

Offered: 4/20/82
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 194 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND 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 AS 33.30.225 is repealed and reenacted to read: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 unless overtime
14 has been specifically approved by the commissioner. The term "pro-
15 ductively employed" includes the following kinds of employment:

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

18 (2) education including both academic and vocational;

19 (3) industrial, agricultural, and service activities con-
20 ducted in accordance with AS 33.30.400 - 33.30.490;

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

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

29 (b) The commissioner may enter into contracts or cooperative

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 33.30.250(c) is amended to read:

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

14 * Sec. 3. AS 33.30 is amended by adding a new section to read:

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

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 commission established in AS 33.30.470 approves,
24 the commissioner may employ prisoners to provide services or products as
25 needed by private industry if the services or products have potential for
26 contributing to the economy of the state and will have minimal negative
27 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

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 commission established in AS 33.30.470. Before giving its
24 approval, the commission must determine that the product or service has
25 potential for contributing to the economy of the state and will have
26 minimal negative impact on an existing private industry or labor force
27 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.

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 admini-
17 stration is also a member, as is the commissioner of health and social
18 services who is to serve as chairperson.

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

24 (c) Members of the commission serve without compensation, but are
25 entitled to receive the per diem and travel allowance provided in AS 39.-
26 20.180 for attending meetings of the commission and making investigations
27 either as a commission or individually as members of the commission at
28 the request of the chairperson.

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

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

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

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

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

29 (9) the provisions of this section relative to competitive

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bids do not apply to the purchase of products or services provided by the correctional industries program established under AS 33.30.400 - 33.30.490.

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

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

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