

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 625

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO OPIOIDS; AMENDING SECTION 37-3101, IDAHO CODE, TO PROVIDE DEF-  
2 INITIONS, TO REVISE DEFINITIONS AND TO PROVIDE FOR APPLICABILITY;  
3 AMENDING CHAPTER 31, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SEC-  
4 TION 37-3106, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING AN OPIOID  
5 TAX; AMENDING CHAPTER 31, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW  
6 SECTION 37-3107, IDAHO CODE, TO REQUIRE REPORTS AND TO PROVIDE FOR THE  
7 PAYMENT OF TAXES ON OPIOIDS; AMENDING CHAPTER 31, TITLE 37, IDAHO CODE,  
8 BY THE ADDITION OF A NEW SECTION 37-3108, IDAHO CODE, TO ESTABLISH THE  
9 OPIOID ADDICTION FUND; AMENDING CHAPTER 31, TITLE 37, IDAHO CODE, BY  
10 THE ADDITION OF A NEW SECTION 37-3109, IDAHO CODE, TO PROVIDE FOR THE  
11 DISTRIBUTION OF THE OPIOID TAX; AMENDING CHAPTER 31, TITLE 37, IDAHO  
12 CODE, BY THE ADDITION OF A NEW SECTION 37-3110, IDAHO CODE, TO PROVIDE  
13 RULEMAKING AUTHORITY TO THE STATE TAX COMMISSION; AMENDING CHAPTER 31,  
14 TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-3111, IDAHO  
15 CODE, TO ESTABLISH PROVISIONS REGARDING TAX COLLECTION AND ENFORCE-  
16 MENT; AMENDING CHAPTER 31, TITLE 37, IDAHO CODE, BY THE ADDITION OF A  
17 NEW SECTION 37-3112, IDAHO CODE, TO PROVIDE FOR CERTAIN AUDITS; AMEND-  
18 ING CHAPTER 31, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION  
19 37-3113, IDAHO CODE, TO PROVIDE FOR THE EXCHANGE OF INFORMATION; AMEND-  
20 ING CHAPTER 31, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION  
21 37-3114, IDAHO CODE, TO PROVIDE FOR THE REFUND OF TAXES; AND PROVIDING  
22 AN EFFECTIVE DATE.  
23

24 Be It Enacted by the Legislature of the State of Idaho:

25 SECTION 1. That Section 37-3101, Idaho Code, be, and the same is hereby  
26 amended to read as follows:

27 37-3101. DEFINITIONS. For the purposes of this ~~act~~ chapter, unless the  
28 context clearly indicates a contrary intent:

29 1. ~~"Physician" means a person licensed to practice medicine or surgery~~  
30 ~~in this state as provided for under chapter 18, title 54, Idaho Code.~~

31 2. ~~"Hospital" means a public or private institution licensed pursuant~~  
32 ~~to the laws of this state as provided for under chapter 13, title 39, Idaho~~  
33 ~~Code.~~

34 3. ~~(1) "Drug" means a narcotic or hallucinogenic drug as defined in~~  
35 ~~sections 37-2702, 37-2703, and subsection (c) of section 37-3301~~ chapter 27,  
36 title 37, Idaho Code.

37 (2) "Hospital" means a public or private institution licensed pursuant  
38 to the laws of this state as provided for in chapter 13, title 39, Idaho Code.

39 (3) "Local recovery community center" means a recovery center accred-  
40 ited by the council on accreditation of peer recovery support services. An  
41 accredited recovery center must use evidence-based treatment procedures.

1       (4) "Manufacturer" shall have the same meaning as provided in section  
2 54-1705, Idaho Code.

3       (5) "Morphine milligram equivalents" means the calculation of the rel-  
4 ative potency of the opioid in the commercial container by multiplying the  
5 total active opioid ingredient in a drug by the equivalency factor for the  
6 drug published by the centers for disease control and prevention or as de-  
7 termined by rule of the board of pharmacy. The board of pharmacy may, by ad-  
8 ministrative rule, determine equivalency factors for drugs when the centers  
9 for disease control and prevention does not publish an equivalency factor  
10 or when the centers for disease control and prevention publishes multiple  
11 equivalency factors for the same drug.

