



## 2009 ASSEMBLY BILL 56

February 17, 2009 - Introduced by Representatives SHERMAN, BERCEAU, BLACK, HUBLER, KERKMAN, A. WILLIAMS, POPE-ROBERTS, SMITH, SOLETSKI and ZEPNICK, cosponsored by Senators ERPENBACH, LEHMAN and WIRCH. Referred to Committee on Public Health.

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

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### *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.

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

3           **SECTION 1.** 100.325 of the statutes is created to read:  
4           **100.325 Prescription drug advertising.** (1) Except as provided in sub. (2),  
5           no person may advertise a prescription drug. In this subsection, "prescription drug"  
6           means a drug, drug product, or drug-containing preparation that is subject to 21  
7           USC 353 (b) or 21 CFR 201.105.

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1           (2) Subsection (1) does not apply to any of the following:

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

4           (b) An advertisement that is sent directly to a practitioner, as defined in s.  
5 450.01 (17), or to a pharmacist licensed under s. 450.03.

6           **SECTION 2. Nonstatutory provisions.**

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

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

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

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

22           (5) The legislature finds that the increasing cost of prescription drugs poses a  
23 serious threat to the health of the citizens of this state, and that prescription drug  
24 advertising directed to consumers aggravates this threat by adding considerable cost  
25 to such drugs without concomitant benefit to the health of the citizens of this state.

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1           (6) The legislature finds that the provisions of section 100.325 of the statutes,  
2           as created by this act, constitute the least restrictive means of addressing the threats  
3           to the health and welfare of the citizens of this state by prescription drug advertising  
4           that is directed at consumers.

5           **SECTION 3. Initial applicability.**

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

8           **SECTION 4. Effective date.**

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

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(END)