

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred House Bill No. 386
3 entitled “An act relating to home health agency provider taxes” respectfully
4 reports that it has considered the same and recommends that the Senate
5 propose to the House that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 18 V.S.A. § 4754 is added to read:

8 § 4754. SUBSTANCE USE DISORDER PREVENTION, TREATMENT,
9 AND RECOVERY FUND

10 (a) The Substance Use Disorder Prevention, Treatment, and Recovery Fund
11 is established as a special fund pursuant to 32 V.S.A. chapter 7, subchapter 5.
12 Into the Fund shall be deposited all revenue from the tax on the distribution of
13 opioids pursuant to 32 V.S.A. chapter 221.

14 (b) The Fund shall be administered by the Agency of Human Services and
15 shall be used for the purposes of preventing opioid addiction and other
16 substance use disorders; providing substance use disorder treatment to
17 individuals with a dependency on or addiction to opioids, other controlled
18 substances, prescription drugs, or a combination thereof; and providing
19 individuals with opportunities to recover safely from substance use disorder.

20 (c) The Commissioner of Finance and Management may anticipate receipts
21 to the Fund and issue warrants based thereon.

1 Sec. 2. 32 V.S.A. chapter 221 is added to read:

2 CHAPTER 221. TAX ON DISTRIBUTION OF OPIOIDS

3 § 9001. DEFINITIONS

4 As used in this chapter:

5 (1) “Active opioid ingredient” means that portion of a product that is an
6 opioid.

7 (2) “Distribution” means the sale of untaxed opioids in this State.

8 (3) “Manufacturer” means any individual or entity, regardless of
9 whether located in this State, that manufactures opioids for distribution in this
10 State.

11 (4) “Morphine milligram equivalent” means the amount of morphine to
12 which an opioid dose is equal.

13 (5) “Opiate” means the dried, condensed juice of a poppy, Papaver
14 somniferum, that has a narcotic, soporific, analgesic, and astringent effect.

15 (6) “Opioid” means an opiate or any synthetic or semisynthetic narcotic
16 that has opiate-like activities but is not derived from opium and has effects
17 similar to natural opium alkaloids, and any derivatives thereof.

18 (7) “Sale” means any transfer of title or possession for a consideration,
19 exchange, or barter in any manner or by any means.

20 (8) “Untaxed opioid” means any opioid that has not yet been distributed
21 in a manner as to result in a tax liability under this chapter.

1 (9) “Wholesaler” means any person who engages in this State in the
2 making of sales for resale of opioids.

3 § 9002. TAX IMPOSED

4 (a) There is hereby imposed a tax upon the distribution of opioids by a
5 manufacturer to a wholesaler at a rate of \$0.01 per morphine milligram
6 equivalent.

7 (b) The wholesaler shall collect the tax from the manufacturer and shall
8 separately state the amount of the tax imposed under this chapter on the
9 purchase order, which the wholesaler shall provide to the manufacturer at the
10 time of sale. The wholesaler shall remit the tax to the Department of Taxes in
11 the manner and at the frequency determined by the Commissioner.

12 (c) The following shall be exempt from the tax imposed under this chapter:

13 (1) opioids used in medication-assisted treatment for substance use
14 disorder; and

15 (2) any distribution if the State is prohibited from taxing that distribution
16 by federal law, the U.S. Constitution, or the Vermont Constitution.

17 (d) All revenue from the tax imposed under this chapter, including
18 penalties and interest, shall be deposited in the Substance Use Disorder
19 Prevention, Treatment, and Recovery Fund established by 18 V.S.A. § 4754.

1 § 9003. ADMINISTRATION OF TAX

2 (a) The Commissioner of Taxes shall administer and enforce this chapter
3 and the tax. The Commissioner may adopt rules under 3 V.S.A. chapter 25 to
4 carry out such administration and enforcement.

5 (b) Except as otherwise provided in section 9004 of this title, all of the
6 administrative provisions of chapter 151 of this title shall apply to the tax
7 imposed by this chapter. In addition, the provisions of chapter 103 of this title,
8 including those relating to the imposition of interest and penalty for failure to
9 pay the tax, shall apply to the tax imposed by this chapter.

