

**Texas Special Supplemental Nutrition Program for  
Women, Infants and Children (WIC)  
United States Congressional Hearing  
“Organized Retail Theft: Conduit of Money Laundering”  
November 10, 2003**

**Background**

- The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) provides nutrition services and supplemental foods to pregnant and postpartum women and to children under age five. The program is 100% funded by a combination of federal funds and rebates from infant formula and cereal manufacturers. Rebates are dedicated general revenue for the WIC Program as required by federal regulations.
- Over 50% of the infants born in Texas receive WIC benefits which include infant formula. An average of 117,183 babies each month are provided powdered infant formula through issuance of a voucher which families redeem at authorized grocers. Powdered infant formula represents an average of 60.7% of all formula issued to Texas WIC participants each month.
- Grocers are authorized by the Texas Department of Health (TDH) Bureau of Nutrition Services under rules in 25 Texas Administrative Code and as required by federal regulations governing the program.
- In 2002, the Texas Department of Public Safety (DPS) and other local law enforcement officials alerted the TDH program to the widespread problem of theft of infant formula both in Texas and nationwide.
  - DPS evidence shows formula theft is organized crime, could have ties to money laundering and financing of Middle Eastern terrorism, and the black market sale of formula to grocers for resale could constitute a potential health hazard.
  - The Texas retailer community confirms that infant formula is the number one product stolen from their stores. Large grocery chains report losses as high as \$200,000 a week.
  - Both law enforcement and grocers confirm that the WIC authorized formula under contract for rebate is the formula stolen most often.
- Health hazards can include direct tampering with the formula before it is sold to unsuspecting retailers, falsification of labeling to change expiration dates, counterfeiting, or cutting formula, and storage of the formula at improper temperatures in trucks and warehouses.

**Texas Department of Health Solutions**

- The TDH Bureau of Food and Drug Safety (BFDS), Manufactured Foods Division, and the Texas WIC program have been working together on several initiatives:

- WIC developed new rules that require all grocers authorized by WIC in Texas to purchase formula only from licensed wholesaler distributors, licensed retailers or directly from the manufacturer. These rules were adopted by the Texas Board of Health and became effective October 1, 2003.
- The National WIC Association is using the rule language developed by Texas WIC as a model for other states to adopt for their own use.
- WIC has revised its vendor agreement document (contract) to require grocers to provide the name and Central File Number (CFN) of the licensed wholesale distributor from whom they are purchasing infant formula.
- WIC has revised its policies and procedures to include sanctions for WIC-authorized grocers who do not comply with the new rules under the terms of their vendor agreements.
- BFDS staff investigates individuals who are suspected of violating Chapter 431 of the Texas Health and Safety Code entitled the Texas Food, Drug and Cosmetic Act.<sup>1</sup>
- The BFDS, Manufactured Foods Division has the ability to use the following enforcement tools: 1) detention authority, 2) civil and criminal penalty authority, 3) the ability to order or move detained articles to a secure location, and 4) the ability to request condemnation of a product by court order. When infant formula is confiscated, WIC helps fund the temperature-controlled warehouses used to store the formula under appropriate conditions pending outcome of the case.
- For the 2004 federal fiscal year, WIC did not renew vendor agreements for specific grocers whose cases have been referred to the Texas Attorney General's Office by BFDS staff.
- Updates regarding activities related to infant formula theft are provided to WIC's federal funding agency, the United States Department of Agriculture (USDA), on an ongoing basis.

### **Retailer and Formula Manufacturer Solutions**

At a December 2002 meeting of the Texas WIC Advisory Committee, staff from TDH and USDA, retailers, formula manufacturers, committee members, and law enforcement representatives endorsed various measures to reduce incidents of infant formula theft. In addition to the rule mentioned previously and eventually adopted by the Board of Health, the group also developed these recommendations for retailer and formula manufacturer action:

- Retailers should consider locking up formula and/or placing it in a more visible part of the store (near the front of the store) to deter thieves.
- Formula manufacturers should meet and find solutions to packaging of formula that will allow for security tagging. Current packaging does not allow for "beeper" sensors.

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<sup>1</sup> See <http://www.capitol.state.tx.us/statutes/he/he0043100toc.html> for provisions of the Texas Food, Drug and Cosmetic Act.

## **Conclusions**

- There is compelling evidence that theft of infant formula poses a health hazard to the most vulnerable citizens of the state, contributes to funding organized crime activities, and funds terrorist organizations.
- Texas WIC has taken swift, appropriate and effective measures to assist investigators and law enforcement officials in their efforts to deter the theft of infant formula and to help ensure that there is no market for stolen infant formula. Current reports indicate that stolen infant formula is being shipped out of Texas for re-sale since Texas has become too “hot” for this business.
- Infant formula is not the only item being stolen. BFDS staff report that over the counter (OTC) medications, razors, and other consumer commodities are being stolen, warehoused and re-sold by some of the same individuals.

## **Next Steps**

TDH has taken appropriate steps to help deter the theft and re-sale of infant formula as outlined above, and will continue to assist as needed. From this point, investigators, law enforcement officials and legislators across the country need to work jointly to eliminate this problem.