STATE OF NEW YORK

1107

2019-2020 Regular Sessions

IN ASSEMBLY

January 14, 2019

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing an excise tax on certain prescription opioids; and to amend the state finance law, in relation to establishing an opiate addiction trust fund for the purpose of funding opiate addiction prevention and treatment programs

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "budgeting for opioid addiction treatment in New York act".

§ 2. The tax law is amended by adding a new article 20-C to read as follows:

ARTICLE 20-C

EXCISE TAX ON PRESCRIPTION OPIOIDS

Section 495. Definitions.

496. Administration of prescription opioid tax.

§ 495. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "Taxable active opioid" means any opiate having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having an addiction-forming or addiction-sustaining liability. It does not include a prescription drug that is used exclusively for the treatment of opioid addiction as part of a medically assisted treatment effort. Nor does it include any prescription drug that is used exclusively for certain cancer and hospice patients.

2. "Certain cancer and hospice patients" means a patient for whom any taxable active opioid is prescribed to treat pain relating to cancer or cancer treatment or a patient participating in hospice care.

3. "Covered entity" means any manufacturer, producer, or importer of a substance described in subdivision one of this section.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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§ 496. Administration of prescription opioid tax. 1. There is hereby imposed an excise tax on the gross receipts from the sale of taxable active opioids, to be paid by the covered entity, at the rate of one cent per milligram. The tax imposed by this article shall be charged against and be paid by the covered entity and shall not be added as a separate charge or line item on any sales slip, invoice, receipt or other statement or memorandum of the price given to the retail customer.

2. The commissioner may make, adopt and amend rules, regulations, procedures and forms necessary for the proper administration of this article.

3. All taxes, interest and penalties collected or received by the commissioner under this article shall be deposited and disposed of pursuant to the provisions of the opiate addiction trust fund established by section eighty-nine-j of the state finance law.

§ 3. The state finance law is amended by adding a new section 89-j to read as follows:

§ 89-j. Opiate addiction trust fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special fund to be known as the "opiate addiction trust fund".

2. The opiate addiction trust fund shall consist of all moneys required to be deposited in the opiate addiction trust fund pursuant to the provisions of section four hundred ninety-six of the tax law.

3. The moneys in the opiate addiction trust fund shall be kept separate and shall not be commingled with any other moneys in the custody of the commissioner of taxation and finance and the state comptroller.

4. The moneys of the opiate addiction trust fund shall be allocated upon a certificate of approval of availability by the director of the budget as follows: (a) establishing new addiction treatment facilities, residential and outpatient, including covering capital costs; (b) establishing sober living facilities; (c) recruiting and increasing reimbursement for certified mental health providers providing substance abuse treatment in medically underserved communities or communities with high rates of prescription drug abuse; (d) expanding access to long-term, residential treatment programs for opioid addicts, including thirty-day, sixty-day, and ninety-day programs; (e) establishing or operating support programs that offer employer services, housing, and other support services to help recovering addicts transition back into society; (f) establishing or operating housing for children whose parents are participating in substance abuse treatment programs, including capital costs; (g) establishing or operating facilities to provide care for babies born with neonatal abstinence syndrome, including capital costs; and (h) other treatment programs, as the commissioner of health determines appropriate.

§ 4. This act shall take effect immediately.