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House Bill No. 749

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Introduced by DIWA Party-list Representative Emmeline Y. Aglipay – Villar

#### EXPLANATORY NOTE

Studies have consistently shown the benefits of breast milk for children, with benefits for the mother as well. The World Health Organization has advanced the position that “[b]reastfeeding is an unequalled way of providing ideal food for the healthy growth and development of infants; it is also an integral part of the reproductive process with important implications for the health of mothers. Review of evidence has shown that, on a population basis, exclusive breastfeeding for 6 months is the optimal way of feeding infants. Thereafter infants should receive complementary foods with continued breastfeeding up to 2 years of age or beyond.<sup>1</sup>” According to a paper published in 2013, “Breastfeeding lowers the risk of diarrhoeal disease by four- to 14-fold and the risk of respiratory illness by fivefold... Breast milk also markedly improves nutritional status in infants. Since malnutrition contributes to half of all infant deaths, breastfeeding helps to reduce infant mortality. Studies around the world in affluent and poor nations alike have shown a 1.5- to five-fold decrease in mortality among breastfed infants. Breastfeeding has also been associated with lower rates of chronic diseases such as diabetes and inflammatory bowel disease and with improved neurocognitive development.”<sup>2</sup>

In spite of these well documented benefits, there still remain obstacles to a more wide-spread adoption of breastfeeding for the recommended periods of time. These range from the mother’s return to the workplace, to a lack of basic information or training with regard to breastfeeding, to discrimination levied against breastfeeding mothers by those who sexualize a woman’s breasts to the point that they see public breast feeding as indecent, rather than a function of nature. A recent commentary released on the WHO website places breastfeeding rates at well below global targets, with only 37% of infants are exclusively breastfed – a rate that has barely changed in 20 years.<sup>3</sup>

<sup>1</sup> [http://www.who.int/nutrition/topics/exclusive\\_breastfeeding/en/](http://www.who.int/nutrition/topics/exclusive_breastfeeding/en/)

<sup>2</sup> <http://www.who.int/bulletin/volumes/91/6/12-109363/en/>

<sup>3</sup> <http://www.who.int/life-course/news/commentaries/breastfeeding-can-save-lives/en/>

As such, it is clear that in spite of existing statutes such as the Milk Code, the State must do more to make breastfeeding the norm. This bill – based primarily on the 16<sup>th</sup> Congress's House Bill No. 2917 (by Rep. Josephine Veronique "Jaye" R. Lacson – Noel, Rep. Mar-Len Abigail S. Binay, Rep. Victoria G. Noel, Rep. Rufus B. Rodriguez, Rep. Maximo B. Rodriguez, Jr. and Rep. Neil Benedict A. Montejo), as well as House Bill no. 105 (by Rep. Lani Mercado – Revilla), together with amendments that seek to prevent the neglect of parents who cannot or make an informed choice not to breastfeed, and empower the attending physicians – puts forward initiatives that seek to create a more positive environment for breastfeeding, and ensure that information about its benefits are readily disseminated to the public. This bill also, however, provides provisions to ensure that those who cannot or make the informed choice not to breastfeed are not subjected to discrimination. It remains the primary right of the parents to decide how to raise their children – but it is the responsibility of the State to ensure parents make informed decisions, and that those who wish to attain the benefits to breastfeeding are not hindered from doing so.



EMMELINE Y. AGLIPAY – VILLAR  
Representative, DIWA Party-list

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**AN ACT ESTABLISHING A POLICY IN SUPPORT OF INFANT FEEDING  
MOTHERS, AND FOR OTHER PURPOSES**

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

**CHAPTER I**  
**General Provisions**

**SECTION 1. Short Title.** - This Act shall be known as the “Infant-Feeding Mothers Act of 2016”.

**SECTION 2. Declaration of Policy** – It is hereby declared the policy of the State to protect and promote the right to health of the people and instill health consciousness among them. As such, the state shall promote breastfeeding up to at least two (2) years old as well as ensure that breastfeeding mothers are given complete and accurate information before choosing the mode of feeding their infants based on religious belief, personal values, and physical limitations.

