REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 2732

Introduced by **MAGDALO Party-List Representative**
HON. GARY C. ALEJANO

EXPLANATORY NOTE

The Philippine Nuclear Research Institute (PNRI) is mandated to undertake research and development activities in the peaceful uses of nuclear energy, to institute regulations on the said uses and to carry out the enforcement of said regulations to protect the health and safety of radiation workers and the general public.

PNRI started as the Philippine Atomic Energy Commission (PAEC) in 1958 thru Republic Act No. 2067 or the Science Act of 1958. RA 2067 sought to promote scientific and technological research and development, foster invention, and utilize scientific knowledge as an effective instrument for the promotion of national progress. RA 2067 was amended in 1963 thru RA 3589 which specified the regulatory power of the PAEC under section 16-a which states that, "No person may manufacture, produce, transfer, acquire, own, possess, import or export any radioactive material except in pursuance of a license issued in accordance with this act."

In 1987, the Philippine Nuclear Research Institute replaced the PAEC and was reorganized under the Department of Science and Technology (DOST) by Executive Order 128. The PNRI is presently performing both regulatory and promotion functions.

Consequently, the Bureau of Health Devices and Technology (BHDT) was created in the Department of Health via Presidential Decree 480 as amended by PD 1372. Among the primary functions of the BHDT is to control and regulate x-rays and other electrically generated radiation devices, among others. In 2004, two (2) radiation safety infrastructure (RaSIa) audits were carried out by the International Atomic Energy Agency (IAEA), to which the Philippines is a member, of both PNRI and the Center for Device Regulation, Radiation Health, and Research (CDRRHR) then known as the Bureau of Health Devices and Technology, or BHDT, under the Food and Drug Administration (FDA). Recommendations from this audit led to the re-structuring of the BHDT into the FDA as the CDRRHR, effectively independent from their licensees, and with no promotion function in their mandate under Republic Act 9711.

Presently, there are two (2) regulatory agencies in the Philippines responsible for the regulation of ionizing radiation, the Philippine Nuclear Research Institute (PNRI), and the Center for Device Regulation, Radiation Health and Research of the Food and Drug Administration (FDA-CDRRHR), by

virtue of Republic Act 9711. This set-up creates undue burden wherein many facilities, most notably in healthcare, have to obtain two licenses for the use of ionizing radiation.

The IAEA 2010 Safety Standards, General Safety Requirements Part 1: Governmental, Legal and Regulatory Framework for Safety, Part 2, Para. 2.6, Page 6 states, "Where several authorities are involved, the government shall specify clearly the responsibilities and functions of each authority within the governmental, legal and regulatory framework for safety." Further, Part 2, Requirement 4, pg. 6 of the same safety standards states, "The government shall ensure that the regulatory body is effectively independent in its safety related decision making and that it has functional separation from entities having responsibilities or interests that could unduly influence its decision making."

It is therefore imperative for the State to subscribe to the safety standards imposed by the IAEA being a State member, to ensure the protection of the people and the environment, both now and in the future. This bill therefore seeks to unify the nuclear regulatory body in the Philippines by transferring the function of the PNRI under the DOST in regulating ionizing radiation to the FDA-CDRRHR. The transfer of the regulatory function of the PNRI to the FDA-CDRRHR complies with the requirements of the IAEA of an independent regulatory body separate from the promoting functions.

In view of the foregoing, the immediate approval of this bill is earnestly urged.

HON. GARY C. ALEJANO

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AN ACT
RESTRUCTURING THE PHILIPPINE NUCLEAR RESEARCH INSTITUTE, STRENGTHENING THE REGULATION AND CONTROL OF NUCLEAR AND OTHER RADIOACTIVE MATERIALS, FACILITIES, AND RADIATION GENERATING EQUIPMENT, UNDER THE FOOD AND DRUG ADMINISTRATION (FDA) APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

ARTICLE I – GENERAL PROVISIONS

SECTION 1. Short Title - This Act shall be known as the "Comprehensive Nuclear and Radiation Safety Regulation Act of 2016."

