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**SENATE BILL 5952**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senators Carlyle, Hasegawa, Saldaña, and C. Wilson

Read first time 01/27/22. Referred to Committee on Ways & Means.

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3 preference is no longer applicable, yet the tax preference remains in  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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