12       (6) "Opiate" means the dried, condensed juice of a poppy, Papaver som-  
13 niferum, that has a narcotic, soporific, analgesic and astringent effect.

14       (7) "Opioid" means:

15       (a) An opiate;

16       (b) A synthetic or semisynthetic narcotic that has opiate-like activ-  
17 ities but is not derived from opium and has effects similar to natural  
18 opium alkaloids; or

19       (c) A derivative of an opiate or of a synthetic or semisynthetic nar-  
20 cotic described in paragraph (b) of this subsection.

21       (8) "Physician" means a person licensed to practice medicine or surgery  
22 in this state as provided for under chapter 18, title 54, Idaho Code.

23       (9) "Wholesale distribution" shall have the same meaning as provided in  
24 section 54-1752, Idaho Code.

25       (10) "Wholesaler" shall have the same meaning as provided in section  
26 54-1705, Idaho Code.

27 For any terms not specifically defined in this section, the definitions in  
28 sections 54-1705, 54-1752 and 54-1761, Idaho Code, shall also apply to this  
29 chapter.

30       SECTION 2. That Chapter 31, Title 37, Idaho Code, be, and the same is  
31 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
32 ignated as Section 37-3106, Idaho Code, and to read as follows:

33       37-3106. IMPOSITION OF OPIOID TAX. (1) No manufacturer, wholesaler  
34 or other person may engage in the wholesale distribution of opioids to a per-  
35 son in the state of Idaho without holding a license from the board of phar-  
36 macy, pursuant to chapter 17, title 54, Idaho Code, or other applicable law  
37 or rule.

38       (2) A tax is hereby imposed on the wholesale distribution of opioids by  
39 a manufacturer, wholesaler or other person authorized by the board of phar-  
40 macy to manufacture opioids in or distribute opioids into the state of Idaho  
41 at the rate of one-half cent (\$.005) per morphine milligram equivalent of an  
42 opioid. The manufacturer, wholesaler or other person authorized to distrib-  
43 ute opioids will report and pay the tax using forms and in a manner required  
44 by the state tax commission.

45       (3) All opioids distributed to a narcotic treatment program licensed by  
46 the board of pharmacy are exempted from the tax imposed in this section.

47       (4) All buprenorphine products are exempted from the tax imposed in  
48 this section.

1 SECTION 3. That Chapter 31, Title 37, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
3 ignated as Section 37-3107, Idaho Code, and to read as follows:

4 37-3107. REPORTS -- PAYMENT OF TAXES ON OPIOIDS. Each person liable  
5 for payment of taxes on opioids, pursuant to section 37-3106, Idaho Code,  
6 shall file with the state tax commission a report of all sales of opioids for  
7 resale or consumption in this state made by him during the reporting period.  
8 Unless the state tax commission prescribes by rule a different reporting pe-  
9 riod and deadline, each report shall be made on or before the twentieth day  
10 of each month for the reporting period of the immediately preceding calen-  
11 dar month. Taxes payable with respect to the sales during the reporting pe-  
12 riod shall be paid by the person liable for the taxes at the time the report is  
13 filed.

14 SECTION 4. That Chapter 31, Title 37, Idaho Code, be, and the same is  
15 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
16 ignated as Section 37-3108, Idaho Code, and to read as follows:

17 37-3108. OPIOID ADDICTION FUND. (1) There is hereby established in  
18 the state treasury the opioid addiction fund. Moneys in the fund will be used  
19 as provided in this chapter. Pending use, surplus moneys in the fund will  
20 be invested by the state treasurer in the same manner as provided in section  
21 67-1210, Idaho Code. Earnings on the investments will be returned to the  
22 fund.

