118TH CONGRESS
2D SESSION

S. 4691

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

IN THE SENATE OF THE UNITED STATES

JULY 11 (legislative day, JULY 10), 2024

Mrs. SHAHEEN (for herself, Mr. SANDERS, Ms. DUCKWORTH, Mr. BROWN, Ms. KLOBUCHAR, Mr. BLUMENTHAL, Mr. KING, Mr. WHITEHOUSE, Mr. VAN HOLLEN, Mr. MANCHIN, Mr. DURBIN, Mr. REED, Mr. MURPHY, Mr. WELCH, Mr. KAINE, Ms. WARREN, Ms. BALDWIN, and Ms. HIRONO) introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘No Tax Breaks for Drug Ads Act’’.

SEC. 2. DISALLOWANCE OF DEDUCTION FOR ADVERTISING AND PROMOTIONAL EXPENSES FOR PRESCRIPTION DRUGS.

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

"SEC. 280I. DISALLOWANCE OF DEDUCTION FOR DIRECT-TO-CONSUMER ADVERTISING OF PRESCRIPTION DRUGS.

"(a) IN GENERAL.—No deduction shall be allowed under this chapter for expenses relating to direct-to-consumer advertising of prescription drugs for any taxable year.

"(b) DIRECT-TO-CONSUMER ADVERTISING.—For purposes of this section, the term 'direct-to-consumer advertising' means any dissemination, by or on behalf of a sponsor of a prescription drug product (as such term is defined in section 735(3) of the Federal Food, Drug, and Cosmetic Act), of an advertisement which—

"(1) is in regard to such prescription drug product, and

"(2) primarily targeted to the general public, including through—

"(A) publication in journals, magazines, other periodicals, and newspapers, "(B) broadcasting through media such as radio, television, and telephone communication systems, direct mail, and billboards, and

"(C) dissemination on the Internet or through digital platforms (including social media, mobile media, web applications, digital applications, mobile applications, and electronic applications).".

(b) CONFORMING AMENDMENT.—The table of sections for such part IX of the Internal Revenue Code of 1986 is amended by adding after the item relating to section 280H the following new item:

"Sec. 280I. Disallowance of deduction for direct-to-consumer advertising of prescription drugs.".

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

○