

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH (17TH) CONGRESS
First Regular Session

House Bill No. 1039

HOUSE OF REPRESENTATIVES	
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Introduced by: Rep. BERNADETTE R. HERRERA-DY

**AN ACT
TO PROTECT, PROMOTE AND SUPPORT BREASTFEEDING PRACTICES
THROUGH PROPER INFANT AND YOUNG CHILD FEEDING BY REGULATING
THE TRADE, MARKETING, AND PROMOTIONS OF BREASTMILK SUBSTITUTES
AND FOOD PRODUCTS FOR INFANTS AND YOUNG CHILDREN**

EXPLANATORY NOTE

According to the World Health Organization, less than 40 percent of infants less than six (6) months of age are exclusively breastfed.¹ Considering that breastmilk is the best form of nutrition for infants, it is essential that more women exclusively breastfeed their infants so that children will grow up physically, emotionally and mentally healthy. Breastmilk provides infants with all the nutrients they need. It is likewise safe and contains antibodies that protect infants from common childhood illnesses.

Breastfeeding also promotes a stronger bond between the mother and the child. Further, women who exclusively breastfeed their infants also benefit from this practice because it prevents menstruation, which is a natural form of birth control, reduces the risk of breast and ovarian cancer, helps them to return to their pre-pregnancy weight faster, and lowers cases of obesity.

According to a 2003 survey conducted in the Philippines, for children below three (3) years of age, barely six (6) percent were exclusively breastfed and that exclusive breastfeeding occurred for an average of 24 days only. In fact, 3.4 million children or 49 percent were given liquid or food other than breastmilk within three (3) days after being born. The reasons cited why mothers did not breastfeed their infants are the following: they did not have enough milk

¹ WHO Website Report July 2009

(31%), they are working (17%), their nipples/breasts ache (17%), their child did not want to breastfeed (11%), their child is sick (11%), they are sick (9%), and other reasons (4%).²

This bill borrows from and builds upon H.B. 105 (16th Congress), authored by Rep. Lani Mercado-Revilla. The bill aims to establish a comprehensive program for breastfeeding practices in the Philippines. It is hoped that by fostering an appropriate environment of awareness and support for breastfeeding, the rate of exclusive breastfeeding in the country will improve thereby improving the health of both the women and children. This Act will encourage and enable women to continue to exclusively breastfeed their infants up to 24 months of age and even beyond, through the following measures: providing education to pregnant and lactating mothers on the advantages of breastfeeding, giving proper care that would contribute to successful breastfeeding, prohibiting the advertisement for infant formula and other products for infants 0-24 months, adopting rooming-in in health institutions, establishing human milk banks, encouraging employers of women to facilitate breastfeeding by setting up lactation facilities, educational programs on the benefit of breastfeeding, and scheduling breaks and work patterns to provide time for milk expression or breastfeeding,

By protecting, promoting and supporting breastfeeding in the Philippines, there will be more healthy, strong and intelligent Filipinos.

In view thereof, approval of this bill is highly recommended.



BERNADETTE HERRERA-DY

² 2003 National Demographic and Health Survey, National Statistics Office.

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

**CHAPTER I
GENERAL PROVISIONS**

SECTION 1. Short Title. - This Act shall be known as the "Breastfeeding Promotion and Breastmilk Substitute Regulation Act".

SEC. 2. Declaration of State Policies and Principles. - It is hereby declared the policy of the State to promote breastfeeding as the best possible source of safe and adequate food and nutrition for infants and young children and even beyond. As a basic act of nurture beneficial to the health of both mother and child, exclusive breastfeeding of infants from birth to six (6) months shall be encouraged. Every effort to use locally available foods to complement breastmilk shall be encouraged. This policy is in consonance with the duty of the State to protect the people's right to health under the Constitution and international law.

The State shall conform to the World Health Organization (WHO) and United Nations Children's Fund (UNICEF) hierarchy of priority values with respect to infant feeding: the first priority being breastfeeding by the child's own mother; the second priority being expressed breast milk from the child's own mother; the third priority being wet nursing or shared nursing by a person other than the child's mother; the fourth priority being expressed breast milk from a person other than the child's mother; the fifth priority being stored breast milk from a human milk bank; the last resort being non-human milk prepared in accordance with applicable Codex Alimentarius Standards.

SEC. 3. Objectives. - This Act shall have the following objectives:

- a) To promote, protect and support exclusive breastfeeding as the means of nourishment for the first six (6) month of life;

- b) To promote, protect and support breastfeeding as the optimal and unparalleled means of providing safe and adequate nutrition for infants and young children up to two (2) years of age and even beyond;
- c) To promote and support proper and timely complementary feeding, which includes the giving of low-cost yet nutritionally-adequate indigenous food;
- d) To preserve and protect the integrity of the Philippine healthcare system by regulating the marketing, promotions, sales practices and strategies of manufacturers, distributors and marketing personnel;
- e) To properly inform the general public about the proper use of breastmilk substitutes, breastmilk supplements and related products through adequate, consistent and objective information and regulation of the marketing and distribution of said products;
- f) To promote a mother-and baby-friendly environment in every health care institution, facility, health care organization and association, office, school and all public places that is conducive to the advancement of the breastfeeding culture;
- g) To ensure compliance with pertinent provisions of binding international commitments and covenants entered into by the Philippines, including specifically, the 2003 Global Strategy for Infant and Young Child Feeding, the International Code on the Marketing of Breastmilk Substitutes and Related Products, and subsequent Resolutions of the World Health Assembly which the Philippines supports;
- h) To widely promote and protect breastfeeding as a simple yet cost-effective means of alleviating poverty and decreasing dependence on imports;
- i) To encourage the general public to form breastfeeding groups or associations to develop suitable programs and further the growth and empowerment of the country's women and children under an international ethical standard;
- j) To encourage the revival of wet and shared / cooperative nursing among mothers and for infants without mothers, including, but not limited to those in orphanages and other child care centers;
- k) To encourage the revival of Filipino indigenous practices that sustained breastfeeding in the past, the reduction of dependence on expensive importation on non-human milk, the support for breastfeeding mothers in families and communities.
- l) To protect, promote and advance public health over private gain and, pursuant thereto, milk companies, manufacturers, distributors, marketing personnel and their representatives, shall not form part of any policymaking, implementing or regulatory body or entity in relation to the advancement of breastfeeding

SEC. 4. Aid to Construction. – All doubts in the implementation and interpretation of the provisions of this Act shall be resolved in favor of and for the promotion and protection of the right to health, breastfeeding and appropriate infant and young child feeding practices, and against the commercial and other vested interests of milk companies and manufacturers and

distributors of breastmilk substitutes and related products, their marketing personnel and other representatives, or the marketing of non-human milk, follow-up formula, and other products marketed or otherwise represented as suitable for feeding infants and young children.

SEC. 5. *Definition of Terms.* – For purposes of this Act, the following terms shall be defined as follows:

- a) *Advertising* shall refer to the business of conceptualizing, presenting, or making available to the public, through any form of mass media, fact, data or information about the attributes, features, quality or availability of consumer products, services or credit as defined in Republic Act No. 7394, otherwise known as the “Consumer’s Act of the Philippines.”
- b) *Age of Gestation* shall refer to the length of time the fetus is inside the mother's womb.
- c) *Bottlefeeding* shall refer to the method of feeding an infant using a bottle with artificial nipples, the contents of which can be any type of fluid.
- d) *Breastfeeding* shall refer to the method of feeding an infant directly from the human breast.
- e) *Breastmilk* shall refer to the human milk from a mother.
- f) *Breastmilk Substitute* shall refer to any food intended being marketed or otherwise represented as a partial or total replacement of breastmilk whether or not suitable for that purpose.
- g) *Container* shall refer to any form of packaging of products for sale as a normal retail unit, including wrappers.
- h) *CCHED* shall refer to the Commission on Higher Education created pursuant to Republic Act No. 7722.
- i) *Committee or IAC* shall refer to the Inter-Agency Committee created under Section 55 hereof.
- j) *Complementary Food* shall refer to any food or product whether manufactured or home prepared, suitable as a complement to breastmilk, to augment and satisfy the nutritional and energy requirements of the infant or young child. Such food is also commonly called “weaning food” or “breastmilk supplement”. The use of complementary food as an appropriate component of infant and young child nutrition is referred to as “Complementary Feeding”.
- k) *Department* shall refer to the Department of Health (DOH) created pursuant to Executive Order No. 94.
- l) *DepEd* shall refer to the Department of Education created pursuant to Executive Order No.94.

