

116TH CONGRESS
1ST SESSION

S. 425

To amend the Internal Revenue Code of 1986 to establish a stewardship fee on the production and importation of opioid pain relievers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 7, 2019

Mr. MANCHIN (for himself, Ms. KLOBUCHAR, Ms. BALDWIN, Mr. KING, Mr. WHITEHOUSE, Ms. WARREN, Mrs. SHAHEEN, Ms. HASSAN, Mr. BLUMENTHAL, and Ms. SMITH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to establish a stewardship fee on the production and importation of opioid pain relievers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Budgeting for Opioid
5 Addiction Treatment Act”.

1 **SEC. 2. STEWARDSHIP FEE ON OPIOID PAIN RELIEVERS.**

2 (a) IN GENERAL.—Subchapter E of chapter 32 of the
3 Internal Revenue Code of 1986 is amended by adding at
4 the end the following new section:

5 **“SEC. 4192. OPIOID PAIN RELIEVERS.**

6 “(a) IN GENERAL.—There is hereby imposed on the
7 sale of any active opioid by the manufacturer, producer,
8 or importer a fee equal to 1 cent per milligram so sold.

9 “(b) ACTIVE OPIOID.—For purposes of this section—

10 “(1) IN GENERAL.—The term ‘active opioid’
11 means any controlled substance (as defined in sec-
12 tion 102 of the Controlled Substances Act, as in ef-
13 fect on the date of the enactment of this section)
14 which is opium, an opiate, or any derivative thereof.

15 “(2) EXCLUSION FOR CERTAIN PRESCRIPTION
16 MEDICATIONS.—Such term shall not include any
17 prescribed drug which is used exclusively for the
18 treatment of opioid addiction as part of a medically
19 assisted treatment effort.

20 “(3) EXCLUSION OF OTHER INGREDIENTS.—In
21 the case of a product that includes an active opioid
22 and another ingredient, subsection (a) shall apply
23 only to the portion of such product that is an active
24 opioid.”.

25 (b) CLERICAL AMENDMENTS.—

1 (1) The heading of subchapter E of chapter 32
 2 of the Internal Revenue Code of 1986 is amended by
 3 striking “**Medical Devices**” and inserting
 4 “**Other Medical Products**”.

5 (2) The table of subchapters for chapter 32 of
 6 such Code is amended by striking the item relating
 7 to subchapter E and inserting the following new
 8 item:

“SUBCHAPTER E. OTHER MEDICAL PRODUCTS”.

9 (3) The table of sections for subchapter E of
 10 chapter 32 of such Code is amended by adding at
 11 the end the following new item:

“Sec. 4192. Opioid pain relievers.”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to sales on or after the date that
 14 is 1 year after the date of the enactment of this Act.

15 (d) REBATE OR DISCOUNT PROGRAM FOR CERTAIN
 16 CANCER AND HOSPICE PATIENTS.—

17 (1) IN GENERAL.—The Secretary of Health and
 18 Human Services, in consultation with patient advo-
 19 cacy groups and other relevant stakeholders as de-
 20 termined by such Secretary, shall establish a mecha-
 21 nism by which—

22 (A) any amount paid by an eligible patient
 23 in connection with the stewardship fee under
 24 section 4192 of the Internal Revenue Code of

1 1986 (as added by this section) shall be rebated
2 to such patient in as timely a manner as pos-
3 sible; or

4 (B) amounts paid by an eligible patient for
5 active opioids (as defined in section 4192(b) of
6 such Code) are discounted at time of payment
7 or purchase to ensure that such patient does
8 not pay any amount attributable to such fee,
9 with as little burden on the patient as possible. The
10 Secretary shall choose whichever of the options de-
11 scribed in subparagraph (A) or (B) is, in the Sec-
12 retary's determination, most effective and efficient
13 in ensuring eligible patients face no economic burden
14 from such fee.

15 (2) ELIGIBLE PATIENT.—For purposes of this
16 section, the term “eligible patient” means—

17 (A) a patient for whom any active opioid
18 (as so defined) is prescribed to treat pain relat-
19 ing to cancer or cancer treatment;

20 (B) a patient participating in hospice care;
21 and

22 (C) in the case of the death or incapacity
23 of a patient described in subparagraph (A) or
24 (B) or any similar situation as determined by
25 the Secretary of Health and Human Services,

1 the appropriate family member, medical proxy,
2 or similar representative or the estate of such
3 patient.