SEC. 2. Declaration of Policy- It is hereby declared to be the policy of the State to:

(a) harness science and technology including use of nuclear energy and ionizing radiation to improve the health and welfare of the inhabitants of the Philippines, contribute to the general welfare, and accelerate scientific, technological, agricultural, commercial and industrial progress;

(b) regulate the development and use for all peaceful purposes of nuclear and other radioactive materials, facilities and radiation generating equipment, hereinafter referred to as ionizing radiation sources, to protect public health, safety and the environment from the harmful effects of ionizing radiation consistent with the regional and international obligations of the Republic of the Philippines; and

(c) establish arrangements for the exchange of safety, security and safeguards-related information, bilaterally or regionally, with neighboring states and other interested stales, and with relevant intergovernmental organizations, both to fulfill safety obligations and to promote cooperation.

SEC. 3. Objectives – The objectives of this Act are:

(a) to provide a legal framework that adequately protects public health, safety and the environment from the harmful effects of ionizing radiation and to ensure the security of ionizing radiation sources.

(b) to establish and maintain an effectively independent regulatory system to govern all activities and practices falling within the scope of this Act;

(c) to enable the Philippines to meet its international treaty obligations falling within the scope of this Act.

SEC. 4. Scope.

(a) This Act shall apply to all activities and practices involving ionizing radiation sources including nuclear and other radioactive materials, facilities and radiation generating equipment.

(b) This Act shall not apply to those activities and practices which have been exempted from regulatory control from the Food and Drug Administration (FDA) under this Act.

ARTICLE II - DEFINITION OF TERMS

SEC. 5. Definitions. For purposes of this Act, the following terms are herein defined:

(a) ***Accident*** - Any unintended event, including operating errors, equipment failures and other mishaps, the consequences or potential consequences of which arenot negligible from the point of view of protection or safety.

(b) ***Activities*** - the transfer, construction, installation, decommissioning, receipt, ownership, operation, use, mining, processing, disposal, import or export involving any radioactive sources and/or facilities

(c) ***Applicant*** - a natural or juridical person who applies to the regulatory agency for authorization to undertake activities as defined above.

(d) ***Authorization*** - the permission embodied in a document granted by a regulatory agency to anapplicant who has submitted an application to transfer, transport, construct/FDA, install, decommission, receive, own, operate, use, mine, possess, process, dispose of, store,import or export any radioactive sources and/or facilities. This document may take on the form of a permit, license, certificate of registration, and certificate of compliance, exemption or any similar document.

(e) ***Commissioning*** - the process by means of which systems and components of facilities and activities, having been constructed, are made operational and verified to be in accordance with the design and to have met the required performance criteria.

(f) ***Decommissioning*** - refers to the administrative and technical actions intended to cease operation of a source and/or facility and associated structures at the end of its operating life, to include disposal and waste management for all radioactive sources therein.

(g) ***Nuclear accident*** means any accident involving facilities or activities from which a release of radioactive material occurs or is likely to occur and which has resulted or may result in an international transboundary release that could be of radiological safety significance for another State;

(h) ***Nuclear damage*** means loss of life, any personal injury or any loss, or damage to, or loss of use of property, which arises out of or results from the radioactive, toxic, explosive or other hazardous properties, or any combination thereof, of nuclear fuel or radioactive products or any waste in, or of nuclear materials coming from, originating in, or sent to, a nuclear installation or from the ionizing radiation emitted by any other sources of radiation inside a nuclear installation. Personal injury includes any physical or mental injury (including death), sickness or disease whether caused directly by a physical trauma or otherwise;

(i) ***Nuclear incident*** means any occurrence or series of occurrences having the same origin which causes nuclear damage or, but only with respect to preventive measures, creates a grave and imminent threat of causing such damage;

(j) ***Nuclear installation*** means any of the following:

1) a nuclear reactor for research or production of nuclear materials for industrial or medical use (including critical and sub-critical assemblies);

2) a plant for preparing or storing fuel for use in a nuclear reactor as described in paragraph (1);

3) a nuclear waste storage or disposal facility with an activity that is greater than the activity level prescribed by regulations made for the purposes of this section;

4) a facility for production of radioisotopes with an activity that is greater than the activity level prescribed by regulations made for the purposes of this section; and,

5) any other facility that is prescribed for the development, production or use of nuclear energy or the production, possession or use of a nuclear substance, prescribed equipment or prescribed information;

(k) ***Nuclear material*** means:

