

Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4441

Introduced by Hon. Kimi S. Cojuangco

Explanatory Note

Given the advanced genetic development of the temperate (cold climate) dairy breeds available in milk producing countries, the available nutrition for animals and the adverse effects of our tropical climate on dairy performance, the competitiveness and viability of a tropical dairy industry in the Philippines, in the present context, is low.

This is except for the one and most important dairy market niche; The "Fresh" Milk market.

In my opinion, this is the most important market niche to a people, as it is only "Fresh Milk" which can provide the full nutritional benefits and flavor of Milk.

This non competitiveness is true because of the economies of scale, climate, large pasture areas and unfair government (both local and national) subsidies available to dairy farmers and consumers in those foreign dairy countries. Through the years, these conditions have allowed their mature and developed dairy industry to prosper, and it has enabled them to sell milk to the rest of the world, at great profit.

On the other hand, the air freight required to import "Fresh" milk from abroad, given milk's large weight and volume, as well as its limited shelf life, preclude imported fresh milk competition, in our local market. That is why, milk labeled "fresh" in any and all of the stores are actually either UHT, reconstituted, evaporated, condensed or a combination of these and others. None of them, are really "fresh", as far as milk goes.

We clearly have the advantage in the "Fresh" segment of the market, if only for the loopholes in our labeling laws and regulations, which favor

the mega local and multinational milk importers, to the detriment of our small and infant dairy industry, as well as to the detriment of the consuming public.

The "Fresh Milk" niche remains viable for the Philippines because by definition "Fresh" milk and "fresh" milk products' shelf life is only a little over seven to ten days (at most two weeks). And, it needs refrigeration to last that long.

This market opportunity must therefore be protected in so far as its differentiation from the other more severely processed dairy market segments.

This is so as to allow a "Fresh Milk" tropical dairy industry to establish itself and thrive in the Philippines. And, for the consuming public to be able to enjoy and benefit from the superior quality and taste of true and real "fresh" milk products, without being misled.

The purpose of this bill is therefore;

1. To define, foremost, what is the meaning and what are the implications of the word "Fresh", in the dairy industry's context.
2. To require the proper labeling of other more processed milk products according to the requirements provided for in this proposed measure, in terms of their definition, print or font sizes, disqualifications, etc.
3. To impose penalties, both civil and criminal, both corporate and individual, for violation thereof, in order to ensure faithful compliance by all dairy industry players; and,
4. To protect the consumers from being misled by unfair dairy product labeling practices.

Distinguished Colleagues, this bill does not seek to impose any tariffs, taxes, restrictions, additional regulations and the like on the current trade of imported milk products. Neither does it seek to favor through subsidies or other regulatory means, locally produced fresh milk and fresh milk products. Although a strong case can be made for either because of the unfair subsidies given by the governments of milk producing countries to both their dairy farmers and their dairy consumers.

The bill merely seeks what is fair, true and just for our dairy farmers and the consuming public. That there should be truth in milk product labeling,

and that the word "fresh" should be reserved for milk and its products that truly is "FRESH".

This bill will therefore have no impact on milk and dairy products' prices whatsoever, in all its forms.

Let us therefore call a spade, a spade.

Should this bill pass, I see a day in the not too distant future, when our nascent tropical dairy industry will develop to become competitive with foreign milk in all market segments. For now however, it needs this just refuge.

In view hereof, the immediate passage of this bill is highly recommended.


HON. KIMI S. COJUANGCO

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14
15 **AN ACT**
16 **ESTABLISHING THE TRUE AND FAIR USE OF THE WORD**
17 **"FRESH" IN THE DAIRY INDUSTRY CONTEXT, AND FOR OTHER**
18 **PURPOSES.**

19
20 *Be it enacted by the Senate and House of Representatives of the*
21 *Philippines in Congress assembled:*
22

23
24 **SECTION 1.** *Short Title.* — This Act shall be known as "The True
25 and Fair Use of the Word "Fresh" in the Dairy Industry Context Act of
26 2011."
27

28 **SECTION 2.** *Declaration of Policy.* — It is the declared policy of
29 the State to protect and promote the people's right to health and, to instill
30 health consciousness among them.
31

32 Among the many foods available to the people, fresh milk and fresh
33 milk products stand out as one of the most convenient, complete, delicious
34 and nutritious of foods. Therefore, the proper, just and fair labeling of fresh
35 milk and fresh milk products are paramount for the people to have the
36 ability to discern what it is they are purchasing.
37

38 Towards this end, the State shall enforce compulsory fair labeling
39 of dairy products to enable the consumer to obtain accurate information
40 as to the nature, quality and quantities of ingredients in the contents of
41 milk and other milk products. And, to facilitate his comparison of the value
42 of such products.
43

1 In particular, the State shall reserve the use of the word "fresh" to
2 describe milk and milk products derived directly from dairy animals and
3 not assembled from pre-separated dairy components, which conform to the
4 specification as described in this Act.
5

6 **SECTION 3.** *Exclusive Use of the Word "Fresh".* - The use of the
7 word "Fresh" for milk and milk products, and the dairy industry in general
8 shall exclusively apply to those products which have not undergone a heat
9 treatment process whose temperature exceeds the temperatures which are
10 used for the pasteurization process, as it is traditionally known.
11

