

119TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend title XI of the Social Security Act to require that direct-to-consumer advertisements for prescription drugs and biological products include an appropriate disclosure of pricing information.

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IN THE SENATE OF THE UNITED STATES

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Mr. DURBIN (for himself, Mr. GRASSLEY, Mr. KING, Ms. ERNST, Ms. SMITH, Mr. WELCH, Mr. BLUMENTHAL, and Ms. BALDWIN) introduced the following bill; which was read twice and referred to the Committee on

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**A BILL**

To amend title XI of the Social Security Act to require that direct-to-consumer advertisements for prescription drugs and biological products include an appropriate disclosure of pricing information.

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 “Drug-price Trans-  
5       parency for Consumers Act of 2025” or the “DTC Act  
6       of 2025”.

1 **SEC. 2. FINDINGS; SENSE OF THE SENATE.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) Direct-to-consumer advertising of prescrip-  
4 tion pharmaceuticals is legally permitted in only 2  
5 developed countries, the United States and New  
6 Zealand.

7 (2) In 2018, pharmaceutical ad spending ex-  
8 ceeded \$6,046,000,000, a 4.8 percent increase over  
9 2017, resulting in the average American seeing 9  
10 drug advertisements per day.

11 (3) The most commonly advertised medication  
12 in the United States in 2020 had a list price of more  
13 than \$6,000 for a one-month supply.

14 (4) A 2021 Government Accountability Office  
15 report found that two-thirds of all direct-to-con-  
16 sumer drug advertising between 2016 and 2018 was  
17 concentrated among 39 brand-name drugs or  
18 biologicals, about half of which were recently ap-  
19 proved by the Food and Drug Administration.

20 (5) According to a 2011 Congressional Budget  
21 Office report, pharmaceutical manufacturers adver-  
22 tise their products directly to consumers in an at-  
23 tempt to boost demand for their products and there-  
24 by raise the price that consumers are willing to pay,  
25 increase the quantity of drugs sold, or achieve some  
26 combination of the two.

1           (6) Studies, including a 2012 systematic review  
2           published in the Annual Review of Public Health, a  
3           2005 randomized trial published in the Journal of  
4           the American Medical Association, and a 2004 sur-  
5           vey published in Health Affairs, show that patients  
6           are more likely to ask their doctor for a specific  
7           medication, and the doctor is more likely to write a  
8           prescription for it, if a patient has seen an advertise-  
9           ment for such medication, even if such medication is  
10          not the most clinically appropriate for the patient or  
11          if a lower cost generic medication may be available.

12          (7) According to a 2011 Congressional Budget  
13          Office report, the average number of prescriptions  
14          written for newly approved brand-name drugs with  
15          direct-to-consumer advertising was 9 times greater  
16          than the average number of prescriptions written for  
17          newly approved brand-name drugs without direct-to-  
18          consumer advertising.

19          (8) The Centers for Medicare & Medicaid Serv-  
20          ices is the single largest drug payer in the United  
21          States. Between 2016 and 2018, 58 percent of the  
22          \$560,000,000,000 in Medicare drug spending was  
23          for advertised drugs, and in 2018 alone, the 20 most  
24          advertised drugs on television cost Medicare and  
25          Medicaid a combined \$34,000,000,000.

1           (9) A 2021 Government Accountability Office  
2       report found that direct-to-consumer advertising  
3       may have contributed to increases in Medicare bene-  
4       ficiary use and spending among certain drugs.

5           (10) The American Medical Association has  
6       passed resolutions supporting the requirement for  
7       price transparency in any direct-to-consumer adver-  
8       tising, stating that such advertisements on their own  
9       “inflate demand for new and more expensive drugs,  
10      even when these drugs may not be appropriate”.

11          (11) A 2019 study published in the Journal of  
12      the American Medical Association found that health  
13      care consumers dramatically underestimate their  
14      out-of-pocket costs for certain expensive medications,  
15      but once they learn the wholesale acquisition cost (in  
16      this section referred to as the “WAC”) of the prod-  
17      uct, they are far better able to approximate their  
18      out-of-pocket costs.