**SECTION 3. Objectives.** – The objectives of this Act are as follows:

- a) Promote, protect and support exclusive breastfeeding as the means of nourishment for the first six (6) months of life, and supplemental breastfeeding up to two years of age;
- b) Promote, protect and support breastfeeding as unequalled and optimal means of providing safe and adequate nutrition for infants and young children;
- c) Promote and protect breastfeeding as simple and cost-effective means of alleviating poverty;

- d) Promote a conducive environment in State agencies, healthcare institutions and private workplaces for the promotion and sustainability of breastfeeding culture;
- e) Encourage the revival and sustainability of breastfeeding culture and support for breastfeeding mothers at all levels of policy-making, State agencies and local communities;
- f) Mandate health professionals to educate mothers, where necessary as determined under this Act and consistent with the right of the people to information and only with guidance of and through the Philippine healthcare system, on the proper use of breast-milk substitutes and related products through objective, consistent and adequate information;
- g) Promote and support adequate, timely and safe complementary feeding, which includes the giving of low-cost yet nutritionally-adequate indigenous food;
- h) Ensure private sector's compliance with the standards and regulations contained in binding international commitments and covenants signed and ratified by the Philippines on infant and young child health and nutrition; and
- i) Prevent discrimination against a mother, either for choosing to breastfeed or not choosing to breastfeed.

**SEC 4. Definition of Terms.** – For purposes of this Act, the following terms shall mean 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) *Bottle feeding* 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) *Breast milk* shall refer to the human milk from a woman.
- f) *Breast milk Substitute* shall refer to any food intended being marketed or otherwise represented as a partial or total replacement of breast milk 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 breast milk, to augment and satisfy the nutritional and energy requirements of the infant or young child. Such food is also commonly called "weaning food" or "breast milk supplement". The use of complementary food as an appropriate component of infant and young child nutrition is referred to as "Complementary Feeding".

k) *DOH* 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 breast milk substitute, breast milk 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 Breast milk* shall refer to the human milk which was extracted from the breast by hand or by pump.

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 breast milk 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) *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 product within the scope of this Act;

aa) *Low Birth Weight Infant* shall refer to newborn weighing less than two thousand five hundred (2,500) grams at birth;

bb) *Lactation Management* shall refer to the general care of 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;

cc) *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;

dd) *Marketing* shall refer to product promotion, distribution, selling, advertising, product public relations and information services;

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

ff) *Mother's Milk* shall refer to the breast milk from the newborn's own mother;

gg) *Mother's Right-to-Know* shall refer to the rights of the mother to complete information about the benefits of breastfeeding or the use of other appropriate feeding options or practices for herself and her baby, as well as the viable alternatives to breastfeeding and current literature regarding their proper use. This will enable the mother to make an informed choice on feeding her baby;

hh) *Products* shall refer to the breast milk substitutes, breast milk supplements, infant 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 breast milk; other related products such as feeding bottles, teats and other artificial feeding paraphernalia. It also applies to their quality and availability and to information concerning their use;

ii) *Promotion* shall refer to the practice of giving temporary additional value to a product or service to achieve specific marketing objectives;

jj) *Rooming-in* shall refer to the practice of placing the newborn in the same room as the mother right after the 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;

kk) *Sales Promotion* shall refer to the 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) *Sample* shall refer to a single or small quantity of a product provided without cost;

mm) *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;

nn) *Supplies* shall refer to quantities of a product intended for use over a specific or extended period;

oo) *Trade name or Trademark* shall refer to a word or words, name, title, symbol, emblem, sign or device or any combination thereof used as an advertisement, sign, label, poster, or otherwise for the purpose of enabling the public to distinguish the business of the person who owns and uses said trade name or trademark;

pp.) *Weaning* shall refer to the discontinuing the breastfeeding of an infant with substitution of other feeding practices;

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

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

## CHAPTER II

### Promotion, Support and Protection of Breastfeeding Practices

**SEC 5. Breastfeeding 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, private sector, civil society organizations and industry concerned within six (6) months from the effectivity of this Act.

**SEC 6. Right of the Mother to Breastfeed.** – The right of a mother to breastfeed her child shall be promoted, supported and protected. Attending health personnel shall encourage pregnant women and nursing mothers to breastfeed their child and inform them of its advantages and educate them on the disadvantages of the use and hazards of the misuse of

breast-milk substitutes. The decision of the mother to breastfeed or not shall be based on informed choice and shall be respected in any case.