- m) *DSWD* shall refer to the Department of Social Welfare and Development pursuant to Executive Order No. 94
- n) *DTI* shall refer to the Department of Trade created pursuant to Executive Order No. 94.
- o) *Distributor* shall refer to a person, corporation or any other entity in the public or private sector engaged in the business, directly or indirectly, of marketing, distributing and/or delivering Covered Products, such as breastmilk substitute, breastmilk supplement, infant formula, and complementary food, at wholesale or retail level. A "primary distributor" is a manufacturer's sales agent, representative, national distributor or broker.
- p) *Expressed Breastmilk* shall refer to the human milk which was extracted from the breast by hand or by pump. It can be fed to an infant using a dropper, a nasogastric tube, a cup and spoon, or a bottle.
- q) *FAO* shall refer to the Food and Agriculture Organization.
- r) *FDA* shall refer to the Food and Drug Administration created pursuant to Republic Act No. 9711, formerly known as the Bureau of Food and Drugs (BFAD).
- s) *Follow-up formula or follow-up milk* shall refer to a milk or milk-like product formulated industrially in accordance with applicable Codex Alimentarius Standards presented as suitable for feeding infants and young children over six (6) months. It is also known by other descriptive terms, such as, but not limited to, "follow-on formula", "growing-up milk", "school-age milk", or "milk supplements".
- t) *Formula Feeding* shall refer to the feeding of an infant with an infant formula usually by bottle-feeding. It is also called "artificial feeding".
- u) *Health Care System* shall refer to the aggregation, within the Philippines, of all governmental, non-governmental or private institutions or organizations engaged, directly or indirectly, in health care for mothers of infants, infants and pregnant women; and nurseries or childcare institutions. It includes health workers in both public and private practice. For purposes of this Act, the health care system does not include pharmacies or other established sales outlets.
- v) *Health Institutions* shall refer to governmental, non-governmental or private institutions, organizations or other operational venues engaged, directly or indirectly, in providing health care services, including, but not limited to, clinics, hospitals, health infirmaries, health centers, lying-in centers, or puericulture centers with obstetrical and pediatric services.
- w) *Health Worker* shall refer to a person working in a component of the health care system, whether professional or non-professional, including volunteer workers. It also includes health workers in both public and private practice, and all medical, allied health professional, administrative and support personnel employed in health

institutions, regardless of their employment status. Traditional birth attendants and their assistants shall likewise be included.

- x) *Infant* shall refer to a person falling within the age bracket from birth to twelve (12) months.
 - y) *Infant Formula* shall refer to a breastmilk substitute formulated industrially in accordance with applicable Codex Alimentarius standards to satisfy the normal nutritional requirements of infants up to six (6) months of age and adopted to their physiological characteristics. Infant formula may also be prepared at home, in which case it is referred to as “home-prepared”.
 - z) *IYCF* shall refer to infant and young child feeding principles and practices, as described under the Global Strategy on Infant and Young Child Feeding, jointly developed, recommended and endorsed by the World Health Organization (WHO) and the United Nations Children’s Fund (UNICEF) to improve, through optimal feeding, the nutritional status, growth and development, health and survival of infants and young children.
- aa) *Label* shall refer to any tag, brand, mark, pictorial or other descriptive matter, including enclosed literature, written, printed, stenciled, marked, embossed or impressed on, or attached to, a container of any Covered Product.
 - bb) *Low Birth Weight Infant* shall refer to a newborn weighing less than two thousand five hundred (2,500) grams at birth.
 - cc) *Lactation Management* shall refer to the general care of a mother-infant nursing couple during the mother's prenatal, immediate postpartum and postnatal periods. It deals with educating and providing knowledge and information to pregnant and lactating mothers on the advantages of breastfeeding, the physiology of lactation, the establishment and maintenance of lactation, the proper care of breast and nipples, and such other matters that would contribute to successful breastfeeding.
 - dd) *Manufacturer* shall refer to any person who manufactures, assembles or processes consumer products, except that if the goods are manufactured, assembled or processed for another from another person who attaches his own brand name to the consumer products, the latter shall be deemed the manufacturer. In case of imported products, the manufacturer's representative or, in his absence, the importer shall be deemed the manufacturer. This shall include any person or entity principally engaged in providing marketing services, insofar as it shall act as an agent, or otherwise on behalf, or in the interest of such manufacturer.
 - ee) *Marketing* shall refer to all activities and efforts to present a product to the general public, including, but not limited to, product promotion, distribution, selling, advertising, product public relations and information services.
 - ff) *Marketing firm* shall refer to any entity that does marketing or provides marketing services.

gg) *Marketing personnel* shall refer to any person whose functions involve the marketing of a product or products covered within the scope of this Act.

gg) *Mother's milk* shall refer to the breastmilk from the newborn's own mother.

ii) *Non-human milk* shall refer to infant formula, follow-up formula, artificial milk, and any milk other than that sourced from humans, whether or not industrially formulated in accordance with applicable Codex Alimentarius standards. It also covers non-dairy milk, soy milk, coconut milk prepared for children, animal milk, evaporated, condensed, skimmed or low-fat, reconstituted milk and milk prepared at home in which case it is described as "Home-prepared".

jj) *Products* shall refer to breastmilk substitutes, breastmilk supplements, infant formula, follow-up formula, and complementary foods, when marketed or otherwise used or presented to be suitable, with or without modification, for use as a partial or total replacement of breastmilk; other related products such as feeding bottles, teats and other artificial feeding paraphernalia; all milk products, including those intended for pregnant women and/or nursing mothers; and such other products as the Department, by proper publication, shall declare to be a product covered by and for purposes of this Act.

kk) *Promotion* shall refer to the employment of any method, scheme, or design of, directly or indirectly, encouraging or enticing a person or group of persons, in whatever form, whether by chance or skill, to purchase, acquire or use a product. It shall include "*sales promotion*" or the use of techniques or schemes intended for broad consumer participation which contains promises of gain such as prizes in cash or in kind as reward for the purchase of a product in a contest, game, tournament and other similar competitions which involve determination of winners and which utilize mass media or other forms of communication.

ll) *Rooming-in* shall refer to the practice of placing the newborn in the same room as the mother right after delivery up to discharge to facilitate mother-infant bonding and to initiate breastfeeding. The infant may either share the mother's bed or be placed in a crib beside the mother.

mm) *Sample* shall refer to a single unit or small quantity of a product provided for free or without cost.

nn) *Seriously ill mothers* shall refer to those mothers who are with severe infections; in shock; in severe cardiac or respiratory distress; or dying or those with other conditions that may be determined by the attending physician as serious.

oo) *Sponsorship* refers to the provision of funds, equipment, materials, awards, or benefits in whatever form, as a form of support for games, sports, activities, charities, dances, cultural events, lectures, conventions, meetings, programs and the like, offered and given by corporations and other entities or their representatives for the purpose, whether or not such is disclosed or manifestly intended, or otherwise having the effect of promoting, directly or indirectly, specified products.

pp) *Supplies* shall refer to quantities of a product provided for use over a specific or extended period for free or at a low price, for social purposes, including those provided to families in need.

qq) *Weaning* shall refer to the process of introducing an adult diet to an infant and/or young child and discontinuing breastfeeding.

rr) *Wet-nursing* shall refer to the feeding of a newborn from another mother's breast when his/her own mother cannot breastfeed.

ss) *WHO* shall refer to the World Health Organization.

tt) *Young child* shall refer to a person from the age of twelve (12) months and one (1) day up to thirty six (36) months.

