

111TH CONGRESS  
1ST SESSION

# H. R. 3979

To amend the Internal Revenue Code of 1986 to deny the deduction for advertising and promotional expenses for prescription pharmaceuticals.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 2, 2009

Mr. BERRY introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to deny the deduction for advertising and promotional expenses for prescription pharmaceuticals.

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 “Protecting Americans  
5 from Drug Marketing Act”.

6 **SEC. 2. DISALLOWANCE OF DEDUCTION FOR ADVERTISING**  
7 **AND PROMOTIONAL EXPENSES FOR PRE-**  
8 **SCRIPTION PHARMACEUTICALS.**

9 (a) IN GENERAL.—Part IX of subchapter B of chap-  
10 ter 1 of subtitle A of the Internal Revenue Code of 1986

1 (relating to items not deductible) is amended by adding  
 2 at the end the following new section:

3 **“SEC. 280I. DISALLOWANCE OF DEDUCTION FOR PRESCRIP-**  
 4 **TION PHARMACEUTICALS ADVERTISING AND**  
 5 **PROMOTIONAL EXPENSES.**

6 “(a) IN GENERAL.—No deduction shall be allowed  
 7 under this chapter for expenses relating to advertising or  
 8 promoting the sale and use of prescription pharma-  
 9 ceuticals for any taxable year.

10 “(b) ADVERTISING OR PROMOTING.—For purposes of  
 11 this section, the term ‘advertising or promoting’ includes  
 12 direct to consumer advertising in any media and any activ-  
 13 ity designed to promote the use of a prescription pharma-  
 14 ceutical directed to providers or others who may make de-  
 15 cisions about the use of prescription pharmaceuticals (in-  
 16 cluding the provision of product samples, free trials, and  
 17 starter kits).”.

18 (b) CONFORMING AMENDMENT.—The table of sec-  
 19 tions for such part IX of such Code is amended by adding  
 20 after the item relating to section 280H the following new  
 21 item:

“Sec. 280I. Disallowance of deduction for prescription pharmaceuticals adver-  
 tising and promotional expenses.”.

22 (c) EFFECTIVE DATE.—The amendments made by  
 23 this section shall apply to amounts paid or incurred after

- 1 the date of the enactment of this Act, in taxable years
- 2 ending after such date.