In health care facilities, bottle feeding shall be allowed only after the mother has been informed by the attending health personnel of the advantages of breastfeeding and has been provided advice on how to encourage lactation and sustain breastfeeding. The proper techniques of other appropriate feeding options or practices shall be introduced only after the mother has decided to adopt these other appropriate feeding options or practices for her infant, verbally or in writing.

The mother's right to have access to full and unbiased information on both breastfeeding and formula feeding shall be ensured.

**SEC 7. Breastfeeding is Not Indecent Exposure.** - No provision of law or local ordinance on indecent exposure shall apply to breastfeeding an infant or a young child. A mother may breastfeed her child in any location, unrestricted, regardless of whether the mother does so covered or not.

Any person who shall verbally harass or shame or seek to prevent the act of breastfeeding shall be considered to be in violation of this Act and shall be subject to the sanctions found herein for such violation.

**SEC 8. Breastfeeding in the Workplace.** – In consonance with 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 babies in the workplace.
- b) Facilitate the continuation of breastfeeding by setting-up lactation facilities and providing educational programs on the benefits of breastfeeding;
- c) Formulate policies supporting breastfeeding practices at the workplace that address issues which include flexibility in work scheduled and break-times so nursing mothers may express their breast milk; and
- d) Employers shall provide mothers with paid lactation break time to express milk or breastfeed as provided for in Republic Act No. 10028.

**SEC 9. Breastfeeding in the Malls or other Establishments.** – Owners of malls and other establishments shall set up lactation facilities for women who breastfeed their children within the premises of their establishments.

**SEC 10. Lactation Facilities.** – Employers shall provide a clean and private location in the workplace where mothers can express milk or breastfeed in privacy. The facilities provided for breastfeeding / lactating / pumping must provide seating, privacy, and not be situated at or near unsanitary locations such as restrooms. These lactation facilities shall have access to clean, safe water source and sink for washing hands and rinsing out any needed breast-pumping equipment and, in the workplace and, when practicable, in establishments, access to hygienic storage facilities for the mother's breast milk. These facilities shall also

include changing tables for women who wish to change the clothes and diapers of infants and young children.

### CHAPTER III

#### Rooming-in and Breastfeeding of Infants

**SEC 11. Applicability.** — The provisions of this Chapter shall apply to all private and government health institutions adopting rooming-in and breastfeeding as defined in this Act.

**SEC 12. Normal Spontaneous Deliveries** — Pursuant to Republic Act No. 7600, otherwise known as the “Rooming-in and Breastfeeding Act” 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; or
- b) Infants with low birth weights but who can suck.

Provided, that the opinion of the attending physician shall be given due weight and shall be presumed to be correct and in good faith in the absence of pre-existing bias against the policies embodied in this Act.

**SECTION 13. Caesarian Deliveries.** — Well infants, as determined by the attending physician, delivered by caesarean section shall be roomed-in and breastfed within three (3) to four (4) hours after birth.

Provided, that the opinion of the attending physician shall be given due weight and shall be presumed to be correct and in good faith in the absence of pre-existing bias against the policies embodied in this Act.

**SECTION 14. 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 12 of this Act, shall be roomed-in and breastfed immediately.

Provided, that the opinion of the attending physician shall be given due weight and shall be presumed to be correct and in good faith in the absence of pre-existing bias against the policies embodied in this Act.

**SECTION 15. 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;
- d) Infected with a disease which can be passed on to the infant through breastmilk; or

- e) Other conditions, which do not permit breastfeeding and rooming-in as determined by the attending physician shall be exempted from the provisions of Sections 12,13, and 14 of this Act: Provided That, these infants shall be fed expressed breast milk or wet-nursed as determined by the attending physician, subject to the consent of the parents or legal guardian of the infant.

**SEC 16. Provision of Facilities for Breast milk Collection and Storage.** — Health Institutions adopting rooming-in and promoting breastfeeding shall provide equipment, facilities, and supplies for breast milk collection, storage and utilization, the standards of which shall be defined by the DOH.