23 (2) Moneys in the fund will be used exclusively for the prevention and  
24 treatment of opioid addiction as follows:

25 (a) For the treatment of Idaho residents who have an opioid addiction.  
26 Treatment shall include, but not be limited to, the use of opioid antag-  
27 onists as defined in section 54-1733B, Idaho Code, and shall encourage  
28 the use of nonaddictive pain treatments;

29 (b) For education regarding signs, symptoms, effects and prevention  
30 of opioid addiction in Idaho including, but not limited to, identifying  
31 and encouraging the use of nonaddictive pain treatments;

32 (c) For purposes related to enrollment in and oversight of the pre-  
33 scription drug monitoring program in Idaho; and

34 (d) For other programs identified by the department of health and wel-  
35 fare consistent with this section and specifically related to treating  
36 or preventing opioid addiction in Idaho.

37 SECTION 5. That Chapter 31, Title 37, Idaho Code, be, and the same is  
38 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
39 ignated as Section 37-3109, Idaho Code, and to read as follows:

40 37-3109. DISTRIBUTION OF OPIOID TAX. Subject to appropriation, the  
41 revenues received from the tax imposed by this chapter, including any  
42 penalty, interest or deficiency additions, shall be distributed as follows:

43 (1) An amount of money shall be distributed to the state refund account  
44 sufficient to pay current refund claims. All refunds authorized to be paid  
45 by the state tax commission shall be paid from the state refund account,  
46 those moneys being continuously appropriated.

1 (2) The remaining funds shall be distributed to the opioid addiction  
2 fund established by section 37-3108, Idaho Code.

3 (3) Each year, the state controller shall transfer funds from the opi-  
4 oid addiction fund in the following manner:

5 (a) Two hundred thousand dollars (\$200,000) to the opioid addiction  
6 board of pharmacy fund, which is hereby created, for opioid addiction  
7 education and outreach to medical providers and the public;

8 (b) Of the remaining funds:

9 (i) Fifty percent (50%), but not to exceed one million nine  
10 hundred thousand dollars (\$1,900,000), to the opioid addiction  
11 department of health and welfare fund, which is hereby created,  
12 for use in the medication-assisted treatment program supervised  
13 by the division of behavioral health; and

14 (ii) Fifty percent (50%), but not to exceed one million nine hun-  
15 dred thousand dollars (\$1,900,000) to the opioid addiction pub-  
16 lic health district fund, which is hereby created, for use by the  
17 board of trustees of the Idaho district boards of health for dis-  
18 tribution among the various local recovery community centers. The  
19 board of trustees of the Idaho district boards of health shall have  
20 the discretion to distribute the funds according to the needs and  
21 best use of the funds when determining which local recovery com-  
22 munity centers will receive funds under this section. The board  
23 of trustees may retain, from the funds distributed under this sub-  
24 paragraph, an amount equal to the cost of administering the dis-  
25 tribution and monitoring the use of the funds received by local  
26 recovery community centers. The amount retained by the board of  
27 trustees shall not exceed the amount authorized to be expended by  
28 legislative appropriation; and

29 (c) Any funds remaining in the opioid addiction fund after the distribu-  
30 tions required by this subsection may be appropriated to the department  
31 of health and welfare for the purposes set forth in section 37-3108,  
32 Idaho Code.

33 SECTION 6. That Chapter 31, Title 37, Idaho Code, be, and the same is  
34 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
35 ignated as Section 37-3110, Idaho Code, and to read as follows:

36 37-3110. RULES. The state tax commission is hereby authorized to pro-  
37 mulgate rules as may be necessary to ensure payment of taxes on opioids in-  
38 cluding, but not limited to, rules:

39 (1) Prescribing the form and content of the reports required by section  
40 37-3107, Idaho Code;

41 (2) Requiring the persons liable for payment of taxes on opioids to pro-  
42 vide in such reports information concerning their inventories, purchases,  
43 sales and shipments of opioids;

44 (3) Requiring persons liable for payment of taxes imposed on opioids to  
45 maintain complete and accurate books, records and accounts on transactions  
46 involving opioids; and

47 (4) Establishing grounds upon which delay in filing reports or paying  
48 taxes imposed on opioids may be considered justifiable and without fault on  
49 the part of the person responsible for such filing or payment.

