

AMENDED IN ASSEMBLY MAY 9, 2017  
AMENDED IN ASSEMBLY APRIL 25, 2017  
AMENDED IN ASSEMBLY APRIL 17, 2017  
AMENDED IN ASSEMBLY MARCH 28, 2017  
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1512**

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**Introduced by Assembly Member McCarty**

February 17, 2017

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An act to add Division 10.4 (commencing with Section 11740) to the Health and Safety Code, and to add Part 14.3 (commencing with Section 33001) to Division 2 of the Revenue and Taxation Code, relating to taxation, *and making an appropriation therefor*; to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1512, as amended, McCarty. Opioid Addiction Prevention and Rehabilitation Act.

Existing law imposes various fees and taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

Under this bill, the Opioid Addiction Prevention and Rehabilitation Act would impose a tax on and after ~~January~~ *July* 1, 2018, upon the distribution of opioids by ~~every person including, but not limited to, a manufacturer or wholesaler, that makes the first sale in this state of opioids, where the sale is for the purpose of resale in the regular course of business, a manufacturer to a wholesaler from the manufacturer, as~~

*those terms are defined*, at the rate of \$0.01 per milligram of active opioid ingredient. *The bill would require the wholesaler to collect the tax and remit it to the State Board of Equalization.* The tax would be administered by the State Board of Equalization and would be collected pursuant to the procedures set forth in the Fee Collection Procedures Law, which sets forth requirements for registration, returns, payments, penalties, interest, determinations and redeterminations, collections, overpayments and refunds, administration and confidentiality, and violations. By expanding the application of the Fee Collection Procedures Law, the violation of which is a crime, this bill would impose a state-mandated local program.

This bill would require the board to deposit all taxes, interest, penalties, and other amounts collected, ~~less-refunds~~, *refunds and the board’s costs of administration*, into the Opioid Prevention and Rehabilitation Program Fund, which this bill would create. *By authorizing the use of moneys collected pursuant to this bill for these purposes, the bill would make an appropriation.* The bill would state the intent of the Legislature to enact legislation that would provide for distribution of the moneys in the fund for addiction prevention and rehabilitation programs.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would take effect immediately as a tax levy.

Vote:  $\frac{2}{3}$ . Appropriation: ~~no~~-yes. Fiscal committee: yes.  
 State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Division 10.4 (commencing with Section 11740)
- 2 is added to the Health and Safety Code, to read:

1 DIVISION 10.4. OPIOID PREVENTION AND  
2 REHABILITATION PROGRAM FUND

3  
4 11740. (a) There is hereby created in the State Treasury the  
5 Opioid Prevention and Rehabilitation Program Fund.

6 (b) It is the intent of the Legislature to enact legislation that  
7 would provide for distribution of the moneys in the fund for  
8 addiction prevention and rehabilitation programs.

9 SEC. 2. Part 14.3 (commencing with Section 33001) is added  
10 to Division 2 of the Revenue and Taxation Code, to read:

11  
12 PART 14.3. OPIOID ADDICTION PREVENTION AND  
13 REHABILITATION ACT

14  
15 33001. This part shall be known and may be cited as the Opioid  
16 Addiction Prevention and Rehabilitation Act.

17 33002. For purposes of this part:

18 (a) "Active opioid ingredient" means that portion of a product  
19 that is an opioid.

20 (b) "Distribution" means the sale of untaxed opioids in this  
21 state.

22 (c) "In this state" means within the exterior limits of the State  
23 of California and includes all territory within these limits owned  
24 by or ceded to the United States.

25 (d) "*Manufacturer*" means any person, whether or not located  
26 in this state, who manufactures opioids for distribution in this  
27 state.

28 ~~(d)~~

29 (e) "Opiate" means the dried, condensed juice of a poppy,  
30 Papaver somniferum, that has a narcotic, soporific, analgesic, and  
31 astringent effect.

32 ~~(e)~~

33 (f) "Opioid" means an opiate or any synthetic or semisynthetic  
34 narcotic that has opiatelike activities but is not derived from opium  
35 and has effects similar to natural opium alkaloids, and any  
36 derivatives thereof.

37 ~~(f)~~

38 (g) "Person" means person as defined in Section 55002.

39 ~~(g)~~

1 (h) “Sale” means any transfer of title or possession for a  
2 consideration, exchange, or barter, in any manner or by any means.

3 ~~(h)~~

4 (i) “Untaxed opioid” means any opioid which has not yet been  
5 distributed in a manner as to result in a tax liability under this part.

6 (j) “Wholesaler” means any person who engages in this state  
7 in the making of sales for resale of opioids.

8 33003. (a) On and after ~~January~~ July 1, 2018, a tax is hereby  
9 imposed upon the distribution of opioids by ~~every person including,~~  
10 ~~but not limited to, a manufacturer or wholesaler, that makes the~~  
11 ~~first sale in this state of opioids, where the sale is for the purpose~~  
12 ~~of resale in the regular course of business, a manufacturer to a~~  
13 ~~wholesaler,~~ at the rate of one cent (\$0.01) per milligram of active  
14 opioid ingredient.

15 (b) *The wholesaler shall collect the tax from the manufacturer*  
16 *and shall separately state the amount of the tax imposed under*  
17 *this part on the purchase order, which shall be given by the*  
18 *wholesaler to the manufacturer at the time of sale. The wholesaler*  
19 *shall remit the tax to the board.*

20 33004. There shall be exempt from the taxes imposed by this  
21 part the distribution to a person if the state is prohibited from taxing  
22 that sale under the Constitution or laws of the United States or  
23 under the Constitution of this state.

24 33005. (a) The board shall collect the tax pursuant to the Fee  
25 Collection Procedures Law (Part 30 (commencing with Section  
26 55001) of Division 2 of the Revenue and Taxation Code). For  
27 purposes of administration of the tax pursuant to this part,  
28 references in the Fee Collection Procedures Law to “feepayer”  
29 and “fee” shall include “taxpayer” and “tax.”

30 (b) The board may adopt any regulations necessary or  
31 appropriate to carry out the purposes of this part.

32 (c) The tax imposed by this part shall be due and payable to the  
33 board on or before the last day of the month next succeeding each  
34 calendar quarter, together with a return for that calendar quarter.  
35 *Returns shall be filed with the board using electronic media and*  
36 *authenticated in a form or pursuant to methods as may be*  
37 *prescribed by the board.*

38 33006. All taxes, interest, penalties, and other amounts  
39 collected pursuant to this part, ~~less refunds,~~ *refunds and the board’s*  
40 *costs of administration,* shall be deposited into the Opioid

1 Prevention and Rehabilitation Program Fund established by Section  
2 11740 of the Health and Safety Code.

3 SEC. 3. No reimbursement is required by this act pursuant to  
4 Section 6 of Article XIII B of the California Constitution because  
5 the only costs that may be incurred by a local agency or school  
6 district will be incurred because this act creates a new crime or  
7 infraction, eliminates a crime or infraction, or changes the penalty  
8 for a crime or infraction, within the meaning of Section 17556 of  
9 the Government Code, or changes the definition of a crime within  
10 the meaning of Section 6 of Article XIII B of the California  
11 Constitution.

12 SEC. 4. This act provides for a tax levy within the meaning of  
13 Article IV of the California Constitution and shall go into  
14 immediate effect.

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