members of the Correctional Industries Commission serve without
25 compensation, but are entitled to receive the per diem and travel
26 allowance provided in AS 39.20.180 for attending meetings of the commis-
27 sion and making investigations either as a commission or individually as
28 members of the commission at the request of the chairperson.

29 Sec. 33.30.480. POWERS AND DUTIES OF THE COMMISSION. (a) The

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1 Correctional Industries Commission shall monitor the correctional
2 industries program, annually review the proposed budget of the program,
3 and make appropriate recommendations to the commissioner. This budget
4 must be transmitted in the normal budgetary process to the legislature
5 as part of the governor's budget.

6 (b) The Correctional Industries Commission shall hold public hear-
7 ings to provide an opportunity for persons or organizations who may be
8 affected by the plans of the correctional industries program to appear
9 and present testimony concerning those plans. The Correctional Indus-
10 tries Commission shall adopt rules governing the conduct of those hear-
11 ings, including provisions to assure that adequate public notice of the
12 hearing is given before the hearing. The Correctional Industries Commis-
13 sion may also hold public hearings under these rules on any matter
14 within its jurisdiction. Rules adopted under this subsection are not
15 subject to the Administrative Procedure Act (AS 44.62).

16 (c) The Correctional Industries Commission shall recommend to the
17 commissioner the advisability of establishing, expanding, diminishing, or
18 discontinuing industrial, agricultural, or service activities to enable
19 the program to operate as nearly as possible in a self-supporting manner,
20 to provide as much employment for prisoners as is feasible, to provide
21 diversified work activities with minimal negative impact on an existing
22 private industry or labor force in the state, and contribute to the econ-
23 omy of the state. In making recommendations, the Correctional Industries
24 Commission shall consider testimony received at public hearings.

25 Sec. 33.30.490. COOPERATION WITH STATE AGENCIES. With the ap-
26 proval of the commissioner, a state agency may, without charge, transfer
27 to the department for the correctional industries program any property
28 or equipment suitable for the purposes of that program.

29 * Sec. 5. AS 37.05.230 is amended by adding a new paragraph to read:

1 (9) the provisions of this section relative to competitive
2 bids do not apply to the purchase of products or services provided by
3 the correctional industries program established under AS 33.30.400 -
4 33.30.490.

5 * Sec. 6. AS 33.30.270, 33.30.280, and AS 36.10.060 are repealed.

6 * Sec. 7. AS 33.30.400 - 33.30.490 are repealed July 1, 1987.

7 * Sec. 8. This Act takes effect July 1, 1982.
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