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

NINETEENTH CONGRESS
First Regular Session

House Bill No. **10361**



INTRODUCED BY REP PM VARGAS

AN ACT
ESTABLISHING A HEALTHY FOOD MARKETING ENVIRONMENT BY REQUIRING FRONT-OF-PACK NUTRITIONAL WARNINGS FOR FOOD HIGH IN FAT, SODIUM, OR SUGAR AND REGULATING THE MARKETING OF SUCH FOOD TO CHILDREN

EXPLANATORY NOTE

The Philippine Statistics Authority has identified that the number one leading cause of mortality in the country is non-communicable diseases such as coronary heart disease (CHD), cerebrovascular diseases, diabetes mellitus, and hypertensive disease. CHD alone accounts for 17.1 % of the deaths registered in the country in 2021.

Although NCDs are preventable, many remain vulnerable because of poor dietary choices and excessive consumption of foods high in fat, sodium, and sugar. One of the key factors that play a significant role in shaping consumer preferences and food influencing food choices is marketing practices, particularly those targeting children.

Cognizant of the growing threat of NCDs caused by dietary factors in the country, the "Health Food Marketing Environment Act", proposes the adoption of front-of-pack warning labels for all pre-packaged food to raise awareness among consumers to make informed decisions about food products that are high in salt, sugar, saturated fats, and trans fats.

The bill further aims to protect children from the influence of marketing strategies used to promote unhealthy foods by imposing restrictions on advertising and promotional activities targeted at children, specifically for products that fail to meet established nutritional standards.

With an established structure for healthier food choices, especially among children, the State ensures that it protects and promotes the right to health of the people and instills health consciousness among them. The State additionally empowers its people by having a transparent and health-conscious food

environment equipped with the right information, protecting them from the influence of unhealthy food marketing, and promoting the availability and consumption of nutritious food options.

By addressing the root causes of unhealthy dietary habits, this legislation aims to improve public health outcomes and reduce the burden of diet-related diseases for better longevity in the country.

In view of the foregoing, immediate passage of this bill is earnestly sought.



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

ARTICLE I. GENERAL PROVISIONS

SECTION 1. Short Title. This Act shall be known as the "Front-of-Package Warning Label Act" of 2023.

SECTION 2. Declaration of Policy. It is the policy of the State to protect and promote the right to health of all Filipinos, instill health consciousness among them and to defend the right of children to proper care and nutrition. It is likewise the policy of the state to protect consumers from trade malpractices and from substandard or hazardous products. Towards these ends, the State recognizes the need to enable Filipinos to make informed food choices and avoid food that are high in fats, sodium, and sugar through easy-to-read warning labels on prepackaged food.

SECTION 3. Objectives. This Act seeks to:

a. Guide the population in making informed food purchases and discourage people from consuming food with fat, sodium, and sugar content in excess of the prescribed maximum thresholds;
b. Reduce the risk of overweight and obesity;[1] and
c. Prevent deaths due to non-communicable diseases caused by dietary risk factors.[2]

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[1] WHO, GUIDING PRINCIPLES AND FRAMEWORK MANUAL FOR FRONT-OF-PACK LABELLING FOR PROMOTING HEALTHY DIETS 1 (2019)
[2] *Id.*

SECTION 4. Definition of Terms. For the purposes of this Act, the following terms shall be defined as follows:

