



General Assembly

**Substitute Bill No. 5**

February Session, 2016

\* SB00005F IN 040116 \*

**AN ACT ESTABLISHING A SURCHARGE ON THE MANUFACTURE AND DISTRIBUTION OF OPIOIDS AND FUNDING FOR OPIOID ABUSE PREVENTION AND TREATMENT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2017*) (a) For the purposes of  
2 this section and section 2 of this act:

3 (1) "Commissioner" means the Commissioner of Revenue Services;

4 (2) "Controlled substance" means a controlled substance, as defined  
5 in section 21a-240 of the general statutes, in schedule II, or III, IV or V  
6 that is also an opioid;

7 (3) "Manufacturer" means a manufacturer of a controlled substance  
8 to be sold in this state, and includes, but is not limited to, a  
9 manufacturer of a controlled substance that is licensed in accordance  
10 with section 21a-246 of the general statutes;

11 (4) "Opioid" shall include opium, opiate, opium derivatives and  
12 opium poppy;

13 (5) "Pharmacist" means a person authorized by law to practice

14 pharmacy pursuant to section 20-590, 20-591, 20-592 or 20-593 of the  
15 general statutes;

16 (6) "Pharmacy" means an establishment licensed pursuant to section  
17 20-594 of the general statutes; and

18 (7) "Wholesaler" means a wholesaler, as defined in section 21a-240  
19 of the general statutes, of a controlled substance to be sold in this state,  
20 and includes, but is not limited to, a wholesaler of a controlled  
21 substance that is licensed in accordance with section 21a-246 of the  
22 general statutes.

23 (b) There shall be paid to the Commissioner of Revenue Services by  
24 each manufacturer or wholesaler of a controlled substance a surcharge  
25 at a rate of six and thirty-five-hundredths per cent on its gross receipts  
26 for any controlled substance lawfully sold on or after January 1, 2017,  
27 to any of the following named persons located in this state: (1) A  
28 pharmacist or pharmacy; (2) a physician, dentist or veterinarian; (3) a  
29 person in charge of a hospital, incorporated college or scientific  
30 institution; (4) a person in charge of a laboratory; or (5) a registrant, as  
31 defined in subdivision (47) of section 21a-240 of the general statutes,  
32 who is permitted to purchase and possess such controlled substance  
33 under federal and state laws and regulations. Such manufacturer or  
34 wholesaler may itemize and collect the amount of such surcharge on  
35 any sale to a person described in subdivisions (1) to (5), inclusive, of  
36 this subsection. Any person described in subdivisions (1) to (5),  
37 inclusive, of this subsection may claim a refund of the amount of such  
38 surcharge, in accordance with section 2 of this act, whenever such  
39 person dispenses such controlled substance within this state to a  
40 beneficiary of (A) the Medicare Part D program as a covered benefit  
41 under the Medicare Part D program, (B) any other state or federal  
42 program under which such controlled substance is a covered benefit  
43 that is exempt from taxation, (C) a state-administered health or human  
44 services program, as defined in section 4-274 of the general statutes, or  
45 (D) a municipal plan that provides health benefits to employees or  
46 retirees or benefits for workers' compensation claims.

47 (c) Each manufacturer or wholesaler of controlled substances that  
48 lawfully sells such controlled substances to any of the persons  
49 described in subsection (b) of this section shall register with the  
50 Commissioner of Revenue Services not later than January 1, 2017, on  
51 forms prescribed by the commissioner and each registered  
52 manufacturer or wholesaler shall renew its registration with the  
53 commissioner annually, in such manner as the commissioner may  
54 prescribe. No manufacturer or wholesaler may engage in or transact  
55 business as a manufacturer or wholesaler of controlled substances to  
56 be sold in this state unless such manufacturer or wholesaler is  
57 registered with the commissioner in accordance with the provisions of  
58 this section. Any manufacturer or wholesaler that fails to register or  
59 renew such registration in accordance with the provisions of this  
60 subsection shall pay a penalty of one thousand dollars for each such  
61 failure, which penalty shall not be subject to waiver.