1) nuclear fuel, other than natural uranium and depleted uranium, capable of producing energy by a self-sustaining chain process of nuclear fission outside a nuclear reactor, either alone or in combination with some other materials; and

2) Plutonium except that with isotopic concentration exceeding 80% in plutonium-238; uranium-233; *uranium enriched in the isotope 235 or 233*; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore residue; any material containing one or more of the foregoing;

(l) ***Nuclear or radiological emergency*** is a non-routine situation that necessitates prompt action primarily to mitigate a hazard due to (a) The energy resulting from a nuclear chain reaction or from the decay of the products of a chain reaction; or (b) *Radiation exposure* or adverse consequences for human health and safety, quality of life, property or the environment;

(m) ***Nuclear safety*** means the achievement of proper operating conditions, , prevention of accidents or mitigation of accident consequences resulting in protection of workers, the public, and the environment from undue radiation hazards;

(n) ***Radioactive material*** means material designated to be subject to regulatory control because of its radioactivity;

(o) ***Regulatory Agency*** - An entity or organization or a system of entities or organizations designated by the Government of the Philippines as having legal authority for exercising regulatory control with respect to radioactive sources, including issuing authorizations, and thereby regulating one or more aspects of the safety or security of radioactive sources controlled by this Act;

(p) ***Source*** - Anything that may cause exposure to ionizing radiation, either by releasing ionizing radiation, or by releasing radioactive substances and material, and can be treated as a single entity, for protection or safety purposes.

ARTICLE II – THE FOOD AND DRUG ADMINISTRATION (FDA) AS IONIZING RADIATION REGULATOR

SEC. 6. FDA Regulatory Function in Ionizing Radiation. - The Food and Drug Administration, hereinafter referred to as the FDA, shall regulate facilities and sources using ionizing radiation. All radioactive sources to be used in the generation of nuclear power, shall also fall under the regulatory control of the FDA.

SEC. 7. General Authority of the FDA. In addition to powers already granted under other laws, the FDA shall exercise the following powers over regulated ionizing radiation facilities and sources, to include:

(a) Define policies, safety and security principles, and associated criteria as basis for its regulatory actions;

(b) Establish, issue, amend, revoke or adopt regulations, standards and guides;

(c) Establish a system of authorizations including, but not limited to, notifications, registrations, and licenses-to-operate;

(d) Prescribe exemptions and exclusions from regulatory control;

(e) Charge and collect fees in the performance of its regulatory functions;

(f) Review and assess submissions on safety and security from the operators both prior to authorization and periodically during and after operation as required;

(g) Issue, amend, modify, suspend or revoke authorizations as stipulated in regulations in force;

(h) Ensure applications of safeguards and security requirements consistent with international obligations and best practices;

(i) Charge and collect reasonable fees in the performance of its regulatory functions in ionizing radiation, in addition to those already authorized under law;

SEC. 8. Inspection of nuclear facilities by the Department of National Defense. Nothing in this Act shall preclude authorized agents of the Department of National Defense to make inspections of nuclear facilities and materials with the authorized representatives of the FDA, after prior consultation, when the security of the State is involved.

ARTICLE III - SCOPE OF THE NUCLEAR REGULATION OF THE FDA

SEC. 9. Activities Subject to Authorization. It shall be unlawful for any person to transfer, transport, construct/commission, install, decommission, receive, own, operate, mine, possess, process, dispose of, store, import, export or use any nuclear sources and radiation facilities except under an authorization issued by the FDA under this Act. Such authorizations shall take the form and content prescribed by the FDA.

SEC. 10. Citizenship Requirement. No authorization to acquire, own or operate any ionizing radiation facilities shall be issued to an alien, or any corporation or other entity which is owned or controlled by an alien, a foreign corporation, or a foreign government.

For purposes of this Act, a corporation is not owned or controlled by an alien, a foreign corporation, or a foreign government if a minimum of sixty percent (60%) of its capital stock is owned by Filipino citizens.

SEC. 11. Other Requirements Under Law. Nothing in this Act shall be construed to exempt an operator of an ionizing radiation facility from complying with other requirements under existing laws.