a. **Breastmilk Substitutes** means any food being marketed or otherwise represented as a partial or total replacement for breastmilk, whether or not suitable for that purpose;[3]
b. **Calories** refer to the unit of measurement used to determine the amount of energy that a food provides;
c. **Complementary Nutritional Information** may state, suggest, or imply that a food or beverage possesses particular nutritional properties, especially, but not limited to its energy value, protein, fat, carbohydrates, dietary fiber content, critical nutrients, vitamins, minerals, and even assertions of fortification;
d. **Food** refers to any substance or product, whether processed, partially processed, or unprocessed that is intended for human consumption. It includes drinks, chewing gum, water and other substances that were used as an ingredient or a component in the manufacture, preparation, or treatment of food, such as oils and fats, whether sold alone or incorporated in processed food and/or prepackaged food;
e. **Front-of-Package Warning Label (FOPWL)** refers to the supplementary nutrition information on the main face of the packaging of prepackaged food to inform consumers when a product contains excessive amounts of nutrients of concern;[4]
f. **Main face** refers to the part of the packaging where the sales name and the brand or logo, if any, are recorded in their most relevant forms;
g. **Micro, small, and medium enterprise (MSME)** refers to food businesses as defined within the classification of industries by the Department of Trade and Industry;
h. **Nutrient Profile Model** refers to a tool used to classify or rank foods according to their nutritional composition for reasons related to the prevention of disease and promotion of health;
i. **Nutrients** refer to any chemical substance normally consumed as a component of a food that: 1) provides energy; and/or 2) is necessary for, or contributes to the growth, development, and maintenance of health and life; and/or 3) the absence of which will cause characteristic chemical or physiological changes to occur;
j. **Nutrients of concern** refer to those nutrients that when ingested above the maximum values are considered as risk factors associated with NCDs; these include but are not limited to sugars, sodium, saturated fats, total fats, and calories;[5]
k. **Prepackaged food** refer to processed food prepared in advance and placed in a container, labelled and ready for sale or distribution, or for catering purposes;

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[3] National Code of Marketing of Breastmilk Substitutes, Breastmilk Supplements and Other Related Products, Executive Order No. 51, § 4(a) (1986).
[4] WHO, GUIDING PRINCIPLES AND FRAMEWORK MANUAL FOR FRONT-OF-PACK LABELLING FOR PROMOTING HEALTHY DIETS 11 (2019); FAO& WHO, CODEX ALIMENTARIUS (INTERNATIONAL FOOD STANDARDS) 11 CXG 2-1985 (2021); PAHO, FRONT-OF-PACKAGE LABELING (AS A POLICY TOOL FOR THE PREVENTION OF NONCOMMUNICABLE DISEASES IN THE AMERICAS) 9 (2020).
[5] Norma Oficial Mexicana 051/2020 [NOM 051/2020], Art. 3.38 (2020) (Mexico).

l. **Saturated fatty acid (SFA)** refers to fatty acids that contain the maximum number of hydrogens possible, and no carbon-carbon double bonds. Saturated fatty acids are classified as short chain (1-5 carbons), medium chain (6-12 carbons), and long chain (13-21 carbons) and very long chain (contains 22 and more carbons) according to the carbon chain length;

m. **Sodium** refers to a chemical element that exists naturally in food, associated with other molecular residues or atoms as an ionic bond, forming chemical salts. It is of great importance since it helps to maintain the water and base acid balance of any organism, constituting its most common compound, sodium chloride or what is usually called table salt. Likewise, we find other sodium salts that are of industrial origin, such as monosodium glutamate (flavor enhancer); sodium benzoate, sodium acetate, sodium bicarbonate (acidity regulators and preservatives); sodium hydroxide, sodium carbonate (acidity regulator); sodium erythorbate (antioxidant), among others. One gram of 'table salt' contains 400mg of sodium (1 gram of sodium is equivalent to 2.5 grams of table salt);

n. **Sugar** refers to sucrose, fructose, or glucose obtained from the industrial processing of sugar cane, sugar beet, hard yellow corn, and their mixtures, among others, in the form of a crystallized solid product or syrup used as an ingredient in food products;

o. **Total fat** refers to the total amount of fat in a food product. This includes the saturated fat, trans-fat, monounsaturated, and polyunsaturated fat in a food product;[6]

SECTION 5. Scope and Application. This Act shall apply to all food business operators of prepackaged food produced, manufactured, imported, distributed, supplied, and advertised or marketed in the territory of the Philippines.

