

# HOUSE . . . . . No. 2633

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## The Commonwealth of Massachusetts

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PRESENTED BY:

*James J. O'Day*

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the taxation of the sale of active opioids.

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PETITION OF:

| NAME:                    | DISTRICT/ADDRESS:     | DATE ADDED:      |
|--------------------------|-----------------------|------------------|
| <i>James J. O'Day</i>    | <i>14th Worcester</i> | <i>1/19/2017</i> |
| <i>James M. Cantwell</i> | <i>4th Plymouth</i>   | <i>1/30/2017</i> |
| <i>Daniel M. Donahue</i> | <i>16th Worcester</i> | <i>1/31/2017</i> |
| <i>Joan B. Lovely</i>    | <i>Second Essex</i>   | <i>2/3/2017</i>  |
| <i>John J. Mahoney</i>   | <i>13th Worcester</i> | <i>2/2/2017</i>  |
| <i>Timothy R. Whelan</i> | <i>1st Barnstable</i> | <i>2/1/2017</i>  |

# HOUSE . . . . . No. 2633

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By Mr. O'Day of West Boylston, a petition (accompanied by bill, House, No. 2633) of James J. O'Day and others relative to the taxation of the sale of active opioids. Revenue.

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## The Commonwealth of Massachusetts

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In the One Hundred and Ninetieth General Court  
(2017-2018)  
\_\_\_\_\_

An Act relative to the taxation of the sale of active opioids.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 1 of chapter 64K of the General Laws is hereby amended by adding  
2           the following definition:-

3           “Taxable Active Opioid”, any controlled Class A substance as defined in section 94C,  
4           which is opium, an opiate, or any derivative thereof; provided, however, that such term shall not  
5           include any prescribed drug which is used exclusively for the treatment of opioid addiction as  
6           part of a medically assisted treatment effort; provided, further, that in the case of a product that  
7           includes a taxable active opioid and another ingredient, this chapter shall apply only to the  
8           portion of such product that is a taxable active opioid.

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10          SECTION 2. Section 8 of said chapter 64K is hereby amended by adding the following  
11          clause:-

12               (4) on each milligram of a taxable active opioid, 1 cent.

SECTION 3. Said chapter 64K is hereby further amended by inserting after section 8 the following section:-

Section 8A. There is hereby imposed on the sale of any taxable active opioid by the manufacturer, producer or importer a tax equal to 1 cent per milligram so sold.

SECTION 4. Said chapter 64K is hereby further amended by adding the following 2 sections:-

Section 15. (a) The secretary of the executive office of health and human services, in consultation with patient advocacy groups and other relevant stakeholders as determined by the secretary, shall establish a mechanism by which—

(i) any amount paid by an eligible patient in connection with the tax under clause (4) of section 8 shall be rebated to such patient in as timely a manner as possible, or

(ii) amounts paid by an eligible patient for taxable active opioids are discounted at time of payment or purchase to ensure that such patient does not pay any amount attributable to such tax, with as little burden on the patient as possible. The secretary shall choose whichever of the options described in this section is, in the secretary's determination; most effective and efficient in ensuring eligible patients face no economic burden from such tax.

(b) For purposes of this section, the term "eligible patient" means: (i) a patient for whom any taxable active opioid is prescribed to treat pain relating to cancer or cancer treatment; (ii) a patient participating in hospice care; and (iii) in the case of the death or incapacity of a patient described in this section or any similar situation as determined by the secretary, the appropriate family member, medical proxy, or similar representative or the estate of such patient.

Section 16. Any amounts made available by any increase in revenues to the office of the treasurer and receiver general in the previous fiscal year resulting from clause (4) of section 8 shall be used exclusively for substance abuse, including opioid abuse, treatment efforts in the commonwealth, including the following treatment programs:-

(1) Establishing new addiction treatment facilities, residential and outpatient, including covering capital costs;

(2) Establishing sober living facilities;

(3) Recruiting and increasing reimbursement for certified mental health providers providing substance abuse treatment in medically underserved communities or communities with high rates of prescription drug abuse;

(4) Expanding access to long-term, residential treatment programs for opioid addicts, including 30-, 60-, and 90- day programs;

(5) Establishing or operating support programs that offer employment services, housing, and other support services to help recovering addicts transition back into society;

(6) Establishing or operating housing for children whose parents are participating in substance abuse treatment programs, including capital costs;

(7) Establishing or operating facilities to provide care for babies born with neonatal abstinence syndrome, including capital costs; and

(8) Other treatment programs, as the secretary determines appropriate.