

House Bill 3192

Sponsored by Representative SMITH WARNER (at the request of Multnomah County)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Imposes annual assessment on manufacture of prescription opioids.
Applies to opioids dispensed on or after January 1, 2020.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to assessment imposed on manufacture of prescription opioids; prescribing an effective date;
3 and providing for revenue raising that requires approval by a three-fifths majority.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2 to 6 of this 2019 Act are added to and made a part of ORS chapter**
6 **475.**

7 **SECTION 2. As used in sections 2 to 6 of this 2019 Act:**

8 (1) **"Dispense" has the meaning given that term in ORS 475.005.**

9 (2)(a) **"Manufacturer" means any entity that is engaged in the production, preparation,**
10 **propagation, compounding, conversion or processing of prescription opioids, or a combination**
11 **thereof, whether directly or indirectly by extraction from substances of natural origin, in-**
12 **dependently by means of chemical synthesis or by a combination of extraction and chemical**
13 **synthesis, or any entity engaged in the packaging, repackaging, labeling, relabeling or dis-**
14 **tribution of prescription opioids.**

15 (b) **"Manufacturer" does not include a wholesale distributor of prescription opioids, a**
16 **retailer or a pharmacist licensed under ORS chapter 689.**

17 (3) **"Morphine milligram equivalent" means the conversion factor used to calculate the**
18 **strength of an opioid using morphine dosage as the comparative unit of measure.**

19 (4) **"Opiate" means a drug derived from the dried, condensed juice of a poppy, Papaver**
20 **somniferum, that has a narcotic, soporific, analgesic or astringent effect, or a combination**
21 **thereof.**

22 (5) **"Opioid" means an opiate or any synthetic or semisynthetic narcotic that has**
23 **opiate-like activities but is not derived from opium and has effects similar to natural opium**
24 **alkaloids, and any derivatives thereof.**

25 (6) **"Prescription opioid" means an opioid that is a controlled substance under 21 C.F.R.**
26 **part 1308.**

27 **SECTION 3. (1) An assessment in the amount of \$0.01 per morphine milligram equivalent**
28 **per year is imposed on each manufacturer of prescription opioids that are dispensed in this**
29 **state, computed based on the prescription opioids dispensed in Oregon during the previous**
30 **year by the manufacturer.**

31 **(2) The Department of Revenue, after consultation with the Oregon Health Authority and**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 the State Board of Pharmacy, shall determine the morphine milligram equivalents for the
 2 prescription opioids dispensed in Oregon, by each manufacturer required to register under
 3 ORS 475.125, during the previous year, using information from the prescription monitoring
 4 program established by ORS 431A.855.

5 (3) Manufacturers of prescription opioids dispensed in this state may not increase the
 6 wholesale or retail price of any prescription opioid to recover or offset the cost of the as-
 7 sessment imposed under this section.

8 (4) The following shall be exempt from the assessment imposed under this section:

9 (a) Opioids used in medication-assisted treatment for substance use disorder; and

10 (b) Any assessment that the state is prohibited from imposing by federal law, the United
 11 States Constitution or the Oregon Constitution.

12 (5) After the payment of refunds and of administrative costs incurred by the department,
 13 all revenue collected by the department from the assessment imposed under this section,
 14 including penalties and interest, shall be transferred to the Substance Use Disorder Pre-
 15 vention, Treatment and Recovery Fund established by section 7 of this 2019 Act.

16 **SECTION 4.** (1) After consultation with the Oregon Health Authority and the State Board
 17 of Pharmacy, the Department of Revenue shall annually notify each manufacturer of the
 18 assessment amount due pursuant to section 3 of this 2019 Act at least 30 days prior to the
 19 date on which the manufacturer must renew its registration under ORS 475.125.

20 (2) Each manufacturer shall file a return with the Department of Revenue on or before
 21 the date on which the manufacturer is required to renew its registration under ORS 475.125.

22 (3) The manufacturer shall pay the assessment to the department in the form and man-
 23 ner prescribed by the department, but not later than with the annual return, without regard
 24 to an extension granted under subsection (5) of this section.

25 (4) Manufacturers that must register under ORS 475.125 shall file the returns required
 26 under this section regardless of whether any assessment is owed.