10 § 9004. DETERMINATION OF DEFICIENCY, REFUND, PENALTY, OR
11 INTEREST

12 (a) Within 60 days after the mailing of a notice of deficiency, denial, or
13 reduction of a refund claim, or assessment of penalty or interest, a
14 manufacturer or wholesaler may petition the Commissioner in writing for a
15 determination of that deficiency, refund, or assessment. The Commissioner
16 shall thereafter grant a hearing upon the matter and notify the manufacturer or
17 wholesaler in writing of his or her determination concerning the deficiency,
18 penalty, or interest. This is the exclusive remedy of a manufacturer or
19 wholesaler with respect to these matters.

20 (b) Any hearing granted by the Commissioner under this section shall be
21 subject to and governed by 3 V.S.A. chapter 25.

1 (c) Any aggrieved manufacturer or wholesaler may, within 30 days after a
2 determination by the Commissioner concerning a notice of deficiency, an
3 assessment of penalty or interest, or a claim to refund, appeal that
4 determination to the Washington Superior Court or to the Superior Court for
5 any county in this State in which the manufacturer or wholesaler has a place of
6 business.

7 Sec. 3. FISCAL YEAR 2019 APPROPRIATIONS; LEGISLATIVE INTENT
8 FOR FUTURE FUNDING

9 (a) The following sums are appropriated from the Substance Use Disorder
10 Prevention, Treatment, and Recovery Fund in fiscal year 2019:

11 (1) \$188,000.00 to the Department for Children and Families to support
12 and maintain mentoring and afterschool programs for children. It is the intent
13 of the General Assembly to increase the funding for this purpose to
14 \$376,000.00 in fiscal year 2020.

15 (2) \$215,000.00 to the Department of Health to support needle exchange
16 programs and the distribution of naloxone. It is the intent of the General
17 Assembly to increase the funding for this purpose to \$430,000.00 in fiscal year
18 2020.

19 (3) \$137,500.00 to the Agency of Human Services to fund two positions
20 and the operating costs of the Governor's Opioid Coordination Council to
21 support its efforts to reduce the demand for opioids, provide adequate and

1 effective treatment and recovery opportunities, and reduce the supply of
2 opioids through prevention of opioid abuse and diversion. In fiscal year 2019,
3 the sum of \$137,500.00 in federal matching funds is also appropriated to the
4 Agency of Human Services, providing a total funding level of \$275,000.00 for
5 the Governor’s Opioid Coordination Council.

6 (4) \$400,000.00 to the Department of Corrections for expansion of
7 medication-assisted treatment in correctional facilities. It is the intent of the
8 General Assembly to increase the funding for this purpose to \$800,000.00 in
9 fiscal year 2020.

10 (b) In addition to the amounts identified for funding in fiscal year 2020 in
11 subdivision (a) of this section, it is also the intent of the General Assembly
12 that, to the extent additional funds are available after fully funding the
13 priorities specified in subdivisions (a)(1)–(4) of this section, those additional
14 funds should be appropriated to the Agency of Human Services to increase the
15 availability of substance use treatment services in underserved regions of the
16 State.

17 (c) In order to implement any system changes needed to administer the tax
18 established in Sec. 2 (32 V.S.A. chapter 221), the Department of Taxes shall
19 allocate one-time systems implementation funds as needed from the special
20 funds appropriated in 2018 Acts and Resolves No. 87, Sec. 49 and shall
21 allocate any additional resources needed from the funds appropriated to the

1 Department of Taxes in the fiscal year 2019 budget. The Department of Taxes
2 shall identify any ongoing funding required to administer the tax in its fiscal
3 year 2020 budget request.

4 Sec. 4. EFFECTIVE DATES

5 (a) Secs. 1 (18 V.S.A. § 4754), 3 (appropriations), and this section shall
6 take effect on July 1, 2018.

7 (b) Sec. 2 (32 V.S.A. chapter 221) shall take effect on January 1, 2019,
8 provided that the Department of Taxes may begin the rulemaking process prior
9 to that date to ensure that on January 1, 2019 it is prepared to administer the
10 tax established in Sec. 2.

11 and that after passage the title of the bill be amended to read: “An act relating
12 to imposing a tax on opioid distribution”

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15 (Committee vote: _____)

16

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Senator _____

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FOR THE COMMITTEE