SEC. 6. Scope and Coverage. – This Act shall apply to the marketing and practices related thereto, as well as the quality, availability and information concerning the use of the products as defined in Section 5(jj), including, but not limited to: breastmilk substitutes, infant formula, follow-up formula; other milk products, foods and beverages, including complementary foods, when marketed or otherwise represented to be suitable, with or without modification, for use as a partial or total replacement of breastmilk; related products, such as feeding bottles and teats; such other products as the Department, by proper publication, shall declare to be a product covered by this Act.

Display, use or placement of the words “This is not a breastmilk substitute” or words to that effect, on the container, label and/or marketing material of any product shall not remove it from the purview of this Act. Only the Department of Health and/or the Inter-Agency Committee hereunder created, not the manufacturer, distributor, or marketing firm or any of their representatives, is authorized to determine whether or not a product falls within the purview of this Act.

CHAPTER II PROGRAM ON THE PROMOTION OF BREASTFEEDING

SEC. 7. Program. - There shall be a comprehensive program to promote breastfeeding to be formulated by the Department of Health (DOH) and the Department of Social Welfare and Development (DSWD) in coordination with other government agencies, and individuals and civil society organizations concerned with the promotion of the right to health and breastfeeding, within six (6) months from the effectivity of this Act.

CHAPTER III RIGHT TO BREASTFEED AND TO BREASTMILK

SEC. 8. Right of the Mother to Breastfeed. - The mother's right to breastfeed her child, who equally has the right to breastmilk, shall be promoted, protected and supported. In this connection, attending health workers shall encourage pregnant women and mothers to breastfeed their child, and inform them of the appropriate IYCF practices recommended by the WHO and UNICEF, the advantages of breastfeeding, how to encourage and maintain lactation, and the

hazards of the production, preparation, use and misuse of breastmilk substitutes, infant formula and other products covered by this Act marketed as infant or baby food. The decision whether to breastfeed or not shall be based on informed choice. In health institutions, bottlefeeding shall be allowed only after the mother has been informed by the attending health worker of the foregoing. The proper techniques of feeding with breastmilk substitutes shall be provided and demonstrated only to mothers who may not be able to breastfeed for medical or other legitimate reasons and/or after the mother has opted to adopt formula feeding for her infant in view of the absence of other sources of breastmilk.

SEC. 9. Breastfeeding is Not Indecent Exposure. - No provision of law or ordinance on indecent exposure shall apply to breastfeeding. A woman may breastfeed an infant or young child in any location, public or private, where the woman is otherwise authorized to be, even if not done discreetly, irrespective of whether the nipple of the woman's breast is uncovered during or incidental to the breastfeeding.

SEC. 10. Breastfeeding in the Workplace. – Every woman shall have the right to breastfeed her infant and/or young child in the workplace. In consonance with Republic Act No. 7600, otherwise known as “The Rooming-in and Breastfeeding Act of 1992”, as amended by Republic Act No.10028, otherwise known as the “Expanded Breastfeeding Promotion Act of 2009”, employers of women who continue to breastfeed upon returning to work have the following obligations:

a) Preserve and respect the right of women to breastfeed infants and/or young children in the workplace;

b) Facilitate the continuation of breastfeeding by setting-up lactation stations and/or facilities in accordance with R.A. No. 7600, as amended, and providing support, including educational programs on the benefits of breastfeeding, assistance in handling breastfeeding problems and the difficulties often experienced by breastfeeding women in the workplace. Such facilities shall be clean and private, have access to clean, safe water, and a sink, access to hygienic and temperature controlled storage facilities for breastmilk and available to both employees and guests;

c) Mothers who exclusively breastfeed for the first six (6) months shall be allowed to bring their baby to work within the time of exclusive breastfeeding and employers shall provide the necessary crèche, facilities and care for the mothers to bring their infants to work;

d) Formulate policies supporting breastfeeding practices at the workplace that address issues which include flexibility in work schedules and break-times to provide women with time to breastfeed and/or express their breastmilk; and

e) Employers shall provide breastfeeding women employees with reasonable paid break time to express milk or breastfeed, in addition to the regular time-off for meals, in accordance with Section 12 of R.A. No. 7600, as amended by R.A. No. 10028. These break intervals, which shall include the time it takes an employee to get to and from the workplace lactation station, shall be counted as compensable hours worked. The Department of Labor and Employment (DOLE) may adjust the same: Provided, That such break intervals shall not be less than a total of forty (40) minutes for every eight (8)-hour working period.

SEC. 11. Breastfeeding in Large, Public Establishments – Notwithstanding the provisions of R.A. No. 7600, as amended by R.A. No. 10028, allowing exemptions, owners of all large establishments that are open to the public, such as, but not limited to, malls, markets and other places of business, shall be required to set up lactation stations or facilities for women who breastfeed infants and/or young children within the premises.

SEC. 12. Lactation Station or Facilities, Additional Requirements. – In addition to the requirements under Section 11 of R.A. No. 7600, as amended, all lactation stations or facilities shall also include changing tables for women who wish to change the clothes and diapers of infants and young children.

CHAPTER IV **ROOMING-IN AND BREASTFEEDING OF INFANTS**

SEC. 13. Applicability. - The provisions in this Chapter shall apply to all private enterprises and government agencies, including their subdivisions and instrumentalities, and government-owned and –controlled corporations.

SEC. 14. Normal Spontaneous Deliveries. – Pursuant to R.A. No. 7600, as amended, the following newborn infants shall be put to the breast of the mother immediately after birth and forthwith roomed-in within thirty (30) minutes:

- a) well infants regardless of age of gestation; and
- b) infants with low birth weights but who can suck.

SEC. 15. Deliveries by Caesarean. - Infants delivered by caesarean section shall be roomed-in and breastfed within three (3) to four (4) hours after birth.

SEC. 16. Deliveries Outside Health Institutions. - Newborns delivered outside health institutions whose mothers have been admitted to the obstetrics department/unit and who both meet the general conditions stated in Section 14 of this Act, shall be roomed-in and breastfed immediately.

SEC. 17. Exemptions. – Infants whose conditions do not permit rooming-in or breastfeeding as determined by the attending physician and infants whose mothers are either

- a) seriously ill;
- b) taking medications contraindicated to breastfeeding;
- c) violent psychotics; or
- d) whose conditions do not permit breastfeeding and rooming-in as determined by the attending physician,

shall be exempted from the provisions of Sections 14, 15 and 16 of this Act: *Provided, That*, these infants shall be fed expressed breastmilk or wet-nursed as may be determined by the attending physician.

SEC. 18. Provision of Facilities for Breastmilk Collection and Storage. - Health institutions adopting rooming-in and promoting breastfeeding shall provide equipment, facilities, and supplies for breastmilk collection, storage and utilization, the standards of which shall be

defined by the DOH. Health institutions are likewise encouraged to set up milk banks for storage of breastmilk donated by mothers.

CHAPTER V **EXTENDED BREASTFEEDING AND WEANING**

SEC. 19. Benefits. - Extended breastfeeding shall be encouraged. Toddlers and young children are benefited nutritionally and psychologically. Prolonged nursing is associated with better social adjustment.

SEC. 20. Weaning. - For the purpose of encouraging natural weaning and preventing discrimination or inappropriate social perceptions of breastfeeding toddlers, the Department shall endeavor to encourage the positive portrayal of extended breastfeeding for toddlers and young children. Advertising of products covered under this code that tends to undermine the value of breastfeeding past the infant stage shall not be allowed.