12 For purposes of this Act, pasteurization process is hereby defined as;
13 a one time heat treatment process whose temperature does not exceed
14 seventy two (72) degrees centigrade for a maximum of twenty five (25)
15 seconds or, eighty nine (89) degrees centigrade for one point five (1.5)
16 seconds. However, preference is given to the lower temperature.
17

18 Milk treated at temperature above those indicated in this Section but
19 which do not fall under the clear category of UHT or long life milk, shall
20 form a new product category called ESL dairy products. These products
21 shall hereafter be classified as ESL Milk and Milk Products.
22

23 For purposes of this Act, ESL shall mean extended shelf life milk and
24 milk products.
25

26 **SECTION 4.** *Requirements on Milk and Milk Products Labeling.* - In
27 all cases, labeling upon any article or any container or wrappers of milk and
28 milk products shall indicated the correct product standard, description,
29 nutrient content and method of processing with such conspicuousness, and
30 in such terms as to render it likely to be read and understood by the
31 ordinary individual under customary conditions of purchase and use.
32

33 Prepackaged milk and milk products shall not be described on any
34 label or in any labeling that is likely to cause false impression regarding its
35 character in any respect.
36

37 Words or phrases such as: "made from fresh milk or fresh milk
38 product"; "derived from fresh milk"; and those by words, pictorial or other
39 devices which are suggestive of the same import, or those which are likely
40 made to deceive or create confusion, or circumvent the true intent and
41 spirit of Section 3 of this Act, shall not be allowed. The use of such words,
42 phases, or other devices shall be considered as "Mislabeling of Milk and
43 Milk Products" and the person who is found guilty of committing the same

1 shall be held liable under Section 10 of this Act.

2
3 Milk and milk products other than those covered under Section 3 of
4 this Act shall be properly labeled in font which is the same size as the word
5 milk or the dairy product being sold with a descriptor signifying the type of
6 product category to which it belong (e.g. yogurt, cream, etc.). This descriptor
7 shall be on the same line as the category name or on the line directly above
8 or directly below the category name (e.g. UHT, reconstituted, long life, etc.).
9

10 **SECTION 5. *Fresh Milk and Fresh Milk Products as an Ingredient.*** -

11 Using fresh milk as an ingredient in any milk and milk products does not
12 qualify it to be called "fresh", as far as these dairy products are concerned.
13 What is allowed is the use of the word "fresh" in the ingredient list to
14 describe the amount of the fresh milk used: *Provided*, That the percentage
15 of the fresh milk used as an ingredient is clearly marked in front of the
16 word "fresh" in the ingredient list, and in font that is twice the size of the
17 font used to print the word "fresh".
18

19 **SECTION 6. *Vitamins and other Additives*** - Vitamin fortifications
20 generally accepted for milk products shall be allowed, most particularly
21 vitamins A and D. In addition, milk stabilizers and emulsifier aides shall
22 also be allowed: *Provided*, That they are from natural sources (e.g.
23 carrageenan or Philippine natural grade carrageenan) and: *Provided, finally*,
24 That this products are preferred to be added after undergoing mechanical
25 separation as provided in Section 9.
26

27 Further, flavoring may be added such as chocolate, strawberry,
28 mango, ube, etc: *Provided*, That these substances do not make up more
29 than one percent (1%) by volume or one percent (1%) by weight of the
30 product, whichever is the lesser.
31

32 **SECTION 7. *Adulteration.*** - Additions to fresh milk products such as
33 water, sugar, and the like shall not be allowed: *Provided*, That proper
34 descriptor in font size as described in Section 5 are applied (e.g. diluted,
35 sweetened, etc).
36

37 **SECTION 8. *Mechanical Processes*** - Mechanical processes such as
38 filtration and centrifugation shall be allowed: *Provided*, That they do not
39 violate the provision of Section 3.
40

41 **SECTION 9. *Penalty.*** - A violation of Section 5 of this Act shall result
42 in the forfeiture of all products which are mislabeled, and the person who
43 is found to be liable therefor shall, upon conviction, be subject to a

1 mandatory imprisonment of not less than one (1) year but not more than
2 three (3) years and a fine of Five Hundred Thousand Pesos
3 (Php500,000.00).
4

5 **SECTION 10.** *Existing Rules and Regulations Governing Dairy*
6 *Products* - All government departments and agencies which have issued
7 rules and regulations governing or relating to dairy products are enjoin to
8 revise or amend their existing rules and regulations within sixty (60) days
9 from the effectivity of this Act, to make them in conformity with the
10 provision of Section 3 hereof.
11

12 **SECTION 11.** *Implementing Agency.* - The National Dairy Authority
13 (NDA) in coordination with the Department of Health, Food and Drugs
14 Administration, and National Carabao Center shall monitor and ensure
15 the proper implementation of this Act.
16

17 **SECTION 12.** *Separability Clause.* - If for any reason, any section or
18 provision of this Act is declared to be unconstitutional, the other sections
19 or provisions hereof which are not affected thereby shall continue to be in
20 full force and effect.
21

22 **SECTION 13.** *Repealing Clause.* - All laws, decrees, executive orders,
23 rules and regulations, and other issuances, or any part thereof, which are
24 inconsistent with this Act, are hereby repealed or modified accordingly
25

26 **SECTION 14.** *Effectivity Clause.* - This Act shall take effect fifteen
27 (15) days from the date of its publication in at least two (2) newspapers of
28 general circulation.
29

30 Approved,
31