

## **A framework for nutritional labeling and advertising.**

The Chilean experience: Laws 20.606 and 20.869

### **Summary of the Law NO. 20.606**

The law 20.606, which was established on July 6<sup>th</sup> 2012, it is about the nutritional components of food and its publicity. The author of the law is Senator Dr. Guido Girardi. It frames mainly:

1. It demands a proper labeling of the nutritional components and additives of processed food; they must be displayed in decreasing order and with percentages.
2. It establishes a proper labeling, which is regulated by the Chilean Food Health Regulations. It must contain clear information; therefore the population can easily understand at least regarding the content of energy, sugar, salt and fat.
3. The Minister of Health must set the limits of critical nutrients such as calories, sugar, fat and salt for solid and liquids. There must be limits in order to establish which food would be labeled and which would not.
4. It is forbidden to add additives that could induce delusions regarding the nature or composition of the food.
5. It demands the incorporation of educational activities within schools about healthy food.
6. It regulates a proper labeling system for food with high content of calories, fat, sugar and salt.
7. The food with high content of those critical nutrients cannot be sold at any school, neither could be given for free to kids or be advertised directly to children less than 14 years old.
8. The food that is labeled as "high content of" cannot use advertisement tricks such as give away stickers, toys among others.
9. It must be labeled every food that contains gluten or other component that might cause allergies.

### **Summary of the Law NO. 20.869**

The law 20.869 which was established in November 13<sup>th</sup> 2015 and the author is also the Senator Dr. Guido Girardi regulates the publicity of food:

1. It is prohibited the publicity of unhealthy food defined by the law 20.606 for children less than 14 years old. It establishes regulations regarding the graphic presentation, use of merchandising such as symbols, cartoons characters, etc.
2. The unhealthy food, which is defined by the limits that are set in the law 20.606, cannot be given away with promotional purpose for free to children less than 14 years old.
3. The advertisement on TV of this food could only be showcased between 22:00-6:00 hours, when is not directed to children less than 14 years old.
4. The regulations for advertisement for food, they will be dictated by the President of the Republic of Chile, through the Minister of Health, without needing of approval of other Secretaries of States.
5. It is prohibited any publicity for breast milk substitutes, such any starter or follow-on formulas.

The process to get this laws passed in Chile was not easy. The law regulates the labeling of food was established in 2012, even though it wasn't until 2015 that the regulations of this law could be established by the Minister of Health. The regulation came out late due to the entire lobby that the food industry put into the process. At the begging the labeling system would be similar to the "stop-light" system used in UK and Ecuador, to which at the beginning the industry opposed.

After some research and focus groups conducted in the country within the children population, it was concluded that kids did not easily understand the "stop-light" method, and then it was easier for them to understand a "stop-sign" with the warning. As the industry knew this was a better method, then they accepted the "Stop-light" and refused to accept the "stop-sign". Then came many discussions between the Minister of Health and the Minister of Economy.

After many months of discussions the health view prevailed, but many struggles were faced to set the limits for the labeling, Chile needed the help of PAHO and other international organizations to set the current limits, which are one of the strictest ones.

### Changes to the Chilean Food Health Regulations.

1. Set the upper limit of nutritional composition according to the following chart:

	Energy kcal/100 gr	Sodium mg/100 gr	Sugar gr/100 gr	Saturated fat gr/100 gr
Upper limit for soild food. Values hight than:	275	400	10	4
Upper limit for liquids. Values higher than:	70	100	5	3

Every food that contains over any of this critical nutrient will be labeled with a warning sign stating that is high either in energy, salt, sugar or fat. The limit established above is to be reached within 3 years.

2. There will not be advertising for children under 14 years old at any place for those foods that goes beyond the limits of the critical nutrients. It could be considered that the publicity is targeted to this age group if it is used any cartoon or "famous character", toys, kid's music or animal that bring attentions to kids under 14 years old.