CHAPTER VI **INFORMATION AND EDUCATION**

SEC. 21. Information and Education. - a) The DOH shall take measures to encourage, promote, protect, support and monitor appropriate infant and young child feeding (IYCF) practices, in line with WHO/UNICEF recommendations, and ensure that updated, objective and consistent information on IYCF principles and practices is provided to women, families, the general public, and those involved in the field of infant and young child nutrition and maternal health. This responsibility shall cover the planning, provision, design and dissemination of information and educational activities and materials, and the control thereof, on infant and young child nutrition. It shall educate the public about the consequences and risks that not following such practices may create for infants, young children, and mothers as well.

b) The DOH shall give appropriate information, training and advice to health workers with regard to their responsibilities under this Act and related laws on infant and young child nutrition and breastfeeding.

SEC. 22. Continuing Education, Re-education and Training of Health Personnel. - The DOH, with the assistance of other government agencies, professional and non-government organizations shall conduct continuing information, education, re-education, and training programs for physicians, nurses, midwives, nutritionist, dieticians, community health workers and traditional birth attendants (TBAS) and other health personnel on current and updated lactation management, including their obligations under this Act.

Information materials shall be given to all health personnel involved in maternal and infant care in health institutions.

SEC. 23. Information Dissemination to Pregnant Women and Women of Reproductive Age. - During the prenatal, perinatal and postnatal consultations or confinements of mothers or pregnant women in a health institution, it shall be the obligation of the health institution and the health worker to immediately and continuously teach, train, and support the women on current and updated lactation management and infant care, through participatory strategies such as

organization of mothers' clubs and breastfeeding support groups, and to distribute written information materials on such matters free of charge.

The DOH is hereby mandated to develop and provide breastfeeding programs for working mothers whose employers are encouraged to avail of it as part of their human resource development programs.

To equip women of reproductive age with accurate information on maternal nutrition and proper nourishment in preparation for successful and sustainable breastfeeding, the DOH is likewise mandated to produce and make available relevant information and programs which should be disseminated to all city, municipal and barangay health centers.

Employers are also highly encouraged to develop breastfeeding or lactation support programs, in accordance with Section 10 of this Act, the main functions of which are to assess the needs of lactating women in their company and provide pregnant and lactating employees with adequate information regarding lactation management in the form of brochures, pamphlets and other educational materials.

SEC. 24. Classes for Mothers of Infants and Pregnant Women. - In health education classes for mothers of infants and pregnant women, health workers and community workers shall emphasize the benefits of breastmilk and the hazards and risks of the improper production, preparation and use of infant formula or other breastmilk substitutes. Feeding with infant formula shall be demonstrated only to mothers who may not be able to breastfeed for medical or other legitimate reasons.

Manufacturers and distributors of products covered by this Act, and their representatives and marketing personnel shall not, as part of their job responsibilities or in any professional capacity, perform educational functions in relation to pregnant women or mothers of infants.

SEC. 25. Mandatory Information. - Informational and educational materials, whether written, audio, or visual, produced by any person, which refer to infant and young child feeding, shall:

- a) Contain only correct and current information and shall not use any picture or text that encourage bottlefeeding or discourage breastfeeding;
- b) Be written in English and Filipino or the appropriate dialect;
- c) Not give an impression or create a belief that a covered product is equivalent to, comparable with or superior to breast milk or to breastfeeding;
- d) Not contain the name or logo of any covered product nor of any manufacturer or distributor of a covered product; and
- e) Clearly and conspicuously explain each of the following points:
 - 1) The benefits and superiority of breastfeeding;
 - 2) The value of exclusive breastfeeding for a minimum of six (6) months followed by sustained breastfeeding for two (2) years and beyond;
 - 3) Maternal nutrition and the preparation for and maintenance of breastfeeding, particularly how to initiate and maintain exclusive and sustained breastfeeding;
 - 4) Why it is possible but difficult to reverse a decision not to breastfeed;
 - 5) The importance of introducing complementary foods from the age of six (6) months;

- 6) How and why any introduction of bottlefeeding or early introduction of complementary food negatively affects breastfeeding;
- 7) That complementary food should only be introduced when the infant reaches six (6) months of age and can easily be prepared at home using local ingredients;
- 8) That non-human milk, such as infant formula or follow-up formula, is not a sterile product and may contain harmful microorganisms;
- 9) Include the social and financial implications of the use of non-human milk;

SEC. 26. Information and Educational Materials About Non-Human Milk, Infant Formula, Follow-up Formula or Feeding Bottles. – If due to medical reasons, mothers need to receive information on breastmilk substitutes, bottlefeeding or formula feeding, it shall be produced separately from materials on breastfeeding. Materials on breastfeeding should not contain information on bottlefeeding or formula feeding, as this gives the impression that they are of equal value to or can replace breastfeeding. Any information on bottlefeeding or formula feeding shall be produced separately and distributed only to mothers advised by medical professionals to use breastmilk substitutes due to medical reasons.

The educational material must also include the following points:

- a) Instructions for the proper preparation and use of the product, including cleaning and sterilization of feeding utensils, and in the case of powdered non-human milk, such as infant formula or follow-up formula, such instructions should adhere to guidelines formulated by the WHO and FAO;
- b) How to feed infants with a cup;
- c) The health hazards of formula feeding or non-human milk feeding and bottlefeeding, of contamination and improper preparation of the product;
- d) Why non-human milk itself may not be sterile and the possibility of industrial errors;
- e) The approximate financial cost of feeding an infant with such a product in the recommended quantities; and
- f) Infant formula is not a sterile product and may contain harmful organisms.

SEC. 27. Product Information for Health Workers. – Manufacturers and distributors may give materials about covered products to health workers if such materials:

- a) Are restricted to scientific and factual matters regarding the technical aspects and methods of the use of the product;
- b) Provide references to published studies to support any representation that states or suggests that a relationship exists between the product or constituent thereof and health, growth or development; and
- c) Are otherwise in accordance with this chapter.
- d) False or misleading information or claims in relation to covered products are prohibited.

SEC 28. Submission of Materials to and Prior Approval of the IAC. – Any person who produces or distributes any information and educational materials shall submit copies to and seek the prior written approval of the Inter-Agency Committee created under of this Act, according to procedures as shall be prescribed.

SEC 29. Breastfeeding as Part of the Curriculum. – To encourage and promote breastfeeding, in coordination with the DOH, the Department of Education (DepED) shall formulate a comprehensive education program on breastfeeding, to be incorporated in the elementary and secondary curriculum. The Commission on Higher Education (CHED) and the Technical Education and Skills Development Authority (TESDA) shall likewise ensure that breastfeeding and its importance are emphasized in the appropriate subjects in the tertiary level, especially in the medical, allied medical and health related collegiate and post-graduate courses, and in technical and vocational education.

CHAPTER VII RESEARCH

SEC. 30. Research and Ethics Committee. - The DOH shall ensure that research conducted for public policy purposes, related to infant and young child feeding, shall, at all times, be free from any commercial influence or bias. Accordingly, the health worker or researcher involved in such must disclose any actual or potential conflict of interest with the company/person funding the research. In any event, such research and its funding shall be subjected to independent peer review. Towards accomplishing these ends:

- a) Assistance for research and clinical trials given by manufacturers and distributors are allowed only upon approval by the Ethics Committee of the DOH. The same committee shall monitor said researches.
- b) The researches shall be conducted in accordance with an approved protocol. Any changes in the protocol after it has been approved shall be subjected to a new review and approval by the Ethics Committee.
- c) Assistance for research may be allowed subject to the following conditions:
 - 1) Researches involving well or ill infants and children as subjects shall be limited to physiological factors and therapeutic studies;
 - 2) These studies shall, in no case, be harmful to the subject; and
 - 3) Assistance shall be limited to those with potential benefits for the particular subject.
- d) Recipients of research awards shall not allow themselves, their organizations or their subjects to be used, directly or indirectly, for any promotional activity related to products within the scope of this Act. These may be by way of display of posters and streamers patronizing the company and their products or participating as lecturers/speakers, or giving testimonials in the promotion of the products that undermine breastfeeding.
- e) Assistance for support of laboratory costs, reagents and other materials shall be allowed only upon approval and review by the Ethics Committee regarding their intended use based on submitted protocol.

