
HOUSE BILL 2091

State of Washington

67th Legislature

2022 Regular Session

By Representatives Davis and Berg

1 AN ACT Relating to creating pathways to recovery from addiction
2 by eliminating an obsolete tax preference for the warehousing of
3 opioids and other drugs; amending RCW 82.04.272; adding a new section
4 to chapter 71.24 RCW; creating new sections; and providing an
5 effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

8 (a) Pharmaceutical warehouse distributors serve as the purveyors
9 of opioids and other drugs to pharmacies;

10 (b) The pharmaceutical warehouse distributor tax preferential
11 rate was created in 1998 to level the playing field for Washington
12 distributors. At that time, the constitutionally permissible limits
13 of state tax authority required companies to have a physical presence
14 within Washington in order to be subject to the business and
15 occupation tax. This left Washington's distributors, who were
16 required to pay the tax, at an economic disadvantage compared to out-
17 of-state distributors; and

18 (c) In 2018, this physical presence tax standard was discarded in
19 the United States supreme court decision in *South Dakota v. Wayfair,*
20 *Inc.*, 138 S. Ct. 2080 (2018), and replaced with an economic presence
21 test. Now, all pharmaceutical warehouse distributors are subject to

1 the business and occupation tax, regardless of their physical
2 location. The original rationale that led to the creation of this tax
3 preference is no longer applicable, yet the tax preference remains in
4 law.

5 (2) The legislature further finds that:

6 (a) Washington state is in the midst of an opioid epidemic, with
7 a staggering death toll;

8 (b) Washington's opioid epidemic has ripped children from their
9 parents and parents from their children;

10 (c) The opioid epidemic has contributed to a dramatic increase in
11 jail and prison populations and skyrocketing health care usage, all
12 at public expense;

13 (d) Opioid use disorder is a treatable brain disease from which
14 people can and do recover;

15 (e) Recovery from substance use disorder is predicated upon
16 advancing an individual through the stages of change until the
17 individual is willing to seek help. Building bridges of trust and
18 hope and the use of evidence-based practices such as motivational
19 interviewing are effective outreach tools to engage individuals in
20 treatment. Outreach and engagement services are not reimbursable
21 through medicaid or commercial insurance; and

22 (f) Treatment alone does not support long-term recovery from
23 addiction. Recovery support services are a suite of critical services
24 that help individuals in early recovery from addiction maintain their
25 recovery during and after treatment. Lack of access to recovery
26 support services is a leading driver of return to use. Recovery
27 support services include recovery housing, education and employment
28 supports, recovery community programs, legal support services, and
29 family education. Recovery support services are generally not
30 reimbursable through medicaid or commercial insurance.

31 (3) Therefore, it is the intent of the legislature to close the
32 obsolete pharmaceutical warehouse distributor tax preference and
33 allocate the new revenue to fund the outreach and recovery support
34 services that are essential to combating the opioid epidemic.

35 **Sec. 2.** RCW 82.04.272 and 2013 c 19 s 127 are each amended to
36 read as follows:

37 (1) Upon every person engaging within this state in the business
38 of warehousing and reselling drugs for human use pursuant to a
39 prescription; as to such persons, the amount of the tax shall be

1 equal to the gross income of the business multiplied by the rate of
2 (~~0.138~~) 0.484 percent.

3 (2) At least one month prior to the end of each quarter,
4 beginning December 1, 2022, the department must calculate:

5 (a) The proceeds of the tax imposed under this section generated
6 for the most recently completed quarter;

7 (b) The estimated amount of the proceeds the tax imposed pursuant
8 to this section would have generated during the most recently
9 completed quarter, if the rate of this tax was 0.138 percent for all
10 taxable activities under this section; and

11 (c) The net difference in proceeds of the taxes collected in (a)
12 of this subsection and the estimated amount of proceeds calculated in
13 (b) of this subsection.

14 (3) By the last day of each quarter, beginning December 31, 2022,
15 the department must notify the state treasurer of the calculations
16 under subsection (2) of this section. The state treasurer shall
17 transfer into the recovery pathways account created in section 4 of
18 this act, the amount determined under subsection (2)(c) of this
19 section by the beginning of the quarter immediately following.

20 (4) For the purposes of this section, the following dates must be
21 considered the beginning of a quarter: January 1st, April 1st, July
22 1st, and October 1st.

23 (5) For the purposes of this section:

24 (a) "Prescription" and "drug" have the same meaning as in RCW
25 82.08.0281; and

26 (b) "Warehousing and reselling drugs for human use pursuant to a
27 prescription" means the buying of drugs for human use pursuant to a
28 prescription from a manufacturer or another wholesaler, and reselling
29 of the drugs to persons selling at retail or to hospitals, clinics,
30 health care providers, or other providers of health care services, by
31 a wholesaler or retailer who is registered with the federal drug
32 enforcement administration and licensed by the pharmacy quality
33 assurance commission.

34 NEW SECTION. Sec. 3. Section 2 of this act applies to taxes due
35 for reporting periods beginning on or after the effective date of
36 this section.

37 NEW SECTION. Sec. 4. A new section is added to chapter 71.24
38 RCW to read as follows:

1 (1) The recovery pathways account is created in the state
2 treasury. All receipts from taxes collected and directed to be
3 transferred pursuant to RCW 82.04.272(3) must be deposited into the
4 account. Moneys in the account may be spent only after appropriation.
5 Expenditures from the account may be used only for services for
6 persons with substance use disorder that are not insurance
7 reimbursable, including outreach services and recovery support
8 services.

9 (2) For the purposes of this section:

10 (a) "Outreach services" means outreach and engagement services
11 that build bridges of trust and hope with individuals in active
12 addiction and facilitate access to treatment and other social
13 services. Outreach services include the recovery navigator program
14 established in RCW 71.24.115.

15 (b) "Recovery support services" means services that support a
16 person's recovery including, but not limited to, recovery housing,
17 education and employment support, recovery coaching, family
18 education, recovery community programs, legal support services,
19 transportation support, child care support, and technological
20 recovery supports.

21 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2022.

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