27 (5) For good cause, the department may extend the time for filing a return under this
 28 section. The extension may be granted at any time if a written request is filed with the de-
 29 partment during or prior to the period for which the extension may be granted. The depart-
 30 ment may not grant an extension of more than 30 days.

31 (6) Interest shall be added at the rate established under ORS 305.220 for each month, or
 32 fraction of a month, from the time the return was originally required to be filed to the time
 33 of payment.

34 (7) If a manufacturer fails to file a return or pay the assessment as required by this
 35 section, the department shall impose a penalty in the manner provided in ORS 314.400.

36 (8) The period prescribed for the department to allow or make a refund of any overpay-
 37 ment of assessment paid under sections 2 to 6 of this 2019 Act is as provided in ORS 314.415.

38 (9) The department shall first apply any overpayment of assessment by a manufacturer
 39 to any assessment imposed under sections 2 to 6 of this 2019 Act that is owed by the man-
 40 ufacturer.

41 **SECTION 5.** (1) The Oregon Health Authority shall provide to the Department of Revenue
 42 reports of data available to the authority through the prescription monitoring program es-
 43 tablished by ORS 431A.855 that are necessary to determine the total amount of morphine
 44 milligram equivalents dispensed in this state during any specified time period, the amount
 45 of the dispensed morphine milligram equivalents attributable to each manufacturer of pre-

1 **scription opioids and the total assessment amount owed by each manufacturer of pre-**
 2 **scription opioids pursuant to sections 2 to 6 of this 2019 Act.**

3 **(2) The authority and the department shall enter into a memorandum of understanding**
 4 **regarding the terms by which the authority shall provide the information described in sub-**
 5 **section (1) of this section, including the timing and frequency of the data sharing, the format**
 6 **in which the data will be provided and the measures to be established to ensure the**
 7 **confidentiality of the information provided to the department.**

8 **SECTION 6. Except as otherwise provided in sections 2 to 6 of this 2019 Act or where the**
 9 **context requires otherwise, the provisions of ORS chapters 305 and 314 as to the audit and**
 10 **examination of returns, periods of limitation, determination of and notices of deficiencies,**
 11 **assessments, collections, liens, delinquencies, claims for refund and refunds, conferences,**
 12 **appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality of re-**
 13 **turns and the penalties relative thereto, and the procedures relating thereto, apply to the**
 14 **determinations of the assessment, penalties and interest under sections 2 to 6 of this 2019**
 15 **Act.**

16 **SECTION 7. (1) The Substance Use Disorder Prevention, Treatment and Recovery Fund**
 17 **is established within the State Treasury, separate and distinct from the General Fund. In-**
 18 **terest earned by the Substance Use Disorder Prevention, Treatment and Recovery Fund shall**
 19 **be credited to the fund.**

20 **(2) Moneys in the fund shall consist of:**

21 **(a) Moneys transferred to the fund as provided in section 3 of this 2019 Act;**

22 **(b) Amounts appropriated or otherwise transferred to the fund by the Legislative As-**
 23 **sembly;**

24 **(c) Amounts received from state, federal and private sources;**

25 **(d) Amounts donated to the fund; and**

26 **(e) Other amounts deposited in the fund from any source.**

27 **(3) Moneys in the fund are continuously appropriated to the Oregon Health Authority for**
 28 **the purposes of:**

29 **(a) Preventing opioid addiction and other substance use disorders;**

30 **(b) Providing substance use disorder treatment to individuals with a dependency on or**
 31 **addiction to opioids, other controlled substances, prescription drugs, or a combination**
 32 **thereof; and**

33 **(c) Providing individuals with opportunities to recover safely from substance use disor-**
 34 **der.**

35 **(4) The authority may use moneys in the fund to pay the department's administrative**
 36 **costs associated with the fund and with carrying out the provisions of sections 2 to 6 of this**
 37 **2019 Act.**

38 **SECTION 8. Sections 2 to 6 of this 2019 Act apply to opioids dispensed on or after January**
 39 **1, 2020.**

40 **SECTION 9. This 2019 Act takes effect on the 91st day after the date on which the 2019**
 41 **regular session of the Eightieth Legislative Assembly adjourns sine die.**