

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
QUEZON CITY

THIRTEENTH CONGRESS
THIRD REGULAR SESSION

HOUSE BILL NO. 5787



INTRODUCED BY HON. JESUS CRISPIN C. REMULLA

**AN ACT AMENDING E.O. 51 (MILK CODE) TO CONFORM WITH THE
INTERNATIONAL CODE OF MARKETING BREASTMILK SUBSTITUTES
(WHO CODE)**

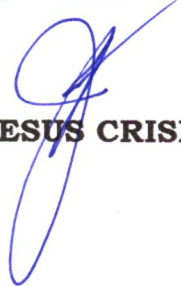
The International Code on the Marketing of Breastmilk Substitutes has been the standard observed in many countries.

EO 51 was enacted to adopt the Code in the Philippines. This bill proposes to more closely align EO 51 to the WHO Code, among others, by prohibiting the advertising or promotions of infant formula for those between 0-6 months, as against the same being subject to Inter-Agency Committee (IAC) approval thus merely regulated under EO 51.

Following the WHO Code, this bill allows the donations of informational or educational equipment or materials by manufacturers or distributors upon the request and prior written approval of the Inter-Agency Committee.

This bill also disallows the granting of compensation schemes or sales quota based on sales of infant formula to sales or marketing personnel in order to discourage the use of infant formula and to promote breastmilk as the best source of nutrition for infants.

For the foregoing reasons, the passage of this bill is earnestly sought.


JESUS CRISPIN C. REMULLA

**AN ACT AMENDING E.O. 51 (MILK CODE) TO CONFORM WITH THE
INTERNATIONAL CODE OF MARKETING BREASTMILK
SUBSTITUTES (WHO CODE)**

Whereas, E.O. 51 was enacted in 1986 to protect and promote breastfeeding and to inform the public about the proper use of breast-milk substitutes and supplements and related products through adequate, consistent and objective information and appropriate regulation of the marketing and distribution of said substitutes, supplements and related products;

Whereas, E.O. 51 is law of the land adopted from the WHO International Code of Marketing of Breast-milk Substitutes;

Whereas, the mother's right and obligation to breastfeed her child who equally has the right to her breast-milk is universally recognized;

Whereas, the decision to breastfeed is the duty of the mother and the decision to do otherwise must be based on an informed choice;

Whereas, informed choice on the use of breast-milk substitutes and breast-milk supplements, when these are necessary, shall be based on adequate information, an avowed aim of E.O. 51;

Whereas, particular provisions of E.O. 51 still need to be strengthened and harmonized with the WHO Code to give full effect to the aims of E.O. 51;

Now Therefore, this bill seeks to amend E.O. 51 to put into effect updated, rational and responsive provisions to enhance safe and adequate nutrition for infants and provision of adequate information on breast-milk substitutes and breast-milk supplements based on the WHO Code.

Be it enacted by the Senate and House of Representatives of the Philippine in Congress assembled:

Section 1. Section 5(a) of EO 51 is hereby amended to read as follows:

5(a) Governments should have the responsibility to ensure that objective and consistent information is provided on infant and young child feeding for use by families and those involved in the field of infant and young child nutrition. This responsibility should cover either the planning, provision, design and dissemination of information, or their control.

Section 2. Section 5(c) below is added to EO 51 as follows:

Sec 5(c) Donations of informational or educational equipment or materials by manufacturers or distributors should be made only at the request and with the written approval of the Inter-Agency Committee or within guidelines as given by Inter-Agency Committee for this purpose. Such equipment or materials may bear the donating company's name or logo, but should not refer to a proprietary product that is within the scope of this Code, and should be distributed only through the health care system.

Section 3. Section 6 pars. (a),(b),(c),(d), and (e) of EO 51 are hereby amended to read as follows:

6(a) There should be no advertising or other form of promotion to the general public of products within the scope of this Code intended for infants 0-6 months. No advertising, promotion or other marketing materials, whether written, audio or visual, for products within the scope of this Code ***intended for 6-12 months*** shall be printed, published, distributed, exhibited and broadcast unless such materials are duly authorized and approved by an Inter-Agency Committee created herein pursuant to the applicable standards provided for in this Code.

6(b) Manufacturers and distributors should not provide, directly or indirectly, to pregnant women, mothers or members of their families, samples of products within the scope of this Code intended for infants 0-6 months.

