

119TH CONGRESS
1ST SESSION

S. _____

To amend the Internal Revenue Code of 1986 to deny the deduction for
advertising and promotional expenses for certain drugs.

IN THE SENATE OF THE UNITED STATES

Mr. HAWLEY (for himself and Mrs. SHAHEEN) introduced the following bill;
which was read twice and referred to the Committee on

A BILL

To amend the Internal Revenue Code of 1986 to deny the
deduction for advertising and promotional expenses for
certain drugs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “No Handouts for Drug
5 Advertisements Act”.

1 **SEC. 2. DISALLOWANCE OF DEDUCTION FOR ADVERTISING**
2 **AND PROMOTIONAL EXPENSES FOR CERTAIN**
3 **DRUGS.**

4 (a) IN GENERAL.—Part IX of subchapter B of chap-
5 ter 1 of subtitle A of the Internal Revenue Code of 1986
6 is amended by adding at the end the following new section:

7 **“SEC. 280I. DISALLOWANCE OF DEDUCTION FOR DIRECT-**
8 **TO-CONSUMER ADVERTISING OF CERTAIN**
9 **DRUGS.**

10 “(a) IN GENERAL.—No deduction shall be allowed
11 under this chapter for expenses relating to direct-to-con-
12 sumer advertising of covered drugs for any taxable year.

13 “(b) DIRECT-TO-CONSUMER ADVERTISING.—For
14 purposes of this section—

15 “(1) IN GENERAL.—The term ‘direct-to-con-
16 sumer advertising’ means any dissemination, by or
17 on behalf of a covered entity, of an advertisement
18 which—

19 “(A) is in regard to a covered drug, and

20 “(B) primarily targeted to the general pub-
21 lic, including through—

22 “(i) broadcasting through media such
23 as radio, television, and telephone commu-
24 nication systems, direct mail, and bill-
25 boards, and

1 “(ii) dissemination on the Internet or
2 through digital platforms (including social
3 media, mobile media, web applications, dig-
4 ital applications, mobile applications, and
5 electronic applications).

6 “(2) EXCEPTION.—Such term shall not include
7 an advertisement made through publication in jour-
8 nals and other periodicals.

9 “(3) OTHER TERMS.—For purposes of this sub-
10 section—

11 “(A) COVERED ENTITY.—The term ‘cov-
12 ered entity’ means—

13 “(i) a sponsor of a prescription drug
14 product (as such term is defined in section
15 735(3) of the Federal Food, Drug, and
16 Cosmetic Act), or

17 “(ii) a person that owns an outsource-
18 ing facility (as such term is defined in sec-
19 tion 503B(d)(4) of such Act), either di-
20 rectly or indirectly through a subsidiary.

21 “(B) COVERED DRUG.—The term ‘covered
22 drug’ means—

23 “(i) a prescription drug product (as
24 such term is defined in section 735(3) of

1 the Federal Food, Drug, and Cosmetic
2 Act), or
3 “(ii) a drug compounded in accord-
4 ance with section 503A or 503B of such
5 Act.”.

6 (b) CONFORMING AMENDMENT.—The table of sec-
7 tions for such part IX of the Internal Revenue Code of
8 1986 is amended by adding after the item relating to sec-
9 tion 280H the following new item:

 “Sec. 280I. Disallowance of deduction for direct-to-consumer advertising of cer-
 tain drugs.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to amounts paid or incurred after
12 the date of the enactment of this Act, in taxable years
13 ending after such date.