SEC. 31. Public Disclosure. - For purposes of transparency, a disclosure and/or disclaimer of the sponsoring company shall be done by the company itself, health worker and

researcher involved through verbal declaration during public presentation of the research and in print upon publication.

CHAPTER VIII

MARKETING OF BREASTMILK SUBSTITUTES, BREASTMILK SUPPLEMENTS AND OTHER COVERED PRODUCTS

SEC. 32. Advertising, Promotions, Marketing. – (a) No advertising, promotional or marketing materials, sponsorships and/or similar activities for covered products intended for infants and/or young children up to two (2) years of age shall be allowed. This includes any of the same which, while not referring directly to covered products, tend to convey subliminal messages or impressions that undermine or compete with breast milk and breastfeeding, and/or exaggerate the benefits and value of covered products.

(b) No advertising, promotional or marketing materials, sponsorships and/or activities for milk products primarily intended for pregnant women and nursing mothers shall be allowed.

(c) All other advertising, promotional or marketing materials shall be allowed only upon review, examination and approval by the Inter-Agency Committee. No advertising, promotional or other marketing materials for covered products intended for children twenty-four (24) months onwards which are marketed as partial or total replacement of breast milk, including complementary foods and feeding bottles, teats and pacifiers shall be printed, published, distributed, exhibited and broadcasted or in any manner released to the public without the prior written consent and approval of the Inter-Agency Committee. No blanket or general approval shall be allowed. Such written approval must be specific in product and time-bound.

(d) False, misleading or deceptive advertisements of products covered by this Act are prohibited.

SEC. 33. Advertising Content. – a) No allowable advertising, promotion, and marketing of covered products shall equate or make the product appear to be as good as or equal to breast milk or breastfeeding, nor in any case undermine or have the effect of undermining breast milk or breastfeeding as the optimal source of infant and young child nutrition. The total effect of any such advertising, promotion or marketing should not directly or indirectly suggest that use of the product would develop better individuals, translates to or is a manifestation of greater love for the infant or young child, or significantly enhances such infant or young child's health and nutrition, intelligence or other abilities, or make any other similar claims, or in any manner bring better health to the baby or other such exaggerated or unsubstantiated claim.

b) The following shall, in no event, be included in any advertising, promotional, sponsorship and/or marketing campaign, literature or materials:

- 1) Texts, pictures, illustrations or other images, or information which discourage or tend to undermine the benefits or superiority of breastfeeding;
- 2) Any message, text or image, whether direct or subtle, which suggests or tends to suggest that non-human milk is required by breastfeeding mothers to produce mother's milk;

- 3) Pictures or images of babies, children, mothers (pregnant or otherwise), fathers, siblings, grandparents, other relatives or caregivers (such as yayas), when such advertisement pertains to covered products, including, but not limited to, the following:
 - (i) Picture of a woman breastfeeding;
 - (ii) Pictures or images of babies and children together with their mothers or caregivers (such as yayas);
 - 4) Texts, pictures or images that idealize the use of breastmilk substitutes or supplements or other products covered by this Act, or that create the impression that any such product is equivalent to or as good as breastmilk or breastfeeding; and
 - 5) The terms “humanized”, “maternalized”, “close to”, or “equal to” in conjunction with or with reference to mother’s milk, or similar words or phrases, to describe breast milk substitutes such as non-human milk.
- (c) No advertising, promotional or marketing material shall carry the words “This is not a breast milk substitute” or words to that effect. Any such words indicated in such materials shall not remove it from the purview of this Act, as provided in Section 6 hereof.
- (d) All health and nutritional claims for any product covered by this Act are absolutely prohibited in any advertisement, promotion, marketing, sales and sponsorship.

SEC. 34. Prohibition on Point of Sale. - There shall be no point of sale advertising, giving of samples or any promotional devices to induce sales directly to the consumers at the retail level, such as, but not limited to, special displays, discount coupons, premiums, rebates, special sales, bonus and tie-in sales, loss-leaders, raffles, games and contests, prizes or gifts, for or pertaining, directly or indirectly, to covered products intended for infants and/or young children from birth to twenty four (24) months.

This provision shall not restrict the establishment of pricing policies and practices intended to provide products at lower prices on a long-term basis, either at the wholesale or retail level, in pharmacies, drugstores, where products and follow-up formula or milk supplements may be purchased without prescription.

SEC. 35. Health and Nutritional Claims. – The following shall regulate health and nutritional claims for Products:

- a) No publication or announcement of health, nutritional or developmental claims or findings pertaining, whether directly or incidentally, to Products shall be allowed, except in scientific journals through scientifically proven studies embodied in peer-reviewed papers or professional publications.
- b) All health and nutrition claims of whatever tenor for Products shall be absolutely prohibited. For this purpose, any phrase, word or image that connotes or contributes to the notion of increased or more rapid development of emotional, intellectual, physical and other abilities of the infant and young child, and other like impressions, shall not be allowed.
- c) False, inaccurate, incomplete or misleading information or claims relating to Products made by or on behalf of manufacturers, distributors and marketing personnel are prohibited and will be subject to the severest penalty.

SEC. 36. *Classes and Seminars for Women.* – No manufacturer, distributor or marketing firm, or their personnel or representatives shall be allowed to conduct or be involved in any activity or event promoting breastfeeding, in the production and distribution of information and educational materials on breastfeeding, or the holding of or participating as speakers in classes or seminars for women and children's activities, for the purpose of avoiding the use of these venues to market their products, brands or company names.

SEC. 37. *Inducements.* – No financial or material inducements to promote covered products shall be given, directly or indirectly, by manufacturers, distributors, marketing firms and their personnel and representatives, nor shall this be accepted by mothers of infants and/or young children, pregnant women, health workers, hospitals and other health institutions, as well as their personnel within the health care system including members of their families.

SEC. 38. *Prohibition on Samples and Supplies.* - Samples and supplies of covered products or equipment/utensils for the preparation or use of these products from manufacturers, distributors, marketing firms and their personnel and representatives shall not be allowed to be given, directly or indirectly, to any member of the general public, mothers of infants and/or young children, pregnant women, health workers, hospitals and other health institutions, as well as personnel within the healthcare system, including members of their families. Manufacturers, distributors and marketing firms of covered products, and their personnel and representatives, are prohibited from donating or giving samples and supplies of covered products to any organization or group of individuals involved in the distribution of goods in disaster, calamity or emergency areas.

SEC. 39. *Prohibition on Gifts* – Manufacturers, distributors and marketing firms of covered products, and their personnel and representatives shall not give gifts of any sort to members of the general public, mothers of infants and/or young children, pregnant women, health workers, hospitals and other health institutions, as well as personnel within the healthcare system, including members of their families, regardless of whether or not the same bear the company name, slogan, logo or product or brand name.

CHAPTER IX **LABELS AND CONTAINERS**

SEC. 40. *Labels and Containers of Covered Products.* – a) A manufacturer or distributor shall not offer for sale or sell a covered product if the container or label affixed thereto includes a photograph, drawing or other graphic representation other than for illustrating methods of preparation.

b) A manufacturer or distributor shall not offer for sale or sell a covered product, other than a feeding bottle, teat or pacifier unless the container or label affixed thereto indicates in a clear, conspicuous and easily readable manner, in English and Filipino, the following particulars:

- 1) Instructions for appropriate preparation and use in words and in easily understood graphics;

- 2) The age after which the product is recommended in numeric figures and in the case of a complementary food, the recommended age shall not be less than six (6) months;
- 3) A warning that the product may not be sterile or may be dangerous due to deficient or excessive components or contaminated.
- 4) A warning about the health risks of improper preparation and of introducing the product prior to the recommended age;
- 5) The ingredients used;
- 6) The composition and nutritional analysis;
- 7) The required storage conditions both before and after opening, taking into account climatic conditions;
- 8) The batch number, date of manufacture and date before which the product is to be consumed, taking into account climatic and storage conditions;
- 9) The name and national address of the manufacturer or distributor; and
- 10) Such other particulars as may be prescribed.

c) All health and nutritional claims for any covered product are absolutely prohibited in any container and/or label thereof. A manufacturer or distributor shall not offer for sale or sell a covered product if the container or label affixed thereto contains any representation that states or suggests that a relationship exists between the product or constituent thereof and health, including the physiological role of a nutrient in the physical, emotional, or intellectual growth and development or normal functions of the body.