19          (12) Approximately half of Americans have  
20      high-deductible health plans, under which they often  
21      pay the list price of a drug until their insurance de-  
22      ductible is met. All of the top Medicare prescription  
23      drug plans use coinsurance rather than fixed-dollar  
24      copayments for medications on nonpreferred drug  
25      tiers, exposing beneficiaries to WAC prices.

1           (13) Section 119 of division CC of the Consoli-  
2           dated Appropriations Act, 2021 (Public Law 116–  
3           260) requires the Secretary of Health and Human  
4           Services to increase the use of real-time benefit tools  
5           to lower beneficiary costs. However, there still re-  
6           mains a lack of available pricing tools, so patients  
7           may not learn of their medication’s cost until after  
8           being given a prescription for the medication. A  
9           2013 study published in *The Oncologist* found that  
10          one-quarter of all cancer patients chose not to fill a  
11          prescription due to cost.

12          (14) The Federal Government already exercises  
13          its authority to oversee certain aspects of direct-to-  
14          consumer drug advertising, including required disclo-  
15          sures of information related to side effects, contra-  
16          indications, and effectiveness.

17          (b) SENSE OF CONGRESS.—It is the sense of Con-  
18          gress that—

19               (1) a lack of transparency in pricing for phar-  
20               maceuticals has led to a lack of competition for such  
21               pharmaceuticals, as evidenced by a finding by the  
22               Department of Health and Human Services that  
23               “Consumers of pharmaceuticals are currently miss-  
24               ing information that consumers of other products  
25               can more readily access, namely the list price of the

1 product, which acts as a point of comparison when  
2 judging the reasonableness of prices offered for po-  
3 tential substitute products” (84 Fed. Reg. 20735);

4 (2) in an age where price information is ubiq-  
5 uitous, the prices of pharmaceuticals remain shroud-  
6 ed in secrecy and limited to those who subscribe to  
7 expensive drug price reporting services, which typi-  
8 cally include pharmaceutical manufacturers or other  
9 health care industry entities and not the general  
10 public;

11 (3) greater insight and transparency into drug  
12 prices will help consumers know if they can afford  
13 to complete a course of therapy before deciding to  
14 initiate that course of therapy;

15 (4) price shopping is the mark of rational eco-  
16 nomic behavior, and markets operate more efficiently  
17 when consumers have relevant information about a  
18 product, including its price, before making an in-  
19 formed decision about whether to buy that product;

20 (5) providing consumers with basic price infor-  
21 mation may result in the selection of lesser cost al-  
22 ternatives, all else being equal relative to the pa-  
23 tient’s care, and is integral to providing adequate  
24 competition in the market;

1           (6) the WAC is a factual, objective, and  
2           uncontroversial definition for the list price of a  
3           medication, in that it is defined in statute, reflects  
4           an understood place in the supply chain, and is at  
5           the sole discretion of the manufacturer to set;

6           (7) there is a governmental interest in ensuring  
7           that consumers who seek to purchase pharma-  
8           ceuticals for purposes of promoting their health and  
9           safety understand the objective list price of any  
10          pharmaceutical that they are encouraged through  
11          advertisements to purchase, which allows consumers  
12          to make informed purchasing decisions; and

13          (8) there is a governmental interest in miti-  
14          gating wasteful expenditures and promoting the effi-  
15          cient administration of the Medicare program by  
16          slowing the growth of Federal spending on prescrip-  
17          tion drugs.

18 **SEC. 3. REQUIREMENT THAT DIRECT-TO-CONSUMER AD-**  
19 **VERTISEMENTS FOR PRESCRIPTION DRUGS**  
20 **AND BIOLOGICAL PRODUCTS INCLUDE AN**  
21 **APPROPRIATE DISCLOSURE OF PRICING IN-**  
22 **FORMATION.**

23          Part A of title XI of the Social Security Act is  
24          amended by adding at the end the following new section:

1 **“SEC. 1150D. REQUIREMENT THAT DIRECT-TO-CONSUMER**  
2 **ADVERTISEMENTS FOR PRESCRIPTION**  
3 **DRUGS AND BIOLOGICALS INCLUDE AN AP-**  
4 **PROPRIATE DISCLOSURE OF PRICING INFOR-**  
5 **MATION.**

