

CHILE – Decree No 24 of 12 July 2017
Republic of Chile, Ministry of Health, Legal Department
Subdivision of Public Health
Division of Public Health Policies and Promotion

Modifies Supreme Decree No 977 of 1996, of the Ministry of Health,
Food Health Regulations

No 24 – Santiago, 12 July 2017

IN VIEW OF: These antecedents;

- the provisions of Articles 2 and 105 of the Health Code approved by decree equivalent to Law No 725 of 1967, of the Ministry of Health;
- Decree equivalent to law No 1 of 2005 of the Ministry of Health, that establishes the reworded, coordinated and systematized text of Decree Law No 2763 of 1979, and Laws No 18933 and 18469;
- Law No 20606 on Nutritional Composition of Food and their Advertising;
- Decree D.S. No 977 of 1996 of the Ministry of Health, Food Health Regulations;
- Resolution No 1600 of 2008 of the General Comptroller of the Republic;
- the request in Memorandum B34 / No 566 of 2017, of the Division of Public Health Policies and Promotion of the Ministry of Health; and further

CONSIDERING:

That, in the same manner that Law No 20606 on Nutritional Composition of Foods and their Advertising rendered it necessary to modify the Food Health Regulations, by means of Supreme Decree No 13 of 2015 of the Ministry of Health, Law No 20869 on the Advertising of Foods needs to be implemented by means of a modification of said regulation.

That, Law No 20869 contains rules that not only repeat the ban on advertising of those foods listed in its article 5, paragraph 1, addressed to children under 14 years of age, but also regulates advertising of such foods in cinemas and on TV, setting time-table restrictions for their transmission, as well as exceptions to that measure. Similarly, it bans all advertising intended to promote the consumption of breastmilk substitutes.

That, in view of these precedents, the Ministry of Health needs to introduce modifications to the Food Health Regulation, not only to regulated advertising of those foods listed in its article 5, paragraph 1 of Law No 20606, to complement what it says on this matter, but also to protect breastfeeding by banning the advertising of breastmilk substitutes, in order to comply with the recommendations of the International Code of Marketing of Breastmilk Substitutes of the World Health Organisation (WHO), and

BY VIRTUE of the faculties conferred on me in Article 32 of the Political Constitution of the Republic, I hereby

D E C R E E

ARTICLE 1: That Supreme Decree 977 of 1996 of the Ministry of Health that approves the Food Health Regulations shall be modified as follows:

1.- After article 110 bis this following article 110 ter shall be added:

“ARTICLE 110 ter: When sodium, sugars or saturated fats have been added to a food or food product and their content exceeds the levels established for those nutrients in Table 1 of article 120 bis of this Regulation, or, when sugars, honey, syrups or saturated fats have been added and their energy content exceeds the value of energy established in that same table, no kind of advertising that aims to promote the consumption of such foods shall be permitted in any cinema or television program broadcast between 06.00 and 22.00 hours of the day.

Shall be excepted from the ban described in the preceding paragraph any advertising in television and cinema programs that are part of the transmission of sports, cultural, artistic or welfare spectacles, if they comply with the following requirements:

- a) That the advertising is connected to the exhibition of the name or brand of the product.
- b) That the advertising is not directed, directly or indirectly, to persons under 14 years of age.
- c) That the event or spectacle is not organised or financed exclusively by the company that is advertising the product or its affiliated or connected companies.
- d) That the advertising does not display situations of consumption that induce such consumption nor the consumption of the promoted product, such as: persons or characters ingesting the product or situations that describe or lead to infer its ingestion.

The provisions of this article shall not apply to foods or mixtures of foods to which no sugars, honey, syrups, sodium or saturated fats have been added.”

2.- After article 497 the following article 497 bis shall be added:

“ARTICLE 497 bis: Any kind of advertising of formula and follow-on formula for infants up to 12 months old dealt with in this paragraph shall be prohibited, such as:

- The offer or delivery of free products or samples thereof.
- The distribution of gifts or promotional materials together with a product or the sale of such a product.
- Promotional exhibits or tasting of products.
- Advertising in the media or via other supports.
- The use of images or words that entail advertising on packaging of products.
- The publication of notices, billboards or signage that announce offers such as promotions or reduced-price sales, discount coupons, discounted prices according to the quantity of a product bought or other similar promotional tactics.

Any professional who needs to prescribe these formulas shall ensure that the user has the necessary information to adequately select the formula and shall write in the prescription only “starter formula” or “follow-up formula”, without giving a specific brand name, plus the age of the infant boy or girl who shall receive it.”

TRANSITIONAL ARTICLE: This decree shall enter into force six (6) months after its publication in the Official Journal.

LET IT BE NOTED, UNDERSTOOD AND PUBLISHED.

Michele Bachelet Jeria
President of the Republic

Carmen Castillo Taucher
Minister of Health