62 (d) Each manufacturer and wholesaler shall submit a return  
63 quarterly to the Commissioner of Revenue Services, applicable with  
64 respect to the calendar quarter beginning January 1, 2017, and each  
65 calendar quarter thereafter, on or before the last day of the month  
66 immediately following the end of each such calendar quarter, on a  
67 form prescribed by the commissioner, together with payment of the  
68 quarterly surcharge determined and payable in accordance with the  
69 provisions of this section. Whenever such surcharge is not paid when  
70 due, a penalty of ten per cent of the amount due or fifty dollars,  
71 whichever is greater, shall be imposed, and such surcharge shall bear  
72 interest at the rate of one per cent per month or fraction thereof until  
73 the same is paid. The Commissioner of Revenue Services shall cause  
74 copies of a form prescribed for submitting returns as required under  
75 this section to be distributed to persons subject to the surcharge.  
76 Failure to receive such form shall not be construed to relieve any  
77 manufacturer or wholesaler subject to the surcharge under this section  
78 from the obligations of submitting a return, together with payment of  
79 such surcharge within the time required. The provisions of sections 12-  
80 548 to 12-554, inclusive, of the general statutes and sections 12-555a

81 and 12-555b of the general statutes shall apply to the provisions of this  
82 section in the same manner and with the same force and effect as if the  
83 language of said sections 12-548 to 12-554, inclusive, and sections 12-  
84 555a and 12-555b had been incorporated in full into this section and  
85 had expressly referred to the surcharge imposed under this section,  
86 except to the extent that any such provision is inconsistent with a  
87 provision of this section. Any moneys received by the commissioner  
88 pursuant to this section shall be deposited into the opioid abuse  
89 prevention and treatment account established in section 3 of this act.

90 (e) The Commissioner of Revenue Services shall notify the  
91 Commissioner of Consumer Protection whenever a manufacturer or  
92 wholesaler licensed pursuant to section 21a-246 of the general statutes  
93 has continuously failed to comply with the requirements of this section  
94 for a period of at least six months. The Commissioner of Consumer  
95 Protection may suspend, revoke or refuse to renew the license of a  
96 manufacturer or wholesaler who has continuously failed to comply  
97 with the requirements of this section for a period of six months or  
98 longer. The Commissioner of Revenue Services shall notify the  
99 licensing authority of any other state where a manufacturer or  
100 wholesaler is licensed whenever such manufacturer or wholesaler has  
101 continuously failed to comply with the requirements of this section for  
102 a period of at least six months.

103 (f) Nothing in this section shall exempt any person from the tax  
104 imposed pursuant to chapter 228d of the general statutes with respect  
105 to marijuana or other controlled substance, as those terms are defined  
106 in section 12-650 of the general statutes.

107 Sec. 2. (NEW) (*Effective January 1, 2017*) (a) Any person claiming a  
108 refund pursuant to subsection (b) of section 1 of this act shall file such  
109 claim in accordance with this section. Each claim for a refund shall be  
110 on a form prescribed by the Commissioner of Revenue Services and  
111 shall be accompanied by invoices or sales receipts or other statements  
112 of fact, under penalty of false statement, showing, to the satisfaction of  
113 the commissioner, the amount paid with respect to such refund, and

114 any other information that is deemed necessary by the commissioner  
115 for the determination of such claim. Any claim for a refund with  
116 respect to a controlled substance sold by such person during any  
117 calendar year shall be filed with the commissioner on or before May  
118 thirty-first of the succeeding year.

119 (b) (1) The commissioner shall, not later than ninety days after  
120 receipt of any claim under this section, transmit all claims approved by  
121 the commissioner to the Comptroller, who shall draw an order upon  
122 the State Treasurer for payment. If the commissioner determines that  
123 any such claim is not valid, either in whole or in part, the  
124 commissioner shall mail notice of the proposed disallowance to the  
125 claimant and such notice shall set forth briefly the commissioner's  
126 findings of fact and the basis of disallowance in each case decided in  
127 whole or in part adversely to the claimant. Sixty days after the date on  
128 which it is mailed, a notice of proposed disallowance shall constitute a  
129 final disallowance except only for such amounts as to which the  
130 claimant has filed, as provided in subdivision (2) of this subsection, a  
131 written protest with the commissioner.

132 (2) On or before the sixtieth day after the mailing of the proposed  
133 disallowance, the claimant may file with the commissioner a written  
134 protest against the proposed disallowance in which the claimant sets  
135 forth the grounds on which the protest is based. If a protest is filed, the  
136 commissioner shall reconsider the proposed disallowance and, if the  
137 claimant has so requested, may grant or deny the claimant or the  
138 claimant's authorized representatives an oral hearing.

