

114TH CONGRESS
2D SESSION

S. 2977

To amend the Internal Revenue Code of 1986 to establish an excise tax on the production and importation of opioid pain relievers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 24, 2016

Mr. MANCHIN (for himself, Ms. KLOBUCHAR, Mrs. SHAHEEN, Mr. KING, Ms. HEITKAMP, Ms. BALDWIN, Mr. NELSON, Ms. WARREN, Mr. SCHATZ, and Mr. HEINRICH) 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 an excise tax 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. EXCISE TAX 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 taxable active opioid by the manufacturer, pro-
8 ducer, or importer a tax equal to 1 cent per milligram
9 so sold.

10 “(b) TAXABLE ACTIVE OPIOID.—For purposes of
11 this section—

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

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

23 “(3) EXCLUSION OF OTHER INGREDIENTS.—In
24 the case of a product that includes a taxable active
25 opioid and another ingredient, subsection (a) shall

1 apply only to the portion of such product that is a
2 taxable active opioid.”.

3 (b) CLERICAL AMENDMENTS.—

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

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

“SUBCHAPTER E. OTHER MEDICAL PRODUCTS”.

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

“Sec. 4192. Opioid pain relievers.”.

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

18 (d) REBATE OR DISCOUNT PROGRAM FOR CERTAIN
19 CANCER AND HOSPICE PATIENTS.—

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

1 (A) any amount paid by an eligible patient
 2 in connection with the tax under section 4192
 3 of the Internal Revenue Code of 1986 (as added
 4 by this section) shall be rebated to such patient
 5 in as timely a manner as possible, or

6 (B) amounts paid by an eligible patient for
 7 taxable active opioids (as defined in section
 8 4192(b) of such Code) are discounted at time
 9 of payment or purchase to ensure that such pa-
 10 tient does not pay any amount attributable to
 11 such tax,

12 with as little burden on the patient as possible. The
 13 Secretary shall choose whichever of the options de-
 14 scribed in subparagraph (A) or (B) is, in the Sec-
 15 retary's determination, most effective and efficient
 16 in ensuring eligible patients face no economic burden
 17 from such tax.

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

20 (A) a patient for whom any taxable active
 21 opioid (as so defined) is prescribed to treat pain
 22 relating to cancer or cancer treatment;

23 (B) a patient participating in hospice care;
 24 and

(C) in the case of the death or incapacity of a patient described in subparagraph (A) or (B) or any similar situation as determined by the Secretary of Health and Human Services, the appropriate family member, medical proxy, or similar representative or the estate of such patient.

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

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

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

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

1 **“SEC. 1923A. ADDITIONAL SUBSTANCE ABUSE TREATMENT**
 2 **PROGRAMS.**

3 “A funding agreement for a grant under section 1921
 4 is that the State involved shall provide that any amounts
 5 made available by any increase in revenues to the Treas-
 6 ury in the previous fiscal year resulting from the enact-
 7 ment of section 4192 of the Internal Revenue Code of
 8 1986, reduced by any amounts rebated or discounted
 9 under section 2(d) of the Budgeting for Opioid Addiction
 10 Treatment Act (as described in section 1933(a)(1)(B)(i))
 11 be used exclusively for substance abuse (including opioid
 12 abuse) treatment efforts in the State, including treatment
 13 programs—

14 “(1) establishing new addiction treatment facili-
 15 ties, residential and outpatient, including covering
 16 capital costs;

17 “(2) establishing sober living facilities;

18 “(3) recruiting and increasing reimbursement
 19 for certified mental health providers providing sub-
 20 stance abuse treatment in medically underserved
 21 communities or communities with high rates of pre-
 22 scription drug abuse;

23 “(4) expanding access to long-term, residential
 24 treatment programs for opioid addicts (including
 25 30-, 60-, and 90-day programs);

1 “(5) establishing or operating support programs
 2 that offer employment services, housing, and other
 3 support services to help recovering addicts transition
 4 back into society;

5 “(6) establishing or operating housing for chil-
 6 dren whose parents are participating in substance
 7 abuse treatment programs, including capital costs;

8 “(7) establishing or operating facilities to pro-
 9 vide care for babies born with neonatal abstinence
 10 syndrome, including capital costs; and

11 “(8) other treatment programs, as the Sec-
 12 retary determines appropriate.”.

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

22 **SEC. 4. REPORT.**

23 Not later than 2 years after the date described in sec-
 24 tion 2(c), the Secretary of Health and Human Services

1 shall submit to Congress a report on the impact of the
2 amendments made by sections 2 and 3 on—

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

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

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

16 (4) suggestions for improving—

17 (A) access to opioids for cancer and hos-
18 pice patients; and

19 (B) substance abuse treatment efforts
20 under such section 1923A.

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