SEC. 12. Prior and Preferential Rights of the Government over Special Fissionable Material. - The Government of the Philippines, acting through the FDA, shall have the right to acquire any special fissionable material owned by a person, natural or juridical, in the Philippines. Such right may be exercised by the FDA, subject to FDA regulations, as part of the FDA mandates under this Act, when the national interest or national security so requires. The acquisition of special fissionable material pursuant to this section shall be made at a fair and reasonable price.

ARTICLE IV - EMERGENCY PREPAREDNESS AND RESPONSE

SEC. 13. Radiological Emergency Coordination. - The national radiological/nuclear emergency preparedness and response system shall be coordinated by the National Disaster and Risk Reduction Management Council (NDRRMC).

SEC. 14. Role of the FDA in the Event of a Radiological Emergency. The FDA shall be the main coordinating agency under the NDRRMC for radiological/nuclear emergencies as defined in this Act, and shall provide its expertise in cooperation with other agencies of government to manage a

radiological/nuclear emergency. The NDRRMC shall retain all powers, duties and responsibilities vested in it by law. The specific duties and responsibilities of each line agency, as well as the emergency response protocols shall be specified in the Radiological Emergency Preparedness Plan (RADPLAN) to be issued with the Implementing Rules and Regulations of this Act. This RADPLAN shall be reviewed and revised periodically to reflect changes in technology and international best practices.

ARTICLE V - TRANSPORT OF RADIOACTIVE SOURCES

SEC. 15. Regulation for Transport of Nuclear and Other Radioactive Material. – The FDA shall establish and implement safety and security requirements for the transport of nuclear and other radioactive material to, from and within the jurisdiction of the Philippines in coordination with relevant national government agencies and consistent with the international standards for the safe and secure transport of radioactive material.

SEC. 16. Requirements for Authorization to Transport Nuclear and Other Radioactive Material.

(a) No person shall engage in the transport of nuclear and other radioactive material without an authorization issued by the FDA;

(b) Transport of nuclear and other radioactive material shall be in accordance with the transport regulations established by the FDA; and

(c) The person authorized to engage in the transport of nuclear and other radioactive material shall have the primary responsibility for ensuring its safety and security during transport.

SEC. 17. Export/Import Control. - The FDA, together will other concerned government agencies, shall:

(a) establish regulatory requirements and relevant guides for the exportation and importation of nuclear and other radioactive materials, and devices that produce ionizing radiation which require licensees, *inter alia*:

(a.1) to secure an authorization from the FDA prior to export or import with the assurance of applying radiation protection measures to protect public health, safety and security;

(a.2) to ensure before import that the exporter has an authorization from the Competent Authority of the exporting country to export such materials to the Philippines in accordance with laws and regulations of that country; and

(a.3) to ensure before export that the importing country has the appropriate technical and administrative capability, resources and regulatory infrastructure needed for the safe and secure management of the requested radioactive material, particularly disused sources;

(b) coordinate with relevant agencies of government and establish appropriate formal mechanisms for coordination to effectively implement these import/export control measures for nuclear and other radioactive materials including devices that produce ionizing radiation; and

(c) transport radioactive sources through the territory of a transit or transshipment State in a manner consistent with existing relevant international standards relating to the transport of radioactive materials.

ARTICLE VI - NUCLEAR WASTE MANAGEMENT

SEC. 18. General Principles of Nuclear Waste Management.

(a) Under the terms of this Act, the State guarantees safe management of spent nuclear fuel and all radioactive waste in a manner that protects human health and the environment, both now and in the future;

(b) The FDA shall identify or establish as necessary the organizations which will have responsibility for the management and disposal of radioactive waste and spent nuclear fuel;

(c) No person shall operate a spent nuclear fuel or radioactive waste management facility without an authorization issued by the FDA;

(d) The generators of spent nuclear fuel and other radioactive waste, as well as the operators of spent nuclear fuel and radioactive waste management facilities, shall have the primary responsibility for the safe management of the spent nuclear fuel and radioactive waste and related facilities. The generation of radioactive waste shall be kept to the minimum practicable;

(e) Any person who manages spent nuclear fuel and radioactive waste shall take into consideration all its physical, chemical and biological properties that might have a bearing on its safe management and ensure the security of the facility;

(f) Any person owning and/or generating nuclear and other radioactive waste shall bear all costs associated with its management, from the time of its generation to its disposal, including monitoring of the radioactive waste disposal facilities after their closure, and including the necessary research and development activities. A contractual transfer of rights to manage radioactive waste or of its ownership must be stipulated in writing; and,

(g) The FDA shall make decisions ensuring management of nuclear or radioactive waste if its owner or generator proceeds in contravention to this Act and fails to remedy conditions that have arisen. Decisions shall take into account the interests and concerns of all stakeholders.

