



SPONSOR: Rep. Keeley & Sen. Henry

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 250

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO OPIOID TAX.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

CHAPTER 56. OPIOID TAX

§ 5601. Definitions.

For purposes of this chapter:

(1) "Covered entity" means any manufacturer, producer, importer, or distributor of a taxable active opioid.

(2) "Purchase price" means the total value of anything paid or delivered, or promised to be paid or delivered, money or otherwise, in complete performance of a sale or purchase without any deduction on account of the cost or value of the property sold, cost or value of transportation, cost or value of labor service, interest or discount paid or allowed after the sale is consummated, any tax imposed by the State or any other expense.

(3) "Taxable active opioid" means any opiate or opioid 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.

§ 5602. Administration of opioid tax.

(a) A tax is imposed and assessed on the gross receipts from the sale of taxable active opioids, to be paid by a covered entity, at the rate of 10% of the purchase price. The tax imposed by this section shall be charged against and 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.

(b) The tax shall be imposed the first time a taxable active opioid is sold in this state and shall be collected and remitted by the seller pursuant to this chapter.

(c) The tax shall not be imposed on opioid products in the following circumstances:

(1) The product is exported for sale or use outside the State.

(2) The product is not subject to taxation by the State under any federal law.

(d) All taxes, interest, and penalties collected or received under this chapter shall be deposited to the General Fund.

§5603. License requirements

Any covered entity desiring to engage in the sale of taxable active opioids in this state shall first obtain a license from the Department of Finance and pay therefor a fee of \$80. Such license shall be valid until January 1 at which time it may be renewed for a full year and every year thereafter, provided that the covered entity complies with the requirements of § 5604 of this chapter and makes application therefor and payment of \$80.

§ 5604. Monthly report; collection of tax.

(a) A covered entity shall file with the Department of Finance, a monthly report on a form prepared by the Department, which shall show the quantity of taxable active opioid products sold in the State, and such other information as the Department may require.

(b) The report, together with any tax due under this chapter shall be returned by the twenty-fifth day of each calendar month.

(c) The Department of Finance may require the filing of reports and the remittance of tax on a less frequent basis at its discretion.

Section 2. This Act shall take effect 180 days after its enactment into law.

SYNOPSIS

This Act imposes a tax on the first sale of opioids in the State at a rate of 10% of the purchase price. Prescription drugs used exclusively for the treatment of opioid addiction are excluded from the tax.