

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1511 Session of
2015

INTRODUCED BY DiGIROLAMO, ACOSTA, PASHINSKI, MURT, KINSEY,
ROZZI, TAYLOR, CALTAGIRONE, DRISCOLL, O'BRIEN, McNEILL,
HARHAI, MAHONEY, W. KELLER, GODSHALL, SCHWEYER, READSHAW,
FARRY, WATSON, REGAN, DEAN AND SNYDER, AUGUST 26, 2015

REFERRED TO COMMITTEE ON HUMAN SERVICES, AUGUST 26, 2015

AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania
2 Consolidated Statutes, providing for emergency addiction
3 treatment; imposing powers and duties on the Department of
4 Drug and Alcohol Programs; establishing the Emergency
5 Addiction Treatment Program and the Opioid Reparation and
6 Accountability Fund; and imposing fines and penalties.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Title 35 of the Pennsylvania Consolidated
10 Statutes is amended by adding a chapter to read:

11 CHAPTER 83

12 EMERGENCY ADDICTION TREATMENT

13 Subchapter

14 A. Preliminary Provisions

15 B. Program

16 C. Administration

17 SUBCHAPTER A

18 PRELIMINARY PROVISIONS

19 Sec.

1 8301. Short title of chapter.

2 8302. Declaration of policy.

3 8303. Definitions.

4 § 8301. Short title of chapter.

5 This chapter shall be known and may be cited as the Emergency
6 Addiction Treatment Act.

7 § 8302. Declaration of policy.

8 The General Assembly finds and declares as follows:

9 (1) More than 219,000,000 prescriptions for opioid
10 painkillers were written in the United States in 2014.

11 (2) Sales of opioid painkillers generated more than
12 \$11,000,000,000 in revenue in 2009 and are expected to grow
13 to more than \$15,000,000,000 in 2016.

14 (3) This Commonwealth is in the middle of a major drug
15 epidemic, primarily driven by opioid painkillers and heroin.

16 (4) In 2013, there were more than 2,525 drug overdose
17 deaths in this Commonwealth.

18 (5) Heroin-related admissions to addiction treatment
19 programs in this Commonwealth increased by 17% in 2014. The
20 heroin problem is being driven by prescription drug
21 addiction.

22 (6) The widespread availability, overmarketing and
23 overprescribing of opioid painkillers have resulted in
24 increases in overdose deaths, emergency room admissions,
25 admissions to addiction treatment programs and crime, all of
26 which adversely impact State and local budgets.

27 (7) State and county funding for addiction treatment
28 programs is insufficient to handle the increased demand for
29 addiction treatment.

30 § 8303. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Department of Drug and Alcohol Programs of the Commonwealth.

"Fund." The Opioid Reparation and Accountability Fund established under section 8306 (relating to fund).

"Impact fee." The opioid reparation and accountability impact fee established under section 8305 (relating to impact fee).

"Opioid products." Pharmaceutical drugs containing opiates.

"Person." An individual, unincorporated association, company, corporation, joint stock company, group, agency, syndicate, trust, trustee, receiver, fiduciary, partnership or conservator. If used in any of the provisions of this chapter prescribing or imposing penalties, the term, as applied to a partnership, unincorporated association or other joint venture, shall mean the partners or members of the partnership, unincorporated association or other joint venture, and as applied to a corporation, shall mean each officer and director of the corporation.

"Program." The Emergency Addiction Treatment Program established in section 8304 (relating to Emergency Addiction Treatment Program).

"Purchase price." 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 Commonwealth or any other expense.

SUBCHAPTER B

PROGRAM

Sec.

8304. Emergency Addiction Treatment Program.

8305. Impact fee.

8306. Fund.

§ 8304. Emergency Addiction Treatment Program.

(a) Establishment.--The Emergency Addiction Treatment Program is established in the Department of Drug and Alcohol Programs to provide addiction treatment in licensed long-term residential addiction treatment facilities, including licensed halfway houses, for individuals who are unable to obtain timely or appropriate treatment, as determined by the department and to establish such treatment facilities. The program shall be administered by the department.

