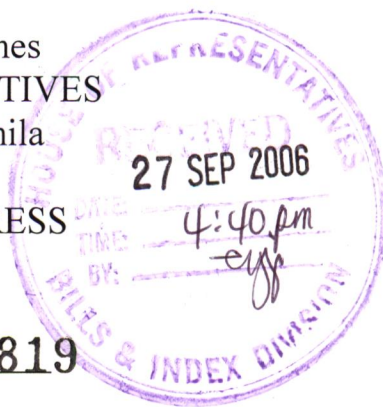


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

THIRTEENTH CONGRESS
3rd Regular Session

HOUSE BILL NO. 5819



Introduced by Hon. Exequiel B. Javier

EXPLANATORY NOTE

The national policy on the promotion and support of breastfeeding must be sustained with relevant and effective programs by the concerned national agencies. These agencies must provide these programs with sustained attention, adequate manpower and resources. These programs must likewise be in line with the mandate of the World Health Organization and other agencies of the United Nations which are concerned with the promotion of public health policies and programs.

The program on promoting breastfeeding is concurrent with the government's efforts to regulate the marketing and distribution of infant formula milks thru the existing law, Executive Order No. 51, otherwise known as the "National Code of Marketing of Breastmilk Substitutes, Breastmilk Supplements and Other Related Products, Penalizing Violations thereof, and for Other Purposes", or simply the "Milk Code".

While the law was enacted in 1986 by former President Corazon C. Aquino, it has been observed that its implementation has not been clear,

consistent and transparent. For instance, today we still view in television and see in print media advertising of infant formula milks with exaggerated claims of producing “gifted children” with the use of infant formula milks. We further see that there are products sold under brands and brandnames which are also used for infant formula milks. This creates confusion as to their identity, and the situation is aggravated by the extensive advertising of these products, contrary to the objectives of the Milk Code.

There is therefore a need to amend certain provisions of EO 51 in order to remove the existing ambiguity in these provisions to achieve the clear, transparent effective implementation of mandate of the law, thereby supporting the national policy on promoting breastfeeding.

In view of its urgency, approval of this bill is earnestly requested.



EXEQUIEL B. JAVIER

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AN ACT TO STRENGTHEN THE IMPLEMENTATION OF EXECUTIVE ORDER NO. 51, OR THE NATIONAL CODE OF MARKETING OF BREASTMILK SUBSTITUTES, BREASTMILK SUPPLEMENTS AND OTHER RELATED PRODUCTS PENALIZING VIOLATIONS THEREOF, AND FOR OTHER PURPOSES, BY AMENDING SECTIONS 6 AND 12 THEREOF.

Section 1. Section 6 of Executive Order No. 51, is hereby amended, as follows:

“SECTION 6. The General Public and Mothers

- (a) Advertising, promotion or marketing materials of products within the scope of this Code, as provided in Section 3 hereof, are prohibited. To remove any doubts on the foregoing, the prohibition applies to the following:
 - (i) Breastmilk substitutes or infant formula milks for infants from 0 to 12 month;
 - (ii) Infant follow-on milks intended as breastmilk substitutes, for infants from 6 to 12 months;
 - (iii) Bottlefed complementary foods, marketed or otherwise represented to be suitable with or without modification, for use as a partial or total replacement of breastmilk;
 - (iv) Feeding Bottles;
 - (v) Artificial Teats or Nipples, for use in the foregoing items.

In order to prevent the circumvention of the above prohibition thru deceptive means of advertising and promotion, the following provisions shall apply on the use of brands, brandnames or trademarks for the products within the scope of this Code:

(1) Brands, brandnames or trademarks used for products within the scope of the Code must be used exclusively for these products;

(2) Brands, brandnames or trademarks which are identical or obviously similar to, or variants of, those referred to in paragraph (1) shall not be used for products which are outside the scope of the Code.

(3) For purposes of paragraph (2) above, a brand, brandname or trademark is obviously similar to another brand, brandname or trademark used for products within the scope of the Code when at least two (2) of its syllables are identical or very similar to the latter brand, brandname or trademark. A variant of a brand, brandname, trademark refers to a brand, brandname or trademark on which a modifier is prefixed or suffixed to the root word.

(4) For purposes of the foregoing paragraphs (1), (2), and (3) above, the term “brands, brandnames or trademarks” refers to specific product brands, brandnames or trademarks, but not to corporate names or logos which are indications of the source of products. There shall be no restrictions on the use of corporate names or logos unless they themselves constitute the specific product brands, brandnames or trademarks of the products covered by the Code, in which case they fall within the purview of Sub-section (a) above.

(5) The purpose of the foregoing restrictions is to provide full force and effect to the prohibition mandated in Sub-section (a) above, and to prevent any deceptive means of circumventing the prohibition prescribed by Section 6 (a) hereof committed thru the advertising and promotion of products which are outside the scope of the Code but using identical or obviously similar product brands, brandnames or trademarks.

(b) Manufacturers and distributors of products within the scope of this Code shall not be permitted to give, directly or indirectly, samples of said products, to the public, hospitals and other health institutions, as well as to the members of the health care system, for the purpose of promoting the use of said products. Gifts to induce the sale of products within the scope of this Code to mothers, pregnant women, hospitals and health institutions, as well as personnel or members of the healthcare system, including members of their families shall not be allowed;

(c) There shall be no point-of-sale advertising, giving of samples or any other promotion devices to induce sales directly to the consumers at the retail level, such as special displays, discount coupons, premiums, special sales, bonus and tie-in sales for the products within the scope of this Code. This provision shall not restrict the establishment of pricing policies and practices intended to provide products at lower prices on a long-term basis;

(d) Manufacturers and distributors shall not distribute to pregnant women or mothers of infants any gifts or articles or utensils which may promote the use of breastmilk substitutes or bottle feeding, nor shall any other groups, institutions or individuals distribute such gifts, utensils or products to the general public and mothers;

- (e) Manufacturers, distributors and representatives of the products within the scope of this Code shall be prohibited from advertising or promoting in any manner the products covered by this Code, either directly or indirectly, to pregnant women and mothers with infants.”

Section 2. Section 12 of Executive Order No. 51 is hereby amended, as follows:

“SECTION 12. Implementation and Monitoring:

- (a) An Inter-Agency Committee (IAC) composed of the following members is hereby created.

Secretary of Health	Chairman
Secretary of Trade & Industry	Member
Secretary of Justice	Member
Secretary of Social Welfare and Development	Member

The members may designate their duly authorized representatives to every meeting of the IAC.

The IAC shall be principally responsible for the implementation and enforcement of the provisions of this Code. For this purpose, the IAC shall have the following powers and function:

- (1) To promulgate such rules and regulations as are necessary or proper for the implementation of this Code and the accomplishment of its purposes and objectives.
- (2) To call the assistance of government agencies and the 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.

- (3) To cause the prosecution of the violators of this Code and other pertinent laws on products covered by this Act.
- (4) 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.

In addition, IAC shall have the following powers and functions:

- (1) To review and examine all educational and informational materials on the products within the scope of this Code intended to be published in medical journals, healthcare magazines and similar publications.
- (2) To promulgate such guidelines as are necessary or proper to ensure that breastfeeding is not undermined by the materials mentioned in the immediately foregoing paragraph.
- (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.

Section 3. Repealing Cause.

All the other provisions of Executive Order No. 51 which are contrary to or inconsistent with the foregoing Sections 1 and 2 of this Act are hereby repealed or modified accordingly, otherwise, they remain in full force and effect.

Section 4. Effectivity.

This Act shall take effect sixty (60) days following its publication in at least two newspapers of general circulation.