ARTICLE II. FRONT-OF-PACKAGE WARNING LABELS

SECTION 6. Mandatory Front-of-Package Warning Labels. No person or food business operator shall sell, manufacture, import, or distribute, prepackaged food and non-alcoholic beverages without a front-of-package warning label prescribed in this Act, when the final composition of the product contains nutrients of concern that exceed the maximum values prescribed under Section 8 of this Act.

SECTION 7. Form, Size, Placement, and Characteristics of the Warning Labels. When the final composition of the pre-packaged food product contains critical nutrients or calories in excess of the maximum values under Section 8 of this Act, the packaging shall display a warning label as prescribed by the Food and Drug Authority (FDA), in accordance with the following guidelines:

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[6] US FDA, Interactive Nutrition Facts Label at 1, *available at* https://www.accessdata.fda.gov/scripts/interactivenutritionfactslabel/assets/InteractiveNFL_TotalFat_October2021.pdf (last accessed July 6, 2023).

a. The packaging must include one warning label for each nutrient in excess of prescribed values, namely:
    - "HIGH IN SUGAR";
    - "HIGH IN SODIUM";
    - "HIGH IN SATURATED FAT";
    - "HIGH IN TOTAL FAT";
b. If the product's calories is in excess of the prescribed values the package must include the following warning label:
    - "HIGH IN CALORIES".
c. If the product contains sweeteners, the package must include the following warning label:
    - "CONTAINS SWEETENERS, NOT RECOMMENDED FOR CHILDREN".
d. The warning label shall have the form of black octagons with a white edge and capital letters;
e. The size of each warning label shall never be less than five percent (5%) of the area of the main face of the packaging;
f. The warning labels shall form part of the packaging and their full visibility and integrity must not be susceptible to being damaged, concealed, obstructed or changed by any package design, feature, or mechanism, or covered by any other markings;
g. It must be located on the top right edge of the product's main face. If the shape of the product is round or cylindrical, it must be on the top center of the main face. For products in which the main face of the packaging is equal to or less than ten (10) square centimeters, it will contain a single octagon that will show inside of it how many nutrients of concern above the thresholds the product has. The warning label shall be 15% of the front of the package.
h. If the product has more than one warning label, they must be placed adjacent to each other on the product's main face.
i. For packages with multiple products, the outer packaging, as well as each individual package inside must also include the warning label.

The provisions established in this Section are applied in addition to the existing rules and regulations governing the labeling of prepackaged food distributed in the Philippines.[7] In addition, the FDA is encouraged to release guidelines pertaining to the placement of products at the point of sale.

SECTION 8. Maximum Values. The maximum values of the nutrients of concern shall be based on the nutrient profile model developed by the Department of Health. Pending the development of a local NPM, the Pan American Health Organization Nutrient Profile Model shall be used as the basis for such maximum values.

[7] Department of Health, Revised Rules and Regulations Governing the Labeling of Prepackaged Food Products Further Amending Certain Provisions of Administrative Oder No. 88-B s. 1984 or the "Rules and Regulations Governing the Labeling of Prepackaged Food Products Distributed in the Philippines," and For Other Purposes (2014).

The DOH may coordinate with the Department of Science and Technology – Food and Nutrition Research Institute (DOST-FNRI) in developing an NPM for the Philippines.

SECTION 9. Exemptions. Prepackaged food for special therapeutic dietary uses that are formulated for a particular physiological condition or as partial replacement for meals, and culinary ingredients which typically consist of only one nutrient in high purity (cooking oils, table sugars, common table salt, etc.) shall follow their respective labeling requirements and shall be exempted from the obligation to incorporate a warning label. Breastmilk substitutes shall likewise be exempted from this Act and shall follow the guidelines promulgated by Executive Order No. 51, series of 1986, its implementing rules and regulations and other pertinent regulations.

