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Referred: Health, Education &  
Social Services and Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 194

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to prisoner employment and correc-  
7 tional industries; and providing for an effective  
8 date."

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

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 AS 33.30.225 is repealed and reenacted to read:

11 Sec. 33.30.225. INSTITUTIONAL EMPLOYMENT. (a) It is the policy  
12 of the state that prisoners be productively employed for as many hours  
13 each day as feasible, not to exceed 40 hours per week. The term "pro-  
14 ductively employed" includes the following kinds of employment:

- 15 (1) routine maintenance and support services essential to  
16 the operation of the prison;
- 17 (2) education including both academic and vocational;
- 18 (3) industrial, agricultural, and service activities con-  
19 ducted in accordance with AS 33.30.400 -- 33.30.490; and
- 20 (4) public conservation projects including but not limited  
21 to forest fire prevention and control, forest and watershed management,  
22 recreational area development, fish and game management, soil conserva-  
23 tion and forest watershed revegetation.

24 (b) The commissioner may enter into contracts or cooperative  
25 agreements with any public agency for the performance of conservation  
26 projects.

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

28 Sec. 33.30.227. INMATE PAY. Each prisoner who is productively  
29 employed, as defined in AS 33.30.225(a), is entitled to receive for his

1 or her work compensation at a rate determined by the commissioner under  
2 AS 33.30.440 and which is available from legislative appropriations.  
3 The provisions of AS 33.30.440 apply to prisoners productively employed  
4 in activities other than in the correctional industries program as well  
5 as in those activities which are a part of that program.

6 \* Sec. 3. AS 33.30 is amended by adding new sections to read:

7 ARTICLE 4. CORRECTIONAL INDUSTRIES.

8 Sec. 33.30.400. PURPOSE. It is the purpose of AS 33.30.400 --  
9 33.30.490 to:

10 (1) develop and operate agricultural, industrial, and ser-  
11 vice enterprises employing prisoners under the jurisdiction of the  
12 commissioner;

13 (2) provide realistic work experience for prisoners under  
14 conditions as much like those which prevail in private industry as  
15 possible, consistent with proper penal administration, and to direct  
16 their efforts toward financial responsibility, acquiring or improving  
17 effective work habits and occupational skills, and increasing the  
18 probability of opportunities for employment after release; and

19 (3) operate a work program for prisoners which will be as  
20 nearly self-supporting as possible by generating a sufficient amount of  
21 funds from the sale of products and services to pay all or most of the  
22 expenses of the program.

23 Sec. 33.30.410. POWERS AND DUTIES OF THE COMMISSIONER. (a) The  
24 commissioner may establish and administer a correctional industries  
25 program which is based on voluntary prisoner participation.

26 (b) The commissioner may:

27 (1) use, purchase, lease, equip, and maintain buildings,  
28 machinery, and other equipment, and may purchase materials and enter  
29 into contracts, which may be necessary for the correctional industries

1 program;

2 (2) provide for prisoners to be employed in rendering ser-  
3 vices and producing articles, materials, and supplies needed by any  
4 agency of the state, any political subdivision of the state, any agency  
5 of the federal government, other states or their political subdivi-  
6 sions, or for use by nonprofit corporations.

7 Sec. 33.30.420. MARKETING OF CORRECTIONAL INDUSTRIES PRODUCTS.

8 (a) The commissioner shall market correctional industries products to  
9 appropriate entities as provided for in AS 33.30.410(b)(2).

10 (b) Products and services provided by correctional industries  
11 which meet marketable standards of quality and which meet the needs of  
12 state agencies at reasonable cost, as determined by the commissioner of  
13 administration, shall be purchased by state agencies through procedures  
14 established by the Department of Administration in such a manner as to  
15 facilitate such purchases. Products and services of the type and  
16 quality of those supplied by the correctional industries may not be  
17 obtained from sources outside correctional industries unless the com-  
18 missioner certifies to the Department of Administration that correc-  
19 tional industries is not able to provide the products or services.  
20 State agencies shall make maximum use of the resources of the correc-  
21 tional industries program both in the purchase of existing products and  
22 by assisting in the development of new products or adaptation of  
23 existing products to meet future needs.

24 (c) The commissioner shall periodically determine the prices at  
25 which products and services will be sold. Prices must approximate the  
26 fair market value of products and services of comparable quality of-  
27 fered by commercial sources.

28 (d) Because of the potential for contributing to the economy of  
29 the state, agricultural produce may be sold to commercial processors,

1 wholesalers, or distributors, in addition to the entities provided for  
2 in AS 33.30.410(b)(2).

3 (e) The commissioner of administration shall establish suitable  
4 methods of accounting and purchasing to facilitate the production and  
5 marketing of correctional industries products and to assure accurate  
6 cost data.

7 Sec. 33.30.430. LEGAL RIGHTS OF PRISONER WORKERS. (a) In ad-  
8 ministering the correctional industries program, the department shall  
9 comply with federal and state health and safety regulations, except for  
10 the provision of workers' compensation under AS 23.30.

