
SENATE BILL No. 458

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-33-13; IC 12-7-2; IC 12-9-7; IC 12-15-35-28.

Synopsis: Wagering tax and pharmaceutical program. Increases the wagering tax from 20% of adjusted gross receipts to 33% of adjusted gross receipts. Adjusts the amounts of the wagering tax distributed to a city or county in which a riverboat is docked and to the build Indiana fund. Establishes the pharmaceutical assistance fund. Requires 39.4% of the wagering tax to be paid to the pharmaceutical assistance fund. Creates the pharmaceutical assistance for the aged and disabled program. Provides that an Indiana resident who is eligible for the program is required to pay only a \$5 copayment for various prescription drugs. Provides the division of disability, aging, and rehabilitative services with the authority to restrict the supply of prescription drugs under certain circumstances. Requires a pharmacy to provide prescription price information to the division before a pharmacy may be paid for a prescription claim. Establishes penalties for violations of the program.

Effective: July 1, 2000.

Antich, Waterman

January 10, 2000, read first time and referred to Committee on Rules and Legislative Procedure.

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Introduced

Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

SENATE BILL No. 458

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-33-13-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) A tax is imposed
3 on the adjusted gross receipts received from gambling games
4 authorized under this article at the rate of ~~twenty~~ **thirty-three** percent
5 (~~20%~~) (**33%**) of the amount of the adjusted gross receipts.
6 (b) The licensed owner shall remit the tax imposed by this chapter
7 to the department before the close of the business day following the day
8 the wagers are made.
9 (c) The department may require payment under this section to be
10 made by electronic funds transfer (as defined in IC 4-8.1-2-7(e)).
11 (d) If the department requires taxes to be remitted under this chapter
12 through electronic funds transfer, the department may allow the
13 licensed owner to file a monthly report to reconcile the amounts
14 remitted to the department.
15 (e) The department may allow taxes remitted under this section to
16 be reported on the same form used for taxes paid under IC 4-33-12.
17 SECTION 2. IC 4-33-13-5, AS AMENDED BY P.L.273-1999,

2000

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1 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2000]: Sec. 5. After funds are appropriated under section 4 of
3 this chapter, each month the treasurer of state shall distribute the tax
4 revenue deposited in the state gaming fund under this chapter to the
5 following:

6 (1) ~~Twenty-five~~ **Fifteen and fifteen hundredths** percent (~~25%~~)
7 **(15.15%)** of the tax revenue remitted by each licensed owner
8 shall be paid:

9 (A) to the city that is designated as the home dock of the
10 riverboat from which the tax revenue was collected, in the case
11 of a city described in IC 4-33-12-6(b)(1)(A);

12 (B) in equal shares to the counties described in IC 4-33-1-1(3),
13 in the case of a riverboat whose home dock is on Patoka Lake;
14 or

15 (C) to the county that is designated as the home dock of the
16 riverboat from which the tax revenue was collected, in the case
17 of a riverboat whose home dock is not in a city described in
18 clause (A) or a county described in clause (B); and

19 (2) ~~Seventy-five~~ **Forty-five and forty-five hundredths** percent
20 (~~75%~~) **(45.45%)** of the tax revenue remitted by each licensed
21 owner shall be paid to the build Indiana fund lottery and gaming
22 surplus account.

23 (3) **Thirty-nine and forty hundredths percent (39.40%) of the**
24 **tax revenue remitted by each licensed owner shall be paid to**
25 **the pharmaceutical assistance fund established by**
26 **IC 12-9-7-7.**

27 SECTION 3. IC 12-7-2-63.5 IS ADDED TO THE INDIANA CODE
28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
29 1, 2000]: **Sec. 63.5. "Diabetic testing materials", for purposes of**
30 **IC 12-9-7, has the meaning set forth in IC 12-9-7-1.**

31 SECTION 4. IC 12-7-2-65 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 65. "Disabled", for
33 purposes of **IC 12-9-7 and IC 12-10-10**, has the meaning set forth in
34 IC 12-10-10-3.

35 SECTION 5. IC 12-7-2-144.5 IS ADDED TO THE INDIANA
36 CODE AS A NEW SECTION TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2000]: **Sec. 144.5. "Prescription drugs", for**
38 **purposes of IC 12-9-7, has the meaning set forth in IC 12-9-7-2.**

39 SECTION 6. IC 12-7-2-146, AS AMENDED BY P.L.273-1999,
40 SECTION 166, IS AMENDED TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2000]: Sec. 146. "Program" refers to the
42 following:



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1 (1) For purposes of IC 12-9-7, the meaning set forth in
2 IC 12-9-7-3.

