

115TH CONGRESS  
1ST SESSION

# H. R. 2038

To amend the Internal Revenue Code of 1986 to establish a stewardship fee on the production and importation of opioid pain relievers, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2017

Mr. LARSON of Connecticut introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to establish a stewardship fee on the production and importation of opioid pain relievers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Budgeting for Opioid  
5 Addiction Treatment Act”.

1 **SEC. 2. STEWARDSHIP FEE ON OPIOID PAIN RELIEVERS.**

2 (a) IN GENERAL.—Subchapter E of chapter 32 of the  
3 Internal Revenue Code of 1986 is amended by adding at  
4 the end the following new section:

5 **“SEC. 4192. OPIOID PAIN RELIEVERS.**

6 “(a) IN GENERAL.—There is hereby imposed on the  
7 sale of any active opioid by the manufacturer, producer,  
8 or importer a fee equal to 1 cent per milligram so sold.

9 “(b) ACTIVE OPIOID.—For purposes of this section—

10 “(1) IN GENERAL.—The term ‘active opioid’  
11 means any controlled substance (as defined in sec-  
12 tion 102 of the Controlled Substances Act, as in ef-  
13 fect on the date of the enactment of this section)  
14 which is opium, an opiate, or any derivative thereof.

15 “(2) EXCLUSION FOR CERTAIN PRESCRIPTION  
16 MEDICATIONS.—Such term shall not include any  
17 prescribed drug which is used exclusively for the  
18 treatment of opioid addiction as part of a medically  
19 assisted treatment effort.

20 “(3) EXCLUSION OF OTHER INGREDIENTS.—In  
21 the case of a product that includes an active opioid  
22 and another ingredient, subsection (a) shall apply  
23 only to the portion of such product that is an active  
24 opioid.”.

25 (b) CLERICAL AMENDMENTS.—

1           (1) The heading of subchapter E of chapter 32  
 2           of the Internal Revenue Code of 1986 is amended by  
 3           striking “**Medical Devices**” and inserting  
 4           “**Other Medical Products**”.

5           (2) The table of subchapters for chapter 32 of  
 6           such Code is amended by striking the item relating  
 7           to subchapter E and inserting the following new  
 8           item:

“SUBCHAPTER E. OTHER MEDICAL PRODUCTS”.

9           (3) The table of sections for subchapter E of  
 10          chapter 32 of such Code is amended by adding at  
 11          the end the following new item:

“Sec. 4192. Opioid pain relievers.”.

12          (c) EFFECTIVE DATE.—The amendments made by  
 13          this section shall apply to sales on or after the date that  
 14          is 1 year after the date of the enactment of this Act.

15          (d) REBATE OR DISCOUNT PROGRAM FOR CERTAIN  
 16          CANCER AND HOSPICE PATIENTS.—

17               (1) IN GENERAL.—The Secretary of Health and  
 18          Human Services, in consultation with patient advo-  
 19          cacy groups and other relevant stakeholders as de-  
 20          termined by such Secretary, shall establish a mecha-  
 21          nism by which—

22                       (A) any amount paid by an eligible patient  
 23                       in connection with the stewardship fee under  
 24                       section 4192 of the Internal Revenue Code of

1           1986 (as added by this section) shall be rebated  
2           to such patient in as timely a manner as pos-  
3           sible, or

4                   (B) amounts paid by an eligible patient for  
5           active opioids (as defined in section 4192(b) of  
6           such Code) are discounted at time of payment  
7           or purchase to ensure that such patient does  
8           not pay any amount attributable to such fee,  
9           with as little burden on the patient as possible. The  
10          Secretary shall choose whichever of the options de-  
11          scribed in subparagraph (A) or (B) is, in the Sec-  
12          retary's determination, most effective and efficient  
13          in ensuring eligible patients face no economic burden  
14          from such fee.

15               (2) ELIGIBLE PATIENT.—For purposes of this  
16          section, the term “eligible patient” means—

17                   (A) a patient for whom any active opioid  
18           (as so defined) is prescribed to treat pain relat-  
19           ing to cancer or cancer treatment;

20                   (B) a patient participating in hospice care;  
21           and

22                   (C) in the case of the death or incapacity  
23           of a patient described in subparagraph (A) or  
24           (B) or any similar situation as determined by  
25           the Secretary of Health and Human Services,

1 the appropriate family member, medical proxy,  
2 or similar representative or the estate of such  
3 patient.