3. It is to be understood that any publicity of this food is directed to kids under 14 years old if is done in web---sites or TV---shows directed to this age group, or if these captivate an audience of at least 20% of kids under this age. 4. It establishes the shape of the labeling according to the law: It is by labeling an octagonal symbol with a background black and white border, and within the text "HIGH" followed by "SATURATED FAT", "Sodium", "Sugars" or "Calories"



Examples of labeled food at groceries stores.





**In summary, if any of these stickers appears in the products you will have:**

- The right to know
- Prohibited to be sell in schools
- Prohibited to be advertised on TV during children's time (06:00-22:00)
- The food that is labeled as "high content of" cannot use advertisement tricks such as give away stickers, toys among others.
- The law mandates to educate in every levels of education regarding the bad effects of unhealthy food.
- The law mandates to make physical education in schools



**Supreme Decree Number 977, which modifies the food health regulations.**

**Considering:**

The provisions contained in Law No 20,606, 2012 on Advertising and Food Nutritional Composition, make it necessary to amend the Food Health Regulations.

That there are scientific and technical background showing the relationship between excessive consumption of saturated fats, sodium, sugar and energy and the obesity growth and other non-communicable diseases.

In view of the above, it is necessary to inform the public about the nutritional composition of foods when they have excessive content of these nutrients.

The need to regulate food advertising, especially that aimed at children under 14 years. It is advisable to proceed with a continuous improvement system and effectiveness evaluation of this amendment, evaluating its progressive implementation, and

Bearing in mind the powers conferred on me by Article 32 No 6 and 35 of the Constitution of the Republic,

**Decree:**

Article 1.- Amend the Supreme Decree No. 977 of 1996, the Ministry of Health, approving the Food Health Regulations, in the manner indicated below:

1) Add the following number 34 to the Article 106:

"34) Advertising: All forms of promotion, communication, recommendation, propaganda, information or action to promote consumption of a product."

"2) Replace Article 109 by the following:

"Article 109:.. The information on the label must be in Spanish and can be repeated in another language. Data shall be legibly and indelibly marked, and easy to read under normal circumstances. Overprint or any changes of the information contained in the original label are not allowed, unless written authorization from the health authority, with the following exceptions:

1) Imported products which labeling is in another language or does not comply with the requirements of this regulation as far as labeling is concerned;

2) Products using overprinting or modification of information on the label in accordance with the provisions of Article 120bis of this regulation, including the adjustment of nutrition information to be declared or deleting information incompatible with that descriptor, when appropriate ".

3) Add, after the Article 110, the following Article 110a:

"Article 110a: In case of any food or product which in its nutritional composition, containing amounts of energy, sodium, sugars or saturated fat higher than those set out in Table No1 Article 120a of this regulation, can not perform advertising addressed to children under 14 years old, without exceptions .

For this purpose, it may be considered advertising addressed to this age group if use, among other elements, characters and child figures, animations, cartoons, toys, children's music, if it has the presence of people or animals that attract interest of under 14, or if it contains statements or fantastic arguments about the product or its effects, children's voices, language or own children expressions, or situations that represent their daily life, such as school, recreation or children games.

Similarly, advertising of these foods may not use interactive applications, games, contests or other similar items addressed to children under 14 years old.

Furthermore, it is also understood that advertising of such foods or products addressed to children under 14 years old, when performed TV shows or websites addressed to that target audience; or when

those TV shows or websites capture an under 14 years old audience, greater than 20%. Nor they may advertise such foods or food products in advertising spaces during, between or immediately before or after the broadcast of such programs or websites. Nor may advertise such foods or products on television advertising during, between or immediately before or after the broadcast of such TV shows or websites.

Food or food products in their nutritional composition, containing amounts of energy, sodium, sugars or saturated fat higher than those set out in Table No1 Article 120a of this regulation, may not be offered or given away for free to children under 14 years old, or use advertising hooks addressed to them, unrelated to the promotion of the product itself, such as toys, accessories, stickers, or other similar incentives.

These foods or food products cannot be sold, traded, promoted or advertised within the primary and secondary and even preschool.