3 (2) For purposes of IC 12-10-7, the adult guardianship services
4 program established by IC 12-10-7-5.

5 ~~(2)~~ (3) For purposes of IC 12-10-10, the meaning set forth in
6 IC 12-10-10-5.

7 ~~(3)~~ (4) For purposes of IC 12-17.6, the meaning set forth in
8 IC 12-17.6-1-5.

9 SECTION 7. IC 12-7-2-156.5 IS ADDED TO THE INDIANA
10 CODE AS A NEW SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2000]: Sec. 156.5. "Reasonable cost", for
12 purposes of IC 12-9-7, has the meaning set forth in IC 12-9-7-4.

13 SECTION 8. IC 12-7-2-164 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 164. "Resident" has the
15 following meaning:

16 (1) For purposes of IC 12-9-7, the meaning set forth in
17 IC 12-9-7-5.

18 (2) For purposes of IC 12-10-15, the meaning set forth in
19 IC 12-10-15-5.

20 ~~(2)~~ (3) For purposes of IC 12-16, except IC 12-16-1, an individual
21 who has actually resided in Indiana for at least ninety (90) days.

22 ~~(3)~~ (4) For purposes of IC 12-20-8, the meaning set forth in
23 IC 12-20-8-1.

24 ~~(4)~~ (5) For purposes of IC 12-24-5, the meaning set forth in
25 IC 12-24-5-1.

26 SECTION 9. IC 12-9-7 IS ADDED TO THE INDIANA CODE AS
27 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
28 1, 2000]:

29 **Chapter 7. Pharmaceutical Assistance for the Aged and**
30 **Disabled**

31 **Sec. 1. As used in this chapter, "diabetic testing materials"**
32 **includes the following:**

33 (1) Blood glucose reagent strips that can be visually read.

34 (2) Urine monitoring strips.

35 (3) Tapes.

36 (4) Tablets.

37 (5) Bloodletting devices.

38 (6) Lancets.

39 **The term does not include electronically monitored devices.**

40 **Sec. 2. As used in this chapter, "prescription drugs" means all**
41 **legend drugs (as defined in IC 16-18-2-199), including the**
42 **following:**

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1 (1) Any interchangeable drug products, including generic
2 drug products, approved by the drug utilization review board
3 established under IC 12-15-35-19.

4 (2) Diabetic testing materials.

5 (3) Insulin, insulin syringes, and insulin needles.

6 Sec. 3. As used in this chapter, "program" refers to the
7 pharmaceutical assistance for the aged and disabled program
8 established by section 6 of this chapter.

9 Sec. 4. As used in this chapter, "reasonable cost" means the
10 maximum allowable cost of prescription drugs and dispensing fee,
11 as determined by the division. However, in the case of diabetic
12 testing materials, the maximum allowable cost of prescription
13 drugs and dispensing fee equals the lesser of:

14 (1) the manufacturer's suggested retail price; or

15 (2) the pharmacy's usual over the counter price charged to
16 other persons in the community.

17 Sec. 5. As used in this chapter, "resident" means an individual
18 legally domiciled within Indiana for a period of thirty (30) days
19 immediately preceding the date of application for inclusion in the
20 program. The term does not include the following:

21 (1) An individual who maintains only seasonal or temporary
22 residence within Indiana.

23 (2) An individual who is absent from Indiana for at least
24 twelve (12) continuous months.

25 Sec. 6. The pharmaceutical assistance for the aged and disabled
26 program is established. The division shall administer the program.

27 Sec. 7. (a) The pharmaceutical assistance fund is established for
28 the purpose of making payments or reimbursements under section
29 10 of this chapter. The fund shall be administered by the division.

30 (b) The expenses of administering the fund shall be paid from
31 money in the fund.

32 (c) The treasurer of state shall invest the money in the fund not
33 currently needed to meet the obligations of the fund in the same
34 manner as other public money may be invested. Interest that
35 accrues from these investments shall be deposited in the fund.

36 (d) Money in the fund at the end of a state fiscal year does not
37 revert to the state general fund.