SEC. 41. Labels and Containers of Follow-Up Formula. – No manufacturer, distributor or marketing personnel shall offer for sale nor sell any follow-up formula, unless the container or its label, in addition to those provided in the next preceding provision, conforms to all of the following:

a) Contains the words “IMPORTANT NOTICE” in capital letters and in red color indicated there under, the statement “Breastfeed milk is the only ideal milk for the healthy growth and development of infants from 0-6 months and breastmilk with appropriate and safe complementary foods are the ideal food for infants 6 months onwards. It protects against diarrhea and many other illnesses”

This message shall be printed in all capital letters in red at the center lowermost level of the principal display panel, the font type is arial and the font size of which must be at least one-half ($\frac{1}{2}$) of the size of the biggest letter on the label in English and Filipino.

b) Contains the word “WARNING” and indicated thereunder, the statement

“There is no substitute for breast milk.”

and

“Before deciding to supplement or replace breastfeeding with this product, seek the advice of a health professional. It is important for your baby’s health that you follow all preparation instructions carefully. If you use a feeding bottle, your baby may refuse to feed from the breast. It is more hygienic to feed from a cup”

This message shall be printed in all capital letters in red at the center lowermost level of the principal display panel, the font type is arial and the font size of which must be at least one-half ($\frac{1}{2}$) of the size of the biggest letter on the label in English and Filipino.

- c) States in preparation instructions for non-human milk that it is not a sterile product and may be contaminated with microorganisms during the manufacturing process or may become contaminated during preparation;
- d) Includes a feeding chart in the preparation instructions;
- e) Does not use the terms “maternalized”, “humanized” or terms similar thereto or any comparison with breast milk;
- f) Does not use text or pictures that may tend to discourage breastfeeding or idealize bottle feeding;
- g) Specifies the source of the protein; and
- h) In the case of follow-up formula, states that the product shall not be used for infants less than six (6) months old.

SEC. 42. Labels and Containers of Complementary Food. – A manufacturer or distributor shall not offer for sale or sell complementary food unless the container or label affixed thereto, in addition to the requirements of Section 41 contains the word “WARNING” and indicated there under, the statement “Before deciding to supplement breastfeeding with this product, seek the advice of a health professional. It is important for your baby’s health that you follow all preparation instructions carefully”

This message shall be printed in all capital letters in red at the center lowermost level of the principal display panel, the font type is arial and the font size of which must be at least one-half ($\frac{1}{2}$) of the size of the biggest letter on the label in English and Filipino.

SEC. 43. Labels and Containers of Other Milk. – A manufacturer or distributor shall not offer for sale or sell any milk, not a product covered by this Act as provided in Section 5(jj) and 6 of this Act, in powder or liquid form, unless the container or label affixed thereto contains the words “WARNING:” This product should not be used to feed infants and young children”.

This message shall be printed in all capital letters in red at the center lowermost level of the principal display panel, the font type is arial and the font size of which must be at least one-half ($\frac{1}{2}$) of the size of the biggest letter on the label in English and Filipino.

SEC. 44. Labels and Containers of Feeding Bottles and Teats. – A manufacturer or distributor shall not offer for sale or sell a feeding bottle or teat unless the package or label affixed thereto, in addition to the requirements of Section 40, indicates in a clear, conspicuous and easily readable manner, in English and Filipino, the following particulars:

- (a) The words “IMPORTANT NOTICE” in capital letters and indicated there under, the statement “Breastfeeding is best. Breast milk is the only ideal milk for the healthy growth and development of infants and young children up to three years and beyond. It protects against

diarrhea and many other illnesses". This message shall be printed in all capital letters in red at the center lowermost level of the principal display panel, the font type is arial and the font size of which must be at least one-half ($\frac{1}{2}$) of the size of the biggest letter on the label in English and Filipino;

- (b) The statement "WARNING: It is important for your baby's health that you follow the cleaning and sterilization instructions very carefully. If you use a feeding bottle, your baby may no longer want to feed from the breast. Children should not be left to self-feed for long periods of time because extended contact with sweetened liquids, including non-human milk, may cause dental carries and misalignment. It is more hygienic to feed from a cup." This message shall be printed in all capital letters in red at the center lowermost level of the principal display panel, the font type is arial and the font size of which must be at least one-half ($\frac{1}{2}$) of the size of the biggest letter on the label in English and Filipino;
- (c) Instructions for cleaning and sterilization in words and graphics;
- (d) A statement explaining that feeding with a cup is more hygienic than bottle feeding;
- (e) A warning that children should not be left to self-feed for long periods of time because extended contact with sweetened liquids, including non-human milk, may cause severe tooth decay; and
- (f) The name and national address of the manufacturer or the distributor.

SEC. 45. Labels and Containers of Pacifiers. – A manufacturer or distributor shall not offer for sale or sell a pacifier unless, in addition to the requirements of Section 40, it is labeled with the statement "WARNING: Use of a pacifier can interfere with breastfeeding and may cause dental carries and misalignment". This message shall be printed in all capital letters in red at the center lowermost level of the principal display panel, the font type is arial and the font size of which must be at least one-half ($\frac{1}{2}$) of the size of the biggest letter on the label in English and Filipino.

SEC. 46. Infant Feeding Warning. - Food products marketed for infant feeding which do not meet all the requirements of an infant formula but which can be modified to do so, shall carry a warning on the label that the modified product shall not be the sole source of nourishment of an infant.

SEC. 47. Authority of the FDA. - In addition to the requirements in the immediate preceding paragraphs, the labels of all products covered by this Act shall conform with the rules and regulations of the FDA.

CHAPTER X HEALTH CARE SYSTEM AND HEALTH WORKERS

SEC. 48. Health Care System. – a) No facility of the health care system shall be used for the purpose of promoting breastmilk substitutes and milk supplements, and other Products.

However, this does not preclude the dissemination of information to health workers as provided in Section 27.

b) Facilities of the health care system shall not be used for the display of products covered by this Act or of placards, posters and materials relating to or concerning such products.

c) Manufacturers, distributors and marketing firms or their representatives are prohibited from using the health workers and the health care system in the production, dissemination, distribution and promotion of Products

d) The use by the health care system of professional service representatives, or mothercraft nurses or similar personnel, provided or paid for by manufacturers or distributors shall not be permitted.

e) No advertising, promotion, marketing, sponsorship or similar activities for complementary food shall take place in a health care facility nor undermine breastfeeding in any way.

SEC. 49. *Health Worker Responsibilities.* – Heads of health institutions and national and local health authorities shall take measures to encourage and protect breastfeeding and to promote this Act. They shall ensure that health workers are supported to breastfeed their own children for three years and beyond, are familiar with all of the information specified in this Act and give information and advice to health workers regarding their responsibilities under this Act. In this regard, health workers shall:

a) Encourage, support and protect breastfeeding. They are expected to know the provisions of this Act;

b) Strive to eliminate practices that directly or indirectly retard the initiation and continuation of breastfeeding, such as pre-lacteal feeds and separation of mother and child during their stay in healthcare facilities; and

c) Report in writing to the head of his or her workplace, who shall in turn report to the IAC, any offer he or she receives for a sample or gift or other benefit from a manufacturer or distributor or any other contravention of the provisions of this Act.