4 **SEC. 3. BLOCK GRANTS FOR PREVENTION AND TREATMENT**  
5 **OF SUBSTANCE ABUSE.**

6 (a) GRANTS TO STATES.—Section 1921(b) of the  
7 Public Health Service Act (42 U.S.C. 300x–21(b)) is  
8 amended by inserting “, and, as applicable, for carrying  
9 out section 1923A” before the period.

10 (b) NONAPPLICABILITY OF PREVENTION PROGRAM  
11 PROVISION.—Section 1922(a)(1) of the Public Health  
12 Service Act (42 U.S.C. 300x–22(a)(1)) is amended by in-  
13 serting “except with respect to amounts made available  
14 as described in section 1923A,” before “will expend”.

15 (c) OPIOID TREATMENT PROGRAMS.—Subpart II of  
16 part B of title XIX of the Public Health Service Act (42  
17 U.S.C. 300x–21 et seq.) is amended by inserting after sec-  
18 tion 1923 the following:

19 **“SEC. 1923A. ADDITIONAL SUBSTANCE ABUSE TREATMENT**  
20 **PROGRAMS.**

21 “A funding agreement for a grant under section 1921  
22 is that the State involved shall provide that any amounts  
23 made available by any increase in revenues to the Treas-  
24 ury in the previous fiscal year resulting from the enact-  
25 ment of section 4192 of the Internal Revenue Code of

1 1986, reduced by any amounts rebated or discounted  
2 under section 2(d) of the Budgeting for Opioid Addiction  
3 Treatment Act (as described in section 1933(a)(1)(B)(i))  
4 be used exclusively for substance abuse (including opioid  
5 abuse) treatment efforts in the State, including—

6 “(1) treatment programs—

7 “(A) establishing new addiction treatment  
8 facilities, residential and outpatient, including  
9 covering capital costs;

10 “(B) establishing sober living facilities;

11 “(C) recruiting and increasing reimburse-  
12 ment for certified mental health providers pro-  
13 viding substance abuse treatment in medically  
14 underserved communities or communities with  
15 high rates of prescription drug abuse;

16 “(D) expanding access to long-term, resi-  
17 dential treatment programs for opioid addicts  
18 (including 30-, 60-, and 90-day programs);

19 “(E) establishing or operating support pro-  
20 grams that offer employment services, housing,  
21 and other support services to help recovering  
22 addicts transition back into society;

23 “(F) establishing or operating housing for  
24 children whose parents are participating in sub-

1           stance abuse treatment programs, including  
2           capital costs;

3           “(G) establishing or operating facilities to  
4           provide care for babies born with neonatal ab-  
5           stinence syndrome, including capital costs; and

6           “(H) other treatment programs, as the  
7           Secretary determines appropriate; and

8           “(2) recruitment and training of substance use  
9           disorder professionals to work in rural and medically  
10          underserved communities.”.

11          (d)           ADDITIONAL           FUNDING.—Section  
12   1933(a)(1)(B)(i) of the Public Health Service Act (42  
13   U.S.C. 300x–33(a)(1)(B)(i)) is amended by inserting “,  
14   plus any increase in revenues to the Treasury in the pre-  
15   vious fiscal year resulting from the enactment of section  
16   4192 of the Internal Revenue Code of 1986, reduced by  
17   any amounts rebated or discounted under section 2(d) of  
18   the Budgeting for Opioid Addiction Treatment Act” be-  
19   fore the period.

20   **SEC. 4. REPORT.**

21          Not later than 2 years after the date described in sec-  
22   tion 2(c), the Secretary of Health and Human Services  
23   shall submit to Congress a report on the impact of the  
24   amendments made by sections 2 and 3 on—

1           (1) the retail cost of active opioids (as defined  
2           in section 4192 of the Internal Revenue Code of  
3           1986, as added by section 2);

4           (2) patient access to such opioids, particularly  
5           cancer and hospice patients, including the effect of  
6           the discount or rebate on such opioids for cancer  
7           and hospice patients under section 2(d);

8           (3) how the increase in revenue to the Treasury  
9           resulting from the enactment of section 4192 of the  
10          Internal Revenue Code of 1986 is used to improve  
11          substance abuse treatment efforts in accordance  
12          with section 1923A of the Public Health Service Act  
13          (as added by section 3); and

14          (4) suggestions for improving—

15                  (A) access to opioids for cancer and hos-  
16                  pice patients; and

17                  (B) substance abuse treatment efforts  
18                  under such section 1923A.

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