Advertising of these foods carried out by mass media should contain a message promoting healthy lifestyle, and its characteristics will be determined by supreme decree of the Ministry of Health issued "by order of the President of the Republic".

Except from the provisions of this article, food or mixtures thereof, not containing sugar, honey, syrups, sodium or saturated fats.

4) Replace the fifth paragraph, letter b) of Article 115 by the following: "For those foods declaring nutrition or health messages on its labeling and for those using nutritional descriptors, except from those labeling the descriptor Article 120a of this regulation, tolerance limits for the declared value of the nutrient in question shall be as follows: ".

5) Add, in the letter b) of Article 115, then the end point of the letter ii) at the sixth paragraph, the following sentence: "The above-described tolerance limit, also apply to nutritional descriptors referred in Article 120a of this regulation."

6) Add, after article 120 the following article 120a:

"Article 120a: When a food or food product contains sodium, sugar or saturated fats, and its contents exceed the value set out in Table No 1 of this Article, it shall contain on its label the nutritional characteristics relating to the added nutrient. In case of energy, it must label its content when contains sugar, honey, syrups, or saturated fats, and when the value set in the aforementioned table has been exceeded.

Table No1: Energy, sodium, total sugars and saturated fats limits contained in food.

The following products are except from the labeling regulation:

- A. Food or mixtures thereof, not containing added sugars, honey, syrups, sodium or saturated fats.
- B. Bulk, portioned and prepared food, even if they are packed at the time of sale.
- C. The following foods of Title VIII, "Food for Special Dietary Uses":
  - c.1 Paragraph II of infant formulas.
  - c.2 Paragraph III of commercial baby food preparations, except those with sugars.
  - c.3 Paragraph IV of cereal-based infant foods, except those with added sugars.
  - c.4 paragraph V of medical food.
  - c.5 Paragraph VII of foods for weight control diets.
- D. The following foods of Title XXIX, "of food supplements and sports foods":
  - d.1 Paragraph I, of food supplements.
  - d.2 In Paragraph II, athletes food, those who meet the requirements described in points a), b), c) and d) of Article 540.
- E. Free sugar and calories sweeteners, regulated in Article 146 of this regulation.

For the purposes of this Article, a food is solid or liquid depending on the unit of measurement used in the declaration of net contents of the food, that is to say, it is solid if its net content is expressed in grams or any other equivalent, or liquid if net content is expressed in milliliters or any other equivalent. In the case of foodstuffs that are consumed reconstituted, it shall be understood as solid or liquid, depending on the ready-to-eat instructions.

Highlighting the nutritional characteristics indicated in the first paragraph of this article shall be labeling using an octagonal, black background and white border symbol, and inside the text "high" followed by: "SATURATED FAT", "SODIUM", "SUGARS" or "CALORIES" in one or more separate symbols, as appropriate. Text letters must be capital letters and white. In addition must contain the words "Ministry of Health" in white letters, according to the diagram No 1 of this Article.

The aforementioned symbols will be placed on the main face of the products.

The symbol proportion will be determined according to the area of the main face of the product, according to the following table:

**Table No1: Symbol proportions.**

Area of the main face of the Product	Symbol dimensions
Less than 30 cm <sup>2</sup>	The symbol must be printed in the bigger box
Between 30 and less than 60cm <sup>2</sup>	1,5 x 1,5 cm
Between 60 and less than 100cm <sup>2</sup>	2,0 x 2,0 cm
Between 100 and less than 200 cm <sup>2</sup>	2,5 x 2,5 cm
Between 200 and less than 300 cm <sup>2</sup>	3,0 x 3,0 cm
Bigger or equal than 300 cm <sup>2</sup>	3,5 x 3,5 cm

Containers' main face area between 30 squared centimeters and less than 60 square centimeters, can be labeled with the symbol on the other visible face of the container.

When labeling more than one symbol they shall be next to each other. The symbol must be legibly and indelibly marked, and easy to read. Under no circumstances may be fully or partially covered.

Packaged food whose main face area is lower than 30 square centimeters will be exempt of labeling the symbol, in that case, the box or larger container will contain the labeling symbol.