CHAPTER XI **QUALITY**

SEC. 50. *Quality* – The following standards must be observed in the production and marketing of products under this Act:

a) The quality of products covered under this Act is an essential element for the protection of the health of infants and young children, and therefore shall be of high recognized standard.

- b) Food products covered by this Act shall, when sold or distributed, meet applicable standards recommended by the Codex Alimentarius Commission and the Codex Act of Hygienic Practice for Foods for Infants and Young Children.
- c) To prevent quality deterioration, adulteration or contamination of food products covered under this Act, distribution outlets, including the smallest sari-sari store, shall not be allowed to open cans and boxes for the purpose of retailing them by the cup, bag or in any other form.

CHAPTER XII DONATION

SEC. 51. *Donations* - Donations of products covered by this Act from manufacturers and distributors or their marketing firms, personnel or representatives shall not be allowed.

SEC. 52. *Donations Products Not Covered by This Act.* – Donations of products, equipment, and the like, not otherwise falling within the scope of this Act or its IRR, given by milk companies and their agents, representatives, whether in kind or in cash, may only be cours ed through the Department, whose Secretary shall determine whether such donation can be accepted or otherwise.

CHAPTER XIII IMPLEMENTATION AND MONITORING

SEC. 53. *Implementation.* – The Department is principally responsible for the implementation of this Act. The Secretary shall, when necessary, call upon other departments to ensure the implementation and enforcement of this Act.

SEC. 54. *Powers and Functions.* – For the purpose of implementing this Act, the Secretary has the following powers and functions:

- a) To promulgate such rules as are necessary or proper for the implementation of this Act and the accomplishment of its purposes and objectives;
- b) To call for consultations with and request for assistance from government agencies, nongovernment organizations, civil society representatives, concerned international agencies and other interested parties to ensure implementation of this Act, and to monitor and enforce strict compliance thereto and to the rules promulgated hereunder;
- c) To lead the monitoring of compliance and violations, with assistance from other government organizations and other partner agencies and non-government organizations;

- d) To conduct, with the assistance of other government agencies, professional and non-government organizations and internationally recognized experts continuing information, education, re-education, and training programs for physicians, nurses, midwives, nutritionist dieticians, community health workers and traditional birth attendants and other health personnel or current and updated management.
- e) To cause the enforcement of this Act; and
- f) To exercise such other powers and functions that may be necessary for or incidental to the attainment of the purposes and objectives of this Act, including but not limited to:
 - 1) Advising the President on national policy for the promotion and protection of breastfeeding;
 - 2) Creating regional committees to carry out the functions of the IAC at the regional level, as may be prescribed;
 - 3) Advising the President on designing a national strategy for developing communication and public education programs for the promotion of breastfeeding; information and educational materials on the topics of infant and young child feeding; continuing education for health workers on lactation management and the requirements of this Act; curricula for students in the health professions that include lactation management and to ensure widespread distribution of and publicity concerning this Act, in a method as may be prescribed; and
 - 4) Reviewing and reporting violations or other matters concerning this Act and when appropriate, filing the necessary administrative, civil action and/or criminal action.

SEC. 55. *Inter-Agency Committee (IAC)* – An Inter-Agency Committee is hereby created under the Department of Health.

a) *Composition.* – The Inter-Agency Committee (IAC) shall be composed of the following members:

- 1) Secretary of Health;
- 2) Secretary of Trade & Industry;
- 3) Secretary of Justice;
- 4) Secretary of Social Welfare and Development;
- 5) Secretary of Education;
- 6) Head of the Food and Drug Administration; and
- 7) A representative from one (1) nongovernmental organization, which advocates breastfeeding: *Provided*, That it adheres to the standards of international

ethics, does not hold any clearly conflicting interests and does not receive donations or support of any kind from manufacturers, distributors and marketing personnel

The Secretary of Health shall convene and chair the IAC with the FDA acting as its member/secretariat. The members may designate their duly authorized representative to every meeting of the IAC: *Provided*, That such representative must be familiar with the provisions of this Act and has competence and experience in the field of public health policy-making and/or project implementation; *Provided, Further*, That no representative to the IAC shall have direct or indirect material interest in any manufacturer or distributor of any product covered by this Act; *Provided, Finally*, That the duly designated representative shall hold a rank not lower than an Undersecretary.

b) *Functions.* – The Committee shall have the following powers and functions:

- 1) To review and examine all advertising, promotion or other marketing materials, whether written, audio or visual, including, but not limited to, those shown in cinemas and theater and those transmitted through TV, radio, newspaper, mail, email, text messages, telephone calls and websites on covered products which are not included in the absolute advertising ban under Section 32(a) of this Act;
- 2) To approve or disapprove, delete objectionable portions from and prohibit the printing, publication, distribution, exhibition and broadcast of, all advertising promotion or other marketing materials, whether written, audio or visual, including, but not limited to, those shown in cinemas and theater and those transmitted through TV, radio, newspaper, mail, email, text messages, telephone calls and websites on covered products which are not included in the absolute advertising ban under Section 32(a) of this Act
- 3) To prescribe the internal and operational procedure for the exercise of its powers and functions as well as the performance of its duties and responsibilities under this Act;
- 4) To call the assistance of government agencies and the private sector, to ensure the implementation and enforcement and strict compliance with the provisions of this Act and its rules and regulations;
- 5) To receive a written complaint lodged by any person relating to a violation of any provision of this Act or its implementing rules and regulations (IRR) and on the basis thereof, immediately order the investigation of the complaint by the FDA and, within thirty (30) days from receipt of the complaint, recommend actions to be instituted against the offending company, person or persons; and
- 6) To exercise such other powers and functions as may be necessary for the attainment of the purposes and objectives of this Act.

CHAPTER XIV ADMINISTRATIVE AND CRIMINAL ACTIONS

SEC. 56. Role of Food and Drug Administration (FDA). – The FDA shall investigate and verify reports of violations and shall report its findings to the IAC and to the Department. When appropriate, it shall apply administrative sanctions against the violators; and/or cause the filing of criminal complaints against persons and entities found to have violated, singly or repeatedly, the provisions of this Act or its IRR.

SEC. 57. Citizen Suits. – For purposes of enforcing the provisions of this Act or its IRR, any citizen may file an appropriate civil, criminal or administrative action, including one for damages for any harm suffered as a result of a violation of any provision of this Act, in the proper courts against:

(a) Any person who violates or fails to comply with the provisions of this Act or its IRR;

(b) Any person who violates the terms and conditions set forth by the Department or the IAC; and

(c) Any public officer, including any member of or representative to the IAC, who willfully or grossly neglects the performance of an act especially required as a duty by this Act or its IRR; or abuses his/her authority in the performance of his/her duty; or, in any manner, improperly performs his/her duties under this Act or its IRR: Provided, however, That no suit can be filed until after thirty (30) days from notice given to the concerned public officer and the alleged violator or violators, and no appropriate action has been taken thereon.

The court shall exempt such action from the payment of filing fees, except fees for actions not capable of pecuniary estimation, and shall, likewise, upon *prima facie* showing of the non-enforcement or violation complained of, exempt the plaintiff from the filing of an injunction bond for the issuance of a preliminary injunction.

Within thirty (30) days, the court shall make a determination if the complaint filed herein is malicious and baseless and shall accordingly dismiss the action and award attorney's fees and damages, as it may deem appropriate.

SEC. 58. Independence of Action. – The filing of an administrative suit against any person or entity under the preceding section does not preclude the right of any other person to file any criminal or civil action. Such criminal and/or civil action shall proceed independently.

SEC. 59. Suits and Strategic Legal Actions Against Public Participation and the Enforcement of This Act. – Where a suit is brought against a person who filed an action as provided in Section 57 of this Act, or against any person, institution or government agency that implements this Act, it shall be the duty of the investigating prosecutor or the court, as the case may be, to immediately make a determination not exceeding thirty (30) days, whether such legal action has been filed to harass, vex, exert undue pressure, or stifle legal resources of the person complaining or of enforcing the provisions of this Act. In case of such determination, the investigating prosecutor or the court shall dismiss the case and award attorney's fees and damages, as it may deem appropriate.

