AN ACT to create 100.325 of the statutes; relating to: advertising for prescription drugs.

Analysis by the Legislative Reference Bureau
This bill prohibits advertising for prescription drugs. The prohibition does not apply to an advertisement that is broadcast from or is mailed or shipped to the ultimate recipient of the advertisement from outside this state or to advertising sent directly to pharmacists or to practitioners who are authorized to prescribe prescription drugs.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 100.325 of the statutes is created to read:

100.325 Prescription drug advertising. (1) Except as provided in sub. (2), no person may advertise a prescription drug. In this subsection, “prescription drug” means a drug, drug product, or drug−containing preparation that is subject to 21 USC 353 (b) or 21 CFR 201.105.
(2) Subsection (1) does not apply to any of the following:

(a) An advertisement that is broadcast from or is mailed or shipped to the ultimate recipient of the advertisement from outside this state.

(b) An advertisement that is sent directly to a practitioner, as defined in s. 450.01 (17), or to a pharmacist licensed under s. 450.03.

SECTION 2. Nonstatutory provisions.

(1) The legislature finds that prescription drug advertising that is directed to consumers undermines the efforts of this state to protect the health and welfare of the citizens of this state from drugs that are sufficiently dangerous to require a prescription from a licensed practitioner.

(2) The legislature finds that prescription drug advertising that is directed to consumers undermines the efforts of this state to ensure that practitioners who are licensed to prescribe and administer prescription drugs do so on the basis of their independent professional judgment.

(3) The legislature finds that the health and welfare of the citizens of this state has been threatened by prescription drugs that have been heavily advertised in the popular media and that have subsequently been determined to pose substantial risk to human health.

(4) The legislature finds that prescription drug advertising that is directed to consumers is inherently misleading, in that it promotes the sale of products so dangerous that state law does not permit consumers to independently purchase.

(5) The legislature finds that the increasing cost of prescription drugs poses a serious threat to the health of the citizens of this state, and that prescription drug advertising directed to consumers aggravates this threat by adding considerable cost to such drugs without concomitant benefit to the health of the citizens of this state.
(6) The legislature finds that the provisions of section 100.325 of the statutes, as created by this act, constitute the least restrictive means of addressing the threats to the health and welfare of the citizens of this state by prescription drug advertising that is directed at consumers.

SECTION 3. Initial applicability.

(1) This act first applies to advertisements broadcast or published on the effective date of this subsection.

SECTION 4. Effective date.

(1) This act takes effect on the first day of the 6th month beginning after publication.