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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1378 Session of  
2017

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INTRODUCED BY DiGIROLAMO, GAINNEY, ROZZI, DAVIS, O'BRIEN, WATSON,  
KINSEY, NEILSON, GODSHALL, MILLARD, HEFFLEY, MURT, TAYLOR,  
W. KELLER, McNEILL, DRISCOLL, BIZZARRO, READSHAW, D. COSTA,  
V. BROWN, FRANKEL, FLYNN, STURLA, FARRY AND DeLUCA,  
MAY 11, 2017

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REFERRED TO COMMITTEE ON HUMAN SERVICES, MAY 11, 2017

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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

1 Sec.

2 8301. Short title of chapter.

3 8302. Declaration of policy.

4 8303. Definitions.

5 § 8301. Short title of chapter.

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

8 § 8302. Declaration of policy.

9 The General Assembly finds and declares as follows:

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

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

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

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

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

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

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

1 § 8303. Definitions.

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

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

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

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

13 "Opioid products." Pharmaceutical drugs containing opiates.

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

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

27 "Purchase price." The total value of anything paid or  
28 delivered, or promised to be paid or delivered, money or  
29 otherwise, in complete performance of a sale or purchase,  
30 without any deduction on account of the cost or value of the

1 property sold, cost or value of transportation, cost or value of  
2 labor service, interest or discount paid or allowed after the  
3 sale is consummated, any tax imposed by the Commonwealth or any  
4 other expense.

5 SUBCHAPTER B

6 PROGRAM

7 Sec.

8 8304. Emergency Addiction Treatment Program.

9 8305. Impact fee.

10 8306. Opioid Reparation and Accountability Fund.

11 § 8304. Emergency Addiction Treatment Program.

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

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

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

30 (2) Provide assistance in accessing addiction treatment.

1 The department may satisfy this duty by contract.

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

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

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

18 § 8305. Impact fee.

19 (a) Imposition.--

20 (1) An opioid reparation and accountability impact fee  
21 shall be paid by a person that manufactures, produces,  
22 distributes, sells or offers to sell opioid products in this  
23 Commonwealth.

24 (2) The ultimate end-user of an opioid product shall not  
25 be required to pay any portion of the impact fee assessed  
26 under this section, either directly or indirectly.

27 (b) Timing and rate of assessment.--

28 (1) The impact fee shall be assessed at the time an  
29 opioid product is first sold in this Commonwealth or for use  
30 in this Commonwealth at the rate of 10% of the purchase price

1 charged to the initial buyer of the opioid product.

2 (2) The impact fee shall be paid by the person selling  
3 the opioid product to the initial buyer and remitted to the  
4 Department of Revenue. The person shall separately state the  
5 amount of the fee on an invoice or other sales document.

6 (c) Exceptions.--The impact fee may not be imposed on opioid  
7 products that:

8 (1) are exported for sale and use outside this  
9 Commonwealth; or

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

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

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

22 (2) The impact fee shall be due at the time the report  
23 is due.

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

27 (e) Other provisions.--Unless otherwise specifically noted,  
28 the provisions of Article II of the act of March 4, 1971 (P.L.6,  
29 No.2), known as the Tax Reform Code of 1971, shall apply to the  
30 reports, payments, penalties, enforcement, collections and

1 appeals of the impact fee.

2 § 8306. Opioid Reparation and Accountability Fund.

3 (a) Establishment.--The Opioid Reparation and Accountability  
4 Fund is established in the State Treasury. The Department of  
5 Revenue shall deposit the impact fee remitted under section 8305  
6 (relating to impact fee) into the fund. Money in the fund shall  
7 not lapse and is appropriated on a continuing basis to the  
8 department for the purposes stated in this section.

9 (b) Quarterly distributions.--Money in the fund shall be  
10 distributed quarterly by the department as follows:

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

20 (2) Thirty-seven percent to counties to fund the  
21 following:

22 (i) The purchase of naloxone for local police and  
23 first responders and the provision of training on the use  
24 of naloxone.

25 (ii) Drug and alcohol addiction counseling in county  
26 jails.

27 (iii) Costs to the criminal justice system related  
28 to drugs and alcohol addiction.

29 (iv) Establishment and maintenance of procedures to  
30 ensure the transition of overdose survivors to addiction

1 treatment programs.

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

4 (4) Three percent to the department to fund the other  
5 responsibilities under this chapter.

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

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

14 SUBCHAPTER C

15 ADMINISTRATION

16 Sec.

17 8307. Powers and duties of Department of Revenue and  
18 administration.

