

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 620

BY SENATOR BALDWIN

[Introduced February 19, 2018; Referred
to the Committee on Health and Human Resources;
and then to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §16-53-4, relating to creating the opioid crisis recovery fine program; detailing
3 the implementation of the program; requiring opioid manufacturers or wholesalers that
4 manufactured opioids for distribution or distributed opioids in this state between 2007 and
5 2017 to register with the Office of Drug Control Policy; and creating a sunset date.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 53. ESTABLISHING ADDITIONAL SUBSTANCE ABUSE TREATMENT
FACILITIES.**

§16-53-4. Opioid Crisis Recovery Fine.

1 (a) Effective January 1, 2019, in order to continue to operate in this state, every opioid
2 manufacturer or wholesaler that manufactured opioids for distribution or distributed opioids in this
3 state between 2007 and 2017, inclusive, and all related and successor businesses shall register
4 with the Office of Drug Control Policy, created within the Department of Health and Human
5 Resources in §16-5T-2 of this code and disclose to the office the number of opioid dosages the
6 entity manufactured for distribution in this state or distributed in this state between 2007 and 2017,
7 inclusive. The office shall calculate the total amount of dosages and then calculate the percentage
8 of the total attributable to each entity. That percentage is known, for purposes of this section, as
9 the entity's "Opioid Crisis Participation Percentage".

10 (b) The office shall take all reasonable measures to confirm that the disclosure required
11 by this section is accurate. If the disclosure is inaccurate, the office may institute a civil action in
12 the Circuit Court of Kanawha County and, if proven by a preponderance of the evidence that the
13 disclosure was inaccurate, the entity shall pay a civil penalty in an amount equal to \$1,000 for
14 every opioid dosage that was not accurately disclosed.

15 (c) A registered business that has an Opioid Crisis Participation Percentage and all related
16 and successor businesses shall pay a quarterly fine in order to continue to conduct business in

17 this state. The quarterly fine shall be calculated by the office by assessing one cent per milligram
18 per opioid prescribed in the state and medication prescribed in the state for the treatment of opioid
19 addiction during the quarter. The total quarterly fine shall be assessed by splitting the total among
20 the registered businesses based on their Opioid Crisis Participation Percentage. The fine shall be
21 paid to the office at the end of each quarter for the amount due from the previous quarter.

22 (d) Any business and all related or successor businesses that are required by this section
23 to register and fail to do so are guilty of a felony and, upon conviction thereof, shall be fined no
24 less than \$1 million and no more than \$100 million.

25 (e) All fines and penalties collected under the provisions of this section shall be deposited
26 in the Ryan Brown Addiction Prevention and Recovery Fund, created in §16-53-2 of this code,
27 and the funds shall be used in the manner required by that section.

28 (f) The provisions of this section shall have no force or effect on and after January 1, 2039.

NOTE: The purpose of this bill is to provide for reimbursement to the state by the companies that profited from the opioid crisis. The bill also requires opioid manufacturer or wholesaler that manufactured opioids for distribution or distributed opioids in this state between 2007 and 2017 to register with the Office of Drug Control Policy.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.