Food labeled with the symbol "high", cannot describe its nutritional properties described in Article 120 of this regulation, when dealing with the same nutrient or energy.

It is allowed to adhere on the label or package, the "high" symbol sticker if it was not considered at manufacturing. It must be indelibly, and according to the size, location and other characteristics established in this regulation.

**Diagram N. 1**



**Graphic features of nutrition facts indicated in Diagram No1 shall be:**

**a) Symbol parts:**

1. Octagonal base that contains the message.
2. Key message.
3. Signature of the Ministry of Health.
4. Margin cut on white background.

**Example**



**b) High Sugars proportions**



**c) High Saturated Fats proportions**



**d) High Sodium proportions.**



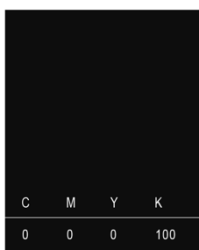


**e) High Calories proportion**



**f) Color example**

C	M	Y	K
0	0	0	100



**g) Typography.** The font used is from the "Arial" family, specifically "bold". Example of typography:

**ABCDEFGHIJKL  
MNÑOPQRSTU  
VWXYZ**

**h) Labeling of more than one descriptor:** Foods to be labeled more than one descriptor must do so as indicated in the following examples:

**h.1) 2 symbol labeling:**



## h.2) 3 symbol labeling:

Presentation 1



Presentation 2: This presentation should be used when the height of the quadrant of the main face of the label with the corresponding size of the descriptor, does not allow presentation 1.



## h.3) 4 symbol labeling: Presentation 1:



Presentation 2: This presentation should be used when the height of the quadrant of the main face of the label with the corresponding size of the descriptor, does not allow presentation 1.



Distance between symbols. Symbols must be separated between each other to maintain the same proportionality as follows:



## j) Minimum size.

Where labeling with the minimum size symbol, that is, 1.5 cm high by 1.5 cm wide, may replace the phrase "Ministry of Health" by "MINSAL". Example:



k) Suggested location. It is suggested to label the symbol at the upper right corner of the main face of the product. l) Examples of location descriptors in different types of packaging.



7) Replace Article 468 by the following:

"Article 468.- Meals or prepared food packaged for sale, which dispense to take into portions and / or predefined portions by the processor must be labeled with the name of the food, including food processing establishment address, legal representative name, number and date of the health resolution authorizing the operation of that establishment and name of health authority that issued it, date of manufacture, expiration date or duration of the product, storage instructions , net content and all the information described in Article 115 of this regulation, except the number of servings per container. This information should be printed on the packaging or contained in a label attached to it, visible, indelible and easy to read under normal circumstances".

Article 2.- leave without effect the supreme decrees No 12 and No 28, both of 2013, as amended by decrees No. 102 and 103, both of 2014, respectively, all from the Ministry of Health.

## TRANSITORY ARTICLES

Article 1.- This Decree shall enter into force 12 months after its publication in the Republic's Official Journal, unless the provisions of the 2nd article that will take effect at the time of the publication.

Article 2.- Notwithstanding indicated in transitory article 1 of this decree, the limits of energy content, sodium, total sugars and saturated fats listed in Table No 1 of Article 120a come into effect progressively, according as indicated in Tables No 2 and No 3:

**TABLE NO.2**

**Limits content in energy, sodium, total sugars and saturated fats in solid foods.**

Nutrient or Energy	Date of entry into force	24 months after the entry into force	36 months after the entry into force
Energy kcal/100 gm	350	300	275
Sodium mg/100 gm	800	500	400
Total Sugars gm/100 gm	22,5	15	10
Saturated Fat gm/100gm	6	5	4

**TABLE NO.3****Limits content in energy, sodium, total sugars and saturated fats in liquids.**

<b>Nutrient or Energy</b>	<b>Date of entry into force</b>	<b>24 months after the entry into force</b>	<b>36 months after the entry into force</b>
Energy kcal/100 gm	100	80	70
Sodium mg/100 gm	100	100	100
Total Sugars gm/100 gm	6	5	5
Saturated Fat gm/100gm	3	3	3

Article 3.- Small business as defined in Law 20.416 that determines special rules for smaller companies, have a period of 36 months from the date of entry into force of this decree, to meet the obligation to label the descriptor "high" in Article 120a.