SECTION 10. Prohibitions on misleading packaging and other promotional features.
Prepackaged food, as well as non-alcoholic beverages, required to have a warning label under Section 6 of this Act shall not have any element of feature that:

a. Provide complementary nutritional information; and
b. Logotypes or phrases stating the sponsorship or endorsements of scientific societies, civil associations or other relevant actors; and
c. Other health and nutrition claims.

ARTICLE III. ENFORCEMENT

SECTION 11. Certificate of Product Registration. The FDA shall not issue a Certificate of Product Registration (CPR) or renew an existing CPR to any food manufacturer, distributor, and importer whose product does not comply with Sections 6, 7, and 10 of this Act.

SECTION 12. Inspection Powers and Record-Keeping. The FDA, through its authorized agents, shall have the power to inspect the premises and records of food manufacturers, to determine compliance with this Act. The FDA shall issue inspection procedures and guidelines on record-keeping.

SECTION 13. Enforcement for Traditional Markets and Food Service Establishments. Local government units (LGUs), through an appropriate issuance and in coordination with the FDA and Department of Trade and Industry (DTI), shall establish a mechanism to enforce the provisions of this Act on prepackaged food produced and marketed in traditional markets and food service establishments within their jurisdiction and shall impose penalties for violations thereof.

SECTION 14. Consumer Complaints. The FDA may commence an investigation motu proprio, upon petition, or upon letter-complaint from any consumer for violations of this Act. Upon finding by the FDA of prima facie violation of any

provisions of this Act, it may motu proprio or upon a verified complaint, commence formal administrative action against the food business operator or any person who appears responsible.

The procedure in the commencement and processing of consumer complaints mentioned in this Section shall follow the existing rules and regulations of the FDA.

SECTION 15. Multisectoral Coordination and Civil Society Participation for Enforcement, Monitoring, and Surveillance. (a) The State recognizes the role of civil society organizations and the private sector in promoting public health. The DOH, FDA, and DOST-FNRI may engage civil society organizations and the private sector, as long as they are not affiliated or related to the food and beverage industry, to provide technical assistance in implementing and monitoring the provisions of this Act. The DOH shall develop and implement programs to enable citizen participation in compliance with this Act. (b) Any citizen or civil society, non-government, and grassroots organization is hereby authorized to file an appropriate civil, criminal, or administrative action in the proper courts or administrative body against any public officer who willfully or grossly neglects the performance of a responsibility specifically enjoined by this Act and its implementing rules and regulations, or against any member of the food and beverage industry, including persons working on their behalf, who violates any provision of this Act and its implementing rules and regulations. The court shall exempt such action from the payment of filing fees and shall exempt the plaintiff from the filing of an injunction bond for the issuance of preliminary injunction. In the event that the plaintiff shall prevail, the court shall award reasonable attorney's fees, moral damages, and litigation costs as appropriate. The administrative, civil, and criminal actions allowed under this paragraph shall be cumulative and shall not preclude any other person from filing a similar action.

SECTION 16. Prohibited Acts. Any violation of Section 6, 7, and 10 of this Act, shall render the product misbranded under Republic Act No. 9711. Pursuant to Section 11 of Republic Act No. 3720 as amended by Republic Act No. 9711, the following acts are prohibited:

a. The manufacture, importation, exportation, sale, offering for sale, distribution, transfer, non-consumer use, promotion, advertising, or sponsorship of any food product that is adulterated, unregistered or misbranded;
b. The adulteration or misbranding of any food product.

Any future amendments to the previously mentioned laws will also apply accordingly.