38 Sec. 8. (a) To be eligible for assistance under the program, a
39 resident:

40 (1) must have:

41 (A) an annual income of not more than fifteen thousand
42 five hundred dollars (\$15,500), if single; or

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- 1 **(B) a combined annual income of not more than nineteen**
 2 **thousand five hundred dollars (\$19,500), if married;**
 3 **(2) must not be:**
 4 **(A) covered by Medicaid under IC 12-15; or**
 5 **(B) wholly covered for prescription drug costs by another**
 6 **plan of assistance or insurance; and**
 7 **(3) must be:**
 8 **(A) a recipient of disability insurance benefits under Title**
 9 **II of the federal Social Security Act (42 U.S.C. 401 et seq.);**
 10 **or**
 11 **(B) at least sixty-five (65) years of age.**
 12 **(b) For purposes of this section, annual income does not include**
 13 **gain from the sale of a principal residence that is excluded from**
 14 **gross income under 26 U.S.C. 121.**
 15 **(c) Beginning January 1, 2000, and annually thereafter, the**
 16 **income eligibility limits provided in subsection (a) must increase by**
 17 **the amount of the maximum Social Security benefit cost of living**
 18 **increase for that year for single and married persons respectively.**
 19 **Sec. 9. Funds received from the following sources may not be**
 20 **counted as income for the purpose of determining eligibility for the**
 21 **program:**
 22 **(1) Funds received from the federal government under 50**
 23 **App. U.S.C. 1989b-4 and 50 App. U.S.C. 1989b-5.**
 24 **(2) Funds received in a Holocaust victim's settlement payment**
 25 **(as defined in IC 6-3-1-30).**
 26 **Sec. 10. (a) The program consists of payments to pharmacies for**
 27 **the reasonable cost of prescription drugs that are provided to**
 28 **eligible persons, to the extent that the reasonable cost for each**
 29 **prescription exceeds a five dollar (\$5) copayment.**
 30 **(b) A copayment must be paid in full by each eligible person to**
 31 **the pharmacist at the time of each purchase of prescription drugs.**
 32 **The copayment may not be waived, discounted, or rebated in whole**
 33 **or in part.**
 34 **(c) The division may restrict the supply of initial prescriptions**
 35 **under the program to less than a thirty (30) day supply to reduce**
 36 **waste and inappropriate drug utilization. The division may limit**
 37 **refills of prescription drugs used in the treatment of acute care**
 38 **medical conditions to an amount that does not exceed a thirty (30)**
 39 **day supply. The division may not allow the greater of a sixty (60)**
 40 **day supply or one hundred (100) unit doses of prescription drugs**
 41 **used in the treatment of a chronic maintenance condition.**
 42 **(d) Whenever an interchangeable drug product, including a**



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1 generic drug product, approved by the drug utilization review
2 board established under IC 12-15-35-19 is available for a written
3 prescription, an eligible person shall either:

4 (1) purchase an interchangeable drug product, including a
5 generic drug product, the cost of which is equal to or less than
6 the maximum allowable cost, with a five dollar (\$5)
7 copayment; or

8 (2) purchase the prescribed drug product that is higher in cost
9 than the maximum allowable cost and pay the difference in
10 cost between the two (2) drug products, in addition to the five
11 dollar (\$5) copayment, unless the health care provider
12 prescribing the drug product specifically indicates that
13 substitution is not permissible, in which case an eligible
14 person may purchase the prescribed drug product with a five
15 dollar (\$5) copayment.

16 Sec. 11. The program may not make payment to a pharmacy for
17 a prescription drug purchase under section 10 of this chapter
18 unless, at the time of the prescription drug purchase for which the
19 pharmacy submits a claim, the pharmacy prominently displayed
20 on the receipt provided with the prescription drug the usual price
21 charged by the pharmacy to other persons in the community.

22 Sec. 12. If an eligible person's prescription drug costs are
23 covered in part by another plan of assistance or insurance, the
24 assistance provided under the program to the person may be
25 reduced.

26 Sec. 13. (a) The division shall adopt rules under IC 4-22-2 to
27 provide for a system of payments or reimbursements and a system
28 for determining eligibility of persons for the program, including:

29 (1) provisions for submission of proof of actual and
30 anticipated annual income; and

31 (2) evidence of complete or partial coverage of prescription
32 drug costs by another plan of assistance or insurance plans.

33 (b) The division's rules must provide for the payment or
34 reimbursement of a claim within thirty (30) days of the division's
35 receipt of the claim.

36 Sec. 14. The cost of a prescription may not be reimbursed by the
37 program unless the prescription contains the name and address or
38 identification number of the eligible person.

39 Sec. 15. The division shall include on identification cards used
40 in the program a conspicuous notice of the penalties for violating
41 this chapter.