Article 4.- Before 18 months from the publication of this decree, the Deputy Secretary of Public Health, shall issue a report assessing the implementation of these measures, the adaptation of technological processes and the impact on the perceptions and attitudes of consumers in the context of the Advisory Commission to review and update Health and Food Regulations at the Ministry of Health,

That report shall consider the views of other competent Secretaries of State and will recommend if appropriate, amendments to the Food Health Regulations. It will also be published on internet.

## **LAW NO. 20.869 - NUTRITIONAL COMPOSITION OF FOOD AND ADVERTISING**

Bearing in mind that the National Congress has approved the following bill initiated a motion of the Honourable Senators Guido Girardi Lavin, Carlos Ignacio Kuschel Silva and Mariano Ruiz-Esquide Jara, and former Senators Mrs. Evelyn Matthei Fornet and Carlos Ominami Pascual.

Bill:

**Article 1.** Manufacturers, producers, distributors and importers of food must proceed, with respect to the production, importation, processing, packaging, storage, distribution and sale of such food for human consumption, in the manner and conditions for each case, depending on the nature of the product required by the authority under existing regulations. It is the responsibility of the manufacturer, importer or producer that the information available on the label of the products is complete and accurate. They should ensure that, in the context of the production chain in which they are involved, the process of preparing the food complies with good manufacturing practices that ensure food safety.

**Article 2.** Manufacturers, producers, food distributors and importers must inform their packaging or labels containing ingredients, including all additives expressed in descending order of proportion, and nutritional information, expressed in percentage composition, unit weight or under the nomenclature indicating the current regulations.

The Ministry of Health, through the Food Health Regulations, which also determine the shape, size, color, proportion, features and content labels and nutritional food labels, especially to ensure that the information in they contain is visible and easily understood by the population.

Labeling in the preceding paragraph refers to should include, at least, the contents of energy, sugars, sodium, saturated fat and others that the Ministry of Health determined.

**Article 3.** May not be added to foods and meals prepared ingredients or additives that could lead to misunderstandings, damage to health, deceit or falsehood, or that somehow are likely to create an erroneous impression regarding the true nature , composition or quality of the food, as defined in the Food Health Regulations.

They cannot be added to food, ingredients or additives in concentrations that cause health damage, as determined by the Ministry of Health regulation.

**Article 4.** The local national average preschool education, basic and should include, at all levels and forms of education, educational and physical activities that help develop healthy eating habits and warn about the harmful effects of a diet excessive fat, saturated fat, sugar, sodium and other nutrients whose consumption in specified amounts or volumes can pose a health risk.

The school in the country should incorporate physical activity and sports practice, to encourage their students the habit of an active and healthy life.

**Article 5.** The Ministry of Health will determine the food, per unit weight or volume, or portion of consumption arising during its nutritional composition high contents of calories, fat, sugar, salt and other ingredients that the regulations determine. These foods must be labeled as "high calorie", "high-salt" or equivalent denomination, as appropriate.

The information listed above, including their contents, form, size, messages, signs or drawings, proportions and other characteristics, by the Ministry of Health estimated in the Food Health Regulations. They may also set limits for energy content and nutrients in foods referred to in the preceding paragraph.

The Health Authority, in exercising its powers, can corroborate with own analyzes the information in food labeling, without prejudice to the exercise of its supervisory powers.

**Article 6.** The foods in the preceding article may not sell, market, promote and advertise at any school. Also, the offer or delivery free of charge to children under 14 years of age and the same advertising aimed at them is prohibited. In any case, you can not be induced consumption by minors or the use of media to take advantage of the credulity of minors. The sale of food especially for minors may not be made through commercial hooks unrelated to the promotion of the product itself, such as gifts, contests, games or other element of child attraction.

