

U.S. News: Opioid Companies Fight New Tax

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FULL TEXT

Opioid makers and distributors are fighting a novel New York state law that aims to collect hundreds of millions of dollars from the industry to help defray costs of the opioid crisis, with some companies re-engineering their supply chain to avoid the new tax.

Companies and trade groups have argued in three legal challenges in recent months that the law, which seeks \$600 million over six years, is unconstitutional. They point to a lawsuit New York's attorney general has already filed against major opioid industry players to recoup money for the state, and say the tax is an improper end-run around resolution of that case.

New York's health department sent bills last week to 75 companies and their subsidiaries detailing how much they owe under the new Opioid Stewardship Act. The state said the charges are based on the volume and potency of drugs each company sold or distributed in New York.

Companies hit with the charge say they recognize the seriousness of the crisis, which has led to widespread addiction and public-health costs. But they say taxing companies for legal drug distribution isn't the solution.

The state's health department disclosed the names of affected companies but not the amounts each owe. The list includes well-known names like CVS Health, Endo International PLC, Purdue Pharma LP and Teva Pharmaceutical Industries Ltd. alongside dozens of small companies based around the country.

Purdue was assessed \$7 million, according to a person familiar with the matter. Drug distributor AmerisourceBergen Corp. estimates it will pay \$22 million for its share from 2017 and through September of this year.

Distributor McKesson Corp. said it expects opioid-related costs, including the New York surcharge, to exceed \$100 million in its current fiscal year, with the majority of that tied to litigation. A Cardinal Health Inc. executive said the company took a \$29 million charge for the New York opioid tax for prior fiscal years.

Some companies are arguing the amount they owe makes it prohibitively expensive to operate in New York.

Drugmaker Mallinckrodt PLC said in a lawsuit in New York federal court that its costs under the law are higher per pill than the revenue it made on some of its most popular generic drugs. It sold one form of Oxycodone in 2017 for around 4.7 cents per tablet, the company said in the suit, but now must pay 8.2 cents per tablet to New York. The company, which reported \$420 million in operating income for 2017, said New York billed it \$1.3 million.

The law threatens to penalize folks with a legitimate medical need for opioids, said Jeff Francer, general counsel for the Association for Accessible Medicines, a trade organization representing generic-drug manufacturers that filed one of the three lawsuits to block the act.

More than a dozen other states have considered some form of opioid tax in the 2018 legislative session, but only New York's has become a law, according to the National Conference of State Legislatures. Outside of legislation, some 1,500 cities, counties and states have sued opioid makers and distributors seeking money to combat the crisis.

A spokesman for New York Gov. Andrew Cuomo stood by the law and said it "helps hold big pharma responsible for the opioid crisis they helped fuel."

Some distributors are already working on ways to avoid the surcharge, prompting disputes with manufacturers over who in the opioid supply chain should be responsible.

AmerisourceBergen said recently it doesn't expect to continue paying the tax because it changed its operating model around how it receives prescription opioids in New York.

AmerisourceBergen told Mallinckrodt on Oct. 10 that it will no longer accept opioid shipments at its national distribution center in Columbus, Ohio, that are intended for New York, according to Mallinckrodt's suit.

Credit: By Sara Randazzo

DETAILS

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Company / organization:	Name: Association for Accessible Medicines; NAICS: 813910; Name: Purdue Pharma LP; NAICS: 325412; Name: National Conference of State Legislatures; NAICS: 926150; Name: Cardinal Health Inc; NAICS: 325412, 424210; Name: Endo International PLC; NAICS: 325412; Name: CVS Health; NAICS: 446110; Name: McKesson Corp; NAICS: 424210, 511210; Name: Teva Pharmaceutical Industries Ltd; NAICS: 325412
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