42 Sec. 16. (a) Upon the submission of an application and proof of

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1 expenditure as prescribed by the division, an eligible person shall
 2 be reimbursed for the cost, minus a five dollar (\$5) copayment for
 3 each prescription, of all prescription drugs purchased by the
 4 person under section 10(d)(2) of this chapter during the period:

- 5 (1) beginning thirty (30) days after the person's properly
 6 completed application is received by the division; and
 7 (2) ending on the date when the person receives proof of
 8 eligibility from the division.

9 (b) Reimbursement may not be made under this chapter for a
 10 prescription drug purchased before July 1, 2000.

11 Sec. 17. The division shall provide a notice of the availability of
 12 reimbursement under the program and an application form to
 13 every eligible person.

14 Sec. 18. (a) A person who knowingly or intentionally violates
 15 this chapter commits a Class A misdemeanor.

16 (b) An eligible person who violates this chapter is subject to:

- 17 (1) suspension of the person's eligibility for the program for
 18 one (1) year for the first offense; and
 19 (2) permanent revocation of the person's eligibility for a
 20 second offense.

21 SECTION 10. IC 12-15-35-28 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 28. The board has the
 23 following duties:

24 (1) The adoption of rules to carry out this chapter, in accordance
 25 with the provisions of IC 4-22-2 and subject to any office
 26 approval that is required by the federal Omnibus Budget
 27 Reconciliation Act of 1990 under Public Law 101-508 and its
 28 implementing regulations.

29 (2) The implementation of a Medicaid retrospective and
 30 prospective DUR program as outlined in this chapter, including
 31 the approval of software programs to be used by the pharmacist
 32 for prospective DUR and recommendations concerning the
 33 provisions of the contractual agreement between the state and any
 34 other entity that will be processing and reviewing Medicaid drug
 35 claims and profiles for the DUR program under this chapter.

36 (3) The development and application of the predetermined criteria
 37 and standards for appropriate prescribing to be used in
 38 retrospective and prospective DUR to ensure that such criteria
 39 and standards for appropriate prescribing are based on the
 40 compendia and developed with professional input with provisions
 41 for timely revisions and assessments as necessary.

42 (4) The development, selection, application, and assessment of

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- 1 interventions for physicians, pharmacists, and patients that are
 2 educational and not punitive in nature.
- 3 (5) The publication of an annual report that must be subject to
 4 public comment before issuance to the federal Department of
 5 Health and Human Services and to the Indiana legislative council
 6 by December 1 of each year.
- 7 (6) The development of a working agreement for the board to
 8 clarify the areas of responsibility with related boards or agencies,
 9 including the following:
- 10 (A) The Indiana board of pharmacy.
 11 (B) The medical licensing board of Indiana.
 12 (C) The SURS staff.
- 13 (7) The establishment of a grievance and appeals process for
 14 physicians or pharmacists under this chapter.
- 15 (8) The publication and dissemination of educational information
 16 to physicians and pharmacists regarding the board and the DUR
 17 program, including information on the following:
- 18 (A) Identifying and reducing the frequency of patterns of
 19 fraud, abuse, gross overuse, or inappropriate or medically
 20 unnecessary care among physicians, pharmacists, and
 21 recipients.
 22 (B) Potential or actual severe or adverse reactions to drugs.
 23 (C) Therapeutic appropriateness.
 24 (D) Overutilization or underutilization.
 25 (E) Appropriate use of generic drugs.
 26 (F) Therapeutic duplication.
 27 (G) Drug-disease contraindications.
 28 (H) Drug-drug interactions.
 29 (I) Incorrect drug dosage and duration of drug treatment.
 30 (J) Drug allergy interactions.
 31 (K) Clinical abuse and misuse.
- 32 (9) The adoption and implementation of procedures designed to
 33 ensure the confidentiality of any information collected, stored,
 34 retrieved, assessed, or analyzed by the board, staff to the board, or
 35 contractors to the DUR program that identifies individual
 36 physicians, pharmacists, or recipients.
- 37 (10) The implementation of additional drug utilization review
 38 with respect to drugs dispensed to residents of nursing facilities
 39 shall not be required if the nursing facility is in compliance with
 40 the drug regimen procedures under 410 IAC 16.2-3-8 and 42 CFR
 41 483.60.
- 42 **(11) Advising the division of disability, aging, and**

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1 **rehabilitative services in the operation of the pharmaceutical**
2 **assistance for the aged and disabled program under**
3 **IC 12-9-7.**

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