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

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

16 Sec. 33.30.440. PRISONER PAYMENT; FORFEITURE. (a) The commis-  
17 sioner shall establish a pay plan for prisoners working in correctional  
18 industries based on the quantity and quality of work performed and  
19 skill required. Wage incentive plans to increase productivity may be  
20 included in the pay plan. The commissioner shall determine the amount  
21 to be credited to the prisoner after disbursements made under (b) of  
22 this section.

23 (b) The commissioner shall disburse prisoner payments in amounts  
24 determined to be appropriate under procedures adopted by the commis-  
25 sioner, for the following purposes:

26 (1) to pay any restitution or fine ordered by the sentencing  
27 court;

28 (2) to reimburse the state for an award made for violent  
29 crimes compensation under AS 18.67 arising out of the prisoner's crim-

1 inal conduct;

2 (3) to pay a civil judgment arising out of the prisoner's  
3 criminal conduct;

4 (4) for support of the prisoner's dependents, if any; and

5 (5) for the purchase of clothing and commissary items for  
6 the prisoner's personal use.

7 (c) Funds credited to a prisoner must be retained by the com-  
8 missioner for the primary purpose of being available to the prisoner at  
9 the time of his release. The commissioner may, however, permit the  
10 prisoner to draw upon a portion of these funds for other purposes which  
11 the commissioner considers appropriate.

12 (d) If a prisoner escapes, a portion of his or her earnings, as  
13 determined by the commissioner, is to be forfeited. The commissioner  
14 shall deposit any forfeited earnings in the general fund.

15 Sec. 33.30.450. ATTACHMENT OF PRISONER PAYMENTS. Only the pris-  
16 ner payments retained by the commissioner under AS 33.30.440(c) are  
17 subject to lien, attachment, garnishment, execution, or similar pro-  
18 cedures to encumber funds or property.

19 Sec. 33.30.460. CORRECTIONAL INDUSTRIES COMMISSION. (a) The  
20 Correctional Industries Commission is established to provide general  
21 policy direction to the correctional industries program through the  
22 commissioner of health and social services. The commission consists of  
23 seven members, five of whom are to be appointed by the governor to  
24 serve staggered terms of four years. The appointed members must in-  
25 clude a representative of private industry, organized labor, agricul-  
26 ture, and the general public, and one ex-offender. The commissioner of  
27 administration is also a member, as is the commissioner of health and  
28 social services who is to serve as chairperson.

29 (b) The commission shall meet at least four times during each

1 fiscal year and may hold additional meetings at the call of the chair-  
2 person. Four members of the commission constitute a quorum and a vote  
3 of a majority of the quorum is necessary for the transaction of the  
4 business of the commission.

5 (c) Members of the commission serve without compensation, but are  
6 entitled to receive the per diem and travel allowance provided in  
7 AS 39.20.180 for attending meetings of the commission and making  
8 investigations either as a commission or individually as members of the  
9 commission at the request of the chairperson.

10 Sec. 33.30.470. POWERS AND DUTIES OF THE COMMISSION. (a) The  
11 commission shall monitor the correctional industries program, annually  
12 review the proposed budget of the program, and make appropriate recom-  
13 mendations to the commissioner. This budget must be transmitted in the  
14 normal budgetary process to the legislature as part of the governor's  
15 budget.

16 (b) The commission shall hold public hearings to provide an op-  
17 portunity for persons or organizations who may be affected by the plans  
18 of the correctional industries program to appear and present testimony  
19 concerning those plans. The commission shall adopt rules governing the  
20 conduct of those hearings, including provisions to assure that adequate  
21 public notice of the hearing is given before the hearing. The commis-  
22 sion may also hold public hearings under these rules on any matter  
23 within its jurisdiction. Rules adopted under this subsection are not  
24 subject to the Administrative Procedure Act (AS 44.62).

25 (c) The commission shall recommend to the commissioner the ad-  
26 visability of establishing, expanding, diminishing, or discontinuing  
27 industrial, agricultural, or service activities to enable the program  
28 to operate as nearly as possible in a self-supporting manner, to pro-  
29 vide as much employment for prisoners as is feasible, to provide di-

1        versified work activities to minimize the impact on existing private  
2        industry in the state, and to provide a service for the state. In  
3        making recommendations, the commission shall consider testimony re-  
4        ceived at public hearings.

5            Sec. 33.30.480. COOPERATION WITH STATE AGENCIES. With the ap-  
6        proval of the commissioner, any state agency may, without charge,  
7        transfer to the department for the correctional industries program any  
8        property or equipment suitable for the purposes of that program.

9            Sec. 33.30.490. CONTINUATION OF PROGRAM. After five years of  
10       operation of the correctional industries program, the legislature will  
11       review the program's current status and future plans to determine  
12       whether it is to continue in operation. Among the factors to be con-  
13       sidered by the legislature will be the number of inmates employed, the  
14       financial status of the program, and the contribution which the program  
15       is making both to the effectiveness of the prison system and to the  
16       economy of the state. If the legislature does not act, the program  
17       continues.

18       \* Sec. 4. AS 37.05.230 is amended by adding a new paragraph to read:

19            (9) the provisions of this section relative to competitive  
20       bids do not apply to the purchase of products or services provided by  
21       the correctional industries program established under AS 33.30.400 --  
22       33.30.490.

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

24       \* Sec. 6. This Act takes effect immediately in accordance with AS 01.10.-  
25       070(c).