(b) Powers and duties of department.--In order to provide individuals seeking assistance with better and more timely access to drug and alcohol addiction treatment, the department shall:

(1) Maintain a toll-free telephone number to assist individuals seeking help for drug and alcohol problems. The telephone number shall be posted on the department's publicly accessible Internet website and shall be posted or published by the department in such other media as the department determines is necessary to reach as many individuals as possible.

(2) Provide assistance in accessing addiction treatment. The department may provide this service by contract.

1 (3) Develop and maintain a database identifying problems
2 and patterns in accessing appropriate addiction treatment.

3 (4) Prepare an annual report to the General Assembly on
4 the activities described in paragraphs (1), (2) and (3),
5 including recommendations for improving access to addiction
6 treatment. The report shall be posted on the department's
7 publicly accessible Internet website.

8 (c) Guidelines.--The department shall develop and forward to
9 the Legislative Reference Bureau for publication in the
10 Pennsylvania Bulletin guidelines for the implementation of the
11 program established under section 8306(b) (relating to fund) and
12 to govern the eligible use of such funds by counties and other
13 entities or persons that provide addiction treatment services to
14 individuals in licensed long-term residential addiction
15 treatment facilities, including halfway houses.

16 § 8305. Impact fee.

17 (a) Imposition of fee.--An opioid reparation and
18 accountability impact fee shall be paid by a person that
19 manufactures, produces, distributes, sells or offers to sell
20 opioid products in this Commonwealth. The ultimate end-user of
21 an opioid product shall not be required to pay any portion of
22 the impact fee assessed under this section, either directly or
23 indirectly.

24 (b) Assessment of impact fee.--The impact fee shall be
25 assessed at the time an opioid product is first sold in this
26 Commonwealth or for use in this Commonwealth at the rate of 10%
27 of the purchase price charged to the initial buyer of the opioid
28 product. The impact fee shall be paid by the person selling the
29 opioid product to the initial buyer and remitted to the
30 Department of Revenue. A person required to remit the fee shall

1 separately state the amount of the fee on an invoice or other
2 sales document.

3 (c) Exceptions.--The impact fee shall not be imposed on
4 opioid products that:

5 (1) are exported for sale and use outside this
6 Commonwealth; or

7 (2) are not subject to taxation by the Commonwealth
8 under any Federal law.

9 (d) Report and remittance of impact fee.--

10 (1) A person that manufactures, produces, distributes,
11 sells or offers to sell opioid products in this Commonwealth
12 or for use in this Commonwealth shall file monthly reports
13 with the Department of Revenue by the 20th day of each
14 calendar month commencing with the second calendar month
15 following the effective date of this chapter. The report
16 shall contain the information listed in section 8311(b)
17 (relating to reports, records and inspection) for the
18 previous month.

19 (2) The impact fee is due at the time the report is due.

20 (3) The Department of Revenue may require the filing of
21 reports and the remittance of the impact fee on a less
22 frequent basis at its discretion.

23 (e) Other provisions.--Unless otherwise specifically noted,
24 the provisions of Article II of the act of March 4, 1971 (P.L.6,
25 No.2), known as the Tax Reform Code of 1971, shall apply to the
26 reports, payments, penalties, enforcement, collections and
27 appeals of the impact fee imposed by this section.

28 § 8306. Fund.

29 (a) Establishment.--The Opioid Reparation and Accountability
30 Fund is established in the State Treasury. The Department of

1 Revenue shall deposit the impact fee remitted under section 8305
2 (relating to impact fee) into the fund. Money in the fund shall
3 not lapse and shall be appropriated on a continuing basis to the
4 department for the purposes set forth in this section.

