



LAWS OF ALASKA

2006

Source

HCS SB 310(FIN) am H

Chapter No.

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

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

2

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

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

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

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

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

14 (2) in the Department of Corrections:

15 (A) Correctional Academy, training individuals applying for a

1 correctional officer position;

2 (B) inmate programs, providing vocational technical training
3 and education courses for inmates preparing to be released from a correctional
4 facility;

5 (C) **employment of prison inmates** [CORRECTIONAL
6 INDUSTRIES PROGRAM], providing inmates with jobs while they are
7 incarcerated;

8 (3) in the Department of Environmental Conservation:

9 (A) remote maintenance worker program, providing training
10 and technical assistance to communities to keep drinking water and sewage
11 disposal systems running, and providing on-the-job training to local operators;

12 (B) water and wastewater operator training and assistance;

13 (C) federal drinking water operator training and certification;

14 (4) in the Department of Military and Veterans' Affairs: educational
15 benefits for members of the Alaska National Guard and the Alaska Naval Militia;

16 (5) in the Department of Public Safety:

17 (A) fire service training to maintain emergency training skills
18 for existing fire fighter staff and volunteers and individuals interested in
19 becoming fire fighters;

20 (B) Public Safety Training Academy, training trooper recruits;

21 (6) in the Department of Transportation and Public Facilities:

22 (A) engineer-in-training program, providing on-the-job training
23 for apprentice engineers to enable them to gain the experience necessary to be
24 certified;

25 (B) statewide transportation improvement program, offered by
26 the United States National Highway Institute;

27 (C) local technical assistance program, transferring technical
28 expertise to local governments;

29 (D) Native technical assistance program, transferring technical
30 expertise to Native governments;

31 (E) border technology exchange program, to coordinate

1 highway issues with the Yukon Territory;

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

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

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

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

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

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

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

1 employment:

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

4 (2) education, including both academic and vocational;

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

7 (4)] public conservation projects, including forest fire prevention and
8 control, forest and watershed enhancement, recreational area development,
9 construction and maintenance of trails and campsites, fish and game enhancement, soil
10 conservation, and forest watershed revegetation;

11 ~~(4)~~ [(5)] renovation, repair, or alteration of existing correctional
12 facilities as permitted by law [AS 44.65.050(d)]; and

13 ~~(5)~~ [(6)] other work performed inside or outside of a correctional
14 facility under (b) of this section [IF THE WORK HAS MINIMAL NEGATIVE
15 IMPACT ON AN EXISTING PRIVATE INDUSTRY OR LABOR FORCE IN THE
16 STATE AS DETERMINED BY THE CORRECTIONAL INDUSTRIES
17 COMMISSION UNDER AS 33.32.015].

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

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

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

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

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

27 **Sec. 33.30.201. Compensation [PAY] of prison inmates.** Each prisoner who
28 is productively employed, as defined in AS 33.30.191(d)(1) or (3) - (5)
29 [AS 33.30.191(d)(1) OR 33.30.191(d)(3) - (6)], may receive for that work
30 compensation at a rate determined by the commissioner under this section
31 [AS 33.32.050] if the money is available from legislative appropriations.

1 **Compensation established by the commissioner under this section may not exceed**
2 **50 percent of the minimum wage established in AS 23.10.065; however, if**
3 **required to comply with a federal statute or regulation, a higher compensation**
4 **may be established by the commissioner** [THE PROVISIONS OF AS 33.32.050
5 AND AS 33.32.040(b) APPLY TO PRISONERS EMPLOYED IN THE
6 CORRECTIONAL INDUSTRIES PROGRAM AND TO PRISONERS
7 PRODUCTIVELY EMPLOYED IN ACTIVITIES OUTSIDE THAT PROGRAM].

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

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

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

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

27 (d) A prisoner's compensation remaining after any deductions under (b) of this
28 section and disbursements under (c) of this section is to be credited to the prisoner
29 and, except as provided in (e) of this section, must be retained by the department for
30 the primary purpose of being available to the prisoner at the time of release. The
31 commissioner shall maintain individual prisoner accounts for those earnings. The

1 commissioner may, however, permit the prisoner to draw on a portion of that money
2 for other purposes that the commissioner considers appropriate.

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

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

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

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

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

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

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

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

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

31 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 TRANSITION: NONCOVERAGE OF AS 23.30. For the period July 1, 2005, through
3 the day before the effective date of this Act, the provisions of AS 23.30 (Alaska Workers'
4 Compensation Act) do not apply to inmates employed in a prison employment program
5 operated by the Department of Corrections.

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

8 RETROACTIVITY: THE NONCOVERAGE OF AS 23.30. The provisions of sec. 12
9 of this Act apply retroactively to July 1, 2005.

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