

117TH CONGRESS
1ST SESSION

S. 1723

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

MAY 20, 2021

Mr. MANCHIN (for himself, Mr. ROMNEY, Ms. KLOBUCHAR, Ms. BALDWIN, Mr. KING, Ms. WARREN, Mrs. SHAHEEN, Ms. HASSAN, Mr. BLUMENTHAL, Ms. SMITH, and Mr. WHITEHOUSE) 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.—Chapter 32 of the Internal Rev-
 3 enue Code of 1986 is amended by inserting after sub-
 4 chapter D the following new subchapter:

5 **“Subchapter E—Certain Opioid Pain**
 6 **Relievers**

“Sec. 4191. Opioid pain relievers.

7 **“SEC. 4191. OPIOID PAIN RELIEVERS.**

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

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

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

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

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

1 only to the portion of such product that is an active
2 opioid.”.

3 (b) CLERICAL AMENDMENT.—The table of sub-
4 chapters for chapter 32 of the Internal Revenue Code of
5 1986 is amended by inserting after the item relating to
6 subchapter D the following new item:

“SUBCHAPTER E. CERTAIN OPIOID PAIN RELIEVERS”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to sales on or after the later of—

9 (1) the date which is 1 year after the date of
10 the enactment of this Act; or

11 (2) the date on which the Secretary of Health
12 and Human Services establishes the mechanism de-
13 scribed in subsection (d)(1).

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

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

21 (A) any amount paid by an eligible patient
22 in connection with the stewardship fee under
23 section 4191 of the Internal Revenue Code of
24 1986 (as added by this section) shall be rebated

1 to such patient in as timely a manner as pos-
2 sible, or

3 (B) amounts paid by an eligible patient for
4 active opioids (as defined in section 4191(b) of
5 such Code) are discounted at time of payment
6 or purchase to ensure that such patient does
7 not pay any amount attributable to such fee,
8 with as little burden on the patient as possible. The
9 Secretary shall choose whichever of the options de-
10 scribed in subparagraph (A) or (B) is, in the Sec-
11 retary's determination, most effective and efficient
12 in ensuring eligible patients face no economic burden
13 from such fee.

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

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

19 (B) a patient participating in hospice care;

20 (C) a patient with respect to whom the
21 prescriber of the applicable opioid determines
22 that other non-opioid pain management treat-
23 ments are inadequate or inappropriate; and

24 (D) in the case of the death or incapacity
25 of a patient described in subparagraph (A), (B),

1 or (C), or any similar situation as determined
 2 by the Secretary of Health and Human Serv-
 3 ices, the appropriate family member, medical
 4 proxy, or similar representative or the estate of
 5 such patient.

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

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

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

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

21 **“SEC. 1923A. ADDITIONAL SUBSTANCE ABUSE TREATMENT**
 22 **PROGRAMS.**

23 “A funding agreement for a grant under section 1921
 24 is that the State involved shall provide that any amounts
 25 made available by any increase in revenues to the Treas-

1 ury in the previous fiscal year resulting from the enact-
 2 ment of section 4191 of the Internal Revenue Code of
 3 1986, reduced by any amounts rebated or discounted
 4 under section 2(d) of the Budgeting for Opioid Addiction
 5 Treatment Act (as described in section 1933(a)(1)(B)(i))
 6 be used exclusively for substance abuse (including opioid
 7 abuse) treatment efforts in the State, including—

8 “(1) treatment programs—

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

12 “(B) establishing sober living facilities;

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

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

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

1 “(F) establishing or operating housing for
 2 children whose parents are participating in sub-
 3 stance abuse treatment programs, including
 4 capital costs;

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

8 “(H) other treatment programs, as the
 9 Secretary determines appropriate; and

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

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 4191 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 active opioids (as defined
4 in section 4191 of the Internal Revenue Code of
5 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 4191 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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