SECTION 17. Penalties. The following penalties shall be imposed on any person or food business operator found to have committed any of the prohibited acts stated in Section 17 of this Act:

a. A fine of not less than fifty thousand pesos (P50,000) but not more than five hundred thousand pesos (P500,000), at the discretion of the court;
b. If the offender is a manufacturer, importer, or distributor of any food product, a fine of at least five hundred thousand pesos (P500,000) but not more than five million pesos (P5,000,000) shall be imposed;
c. An additional fine of one percent (1%) of the economic value / cost of the violative product or violation, or one thousand pesos (P1,000), whichever is higher shall be imposed for each day of continuing violation;
d. No person shall be subject to the penalties under this section for having sold, offered for sale or transferred food products in violation of Section 17 if such sale, distribution or transfer, was made in good faith. A sale, distribution, or transfer is presumed to be made in good faith if the seller or distributor has obtained, in writing, a guarantee from the person or food business operator from whom the food products were obtained, that said food products are not covered by the requirements under Section 6 and 7 of this Act;

Should the offense be committed by a juridical person, the Chairman of the Board of Directors, the president, the general manager, or the partners and/or the persons directly responsible therefor shall be penalized.
Should the offense be committed by a foreign national, he/she shall, in addition to the penalties prescribed, be deported without further proceedings after service of sentence.

In conjunction with the penalties in this section, the Director-General of the FDA may exercise powers as provided by Republic Act No. 3720 as amended by Republic Act No. 9711 and Republic Act No. 10611.
Any future amendments to the previously mentioned laws will also apply accordingly.

SECTION 18. Other Penalties. In addition to the foregoing fines and penalties, the following sanctions may also be imposed:

a. The disapproval of an application, suspension, revocation or cancellation of an existing Certificate of Product Registration or any authorization; and/or
b. Seizure and condemnation, destruction, recall, and/or appropriate disposition of non-compliant food products by the FDA as provided under their mandate.

SECTION 19. Compliance by Micro, Small, and Medium Enterprises. The DTI, in coordination with other relevant government agencies and stakeholders shall develop and implement programs to assist micro, small, and medium-sized food business operators of prepackaged food.

ARTICLE IV. MISCELLANEOUS PROVISIONS

SECTION 20. Consumer Information, Education, and Communication. Health and nutrition literacy including the importance of nutrition labeling, proper usage and rationale of the use of FOPWL and other food product labels, and the risks of overconsuming foods that are high in fats, sodium, and sugar shall be disseminated and promoted through a nationwide information, education, and communication campaign. The DOH shall spearhead the campaign, in cooperation with other concerned government agencies and LGUs. The DOH shall coordinate with the Department of Education to conduct child-specific educational campaigns on nutrition labeling in Philippine schools.

SECTION 21. Implementing Rules and Regulations (IRR). Within sixty (60) days from the effectivity of this Act, the DOH through the Health Promotion Bureau (HPB), together with other relevant government agencies and stakeholders shall develop the IRR for this Act. Non-issuance of the IRR shall not prevent the implementation of this Act upon its effectivity.

SECTION 22. Transitory Provisions. The provisions set forth in this Act shall be complied with within a term not exceeding six (6) months from the effectivity date.[8]

SECTION 23. Monitoring and Evaluation. The DOH, through the FDA, shall report annually or as necessary, to the President and the Congressional Committees on Health, Agriculture and Food, and Trade and Industry on the implementation of this Act.

SECTION 24. Appropriations. The initial amount necessary for the implementation of this Act shall be charged against the current appropriation of all concerned agencies. Thereafter, concerned agencies shall allocate such funds that may be necessary for the continuous implementation of this Act and shall include such sums in the annual General Appropriations Act (GAA) under the respective budgets of all concerned agencies.

SECTION 25. Conflict of Interest. Pursuant to the fundamental objective of this Act to advance public health, the implementation and enforcement of this Act and the development of related policies shall promote multi-sectoral coordination while safeguarding against potential conflict of interest.

SECTION 26. Separability Clause. If any part or provision of this Act is held invalid or unconstitutional, the remaining parts or provisions not affected shall remain in full force and effect.

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[8] On the Nutrient Composition of Food and its Advertising, Law No. 20,606 (2021) (Chile).

SECTION 27. Repealing Clause. All laws, decrees, executive orders, and rules and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed or amended accordingly.

SECTION 28. Effectivity Clause. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in any newspaper of general circulation.

Approved,