**SEC 17. Incentives.** — Pursuant to Section 13 of Republic Act No. 7600, as amended, the expenses incurred by private health, business, and other institutions in complying with the provisions 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.

Government health 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 18. Advertisements.** - Pursuant to Section 18 of Republic Act No. 10028, otherwise known as “Expanded Breastfeeding Promotion Act of 2009”, hospitals and health institutions may advertise themselves as “Baby Friendly” health facility, and business and other work institutions may advertise themselves as “Mother Friendly Employers” if they comply with all the requirements under Section 14 of R.A. No. 10028.

## CHAPTER IV

### Information and Education

**SEC 19. Information and Education.** – a.) The DOH shall ensure that objective and consistent information, in line with WHO/UNICEF recommendations, is provided on infant and young child feeding for use by pregnant women, women of reproductive age, families, and those involved in the field of infant and young child nutrition. This responsibility shall cover the planning, provision, design and dissemination of information on infant and young child nutrition and the control thereof;

b) The DOH shall take appropriate measures to encourage and protect breastfeeding, and promote the principles of this Act. It shall give appropriate information, training and advice to health professionals and mothers, fathers and other caregivers of infant and young children with regard to their responsibilities under this Act; and

c) Manufacturers, distributors or representatives of products covered by this Act are allowed to conduct or be involved in the promotion, education and production of Information, Education and Communication (IEC) materials on breastfeeding, infant and young child care

and nutrition, as long as the programs and materials used are reviewed and approved by the DOH: Provided. That promotion of products intended for infants from birth to six months as covered by this Act shall not be allowed in such venues.

d) For the purpose of encouraging natural weaning and preventing discrimination or inappropriate social perceptions of breastfeeding toddlers, the DOH 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.

**SEC 20. Continuing Education, Re-education and Training of Health Personnel.**

- a.) 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, nutritionists, 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 on maternal and infant care shall also be given to all health personnel in health institutions;
- b.) Health professionals and health institutions may seek the assistance of manufacturers and distributors, who, may agree to assist in the research, scholarships and continuing education of health professionals, in accordance with the rules and regulations to be set by the DOH: Provided That such assistance shall not create a link or the appearance of a link between the assistance extended and the promotion or use of covered products under this Act.

**SECTION 21. Information Dissemination to Pregnant Women.** — During the prenatal, perinatal and postnatal consultations or confinements of the mothers or pregnant women in health institutions, it shall be the obligation of the health institution and the health personnel to immediately and continuously teach, train and support the women on current and updated lactation management and infant care and to distribute written information materials on such matters free of charge.

**SECTION 22. 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 breast-milk and the hazards and risks of the improper use of infant formula or other breast-milk substitutes. Feeding with infant formula shall be demonstrated to mothers who may not be able to exclusively breastfeed for medical reasons, as determined by the attending physician, or who are afraid that they may not be able to do so, or those who in spite of knowing the benefits of breast feeding make the informed decision to learn how to feed their child using infant formula, or for other legitimate reasons.

Personnel employed in marketing products under this Act shall not, as part of their job responsibilities, perform educational functions in relation to pregnant women or mothers of infants: Provided, however, that such personnel may be tapped for other functions by the health care Systems.

**SECTION 23. Mandatory Information.** — Informational and educational materials, whether written, audio, or visual, dealing with the feeding of infants and intended to reach pregnant women and mothers of infants, shall include clear information on all the following points:

- a.) Benefits of breast-milk and superiority of breastfeeding;
- b) Importance of maternal nutrition and the preparation for and maintenance of breastfeeding;
- c) Negative effect on breastfeeding of introducing partial bottle-feeding on breastfeeding; and
- d) Difficulty of reversing the decision not to breastfeed; and where needed, the proper use of infant formula, whether manufactured industrially or home-prepared: Provided That, when such materials contain information about the use of infant formula, they shall include the social and financial implications of its use; the health hazards of unnecessary or improper use of infant formula and other breast-milk substitutes: Provided further That, such materials shall not use any picture or text which may idealize the use of breast-milk substitutes; provided finally that, while the benefits of breastfeeding in accordance with the latest literature must be emphasized, a mother who knowingly elects to use or learn how to use infant formula must not be shamed, harassed, or discriminated against, particularly if she is unable to breastfeed her baby, and the information given with regard to feeding using infant formula and other breast-milk substitutes must be up-to-date, and given with the aim to allow the infant to derive optimal nutrition from such a method.