SEC. 60. Lien Upon Personal and Immovable Properties of Violators. – Fines and penalties imposed pursuant to this Act shall be liens upon personal and immovable properties of

the violator. Such lien shall, in case of insolvency of the respondent violator, enjoy preference subsequent to laborer's wages under Articles 2241 and 2242 of Republic Act No. 386 or the New Civil Code of the Philippines.

SEC. 61. Liability of Manufacturers/Distributors. – Manufacturers and distributors of the products covered by this Act shall be directly liable for any violation of the provisions of this Act and its IRR. Should the offense be committed by a juridical person, the chief operating officer, chief executive officer, principal investors, general manager, or the partners and/or the persons directly responsible therefore, shall be made accountable.

Agents/representatives of the manufacturers or distributors of the products covered by this Act, who commit any violation of its provisions or its IRR shall be jointly and solidarily liable with the said manufacturers and distributors.

The separate and/or distinct legal personality of the manufacturer or distributor notwithstanding, the chief operating officer, chief executive officer, and principal investors of the proponent firm shall be jointly and severally liable for any financial liability or award of damages made by the court. The same shall apply to transnational corporations and foreign firms licensed to do business in the Philippines.

CHAPTER XV **ADMINISTRATIVE SANCTIONS**

SEC. 62. Administrative Sanctions. – The following administrative sanctions shall be imposed upon any person, juridical or natural, found to have violated the provisions of this Act and its IRR:

(a) 1st violation – Administrative fine of a minimum of One hundred thousand pesos (P100,000.00) to Two hundred thousand pesos (P200,000.00) depending on the gravity and extent of the violation, including the recall of the offending product;

(b) 2nd violation – Administrative fine of a minimum of Two hundred thousand pesos (P200,000.00) to Three hundred fifty thousand pesos (P350,000.00), depending on the gravity and extent of the violation, and in addition thereto, the recall of the offending product, and suspension of the Certificate of Product Registration (CPR);

(c) 3rd violation – Administrative fine of a minimum of Three hundred fifty thousand pesos (P350,000.00) to One million pesos (P1,000,000.00), depending on the gravity and extent of the violation, and in addition thereto, the recall of the product, revocation of the CPR, suspension of the license to operate (LTO) for one (1) year;

(d) 4th and succeeding repeated violations – Administrative fine of Two million pesos (P2,000,000.00), the recall of the offending product, cancellation of the CPR, revocation of the LTO of the company concerned, including the blacklisting of the company to be furnished the Department of Budget and Management (DBM) and the DTI; and

(e) An additional penalty of Twenty thousand pesos (P20,000.00) per day shall be made for every day the violation continues after having received the order from the IAC or such other appropriate body, notifying and penalizing the company for the infraction.

For purposes of determining whether or not there is "repeated" violation, each product violation belonging or owned by a company, including those of their subsidiaries, are deemed to be violations of the concerned manufacturer or distributor and shall not be based on the specific violating product alone.

SEC. 63. Against Public Employees. – In accordance with the Administrative Code of 1987 and pertinent civil service rules and regulations, erring government employees found to be liable, and depending on the gravity of said violation, shall be imposed the appropriate penalty by the disciplining authority.

CHAPTER XVI **CRIMINAL PENALTIES**

SEC. 64. Criminal Penalties. – The following penalties shall be imposed upon any person who violates the provisions of this Act:

a) Any person who violates the provisions of this Act or its rules and regulations issued pursuant to this Act shall, upon conviction, be punished by a penalty of not less than one (1) year to not more than six (6) years imprisonment or a fine of not less than One Hundred thousand pesos (Php100,000.00) but not more than Two million pesos (Php 2,000,000.00) or both at the discretion of the court. Should the offense be committed by a juridical person, the Chairman of the Board of Directors, the president, general manager, or the partners and/ or the persons directly responsible therefore, shall be penalized; and

b) Any license, permit or authority issued by any government agency to any health worker, distributor, manufacturer, or marketing arm or personnel for the practice of their professional or occupation, or for the pursuit of their business, may, upon recommendation of the Department of Health or the IAC, after due notice and hearing, be suspended or revoked for violations of this Act, or of its implementing rules and regulations issued pursuant to this Act.

c) Any importation of a product covered by this Act that has been recalled or withdrawn from the domestic or foreign or international market due to contamination or for any reason whatsoever, or which is past its expiry date as indicated in the label, shall be deemed as illegal importation of a prohibited and/or dangerous drug, and those responsible shall be prosecuted and the penalties under the Dangerous Drugs Act imposed. In addition, the manufacturer, distributor, marketing personnel and importer of the same shall be subject to fines and possible loss of its license, authority or permit to operate in the Philippines.

CHAPTER XVII **MISCELLANEOUS PROVISIONS**

SEC. 65. Continuous Review on Prescription Policy. – The Department shall evaluate every year, or as necessary, its policy of whether or not to subject the sale of infant formula, to prescription.

SEC. 66. Brand Names and Corporate Logo Identification. – Brands, brand names or trademarks of products covered by this Act must be used exclusively for the said products. Should brands, brand names or trademarks which are identical or obviously similar to, or variants of said covered products, the prohibition on advertising, marketing, promotions, sales and sponsorships shall likewise apply to those products. A variant of the brand, brand name or trademark refers to a brand, brand name or trademark on which a modifier or any work or term is prefixed or suffixed to the root word. The Department shall periodically review whether or not to allow the use of corporate logos of covered products which are similar to the logos utilized for products not covered by this Act, including the physical appearance of the container, taking into consideration the possibility of product confusion, the balance between a free market economy as against the decline and fall of breastfeeding rates among mothers and WRA, and public welfare and benefit being its ultimate yardstick. Accordingly, any modification of existing policy should first undergo public consultations with all concerned stakeholders before its actual implementation.

SEC. 67. Incentives – Pursuant to Section 19 of R.A. No. 7600, as amended, the expenses incurred by private institutions in complying with the provisions of Chapters III and IV of this Act, shall be deductible expenses for income tax purpose up to twice the actual expenses incurred. *Provided*, That the deduction shall apply for the taxable period when the expenses were incurred. *Provided, further*, That such facilities, establishments or institutions shall secure a “Working Mother-Baby-Friendly Certificate” from the Department of Health, to be filed with the Bureau of Internal Revenue, before they can avail of the incentive.

Government institutions shall receive an additional appropriation equivalent to the savings they may derive as a result of adopting rooming-in and breastfeeding. The additional appropriation shall be included in their budget for the next fiscal year.

SEC. 68. Advertisements – Pursuant to Section 18 of R.A. No. 7600, as amended, health and non-health facilities and institutions may advertise themselves as “Baby Friendly” if they comply with at least 80% of the requirements to become a “Baby Friendly” health facility under Chapters III and IV of this Act, and business and other work institutions may advertise themselves as “Mother Friendly Employers” if they comply with all the requirements under Section 14 and 18 of R.A. No. 7600, as amended, and Chapter III of this Act.

CHAPTER XVIII **FINAL PROVISIONS**

SEC. 69. Suppletory Provision. – The provisions of RA No. 7600, as amended, shall have suppletory application on matters not provided for in this Act.

SEC. 70. Implementing Rules and Regulations (IRR). – The DOH, in consultation with other government agencies, shall issue the IRR for this Act within one hundred twenty (120) days from its effectivity.

SEC. 71. Separability Clause. - The provisions of this Act are hereby deemed separable. If any provision thereof be declared invalid or unconstitutional, such invalidity or

unconstitutionality shall not affect the other provisions which shall remain in full force and effect.

SEC. 72. Repealing Clause. - All laws, orders, issuances, and rules and regulations or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 73. Effectivity. - This Act shall take fifteen (15) days after its publication in two (2) newspapers of general circulation.

Approved,