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Legislative Document

No. 1362

H.P. 984

House of Representatives, March 21, 2019

An Act To Fund Opioid Treatment by Establishing an Excise Tax on Manufacturers of Opioids

Reference to the Committee on Health and Human Services suggested and ordered printed.

RI+ B. Hunt

ROBERT B. HUNT Clerk

Presented by Representative O'NEIL of Saco. Cosponsored by Senator CHIPMAN of Cumberland and Representatives: BAILEY of Saco, GATTINE of Westbrook, McCREIGHT of Harpswell, PERRY of Calais, TIPPING of Orono, WARREN of Hallowell, Senators: GRATWICK of Penobscot, SANBORN, L. of Cumberland.

1	Be it enacted by the People of the State of Maine as follows:
2 3	Sec. 1. 22 MRSA §1511, sub-§2, ¶¶B and C, as enacted by PL 1999, c. 401, Pt. V, §1, are amended to read:
4 5	B. Money from any other source, whether public or private, designated for deposit into or credited to the fund; and
6	C. Interest earned or other investment income on balances in the fund-; and
7	Sec. 2. 22 MRSA §1511, sub-§2, ¶D is enacted to read:
8 9 10	D. Proceeds from the tax on opioids under Title 36, section 4921. Proceeds credited to the fund under this paragraph must be deposited into the Opioid Stewardship Fund under section 1513.
11 12	Sec. 3. 22 MRSA §1511, sub-§6, ¶G, as amended by PL 2017, c. 407, Pt. A, §71, is further amended to read:
13	G. Substance use disorder prevention and treatment; and
14 15	Sec. 4. 22 MRSA §1511, sub-§6, ¶H, as amended by PL 2007, c. 539, Pt. IIII, §3, is further amended to read:
16 17	H. Comprehensive school health and nutrition programs, including school-based health centers- <u>; and</u>
18	Sec. 5. 22 MRSA §1511, sub-§6, ¶I is enacted to read:
19 20	I. Opioid use disorder prevention, treatment and recovery services funded under section 1513.
21	Sec. 6. 22 MRSA §1513 is enacted to read:
22	<u>§1513. Opioid Stewardship Fund</u>
23 24 25 26 27 28 29 30	1. Fund established. The Opioid Stewardship Fund is established as a restricted account within the fund under section 1511, subsection 11 for the purpose of funding the services under section 1511, subsection 6, paragraph I. The Opioid Stewardship Fund is funded from the tax on opioids collected from all proceeds received under section 1511, subsection 2, paragraph D and appropriations, allocations and contributions from private and public sources. Any unexpended balances remaining in the Opioid Stewardship Fund at the end of any fiscal year do not lapse and must be carried forward to the next fiscal year.
31 32 33 34	2. Report. By April 1st of each calendar year, a manufacturer subject to the tax under Title 36, section 4921 shall report to the department in a form determined by the department the following information on opioids made by the manufacturer subject to the tax that were distributed in the State the previous calendar year:
35 36	A. The manufacturer's name, address, telephone number, e-mail address, website address and United States Department of Justice, Drug Enforcement Administration

1 2	registration number and any registration or identification number required by an agency of the State;
3	B. The name, address and United States Department of Justice, Drug Enforcement
4	Administration registration number of the person to whom the opioids subject to the
5	tax under Title 36, section 4921 were provided in the State and each date the opioids
6	were provided;
7	C. The gross receipts in dollars of all opioids distributed;
8	D. The name and national drug code of each opioid distributed;
9	E. The number of containers and the metric quantity of controlled substance in each
10	container of opioids distributed;
11 12	F. The total number of morphine milligram equivalents of opioids that were distributed; and
13	G. Any other information determined necessary by the department.
14	The department shall forward the information received under this subsection to the State
15	Tax Assessor for the administration of the tax under Title 36, section 4921. For purposes
16	of this subsection, "distribution" has the same meaning as in Title 36, section 4921,
17	subsection 1, paragraph B.
18	3. Rules. The department, in consultation with the Maine Board of Pharmacy under
19 20	Title 32, section 13711, shall adopt rules to carry out the purposes of this section. Rules
20 21	adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
22	Sec. 7. 36 MRSA c. 723 is enacted to read:
23	CHAPTER 723
24	TAX ON OPIOIDS
25	§4921. Opioid tax
26	1. Definitions. As used in this chapter, unless the context otherwise indicates, the
27	following terms have the following meanings.
28	A. "Distribution" means the final sale of opioids to a consumer.
29	B. "Manufacturer" means a person that makes opioids.
30	C. "Opiate" means the dried, condensed juice of a poppy, Papaver somniferum L.,
31	that has a narcotic, soporific, analgesic and astringent effect.
32	D. "Opioid" means:
33	(1) An opiate;
34	(2) A synthetic or semisynthetic narcotic that has effects similar to natural opium
35	alkaloids but is not derived from opium; or
36	(3) A derivative of an opioid described in subparagraph (1) or (2).

- **2. Tax rate.** Beginning January 1, 2020, an excise tax is imposed upon opioids
 manufactured by a manufacturer that are distributed in the State at the rate of 0.1¢ per
 morphine milligram equivalent.
- 4 **3. Exemptions.** A person is exempted from the tax under this section:
- 5 A. If the State is prohibited from taxing the person under the United States 6 Constitution or laws of the United States or under the Constitution of Maine; or
- B. For opioids distributed in the State for the purpose of medication-assisted
 treatment of substance use disorder. The Maine Board of Pharmacy under Title 32,
 section 13711 periodically shall provide to the assessor a list of medications
 exempted under this paragraph.
- <u>4. Avoidance. A manufacturer subject to the provisions of this section may not pass</u>
 a tax assessed under this section on to a consumer in the State. A manufacturer that
 violates this subsection commits a civil violation for which a penalty of not more than
 \$1,000,000 may be adjudged.
- 15 5. Revenue. All taxes, interest, penalties and other amounts collected from the tax
 imposed under this section must be deposited into the Fund for a Healthy Maine under
 17 Title 22, section 1511, subsection 2, paragraph D.
- 18 **Sec. 8. Manufacturers to report for previous year.** By April 1, 2020, a 19 manufacturer subject to the tax under the Maine Revised Statutes, Title 36, section 4921 20 shall submit a report to the Department of Health and Human Services under Title 22, 21 section 1513, subsection 2 for the calendar year 2019.
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SUMMARY

This bill establishes the Opioid Stewardship Fund within the Fund for a Healthy Maine for the purpose of supporting opioid use disorder prevention, treatment and recovery funded by an excise tax of $0.1 \notin$ per morphine milligram equivalent assessed against opioid drug manufacturers for opioid drugs purchased by consumers in the State.