**SECTION 24. Donations of Informational, Education, Equipment or Materials.**

— Donations by manufacturers or distributors of informational or educational equipment or materials pertaining to the products defined in this Act shall be allowed only upon written approval of the appropriate government authority. Such equipment or materials shall bear the donating company's name or logo, but shall not refer to a proprietary product and shall be distributed only through the health care system.

**SECTION 25. Breastfeeding as Part of the Curriculum.** — In coordination with the DOH, the DepEd shall formulate a comprehensive education program on breastfeeding to be incorporated in the elementary and secondary curriculum. The CHED shall likewise ensure that breastfeeding and its importance are emphasized in the appropriate subjects in the medical and health-related collegiate and post-graduate courses.

## CHAPTER V

### Research and Clinical Trials

**SECTION 26. Research and Ethics Committee** — The DOH shall ensure that research conducted for public policy purposes in the area or field of infant and young child feeding and baby care, shall, at all times, be free from any commercial influence. Accordingly, the health worker or researcher involved in such field or area must disclose any actual or potential conflict of interest with the company/person funding the research. Research in the area or field of infant and young child feeding and baby care and its funding shall be subjected to independent peer review. Towards accomplishing these ends:

a) Requests for assistance on research and clinical trials given to 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 researches that have 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) Requests for assistance for support on laboratory costs, reagents and other materials given to manufacturers and distributors shall be allowed only upon approval and review by the Ethics Committee regarding their intended use based on submitted protocol.

**SECTION 27. 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 or through acknowledgment in print upon publication of research results.

## CHAPTER VI

### Marketing of Breast milk Substitutes and Other Covered Products

**SECTION 28. Scope** — This Chapter applies to the marketing and practices related thereto, of the following covered products: (a) breast-milk substitutes; (b) infant formula; (c) bottle-fed 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 breast-milk; (d) feeding bottles; (e) teats; and (f) other artificial feeding paraphernalia.

**SECTION 29. Advertising and Promotions; When Prohibited** — For products covered under this Act that are intended for infants from birth to twelve months, no advertising or promotions directed to mothers and the public shall be allowed.

**SECTION 30. Advertising and Promotions; When Allowed** — Advertising and promotions of follow-on formula, growing-up milk or milk supplements intended for infants over twelve (12) months of age shall be allowed. Permit requirements from the FDA shall be

required only for the conduct of sales promotion as defined under Section 4 of this Act, in accordance with the procedure provided for under Articles 116, 117, 118, 119, 120, 121, 122, 123, and 124 of Republic Act No. 7394, otherwise known as the "Consumer Act of the Philippines."

A decision or order from the FDA denying an application to conduct sales promotion under Article 116 of the Consumers Act of the Philippines shall be appealable to the DOH. The decision of the Secretary of Health relating to this Act may be appealed as provided for in Section 31 of this Act.

False, misleading, or deceptive advertisement of follow-up formula, growing-up milk, milk supplements and covered products under this Act are prohibited. These shall be dealt with in accordance with Article 122 (b) of R.A. No. 7394.

**SECTION 31. Review of Orders or Decisions.** — Notwithstanding the provisions of R.A. No. 7394 and R.A. No. 3720, otherwise known as the "Food and Drugs Cosmetics Act", or any other provisions of law, any party aggrieved by any order or decision of the Secretary of Health relating to this Act may appeal said order or decision to the regular courts on questions of fact and law within (15) days from receipt of decision or order.

**SECTION 32. Advertising Content That Undermines the Benefits of Breastfeeding.** — The following texts, pictures, illustrations, or information are deemed to undermine the benefits of breastfeeding and are hereby prohibited from being used when such advertisement pertains to products covered under this Act:

- a) Pictures of infants or persons holding feeding bottle's and infants with product shots;
- b) Picture of a woman breastfeeding because this creates an impression that breastmilk substitutes and breast-milk supplements are equivalent to breastfeeding or because it appropriates the image of breastfeeding;
- c) Pictures or graphics of toys and animals being fed, whether by breast or bottle, nor should materials depict animals or toys as mothers;
- d) The term "humanized", "maternalized", "close to mother's milk" or similar words describing breast-milk substitutes or milk supplements;
- e) Pictures or texts that idealize the use of infant formula; and
- f) Pictures or images of babies and children together with their mothers when such advertisement pertains to products covered under this Act.