SEC. 19. Regulation of Spent Nuclear Fuel and Radioactive Waste. - The FDA shall establish:

(a) applicable safety and security requirements and regulations for the protection of people and the environment from adverse impacts of spent nuclear fuel and radioactive waste management activities in accordance with national regulations and international safety standards and consistent with the provisions in the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management; and

(b) regulations for ensuring that operators of nuclear facilities make adequate financial arrangements for management of spent nuclear fuel and radioactive waste.

(c) recognize and authorize operators of radioactive waste management facilities for this purpose based on (a).

ARTICLE VII – SAFEGUARDS, PHYSICAL PROTECTION, AND SECURITY

SEC. 20. Safeguards. – The FDA shall:

(a) maintain a national system of accounting and control over nuclear materials and establish requirements forthwith;

(b) fulfill the national obligation to various non-proliferation and safeguards agreements, treaties and conventions that the Philippines is party to;

(c) ensure unimpeded access by designated IAEA inspectors and duly authorized representatives of mandated national government agencies to any location or facility provided for under various safeguards agreements and any protocols thereto, with a view to conducting the verification activities authorized by these instruments; and

(d) ensure full cooperation and support to the IAEA by all national government agencies and authorized persons (licensees) in the application of safeguards measures.

SEC. 21. Physical Protection. – The FDA shall:

(a) establish, implement and maintain a physical protection regime within the State to ensure the protection of nuclear material in use and storage and during transport and nuclear facilities against unauthorized removal of nuclear material and against sabotage;

(b) ensure that the prime responsibility for the implementation of physical protection of nuclear material or of nuclear facilities rests with the licensees.

SEC. 22. Security of Certain Categories of Ionizing Radiation Sources – The FDA shall establish and maintain appropriate regulations and regulatory guides for the security of certain categories of ionizing radiation sources and during transport of nuclear and radioactive materials in coordination with the relevant intelligence and security governmental agencies.

ARTICLE VIII - CIVIL LIABILITY FOR NUCLEAR AND RADIATION DAMAGE

SEC. 23. Operator Liability.

(a) The installation/ facility operator shall be liable for nuclear damage upon proof that such damage has been caused by a nuclear accident:

(a.1) in his nuclear installation; or

(a.2) involving nuclear material coming from or originating in his nuclear installation, and occurring:

i. before liability with regard to nuclear incidents involving the nuclear material has been assumed, pursuant to the express terms of a contract in writing, by another installation operator; or

ii. in the absence of such express terms, before another installation operator has taken charge of the nuclear material; or

(a.3) involving nuclear material sent to his nuclear installation, and occurring:

i. after liability with regard to nuclear incidents involving the nuclear material has been assumed by him, pursuant to the express terms of a contract in writing, from another installation operator; or

ii. in the absence of such express terms, after he has taken charge of the nuclear material: Provided, that if nuclear damage is caused by a nuclear incident occurring in a nuclear installation and involving nuclear material stored therein incidentally to the carriage of such material, the provisions of paragraph (a) of this Section shall not apply where another installation operator or person is solely liable pursuant to the provisions of paragraph (b) or (c) of this Section.

(b) Any provision in this Section to the contrary notwithstanding, the installation operator shall be liable for nuclear damage upon proof that such damage has been caused by a nuclear accident involving nuclear material in the course of carriage:

(b.1) to his nuclear installation from a nuclear installation located outside the Republic of the Philippines; or

(b.2) from his nuclear installation to a nuclear installation located outside the Republic of the Philippines.

SEC. 24. Absolute and Exclusive Liability.

(a) The liability of the installation operator for nuclear damage shall be absolute.

(b) The installation operator shall not be liable for nuclear damage caused by a nuclear incident directly due to a grave natural disaster of an exceptional character.

(c) Except as otherwise provided in Article Eleven of this Act, no person other than the installation operator shall be liable for nuclear damage.