5 (b) Distributions.--Money in the fund shall be distributed
6 quarterly as follows:

7 (1) Fifty-five percent to the department to fund the
8 implementation and administration of the program. The
9 department shall disperse funds through contract, grant or
10 application by single county authorities on drugs and alcohol
11 created under the act of April 14, 1972 (P.L.221, No.63),
12 known as the Pennsylvania Drug and Alcohol Abuse Control Act,
13 or licensed addiction treatment programs or individuals
14 seeking treatment services described in section 8304(a)
15 (relating to Emergency Addiction Treatment Program).

16 (2) Thirty-seven percent to counties to fund the
17 following:

18 (i) The purchase of naloxone for local police and
19 first responders and the provision of training on the use
20 of naloxone.

21 (ii) Drug and alcohol addiction counseling in county
22 jails.

23 (iii) Costs to the criminal justice system related
24 to drugs and alcohol addiction.

25 (iv) Establishment and maintenance of procedures to
26 ensure the transition of overdose survivors to addiction
27 treatment programs.

28 (3) Four percent to the department to fund the
29 activities under section 8304(b).

30 (4) Three percent to the department to fund the other

responsibilities under this chapter.

(5) One percent to the Department of Health to be used exclusively for prescription drug monitoring under the act of October 27, 2014 (P.L.2911, No.191), known as the Achieving Better Care by Monitoring All Prescriptions Program (ABC-MAP) Act.

(c) Other funding.--Money distributed from the fund shall be used to supplement, and not to replace, other funding for drug and alcohol addiction treatment programs in this Commonwealth.

SUBCHAPTER C

ADMINISTRATION

Sec.

8307. Powers and duties of Department of Revenue and administration.

8308. Assessment.

8309. Electronic filing.

8310. Extension of limitation period.

8311. Reports, records and inspections.

8312. Information exchange.

8313. Fines and penalties.

§ 8307. Powers and duties of Department of Revenue and administration.

The administration of this chapter relating to the imposition and collection of the impact fee, including enforcement, is vested in the Department of Revenue. The Department of Revenue shall adopt rules and regulations for the enforcement of its obligations under this chapter.

§ 8308. Assessment.

The Department of Revenue is authorized to make the inquiries, determinations and assessments of the impact fee,

1 including interest, additions and penalties, imposed by this
2 chapter.

3 § 8309. Electronic filing.

4 The Department of Revenue may, at its discretion, require
5 that any or all reports that are required to be filed under this
6 chapter be filed electronically.

7 § 8310. Extension of limitation period.

8 Notwithstanding any other provision of this chapter, where,
9 before the expiration of the period prescribed for the
10 assessment of the impact fee, a person has consented in writing
11 that the period be extended, the amount of the impact fee due
12 may be assessed by the Department of Revenue at any time within
13 the extended period. The period so extended may be extended
14 further by subsequent consents in writing made before the
15 expiration of the extended period.

16 § 8311. Reports, records and inspections.

17 (a) Reports of shipments and receipts of opioid products
18 required.--The Department of Revenue may, in its discretion and
19 at such times as it deems necessary, require a report from any
20 common carrier or contract carrier who transports opioid
21 products to any point or points within this Commonwealth, and
22 from any bonded warehouseman or bailee who has in the possession
23 of the warehouseman or bailee any opioid products. The report
24 shall contain the information concerning shipments of opioid
25 products that the Department of Revenue determines to be
26 necessary for the administration and enforcement of this
27 chapter. All common carriers and contract carriers, bailees and
28 warehousemen shall permit the examination by the Department of
29 Revenue or its authorized agents of any records relating to the
30 shipment or receipt of opioid products.

1 (b) Records of manufacturers and wholesalers.--A person who
2 sells opioid products subject to the impact fee shall keep, on
3 an annual basis, for a period of four years, records showing for
4 each calendar year:

5 (1) The number or units and pharmaceutical name or
6 description of opioid products sold.

7 (2) The date the opioid products were sold.

8 (3) The name, address or other contact information, as
9 may be required by the Department of Revenue, of the person
10 to whom the opioid products were initially sold.