19 8308. Assessment.

20 8309. Electronic filing.

21 8310. Extension of limitation period.

22 8311. Reports, records and inspections.

23 8312. Information exchange.

24 8313. Fines and penalties.

25 § 8307. Powers and duties of Department of Revenue and  
26 administration.

27 The Department of Revenue shall administer the provisions of  
28 this chapter relating to the imposition and collection of the  
29 impact fee, including enforcement. The Department of Revenue  
30 shall adopt rules and regulations for the enforcement of its



1 obligations under this chapter.

2 § 8308. Assessment.

3 The Department of Revenue may make the inquiries,  
4 determinations and assessments of the impact fee, including  
5 interest, additions and penalties, imposed by this chapter.

6 § 8309. Electronic filing.

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

10 § 8310. Extension of limitation period.

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

19 § 8311. Reports, records and inspections.

20 (a) Reports of shipments and receipts of opioid products  
21 required.--

22 (1) The Department of Revenue may, in its discretion and  
23 at any time it deems necessary, require a report from any  
24 common carrier or contract carrier who transports opioid  
25 products to any point or points within this Commonwealth and  
26 from any bonded warehouseman or bailee who has in the  
27 possession of the warehouseman or bailee any opioid products.  
28 The report shall contain the information concerning shipments  
29 of opioid products that the Department of Revenue determines  
30 to be necessary for the administration and enforcement of

1 this chapter.

2 (2) All common carriers and contract carriers, bailees  
3 and warehousemen shall permit the examination by the  
4 Department of Revenue or its authorized agents of any records  
5 relating to the shipment or receipt of opioid products.

6 (b) Records of manufacturers and wholesalers.--A person that  
7 sells opioid products subject to the impact fee shall keep, on  
8 an annual basis, for a period of four years, records showing for  
9 each calendar year:

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

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

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

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

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

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

20 (c) Inspections.--

21 (1) The Department of Revenue may inspect the books and  
22 records, the stock of opioid products and the premises and  
23 equipment of any person in order to verify the accuracy of  
24 the payment of the impact fee.

25 (2) The person subject to an inspection shall give to  
26 the Department of Revenue or its duly authorized  
27 representative the means, facilities and opportunity for the  
28 inspection.

29 § 8312. Information exchange.

30 The department may exchange information with any other

1 Federal, State or local enforcement agency for purposes of  
2 administering and enforcing this chapter.

3 § 8313. Fines and penalties.

4 (a) Collection of impact fee.--

5 (1) The amount of the impact fee due and not remitted in  
6 accordance with section 8305(d) (relating to impact fee) may  
7 be assessed and collected by the Department of Revenue at any  
8 time whenever transactions subject to the impact fee are not  
9 reported.

10 (2) If a person willfully files a false or fraudulent  
11 report with the intent to evade the impact fee, the amount of  
12 the impact fee due may be assessed and collected by the  
13 Department of Revenue at any time.

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

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

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

27 (c) Penalties.--

28 (1) A person who sells an opioid product for which the  
29 proper impact fee has not been paid commits a summary offense  
30 and shall, upon conviction, be sentenced to pay a fine of not

1 less than \$100 nor more than \$1,000 or to imprisonment for  
2 not more than 60 days, or both.

3 (2) A person who falsely or fraudulently, maliciously,  
4 intentionally or willfully, with intent to evade the payment  
5 of the impact fee, sells an opioid product for which the  
6 proper impact fee has not been paid commits a felony and  
7 shall, upon conviction, be sentenced to pay a fine of not  
8 more than \$15,000 or to imprisonment for not more than five  
9 years, or both.

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

18 (d) Failure to electronically file.--

19 (1) A person that fails to electronically file any  
20 report or other information the Department of Revenue may  
21 direct to be filed electronically shall be subject to a  
22 penalty of 5% of the impact fee due on the report, up to a  
23 maximum of \$1,000, but not less than \$10. This penalty may be  
24 assessed at any time and collected in the manner provided in  
25 this chapter. This penalty shall be in addition to any  
26 administrative penalty imposed under this chapter for failure  
27 to furnish information or file a report.

28 (2) The criminal penalty for failure to file a report  
29 electronically shall be the same as the criminal penalty for  
30 failure to furnish information or file a report under this

1 chapter.

2 (e) Fines and penalties payable to Department of Revenue.--

3 All fines and penalties imposed and collected under this chapter

4 shall be payable to the Commonwealth and appropriated to the

5 Department of Revenue to be used in carrying out its obligations

6 under this chapter.

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