SEC. 25. Recourse Actions. – The installation operator shall have a right of recourse only:

(a) if there is such a right pursuant to the express provision of a written contract with the other installation operator; or

(b) if the nuclear incident results from an act or omission done with intent to cause damage, against the individual who has acted or omitted to act with such intent.

SEC. 26. Gross Negligence or Intentional Act of Claimant. – If the nuclear damage resulted wholly or partly either from the gross negligence of the person suffering the damage or from an act or omission of such person done with intent to cause damage, the Court may relieve the installation operator from his obligation to pay compensation in respect of the damage suffered by such person.

SEC. 27. Exceptions to Liability. – No installation operator shall be liable for any nuclear damage caused by a nuclear accident directly due to an act of armed conflict, hostilities, civil war or insurrection.

SEC. 28. Limit of Liability - The liability of the installation operator for nuclear damage under this Act shall be limited to an amount in Philippine pesos which is equivalent to Three Hundred Million Dollars ($300,000,000.00), United States currency, for any one nuclear incident, exclusive of an interest or costs which may be awarded by the Court in actions for compensation of such nuclear damage. The

amount may be subject to change, as determined by the FDA, in accordance with international conventions/treaties ratified by the Philippines.

SEC. 29. Property for Which Installation Operator Not Liable. - The installation operator shall not be liable under this Act for nuclear damage:

(a) to the nuclear installation itself or to any property on the site of that installation which is used or to be used in connection with that installation; or

(b) to the means of transport upon which the nuclear material involved was located at the time of the nuclear incident.

SEC. 30. Liabilities not Affected by this Act. – Nothing in this Act shall affect: (a) the liability of any individual for nuclear damage for which the installation operator, by virtue of Sections thirty (30) or thirty-two (32) of this Act, is not liable under this Act and which that individual caused by an act or omission done with intent to cause damage; or

(b) the liability outside this Act of the installation operator for nuclear damage for which, by virtue of sub-paragraph (b) of Section fifty four of this Act, he is not liable under the provisions of this Act.

SEC. 31. Exclusions. – The FDA may, if it determines that the small extent of the risk involved so warrants, exclude by regulation any small quantities of nuclear material from the application of the provisions in this Article. Provided, that (a) maximum limits for the exclusion of such quantities have been established by international agreement; and (b) any exclusion must be within the limits so established.

SEC. 32. Requirement of Financial Security. – No authorization to operate a nuclear installation shall be issued unless the installation operator secures and maintains insurance or other financial security covering his liability for nuclear damage under this Act. The FDA shall by regulation, prescribe, the type and terms of financial security herein required, which may include private insurance, private contractual indemnity, self-insurance or other proof of financial ability to pay damages under this Act or a combination of any thereof: Provided, that, in fixing the type and terms of such financial protection, the FDA shall be guided by the objectives of assuring to potential victims of a nuclear incident adequate and effective compensation without imposing unreasonable burden on the installation operator.

SEC. 33. Certificate to Carrier. – In accordance with such regulations that the FDA and other regulatory agencies may issue, the appropriate installation operator shall provide the carrier, which furnishes carriage of nuclear material, with a certificate issued by or on behalf of the insurer or other financial guarantor furnishing the financial security under Section thirty-two (32). The certificate shall be in such form and contain such information as may be prescribed by national regulations, including the name and address of the appropriate installation operator, the amount, type and duration of the security and a statement that such information may not be disputed by the person for whom or on whose behalf the certificate was issued. The certificate shall indicate the nuclear material in respect to which the security

applies and shall include also a verification by the FDA that the person designated is an appropriate installation operator within the meaning of the provisions of this Article.

SEC. 34. When Non-nuclear Damage Is Deemed Nuclear Damage. – Whenever both nuclear damage and damage other than nuclear damage have been caused by a nuclear incident or jointly by a nuclear incident and one or more other occurrences, such other damage shall, to the extent that it is not reasonably separable from the nuclear damage be deemed, for purposes of this Part, to be nuclear damage caused by that nuclear incident. Where, however, damage is caused jointly by nuclear incident covered by this Article and by an emission of ionizing radiation not covered by it, nothing in this Article shall limit or otherwise affect the liability, either as regards any persons suffering nuclear damage or by way of recourse or contribution, of any person who may be held liable in connection with that emission of ionizing radiation.