139 (3) The commissioner shall mail notice of the commissioner's  
140 determination to the claimant, which notice shall set forth briefly the  
141 commissioner's findings of fact and the basis of decision in each case  
142 decided in whole or in part adversely to the claimant.

143 (4) The action of the commissioner on the claimant's protest shall be  
144 final upon the expiration of one month from the date on which the  
145 commissioner mails notice of the commissioner's action to the claimant

146 unless within such period the claimant seeks judicial review of the  
147 commissioner's determination in the manner provided for distributors  
148 pursuant to section 12-463 of the general statutes.

149 Sec. 3. (NEW) (*Effective January 1, 2017*) There is established an  
150 opioid abuse prevention and treatment account which shall be a  
151 separate, nonlapsing account within the General Fund. The account  
152 shall contain the amount of any surcharges collected pursuant to  
153 section 1 of this act and any other moneys required by law to be  
154 deposited in the account. Amounts in the account shall be expended  
155 only for the purpose of providing funds to the Department of Mental  
156 Health and Addiction Services to provide grants-in-aid for regional  
157 opioid abuse prevention and treatment programs pursuant to section 5  
158 of this act.

159 Sec. 4. Subsection (d) of section 17a-450 of the general statutes is  
160 repealed and the following is substituted in lieu thereof (*Effective*  
161 *January 1, 2017*):

162 (d) The Department of Mental Health and Addiction Services is  
163 designated as the lead state agency for substance abuse prevention and  
164 treatment in this state, and as such is designated as the state  
165 methadone authority. As the designated state methadone authority,  
166 the department is authorized by the federal Center for Substance  
167 Abuse Treatment of the Substance Abuse and Mental Health Services  
168 Administration within the United States Department of Health and  
169 Human Services to exercise responsibility and authority for the  
170 treatment of opiate addiction with an opioid medication, and  
171 specifically for: (1) Approval of exceptions to federal opioid treatment  
172 protocols in accordance with the Center for Substance Abuse  
173 Treatment, (2) monitoring all opioid treatment programs in the state,  
174 (3) providing grants-in-aid to regional opioid abuse prevention and  
175 treatment programs that follow state and federal treatment protocols  
176 in accordance with section 5 of this act, and [(3)] (4) approval of Center  
177 for Substance Abuse Treatment certification of all opioid treatment  
178 programs in the state. The Commissioner of Mental Health and

179 Addiction Services may adopt regulations in accordance with chapter  
 180 54 to carry out the provisions of this subsection.

181       Sec. 5. (NEW) (*Effective January 1, 2017*) (a) The Commissioner of  
 182 Mental Health and Addiction Services shall provide grants-in-aid,  
 183 within available resources, to one or more regional opioid abuse  
 184 prevention and treatment programs in each mental health region  
 185 established pursuant to section 17a-478 of the general statutes. The  
 186 commissioner shall provide such grants-in-aid to programs that follow  
 187 state and federal treatment protocols and shall allocate such grants-in-  
 188 aid on the basis of regional need and demand for services. Each  
 189 program that receives a grant-in-aid pursuant to this section shall  
 190 provide services in a manner that reduces the stigma associated with  
 191 opioid abuse prevention and treatment and minimizes client contact  
 192 with the criminal justice system.

193       (b) Not later than January 31, 2018, the commissioner shall submit a  
 194 report to the joint standing committees of the General Assembly  
 195 having cognizance of matters relating to public health and finance,  
 196 revenue and bonding concerning the grants-in-aid awarded during the  
 197 calendar year commencing January 1, 2017. The report shall indicate  
 198 the amount of the grants-in-aid awarded, the recipients of the grants-  
 199 in-aid, any amounts remaining in the opioid abuse prevention and  
 200 treatment account established pursuant to section 3 of this act that  
 201 were not allocated as of December 31, 2017, and the commissioner's  
 202 recommendations, if any, for amendments to the general statutes  
 203 regarding the grants-in-aid program or regional opioid abuse  
 204 prevention and treatment programs.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2017</i>	New section
Sec. 2	<i>January 1, 2017</i>	New section
Sec. 3	<i>January 1, 2017</i>	New section
Sec. 4	<i>January 1, 2017</i>	17a-450(d)

Sec. 5	<i>January 1, 2017</i>	New section
--------	------------------------	-------------

**FIN**      *Joint Favorable Subst.*