1 SECTION 7. That Chapter 31, Title 37, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
3 ignated as Section 37-3111, Idaho Code, and to read as follows:

4 37-3111. COLLECTION AND ENFORCEMENT. The collection and enforcement  
5 procedures provided in sections 63-3038, 63-3039, 63-3040, 63-3042 through  
6 63-3046, 63-3047 through 63-3065A, 63-3068 and 63-3075, Idaho Code, shall  
7 apply and be available to the state tax commission for enforcement and col-  
8 lection of the tax imposed by this chapter, and shall, for this purpose, be  
9 considered part of this chapter. Any reference to a taxable year in the Idaho  
10 income tax act, chapter 30, title 63, Idaho Code, shall be, for purposes of  
11 this chapter, considered a taxable period.

12 SECTION 8. That Chapter 31, Title 37, Idaho Code, be, and the same is  
13 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
14 ignated as Section 37-3112, Idaho Code, and to read as follows:

15 37-3112. AUDITS OF RECORDS. For the purpose of ascertaining compli-  
16 ance with the provisions of section 37-3106, Idaho Code, the state tax com-  
17 mission may, as often as it deems advisable, examine the accounts, records,  
18 documents and transactions pertaining to or affecting the opioid manufac-  
19 ture or wholesale distribution business of any person liable for the opi-  
20 oid tax under the provisions of this chapter. When examination involving any  
21 person liable for the opioid tax requires an examiner to travel outside this  
22 state, the actual and necessary expenses of travel and subsistence necessar-  
23 ily incurred on account of the examination shall be paid by the person liable  
24 for the opioid tax upon presentation of an itemized statement certified by  
25 the examiner and approved by the state tax commission.

26 SECTION 9. That Chapter 31, Title 37, Idaho Code, be, and the same is  
27 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
28 ignated as Section 37-3113, Idaho Code, and to read as follows:

29 37-3113. EXCHANGE OF INFORMATION. The state tax commission, the board  
30 of pharmacy and the department of health and welfare are authorized to share  
31 information with one another to the extent necessary to carry out their du-  
32 ties under this chapter.

33 SECTION 10. That Chapter 31, Title 37, Idaho Code, be, and the same is  
34 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
35 ignated as Section 37-3114, Idaho Code, and to read as follows:

36 37-3114. REFUND OF TAXES. (1) If the state tax commission determines  
37 that any amount due under this chapter has been paid more than once or has  
38 been erroneously or illegally collected or computed, the commission shall  
39 set forth that fact in its records, and the excess amount paid or collected  
40 may be credited on any amount then due and payable to the commission from that  
41 person and any balance refunded to the person by whom it was paid or to his  
42 successors, administrators or executors. The state tax commission is autho-  
43 rized, and the state board of tax appeals is authorized to order the tax com-  
44 mission, in proper cases, to credit or refund such amounts, whether or not

1 such payments have been made under protest, and to certify such refund to the  
2 state board of examiners.

3 (2) (a) No credit or refund shall be allowed or made after three (3)  
4 years from the time the payment was made, unless, before the expiration  
5 date of that period, a claim for the credit or refund is filed by the  
6 taxpayer.

7 (b) In the event the state tax commission asserts a deficiency under  
8 section 63-3045 or 63-3065, Idaho Code, a claim for a refund for the re-  
9 porting period to which the deficiency pertains must be made on or be-  
10 fore the latest of:

11 (i) The date provided in paragraph (a) of this subsection;

12 (ii) The date upon which any administrative or judicial proceed-  
13 ing relating to the deficiency is finally resolved; or

14 (iii) The date specified in any agreement made pursuant to section  
15 63-3068 (m), Idaho Code.

16 SECTION 11. This act shall be in full force and effect on and after Jan-  
17 uary 1, 2019.