SEC. 35. Liability of Installation Operators.

(a) **Several Installation Operators Liable.** – Where nuclear damage engages the liability of more than one installation operator, the following rules shall apply:

(a.1) In so far as damages attributable to each installation operator are not reasonably separable, the installation operators involved shall be jointly and severally liable;

(a.2) In case the nuclear incident occurs in the course of carriage of nuclear material, either in one and the same means of transport, or, in the case of storage incidental to the carriage, in one and the same nuclear installation and causes nuclear damage which engages the liability of more than one installation operator, the total liability shall not exceed the highest amount applicable with respect to any one of them pursuant to Section thirty-one (31) of this Act; and

(a.3) In neither of the cases referred to in subparagraphs (a) and (b) of this Section shall the liability of any one installation operator exceed the amount established in Section thirty-one (31) hereof.

(b) **Operator of Several Installations.** – Subject to the provisions of Section thirty (30)(a), where several nuclear installations of one and the same installation operator are involved in one nuclear incident, such installation operator shall be liable in respect of each nuclear installation involved up to the amount applicable with respect to him pursuant to Section thirty-one (31).

(c) **Several Installations on Same Site.** – The FDA may determine that several nuclear installations of one installation operator which are located at the same site shall be considered as a single nuclear installation.

SEC. 36. Carrier or Handler of Nuclear Material as Installation Operator. – The FDA, subject to such terms and conditions as it may by regulation or order prescribe, designate a carrier of

nuclear material or a person handling radioactive waste, at his request and with the consent of the installation operator concerned, as installation operator in the place of that installation operator in respect of such nuclear material or radioactive waste respectively. Upon such designation, such carrier or such person shall be considered as an installation operator for the purpose of this Article.

SEC. 37. When Claims Exceed Maximum Limit. - In any case where it appears that the nuclear damage caused by a nuclear incident exceeds or will probably exceed the limit of liability established in Section thirty-one (31) hereof, the FDA shall furnish a report thereon to the Congress with its recommendations, including what damages cannot be adequately compensated under existing arrangements. The Court having jurisdiction, with the assistance of relevant national government agencies shall determine assignment of liability exceeding the maximum limit. The Court having jurisdiction shall issue such orders as may be necessary to assure the equitable distribution of compensation, including orders apportioning the payments to be made to claimants, orders permitting partial payments to be made before final determination of the total claims, and orders setting aside part of the funds available for possible latent injuries not discovered until a later time.

SEC. 38. Court Having Jurisdiction. – The Regional Trial Court (RTC) having jurisdiction over the place where the nuclear incident occurs shall determine claims for compensation for such nuclear damage under this Act. If for whatever reason the RTC having jurisdiction is unable to hear the case, the Supreme Court shall decide which other RTC will be the alternate.

SEC. 39. Compulsory Examination. – After the occurrence of a nuclear incident for which it appears compensation may be payable under this Act, the FDA may adopt such measures as may be appropriate to determine the persons who were or might have been exposed to ionizing radiation resulting from such nuclear incident, which measures may include a summons to such persons to submit themselves to examination before such authority or body as shall be designated by the FDA within three months from the date of summons. In determining the amount of damages or the right to recover damages, the Court may, in its discretion, take into account the inexcusable failure of the claimant to fulfill or comply with the foregoing obligation.

SEC. 40. Investigation of Nuclear Incidents. – The FDA shall make an investigation of the cause and extent of any nuclear incident for which it appears compensation may be payable under this Act and its finding shall be made available to the public, to the parties involved and to the Courts.

SEC. 41. Cancellation or Suspension of Financial Protection. – It shall be unlawful for any insurer or other financial guarantor to suspend or cancel the insurance or other financial security provided pursuant to the provisions of this Act without giving such prior notice in writing as may be required by the regulations of the FDA.

SEC. 42. Against Whom Action for Compensation Brought. – Persons entitled to compensation for nuclear damage under this Act may, at their option, bring the action for recovery of

such compensation against the installation operator liable or against the insurer or other persons furnishing financial security as required by this Act.