**SECTION 33. Labels and Containers.** — The following shall serve as standard for all labels and containers. Each container shall have a clear, conspicuous and easily readable and understandable message in Filipino and English printed on it, or on label, which message cannot readily become separated from it, and which shall include the following points:

- a) The words "Breastfeeding is best for babies from birth to two (2) years" or their equivalent;
- b) A statement "The use of infant formula must only be upon the advice of health professionals";

c) Instructions for appropriate preparation, and a warning against the health hazards of inappropriate preparation.;

d) Neither the container nor the label shall have pictures or texts, which may idealize the use of infant formula. They may, however, have trademark or logo, whether or not registered, for easy identification of the product and for illustrating methods of preparation.

**SECTION 34. Health and Nutritional Claims.** — The following shall regulate health and nutritional claims for products covered under this Act:

a) Health and nutritional claims for products within the scope of the Act shall be allowed as long as it is based on scientific and factual information;

b) False or misleading information or claims of products covered under this Act are prohibited;

c) Promotion of products under Section 30 of this Act must be objective, shall not equate product as equal to breast-milk or breastfeeding and must not, in any case, undermine the benefits of breast-milk or breastfeeding.

**SECTION 35. Information to Health Workers.** — Information provided by manufacturers and distributors to health professionals regarding products under the scope of this Act shall be limited to scientific and factual information. Such information shall not imply or create a belief that bottle-feeding is equivalent or superior to breastfeeding.

**SECTION 36. Promotions in Health Care System.** — The following shall apply to the promotion of products covered under this Act in the health care system:

a) No health facility shall be the venue for the promotion to the general public of products covered under this Act that are intended for infants from birth to twelve (12) months. However, this Act does not preclude the dissemination of scientific and factual information to health professionals as provided in Section 35 hereof.

b) No health facility shall be used to display covered products, posters and materials intended for infants from birth to twelve (12) months provided by a manufacturer or distributor.

c) Manufacturers, distributors and marketing firms or their representatives are prohibited from hiring health professionals to disseminate, distribute and promote covered products under this Act to the general public. This does not preclude the dissemination of scientific and factual information to health professionals as provided in Section 35 hereof.

d) The use by the health care system of professional service representatives, or mother-craft nurses paid for by manufacturers or distributors shall not be permitted.

Provided, that no health facility shall be allowed to prohibit bottle-feeding, bottles, or the use of infant formula or other breastmilk substitutes within their premises, for so long as this is not done to promote covered products. Such an action would constitute discrimination and undermine the policy of respect for the informed decisions of the parents.

**SECTION 37. Classes and Seminars for Women.** — Manufacturers, distributors and representatives of products covered under this Act shall not be allowed to hold activities, classes, and seminars related to the promotion of products intended for infants from birth to twelve (12) months.

**SECTION 38. Inducements.** Financial or material inducements to promote covered products shall not be given by manufacturers, distributors and representatives of said products, nor shall this be accepted by mothers of infants, pregnant women, health workers, hospitals and other health institutions, as well as their personnel within the health care system including members of their families up to the third civil degree of consanguinity or affinity except for purposes of research and clinical trials as provided for in Section 26 of this Act.

**SECTION 39. Prohibition on Samples and Supplies.** — Samples and supplies of covered products intended for infants from birth to twelve (12) months or equipment/utensils for the preparation or use of these products from manufacturers, distributors and representatives shall not be allowed to be given to any member of the general public, mothers of infants, pregnant women, health workers, hospitals and other health institutions, as well as personnel within the healthcare system, including members of their families up to the third civil degree of consanguinity or affinity, except as provided for in Section 26 hereof.

**SECTION 40. Prohibition on Gifts.** — Manufacturers, distributors, and representatives of covered products shall not give gifts to promote covered products intended for infants from birth to twelve (12) months to members of the general public, mothers of infants, pregnant women, health workers, hospitals and other health institutions, as well as personnel within the healthcare system, including members of their families up to the third civil degree of consanguinity or affinity.