6 “(a) REQUIREMENT.—

7 “(1) IN GENERAL.—Subject to paragraph (2),  
8 not later than July 1, 2026, the Secretary shall re-  
9 quire that each direct-to-consumer advertisement for  
10 a prescription drug or biological product for which  
11 payment is available under title XVIII or XIX and  
12 that is required to include the information relating  
13 to side effects, contraindications, and effectiveness  
14 described in section 202.1(e)(1) of title 21, Code of  
15 Federal Regulations (or any successor regulation)  
16 also include an appropriate disclosure of pricing in-  
17 formation, as described in subsection (b), with re-  
18 spect to such prescription drug or biological product.

19 “(2) EXEMPTION.—The requirement under  
20 paragraph (1) shall not apply to a prescription drug  
21 or biological product for which the wholesale acquisi-  
22 tion cost for a 30-day supply of (or, if applicable, a  
23 typical course of treatment as set forth in the ap-  
24 proved label for the primary indication addressed in  
25 the advertisement for) such prescription drug or bio-  
26 logical product is less than \$35.



1       “(b) APPROPRIATE DISCLOSURE OF PRICING INFOR-  
2 MATION.—For the purposes of subsection (a), an appro-  
3 priate disclosure of pricing information, with respect to  
4 a prescription drug or biological product—

5           “(1) shall clearly and conspicuously disclose the  
6 wholesale acquisition cost for a 30-day supply of (or,  
7 if applicable, a typical course of treatment for) such  
8 prescription drug or biological product; and

9           “(2) may explain that a consumer may pay a  
10 different amount for such prescription drug or bio-  
11 logical product than such wholesale acquisition cost  
12 depending on the health insurance coverage of the  
13 consumer.

14       “(c) RULEMAKING.—Not later than 1 year after the  
15 date of enactment of this section, the Secretary shall pro-  
16 mulgate final regulations to carry out this section, includ-  
17 ing establishing requirements for—

18           “(1) the visual and audio components, with re-  
19 spect to each medium of direct-to-consumer adver-  
20 tisement, to communicate the wholesale acquisition  
21 cost of the advertised prescription drug or biological  
22 product; and

23           “(2) the amount of time for a manufacturer to  
24 update any direct-to-consumer advertisement to re-  
25 flect any change to the wholesale acquisition cost of

1 the advertised prescription drug or biological prod-  
2 uct.

3 “(d) SANCTIONS.—Any manufacturer of a prescrip-  
4 tion drug or biological product, or an agent of such manu-  
5 facturer, that violates the requirement of this section may  
6 be subject to a civil money penalty of not more than  
7 \$100,000 for each such violation. The provisions of section  
8 1128A (other than subsections (a) and (b)) shall apply  
9 to civil money penalties under the preceding sentence in  
10 the same manner as they apply to a penalty or proceeding  
11 under section 1128A(a).

12 “(e) PUBLIC REPORTING.—In order to enforce the  
13 requirement under this section, the Secretary may use in-  
14 formation reported about manufacturers that fail to com-  
15 ply with such requirement.

16 “(f) DEFINITIONS.—In this section:

17 “(1) BIOLOGICAL PRODUCT.—The term ‘bio-  
18 logical product’ means any biological product (as de-  
19 fined in section 351(i) of the Public Health Service  
20 Act) that is licensed by the Food and Drug Adminis-  
21 tration pursuant to section 351 and is subject to the  
22 requirements of section 503(b)(1) of the Federal  
23 Food, Drug, and Cosmetic Act.

24 “(2) PRESCRIPTION DRUG.—The term ‘pre-  
25 scription drug’ means any drug (as defined in sec-

1       tion 201(g) of the Federal Food, Drug, and Cos-  
2       metic Act) that has been approved by the Food and  
3       Drug Administration pursuant to section 505 of  
4       such Act and is subject to the requirements of sec-  
5       tion 503(b)(1) of such Act.

6           “(3) WHOLESALE ACQUISITION COST.—The  
7       term ‘wholesale acquisition cost’ has the meaning  
8       given such term in section 1847A(c)(6)(B).

9           “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
10      are authorized to be appropriated such sums as may be  
11      necessary for the purposes of carrying out this section.”.