SEC. 43. Prescription of Rights and Actions. – Rights of compensation under this Act shall prescribe after ten (10) years from the date of the nuclear incident. Furthermore, actions for compensation under this Act shall be barred unless brought within three years from the date on which the person suffering nuclear damage had knowledge or should have had knowledge of the damage and of the installation operator liable for the damage: Provided, however, that any person who claims to have suffered nuclear damage and who has brought an action for compensation within the period applicable pursuant to this Section may amend his claim to take into account any aggravation of the damage, even after the expiry of that period: Provided, further, that final judgment has not been entered in the case.

SEC. 44. Prescription with Respect to Nuclear Materials Lost, Stolen, etc. – Where nuclear damage is caused by a nuclear incident involving nuclear material which at the time of the nuclear incident was stolen, lost, jettisoned or abandoned, the period established pursuant to Section forty-three (43) of this Act shall be computed from the date of that nuclear incident, but the period shall in no case exceed a period of twenty years from the date of the theft, loss, jettison or abandonment.

ARTICLE IX - PENAL PROVISIONS

SEC. 45. The FDA shall promulgate and implement, after due notice is given, a compliance monitoring and enforcement program for violations of this Act, developed in accordance with international guidance documents and consistent with other national laws.

SEC. 46. Violation of Specific Provisions of the Act. – Any person who willfully violates, attempts to violate, or conspires to violate, any provision of Sections eleven (11) of this Act shall upon conviction thereof, suffer the penalty of imprisonment of not more than five years or a fine of not more than one million pesos (PHP 1,000,000.00) or both.

SEC. 47. Violation of Other Provisions of this Act. – Any person who shall willfully violate, attempt to violate, or conspire to violate any provisions of this Act for which no penalty is specifically provided or of any regulation, order or authorization issued under this Act shall, upon conviction thereof, suffer the penalty of imprisonment of not more than two years or a fine of not more than five hundred thousand pesos (PHP 500,000.00) or both.

ARTICLE IX TRANSITORY PROVISIONS

SEC. 48. The Philippine Nuclear Research Institute. –

a) The regulatory function of the Philippine Nuclear Research Institute hereinafter referred to as the Institute, is hereby transferred to the FDA;

b) The development, promotion, and use of nuclear energy for peaceful applications shall remain the responsibility of the institute, whereupon the Director of the Institute shall draw up its new

organizational structure to be submitted to the president through the Department Of Science And Technology Secretary for approval;

c) The Institute shall be the scientific nuclear organization in the country and continue to function as one of the research and development institutes of the Department Of Science And Technology, and continue its mandate to foster nuclear research and development including nuclear safety research pursuant to the objectives of Executive Order No. 128, series of 1987;

d) Under this act, the Institute shall be allowed to use 100% of its income to augment and hire additional human resources and upgrade its facilities;

e) The regulatory functions of the Institute which were inherited from the former Philippine Atomic Energy Commission by virtue of R.A. No. 2067, as amended and R.A. No. 5207, as amended, and E.O. 128 are deemed transferred to the commission;

f) Previous regulatory issuances – all regulations, rules, orders previously established by the Philippine Nuclear Research Institute shall remain in force until superseded by the commission.

SEC. 49. Human Resources. – All holders of plantilla positions of the Nuclear Regulatory Division (NRD) of the Philippine Nuclear Research Institute (PNRI), Department of Science and Technology (DOST), are given the option to transfer to the FDA. Thereafter, all powers, functions and duties, records, files, assets and other equipment pertaining to regulation of ionizing radiation of the NRD shall be transferred to the FDA, as appropriate.

There shall be no diminution of rank, salaries, allowances and benefits of all personnel transferred to the FDA. In case of a difference in the above benefits between the transferred employees and the existing employees of the two agencies, the higher amount shall be adopted.

ARTICLE X FINAL PROVISIONS

SEC. 50. Implementing Rules & Regulations. The FDA shall issue the Implementing Rules and Regulations after ninety (90) days from the effectivity of this Act.

SEC. 51. Separability Clause. – If any provision or part of a provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of the provisions of this Act or the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 52. Repealing Clause. – Relevant provisions of R.A. 2067 as amended, R. A. 5207 as amended, E. O. 128, R. A. 9711 and administrative rules or regulations contrary to, or inconsistent with the provisions of this Act are hereby repealed, modified or amended accordingly.

SEC. 53. Effectivity Clause. - This Act shall take effect within fifteen (15) days following its publication in two (2) newspapers of national circulation.

Approved,