All food advertising carried out by the mass media should carry a message whose characteristics determine the Ministry of Health to promote healthy lifestyles.

The labeling of breast milk substitutes should not discourage breastfeeding. It shall also include information concerning the superiority of breastfeeding and indicate that the use of substitutes referred should have the advice of a health professional.

The Ministry of Health shall provide, in conjunction with education, a compulsory system of nutritional monitoring of students in preschool, primary and secondary education, which will guide them in following healthy lifestyles. In all those provisions of this law where the term "minor" is used, it must be understood to refer to children under fourteen.

**Article 7.** The advertising of products described in Article 5, shall not be directed to children under 14 years old. For the purposes of this Act shall mean any form of promotional advertising, communication, recommendation, propaganda, information or action to promote the consumption of a particular product.

**Article 8.** The promotion of foods mentioned in Article 5 can not be performed using commercial hooks unrelated to the promotion of the product itself, when it is directed at children under 14 years old. In no case may use commercial hooks such as toys, accessories, adhesives, or other similar incentives.

**Article 9.** The packaging or label of any food product that has been marketed in Chile and contains among its ingredients, or has used in its preparation soy, milk, peanuts, eggs, shellfish, fish, gluten or nuts shall be binding I indicate. The respective regulations establish the requirements that must contain the aforementioned labeling.

**Article 10.** Violations of the provisions of this law shall be punished according to the Tenth Book of the Health Code.

**Article 11.** The Ministry of Health must comply and implement the matters referred to in this law, through the Secretariat of Public Health, within one year from the date of its publication in the Official Journal. ".



## **LAW NO. 20.869 - ADVERTISING ON FOOD**

Bearing in mind that the National Congress has approved the following

Bill:

**Article 1.** It is prohibited advertising that induce food consumption indicated in the first paragraph of Article 5 of Law No. 20.606 about nutritional composition of the food and advertising, which by their graphical presentation, symbols and characters it used, is directed to children under 14 years old, preferably capturing their attention.

No food advertising can assert that those products meet the nutritional needs of a human being. In addition, it must not be used violence or aggression and can not associate minors with alcoholic beverages or tobacco.

It is prohibited the free distribution of food mentioned in the first paragraph, for purposes of promotion or advertising to kids under 14 years old.

**Article 2.** Any actions advertising to promote the consumption of foods mentioned in the first paragraph of Article 5 of Law No. 20,606 on nutritional composition of the food and advertising, in all television and movies, may only be broadcast in the media between 22:00 and 6:00 hours, provided they are not directed to children under 14 years old.

Exceptionally, it can be advertisement on events about sports, cultural, artistic or social welfare shows, after hours in the preceding paragraph, if the following conditions are met:

- a) That the event or show is not organized or exclusively financed by the company interested in advertising or its affiliates or related.
- b) The advertising is not reaching or directed, directly or indirectly, under 14 years old.
- c) That advertising does not show consumption situations that induce this or the promoted product.
- d) That advertising be bounded to the display of the brand or product name.

**Article 3.** Hereby added in Article 6 of Law No. 20.606 on nutritional composition of the food and advertising, the following final paragraph:

"In all those provisions of the Act where the expression is used" minors "it should be understood to refer to children under 14 years old."

**Article 4.** The regulations issued on advertising and marketing of foods shall be issued by the President of the Republic through the Ministry of Health.

**Article 5.** Any advertising of breast milk substitutes is prohibited. It is understood by breastmilk substitutes "starter formulas" and "follow-on formulas" up to twelve months of age, as established in the Sanitary Regulations for Food, contained in Presidential Decree No. 977, the Ministry of Health, enacted in 1996 and published in 1997.

The professional that requires to indicate these formulas must ensure that the user has the information necessary to properly select the appropriate formula, pointing at prescription generic behalf, the starter or follow-on formula and the age of the child who will receive it.

Violations of the provisions of this Article shall be punished according to the Tenth Book of the Health Code. "