

HB3778



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3778

Introduced 2/22/2021, by Rep. Aaron M. Ortiz

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2WWW new

Amends the Consumer Fraud and Deceptive Business Practices Act. Bans the advertising of prescription drugs through broadcast by a television or radio station in this State, over the Internet from a location in this State, or in a magazine or newspaper printed, distributed, or sold in this State. Provides that a violation is an unfair or deceptive practice under the Act.

LRB102 12512 JLS 17849 b

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by adding Section 2WWW as follows:

6 (815 ILCS 505/2WWW new)

7 Sec. 2WWW. Prescription drug advertising prohibited.

8 (a) As used in this Section:

9 "Manufacturer of prescription drugs" or "manufacturer"
10 means a manufacturer of prescription drugs or biological
11 products or an affiliate of the manufacturer or a labeler that
12 receives prescription drugs or biological products from a
13 manufacturer or wholesaler and repackages those drugs or
14 biological products for later retail sale and that has a
15 labeler code from the federal Food and Drug Administration
16 under 21 CFR 2027.20 (1999).

17 "Prescriber" means a person who is licensed, registered,
18 or otherwise authorized in the appropriate jurisdiction to
19 prescribe and administer drugs in the course of professional
20 practice.

21 "Regulated advertisement" means the presentation to the
22 general public of a commercial message regarding a
23 prescription drug or biological product by a manufacturer of

1 prescription drugs that is:

2 (1) broadcast on television or radio from a station
3 that is physically located in this State;

4 (2) broadcast over the Internet from a location in the
5 State; or

6 (3) printed in magazines or newspapers that are
7 printed, distributed or sold in the State.

8 (b) On and after the effective date of this amendatory Act
9 of the 102nd General Assembly, a manufacturer may not present
10 or cause to be presented in this State a regulated
11 advertisement, unless that advertisement meets the
12 requirements concerning misbranded drugs and devices and
13 prescription drug advertising of federal law and regulations
14 under 21 U.S.C. 331 and 352(n) and 21 CFR Part 202 and State
15 rules.

16 (c) On and after the effective date of this amendatory Act
17 of the 102nd General Assembly, a person may not sell or
18 distribute in this State computer software that influences or
19 attempts to influence a prescribing decision of a prescriber
20 to prescribe a certain drug or that directs a patient to a
21 certain pharmacy. Features of computer software that are
22 prohibited include, but are not limited to, pop-up and other
23 advertisements, instant messages and economic incentives that
24 are triggered by or in specific response to a selection, act or
25 other input or designation of pharmacy by the prescriber or an
26 agent of the prescriber. This subsection does not apply to

1 in-house equipment provided within a hospital for use by
2 prescribers and the hospital pharmacy or to information
3 provided to a prescriber about prescription drug formulary
4 compliance, patient care management, or pharmacy
5 reimbursement.

6 (d) It is an unfair or deceptive act or practice within the
7 meaning of Section 2 of this Act for any person to violate this
8 Section.