11 (4) The purchase price charged to the initial buyer for
12 each unit of opioid products sold.

13 (5) The place to which the opioid products were shipped.

14 (6) The name of the common carrier or contract carrier.

15 (c) Inspections.--The Department of Revenue is authorized to
16 inspect the books and records, the stock of opioid products and
17 the premises and equipment of any person in order to verify the
18 accuracy of the payment of the impact fee imposed by this
19 chapter. The person subject to an inspection shall give to the
20 Department of Revenue or its duly authorized representative the
21 means, facilities and opportunity for the inspection.

22 § 8312. Information exchange.

23 The department is authorized to exchange information with any
24 other Federal, State or local enforcement agency for purposes of
25 administering and enforcing this chapter.

26 § 8313. Fines and penalties.

27 (a) Collection of impact fee.--

28 (1) The amount of the impact fee due and not remitted in
29 accordance with section 8305(d) (relating to impact fee) may
30 be assessed and collected by the Department of Revenue at any

1 time whenever transactions subject to the impact fee are not
2 reported.

3 (2) If a person willfully files a false or fraudulent
4 report with the intent to evade the impact fee imposed by
5 this chapter, the amount of the impact fee due may be
6 assessed and collected by the Department of Revenue at any
7 time.

8 (b) Failure to furnish information, returning false
9 information or failure to permit inspection.--

10 (1) A person who fails to keep or make any record,
11 report, inventory or statement or keeps or makes any false or
12 fraudulent record, report, inventory or statement required by
13 this chapter commits a misdemeanor and shall, upon
14 conviction, be sentenced to pay a fine of \$500 or to
15 imprisonment for not more than one year, or both.

16 (2) A person who willfully refuses to cooperate with or
17 permit an inspection to the satisfaction of the Department of
18 Revenue commits a misdemeanor and shall, upon conviction, be
19 sentenced to pay a fine of \$500 or to imprisonment for not
20 more than one year, or both.

21 (c) Penalties.--

22 (1) A person who sells an opioid product for which the
23 proper impact fee has not been paid commits a summary offense
24 and shall, upon conviction, be sentenced to pay a fine of not
25 less than \$100 nor more than \$1,000 or to imprisonment for
26 not more than 60 days, or both.

27 (2) A person who falsely or fraudulently, maliciously,
28 intentionally or willfully, with intent to evade the payment
29 of the impact fee imposed under section 8305, sells an opioid
30 product for which the proper impact fee has not been paid

1 commits a felony and shall, upon conviction, be sentenced to
2 pay a fine of not more than \$15,000 or to imprisonment for
3 not more than five years, or both.

4 (3) In addition to the penalties prescribed in
5 paragraphs (1) and (2), if a person fails to file the report
6 required by section 8305(d) or fails to pay the impact fee
7 assessed under section 8305(b), the Department of Revenue may
8 impose an administrative penalty equal to the amount of the
9 impact fee not paid. The penalty shall be added to the impact
10 fee not paid and assessed and collected at the same time and
11 in the same manner as the impact fee.

12 (d) Failure to electronically file.--Failure to
13 electronically file any report or other information the
14 Department of Revenue may direct to be filed electronically
15 shall subject the person required to submit the report or other
16 information to a penalty of 5% of the impact fee due on the
17 report, up to a maximum of \$1,000, but not less than \$10. This
18 penalty may be assessed at any time and collected in the manner
19 provided in this chapter. This penalty shall be in addition to
20 any administrative penalty imposed under this chapter for
21 failure to furnish information or file a report. The criminal
22 penalty for failure to file a report electronically shall be the
23 same as the criminal penalty for failure to furnish information
24 or file a report under this chapter.

25 (e) Fines and penalties payable to Department of Revenue.--
26 All fines and penalties imposed and collected under the
27 provisions of this chapter shall be payable to the Commonwealth
28 and appropriated to the Department of Revenue to be used in
29 carrying out its obligations under this chapter.

30 Section 2. This act shall take effect in 60 days.