6(c) In conformity with paragraphs 1 and 2 of this Article, there should be no point-of-sale advertising, giving of samples, or any other promotion device to induce sales directly to the consumer at the retail level, such as special displays, discount coupons, premiums, special sales, loss-leaders and tie-in-sales, for products within the scope of this Code ***intended for infants 0-6***

months. This provision should not restrict the establishment of pricing policies and practices intended to provide products at lower prices on a long-term basis.

6(d) Manufacturers and distributors should not distribute to pregnant women or mothers of infants **and young children any gifts of articles or utensils which may promote the use of breast-milk substitutes or bottle feeding.**

6(e) **Marketing personnel, in their business capacity should not seek direct or indirect contact of any kind with pregnant women or with mothers of infants and young children.**

Section 4. Section 7(b), 7(c), 7(e) of EO 51 are hereby amended to read as follows:

7(b) No facility of a health care system should be used for the purpose of promoting infant formula or other products within the scope of this Code **intended for infants 0-6 months.** This Code does not, however, preclude the dissemination of information to health professionals as provided in section 8b.

7(c) Facilities of health care systems should not be used for the display of products within the scope of this Code **intended for infants 0-6 months**, for placards or posters concerning such products, or for the distribution of material provided by a manufacturer or distributor other than that specified in Article 4.3.

7(e) **Feeding with infant formula, whether manufactured or home-prepared, should be demonstrated only by health workers, or other community workers if necessary; and only to the mothers or family members who need to use it; and the information given should include a clear explanation of the hazards of improper use.**

Section 5. Sections 7(f), 7(g), and 7(h) are added to section 7 of EO 51 as follows:

7(f) Donations or low-price sales to institutions or organizations of supplies of infant formula or other products within the scope of this Code intended for infants 0-6 months, whether for use in the institutions or for distribution outside them, may be made with the approval of the Inter-Agency Committee. Such supplies should only be used or distributed for infants who have to be fed on breast-milk substitutes. If these supplies are distributed for use outside the institutions, this should be done only by the institutions or organizations concerned. Such donations or low-price sales should not be used by manufacturers or distributors as a sales inducement.

7(g) Where donated supplies of infant formula or other products within the scope of this Code intended for infants 0-6 months are distributed outside an institution, the institution or organization should take steps to ensure that supplies can be continued as long as the infants concerned need them. Donors, as well as institutions or organizations concerned, should bear in mind this responsibility.

7(h) Equipment and material, in addition to those referred to in section 5 © donated to a health care system may bear a company's name or logo, but should not refer to any proprietary product within the scope of this Code intended for infants 0-6 months.

Section 6. Sections 8(b),8(c),8(d),8(e) of EO 51 are hereby amended to read as follows:

8(b) Information provided by manufacturers and distributors to health professionals regarding products within the scope of this Code **intended for infants 0-6 months** should be restricted to scientific and factual matters, and such information should not imply or create a belief that bottle-feeding is equivalent or superior to breast-feeding. It should also include the information specified in Section 5.

8(c) No financial or material inducements to promote products within the scope of this Code **intended for infants 0-6 months** should be offered by manufacturers or distributors to health workers or members of their families, nor should these be accepted by health workers or members of their families.

8(d) Samples of infant formula or other products within the scope of this Code **intended for infants 0-6 months**, or of equipment or utensils for their preparation or use, should not be provided to health workers except when necessary for the purpose of professional evaluation or research at the institutional level. Health workers should not give samples of infant formula to pregnant women, mothers of infants and young children, or members of their families.

8(e) Manufacturers and distributors of products within the scope of this Code **intended for infants 0-6 months** should disclose to the institution to which a recipient health worker is affiliated any contribution made to him or on his behalf for fellowships, study tours, research grants, attendance at professional conferences, or the like. Similar disclosures should be made by the recipient.