**SECTION 41. 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, for covered products intended for infants from birth to twelve (12) 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 and drugstores where products and follow-up formula or milk supplements may be purchased without prescription.

**SECTION 42. Infant Feeding Warning** — Food products marketed for infant feeding which do not meet all the standards for an infant formula but which can be modified to do so, shall carry a warning on the label that the modified product is not suitable for satisfying by itself the nutritional requirements of normal healthy infants.

**SECTION 43. Authority of the FDA.** — In addition to the requirements in the immediate preceding paragraphs, the labels of food products shall conform to the rules and regulations of the FDA that are consistent with the provisions of this Act.

**SECTION 44. Quality.** — The following standards must be observed in the production and marketing of products under this Act:

- a) The quality of covered products under this Act is an essential element for the protection of the health of infants, and therefore shall be of high recognized standard.
- b) Food products, when sold or distributed, shall meet applicable standards formulated by the Codex Alimentarius Commission and also 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 other form.

## CHAPTER VII

### Donation

**SECTION 45. Donations.** — Donations of covered products intended for infants from birth to twelve (12) months from manufacturers and distributors shall not be allowed under normal conditions: Provided however That, during times of natural disaster and calamity or national or local emergency situations, donations of covered products shall be allowed upon approval of the National Disaster Risk Reduction and Management Council (NDRRMC) in coordination with the Local Health and Nutrition Officers of affected locality: Provided further, That the donation shall be subjected to the guidelines issued by the DOH, which include, among others, proper handling, storage and distribution.

## CHAPTER VIII

### Implementation and Monitoring

**SECTION 46. Inter-Agency Committee (IAC).** — An Inter-Agency Committee is hereby created under the Department of Health.

- a) The Inter-Agency Committee (IAC) shall be composed of the following: Secretary of Health as Co-Chair/or a permanent representative; Secretary of Trade & Industry as Co-Chair/or a permanent representative; and the Secretaries of Justice, Finance and Social Welfare and Development as members/or a permanent representative. The duly designated permanent representative shall hold a rank not lower than an Undersecretary.
- b) The IAC shall be principally responsible for the implementation and enforcement of the provisions of this Act. For this purpose, the Committee shall have the following powers and functions:

- 1) To promulgate rules and regulations necessary for the effective implementation of this Act;
- 2) To call the assistance of government agencies and the private sector to ensure the implementation and enforcement of and strict compliance with the provisions of this Act and its rules and regulations;
- 3) To cause the prosecution of the violators of this Act;
- 4) 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; and

- 5) To exercise such other powers and functions as may be necessary for the attainment of the purposes and objectives of this Act.

**SECTION 47. Sanctions.** – The following sanctions 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 two (2) months to not more than six (6) years imprisonment or a fine of not less than One Thousand pesos (Php1,000.00) but not more than One hundred thousand pesos (Php 100,000.00) or both at the discretion of the court; provided, that the presence of good faith and a genuine interest in what is best for the child shall be factored into the imposition of the penalty. Should the offense be committed by a juridical person, the Chairman of the Board of Directors, the president, general manager, 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 IAC, after due notice and hearing and without prejudice to the right to file a motion for reconsideration, to appeal to the proper government agency or avail of any available legal remedy including but not limited to filing a proper action before the regular courts, be suspended or revoked, in accordance with the rules and regulations of the pertinent government agency which issued the license, permit or authority, for violations of this Act, or of its implementing rules and regulations issued pursuant to this Act.

## CHAPTER XIII

### Final Provisions

**SECTION 48. Suppletory Provision.** – The provisions of R.A. No. 7600, as amended, shall have suppletory application on matters not provided for in this Act

**SECTION 49. Implementing Rules and Regulations (IRR).** — The DOH, in connection with other government agencies, shall issue the IRR for this Act within one hundred twenty (120) days from its effectivity.

**SECTION 50. Separability Clause** – The provisions of this Act 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.

**SECTION 51. Repealing Clause.** — All laws, orders, issuances, and rules and regulations or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

**SECTION 52. Effectivity.** — This Act shall take fifteen (15) days after its publication in two (2) national newspapers of general circulation.

Approved,