4 **SEC. 3. BLOCK GRANTS FOR PREVENTION AND TREATMENT**
5 **OF SUBSTANCE ABUSE.**

6 (a) GRANTS TO STATES.—Section 1921(b) of the
7 Public Health Service Act (42 U.S.C. 300x–21(b)) is
8 amended by inserting “, and, as applicable, for carrying
9 out section 1923A” before the period.

10 (b) NONAPPLICABILITY OF PREVENTION PROGRAM
11 PROVISION.—Section 1922(a)(1) of the Public Health
12 Service Act (42 U.S.C. 300x–22(a)(1)) is amended by in-
13 serting “except with respect to amounts made available
14 as described in section 1923A,” before “will expend”.

15 (c) OPIOID TREATMENT PROGRAMS.—Subpart II of
16 part B of title XIX of the Public Health Service Act (42
17 U.S.C. 300x–21 et seq.) is amended by inserting after sec-
18 tion 1923 the following:

19 **“SEC. 1923A. ADDITIONAL SUBSTANCE ABUSE TREATMENT**
20 **PROGRAMS.**

21 “A funding agreement for a grant under section 1921
22 is that the State involved shall provide that any amounts
23 made available by any increase in revenues to the Treas-
24 ury in the previous fiscal year resulting from the enact-
25 ment of section 4192 of the Internal Revenue Code of

1 1986, reduced by any amounts rebated or discounted
2 under section 2(d) of the Budgeting for Opioid Addiction
3 Treatment Act (as described in section 1933(a)(1)(B)(i))
4 be used exclusively for substance abuse (including opioid
5 abuse) treatment efforts in the State, including—

6 “(1) treatment programs—

7 “(A) establishing new addiction treatment
8 facilities, residential and outpatient, including
9 covering capital costs;

10 “(B) establishing sober living facilities;

11 “(C) recruiting and increasing reimburse-
12 ment for certified mental health providers pro-
13 viding substance abuse treatment in medically
14 underserved communities or communities with
15 high rates of prescription drug abuse;

16 “(D) expanding access to long-term, resi-
17 dential treatment programs for opioid addicts
18 (including 30-, 60-, and 90-day programs);

19 “(E) establishing or operating support pro-
20 grams that offer employment services, housing,
21 and other support services to help recovering
22 addicts transition back into society;

23 “(F) establishing or operating housing for
24 children whose parents are participating in sub-

1 stance abuse treatment programs, including
2 capital costs;

3 “(G) establishing or operating facilities to
4 provide care for babies born with neonatal ab-
5 stinence syndrome, including capital costs; and

6 “(H) other treatment programs, as the
7 Secretary determines appropriate; and

8 “(2) recruitment and training of substance use
9 disorder professionals to work in rural and medically
10 underserved communities.”.

11 (d) ADDITIONAL FUNDING.—Section
12 1933(a)(1)(B)(i) of the Public Health Service Act (42
13 U.S.C. 300x-33(a)(1)(B)(i)) is amended by inserting “,
14 plus any increase in revenues to the Treasury in the pre-
15 vious fiscal year resulting from the enactment of section
16 4192 of the Internal Revenue Code of 1986, reduced by
17 any amounts rebated or discounted under section 2(d) of
18 the Budgeting for Opioid Addiction Treatment Act” be-
19 fore the period.

20 **SEC. 4. REPORT.**

21 Not later than 2 years after the date described in sec-
22 tion 2(c), the Secretary of Health and Human Services
23 shall submit to Congress a report on the impact of the
24 amendments made by sections 2 and 3 on—

1 (1) the retail cost of active opioids (as defined
2 in section 4192 of the Internal Revenue Code of
3 1986, as added by section 2);

4 (2) patient access to such opioids, particularly
5 cancer and hospice patients, including the effect of
6 the discount or rebate on such opioids for cancer
7 and hospice patients under section 2(d);

8 (3) how the increase in revenue to the Treasury
9 resulting from the enactment of section 4192 of the
10 Internal Revenue Code of 1986 is used to improve
11 substance abuse treatment efforts in accordance
12 with section 1923A of the Public Health Service Act
13 (as added by section 3); and

14 (4) suggestions for improving—

15 (A) access to opioids for cancer and hos-
16 pice patients; and

17 (B) substance abuse treatment efforts
18 under such section 1923A.

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