

STATE OF OKLAHOMA

2nd Session of the 60th Legislature (2026)

SENATE BILL 2021

By: Deevers

AS INTRODUCED

An Act relating to pharmaceutical advertising; stating findings and declarations; defining terms; prohibiting certain direct-to-consumer advertising by pharmaceutical companies; listing prohibited acts; providing for enforcement; authorizing certain cooperation; specifying effect of act; requiring certain annual reporting; providing civil and criminal penalties; making pharmaceutical companies liable in certain civil actions; providing certain exceptions; providing for noncodification; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The Legislature of the State of Oklahoma finds and declares:

1. Direct-to-consumer (DTC) advertising exploits lay understanding of medical science, using persuasive tactics that compromise informed decision-making, underplay risks, and burden physicians' prescribing practices. Studies, including Food and Drug Administration (FDA) reports, link DTC ads to increased adverse

1 events and a twenty percent (20%) to thirty percent (30%) rise in
2 prescription requests;

3 2. Misleading DTC campaigns, such as those for OxyContin
4 (leading to Purdue Pharma's \$8.3 billion federal settlement in 2020
5 and \$270 million Oklahoma settlement in 2019), Vioxx (Merck's \$4.85
6 billion settlement), and Zyprexa, have caused significant public
7 health harm;

8 3. Newly approved drugs advertised DTC may have unknown long-
9 term risks, exposing patients to harm;

10 4. The United States is one of only two countries permitting
11 DTC pharmaceutical advertising; prohibiting it aligns Oklahoma with
12 one hundred ninety-three other nations and models like the European
13 Union, advancing substantial government interests in public health
14 under commercial speech standards;

15 5. Advertising costs, often in hundreds of millions per drug,
16 inflate prices and burden patients and health systems;

17 6. DTC advertising pressures the doctor-patient relationship;
18 banning it fosters better communication and trust;

19 7. DTC prioritizes lifestyle drugs over essential ones,
20 distorting priorities; and

21 8. DTC promotes over-medicalization, favoring drugs over
22 alternatives like lifestyle changes.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 9000 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in this act:

5 1. "Direct-to-consumer pharmaceutical advertising" refers to
6 any promotional communication targeting consumers, including but not
7 limited to via television, radio, print media, digital platforms,
8 social media, influencer marketing, sponsored content on podcasts,
9 AI-generated ads, or other emerging formats, that markets
10 prescription drugs; and

11 2. "Pharmaceutical company" refers to an entity involved in the
12 research, development, production, or distribution of prescription
13 drugs, including its affiliates, subsidiaries, or third-party
14 marketers acting on its behalf.

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 9001 of Title 63, unless there
17 is created a duplication in numbering, reads as follows:

18 A. No pharmaceutical company shall engage in direct-to-consumer
19 advertising of prescription drugs within this state or primarily
20 directed at or accessible by Oklahoma residents.

21 B. Prohibited activities include, but are not limited to:

22 1. Broadcasting advertisements for prescription drugs via
23 television, radio, online streaming services, billboards, email,
24 text messaging, or social media;

1 2. Publishing advertisements for prescription drugs in print or
2 digital publications distributed within Oklahoma; and

3 3. Targeting Oklahoma residents with prescription drug
4 advertisements through digital or social media platforms, including
5 via Internet protocol (IP) address geolocation, user data
6 collection, or ad placement algorithms.

7 SECTION 4. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 9002 of Title 63, unless there
9 is created a duplication in numbering, reads as follows:

10 A. The Attorney General shall have primary enforcement
11 authority under this act, with powers to issue cease-and-desist
12 orders, conduct investigations, seek civil injunctions, and refer
13 cases for criminal prosecution.

14 B. The Attorney General may cooperate with federal agencies,
15 including the Food and Drug Administration (FDA), by sharing
16 violation data and pursuing joint actions.

17 C. This act shall not preempt FDA-required risk disclosures,
18 federally mandated advertisements, or other federal requirements.

19 D. For violations involving interstate commerce, the state may
20 pursue enforcement through multi-state agreements or federal
21 channels.

22 SECTION 5. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 9003 of Title 63, unless there
24 is created a duplication in numbering, reads as follows:

1 Pharmaceutical companies shall submit annual reports to the
2 Attorney General certifying compliance with this act or detailing
3 any advertising activities in this state. Pharmaceutical companies
4 who fail to report shall be subject to civil penalties.

5 SECTION 6. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 9004 of Title 63, unless there
7 is created a duplication in numbering, reads as follows:

8 A. Beginning on the effective date of this act and ending
9 January 1, 2027, violations of this act shall result in a warning by
10 the Attorney General. Effective January 1, 2027, violations of this
11 act shall be subject to tiered penalties:

12 1. For a first offense, a civil fine not exceeding Fifty
13 Thousand Dollars (\$50,000.00) per instance;

14 2. For repeated offenses within two (2) years, a misdemeanor
15 punishable, upon conviction, by a fine not exceeding One Hundred
16 Thousand Dollars (\$100,000.00) or by imprisonment in the county jail
17 for a term not exceeding one (1) year, or by both such fine and
18 imprisonment; and

19 3. For egregious or multiple repeated offenses, a felony
20 punishable, upon conviction, by a fine not exceeding Five Hundred
21 Thousand Dollars (\$500,000.00) or by imprisonment in the custody of
22 the Department of Corrections for a term not exceeding five (5)
23 years, or by both such fine and imprisonment.
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1 B. Each instance of prohibited advertising shall constitute a
2 separate offense.

3 C. A pharmaceutical company shall be liable in a civil action
4 for any acts or omissions of the company related to the duties
5 imposed by this act.

6 SECTION 7. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 9005 of Title 63, unless there
8 is created a duplication in numbering, reads as follows:

9 This act shall not apply to:

10 1. Educational materials distributed by health care providers
11 directly to their patients;

12 2. Internal communications within health care organizations;

13 3. Communications required by federal or state law;

14 4. Advertisements related to public health campaigns that
15 educate the public about medication, treatments, and health
16 conditions, provided they are brand-neutral, evidence-based,
17 approved by a state health authority, and not promoting a specific
18 pharmaceutical product;

19 5. Advertisements that promote clinical trials or other
20 research opportunities related to prescription drugs, provided that
21 the advertisements comply with ethical and legal standards and are
22 not promoting the use of the drug outside of a controlled trial
23 setting;

1 6. Advertisements that inform consumers about insurance
2 coverage for prescription drugs, such as coverage options through
3 Medicaid, Medicare, or private insurers, provided these
4 advertisements do not directly promote specific drugs or brands;

5 7. Advertisements or communications related to patient
6 assistance programs that provide financial support or subsidies for
7 individuals who are unable to afford their medications, provided
8 these communications focus solely on eligibility and access and are
9 not directly promoting a specific product's efficacy or benefits;

10 8. Advertisements for over-the-counter drugs that have
11 transitioned from prescription status; or

12 9. Advertisements for treatments of rare diseases, where
13 direct-to-consumer communication aids awareness without mass
14 marketing risks, provided they are limited in scope and approved by
15 the State Board of Pharmacy.

16 SECTION 8. This act shall become effective July 1, 2026.

17 SECTION 9. It being immediately necessary for the preservation
18 of the public peace, health or safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

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