

As states consider taxing opioids, drugmakers push back

April 28 2018, by Geoff Mulvihill And Kyle Potter

Facing a rising death toll from drug overdoses, state lawmakers across the country are testing a strategy to boost treatment for opioid addicts: Force drug manufacturers and their distributors to pay for it.

Bills introduced in at least 15 states would impose taxes or fees on prescription painkillers. Several of the measures have bipartisan support and would funnel millions of dollars toward treatment and prevention programs.

In Montana, state Sen. Roger Webb, a Republican, sees the approach as a way to hold drugmakers accountable for an overdose epidemic that in 2016 claimed 42,000 lives in the U.S., a record.

"You're creating the problem," he said. "You're going to fix it."

Opioids include prescription painkillers such as Vicodin and OxyContin as well as illegal drugs such as heroin and illicit versions of fentanyl. Public health experts say the crisis started because of overprescribing and aggressive marketing of the drugs that began in the 1990s. The death toll has continued to rise even as prescribing has started to drop.

A Pennsylvania opioid tax bill was introduced in 2015 and a federal version was introduced a year later, but most of the proposals arose during the past year. The majority of them have yet to get very far, with lawmakers facing intense pressure from the [pharmaceutical industry](#) to scuttle or soften the legislation.

Drugmakers and distributors argue that it would be wrong to tax prescription drugs, that the cost increases would eventually be absorbed by patients or taxpayers, and that there are other ways to pay for [addiction treatment](#) and prevention.

"We have been engaged with states to help move forward comprehensive solutions to this complex public health crisis and in many cases have seen successes," Priscilla VanderVeer , a spokeswoman for Pharmaceutical Research and Manufacturers of America, said in a statement. "However, we do not believe levying a tax on prescribed medicines that meet legitimate medical needs is an appropriate funding mechanism for a state's budget."

Two drug companies that deployed lobbyists—Purdue Pharma and Pfizer—responded to questions with similar statements.

A spokesman for the Healthcare Distribution Alliance, which represents drug distributors, said a tax would mean that cancer patients and those in end-of-life care might not be able to get the prescriptions they need.

The pharmaceutical industry has emphasized that the name-brand drug companies that make up its members already give rebates to states for drugs funded by Medicaid. Those rebates amount to billions of dollars nationwide that states could use to address opioid addiction, the trade group says.

State legislation to tax opioids comes as manufacturers and distributors are defending themselves in hundreds of lawsuits filed by state and local governments seeking damages for the toll the overdose epidemic has taken on communities.

David Humes, whose son died from a [heroin overdose](#) in 2012, has been pushing for an opioid tax in Delaware, which did not increase funding

for addiction treatment last year as it struggles to balance its budget.

"When you think about the fact that each year more people are dying, if you leave the money the same, you're not keeping up with this public health crisis," he said.

Humes, a board member of the advocacy group AtTack Addiction, supports legislation that would dedicate opioid tax revenue for addiction services.

The lead sponsor of an opioids tax bill, state Sen. Stephanie Hansen, said [drug companies](#) told her they already were contributing \$500,000 to anti-addiction measures in Delaware, where there were 282 fatal overdoses from all drugs in 2016, a 40 percent increase from the year before.

"My response is, 'That's wonderful, but we're not stopping there,'" said Hansen, a Democrat.

She said if her tax measure had been in place last year, it would have raised more than \$9 million.

The drug industry's current spending on anti-addiction programs has been a point of contention in the Minnesota Legislature. There, the overdose rate is lower than most [states](#), but opioids still claimed 395 lives in 2016—an increase of 18 percent over the year before.

State Rep. Dave Baker, a Republican whose son died of a heroin overdose after getting started on [prescription painkillers](#), said opioid manufacturers and distributors should pay for drug programs separately. He said the rebate—about \$250 million in 2016 in Minnesota—is intended to make up for overcharging for drugs in the first place.

Another Republican lawmaker, state Sen. Julie Rosen, said she walked

out of a meeting this month with [drug](#) industry representatives, saying they were wasting her time.

"They know that they're spending way too much money on defending their position instead of being part of the solution," she said.

Representatives of the pharmaceutical industry say they have met with Rosen multiple times and are "committed to continue working with her."

Drug companies have a history of digging in to defeat measures that are intended to combat the opioid crisis. A 2016 investigation by The Associated Press and the Center for Public Integrity found makers of opioids and their allies spent \$880 million on politics and lobbying from 2006 through 2015.

The industry so far has succeeded in stalling the Minnesota legislation, which would charge opioid manufacturers by the dosage. With the bill facing resistance, Rosen and a Democratic co-sponsor, state Sen. Chris Eaton, said they are considering changing tactics and amending it.

That could include raising the \$235 annual licensing fee on opioid manufacturers or requiring drugmakers and distributors to pay \$20 million a year based on the proportion of opioids they sell in the state. That approach is based on one adopted earlier this spring as part of the budget in New York—the only state to implement an [opioid](#) tax so far.

Eaton, whose daughter died from a heroin overdose in 2007, said her goal is to find a way to create and fund a structure that will ensure addiction treatment is "as routine as treating diabetes or cardiac arrest."

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Citation: As states consider taxing opioids, drugmakers push back (2018, April 28) retrieved 1

May 2024 from <https://medicalxpress.com/news/2018-04-states-taxing-opioids-drugmakers.html>

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