Section 7. Section 9 is hereby amended to read as follows:

9(a) ***In systems of sales incentives for marketing personnel, the volume of sales of products within the scope of this Code intended for infants 0-6 months should not be included in the calculation of bonuses, nor should quotas be set specifically for sales of this product. This should not be understood to prevent the payment of bonuses based on the overall sales by a company of other products marketed by it.***

9(b) Personnel employed in marketing products within the scope of this Code ***intended for infants 0-6 months*** should not, as part of their job responsibilities, perform educational functions in relation to pregnant women or mothers of infants and young children. ***This should not be understood as preventing such personnel from being used for other functions by the health system at the request and with the written approval by the Inter-Agency Committee.***

Section 8. Sections 10(b),10(c) are hereby amended to read as follows;

10(b) ***Manufacturers and distributors of infant formula should ensure that each container has a clear, conspicuous, and easily readable and understandable message [in Filipino and / or English] printed on it, or on a label which cannot readily become separated from it, in an appropriate language, which includes all the following points:***

- (a) the words "Important Notice" or their equivalent;
- (b) a statement of the superiority of breast-feeding;
- (c) a statement that the product should be used only on the advice of a health worker as to the need for its use and the proper methods of use;
- (d) instructions for appropriate preparation, and a warning against the health hazards of inappropriate preparation.

10 (c) Neither the container nor the label should have pictures ***of infants, nor should they have other pictures*** or text which may idealize the use of infant formula. [They may, however, have graphics for easy identification of the product as a breast-milk substitute and for illustrating methods of preparation.]

Section 9. Section 10(e) of EO 51 is hereby amended to read as follows:

10(e) Food products within the scope of this Code, marketed for infant feeding, which do not meet all the requirements of an infant formula but which can be modified to do so, should carry on the label a warning that the unmodified product should not be the sole source of nourishment of an infant. ***Since sweetened condensed milk is not suitable for infant feeding, nor for use as a main ingredient of infant formula, its label should not contain purported instructions on how to modify it for that purpose.***

Section 10. Section 10(g) is hereby inserted to read as follows:

10(g) Inserts giving additional information about the product and its proper use, subject to the above conditions, may be included in the package or retail unit. When labels give instructions for modifying a product into infant formula, the above should apply.

Section 11. Section 10(h) is added to EO 51 to read as follows:

10(h) The labels of food products within the scope of this Code should also state all the following points:

(a) the ingredients used;

(b) the composition/analysis of the product;

(c) the storage conditions required; and

(d) the batch number and the date before which the product is to be consumed, taking into account the climactic and storage conditions of the country concerned.

Section 12. Section 12 of EO 51 is hereby amended to read as follows:

- a. For purposes of section 6 of this Code, an Inter-Agency Committee composed of the following members is hereby created:

Chairman:

Secretary of Trade and Industry

Co-Chair:

Secretary of Health

Members:

Secretary of Justice

Secretary of Social Work and Development
Secretary of Finance

The members may designate their duly authorized representative to every meeting of the Committee.

The Committee shall have the following powers and functions:

- (1) To review and examine all advertising, promotion or other marketing materials, whether written, audio or visual, on products intended for infants within the scope of this Code;
- (2) To approve or disapprove, delete objectionable portions from and prohibit the printing, publication, distribution, exhibition and broadcast of, all advertising promotion or other marketing materials, whether written, audio or visual, on products intended for infants within the scope of this Code;
- (3) To prescribe the internal and operational procedure for the exercise of its powers and functions as well as the performance of its duties and responsibilities.
- [(4) To promulgate such rules and regulations as are necessary or proper for the implementation of Section 6(a) of this Code.]

b. The Interagency Committee shall promulgate such rules and regulations for the implementation of this Code. The IAC may deputize any department, bureau, agency or office of the government for the enforcement and implementation of the provisions of this Code, and such department, bureau, agency or office shall be accountable to the IAC for the implementation and enforcement of the Code. The Secretary of the Department, Head of bureau, agency, or office deputized by the IAC for the enforcement and implementation of the Code shall have, the following powers and functions;

- (a) To cause the prosecution of the violators of this Code and other pertinent laws on products covered by this Code.
- (b) To exercise such other powers and functions as may be necessary for or incidental to the attainment of the purposes and objectives of this Code. as are necessary or proper for the implementation of this Code and the accomplishment of its purposes and objectives.
- C) To call the assistance of government agencies and private sector to ensure the implementation and enforcement of, and strict compliance with the

provisions of this Code and the rules and regulations promulgated in accordance herewith.

Section 13. Repealing Clause: All laws, orders, issuances, and rules and regulations or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

Section 15. Separability Clause- The provisions of this Act are hereby deemed separable. If any provision thereof be declared invalid or unconstitutional, such invalidity shall not affect the other provisions which shall remain in full force and effect.

Section 16. Affectivity- This Act shall take effect thirty (30) days from its publication in the Official Gazette.

Done in the City of Manila, this 20th day of October in the year of our Lord, 2006