

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila



THIRTEENTH CONGRESS
2nd Regular Session

HOUSE BILL NO. 5314

Introduced by Representative Anna York P. Bondoc, MD

EXPLANATORY NOTE

This bill seeks to develop a healthy Filipino child through breastfeeding and to strengthen Executive Order No. 51, the National Milk Code of 1986.

Breastfeeding is the only truly natural food in the world and is the best way to show a mother's love. It is the healthiest nourishment for a baby.

Health experts recommend that all infants 0-6 months should be exclusively breastfed and all children up to 2 years should be breastfed along with complementary foods.

However, in the 20 years that the Milk Code has been in effect, tragically, less than 1% of Filipino infants are exclusively breastfed at 2 months of age. Worse, 13% of infants were never breastfed. (Data from National Demographic and Health Survey 1998). This actually means that 99% of Filipino infants are formula fed with cow's milk.

Cow's milk infant formula is the best selling consumer product in the Philippines, besting even cell cards and beer. However, contrary to popular belief, infant formula is not a healthy substitute for breast milk. Formula feeding causes reduced brain power, and increased risk of asthma, allergy, infection, diabetes, heart disease, obesity and DEATH.

Last year, 82,000 Filipino children under 5 years old died and 16,000 of these deaths could have been prevented by breastfeeding.

From these alarming statistics, the failure to promote breastfeeding is a public health emergency. There is an urgent need to strengthen the National Milk Code.

These amendments seek to improve the health of Filipino children by promoting breastfeeding. It will provide lactation support programs and rooming in provision for every healthcare facility. It will create a National Board to promote breastfeeding. It will also prevent dumping of inferior milk products and will eventually regulate the sale of breastmilk substitutes and artificial milk support products. It will also guide the advertising, marketing and promotion of breastmilk substitutes and inform public about the hazards of formula feeding.

Indeed, breast is best (and most economical), for a healthy baby and eventually, a healthy and strong Filipino nation.

In this light, we immediately approval of this bill is earnestly and urgently sought.


Anna York P. Bondoc, MD

**AN ACT TO PROTECT, PROMOTE AND SUPPORT PROPER INFANT AND
YOUNG CHILD FEEDING, PENALIZING VIOLATIONS THEREOF, AND
FOR OTHER PURPOSES, AMENDING THEREBY
EXECUTIVE ORDER NO. 51, THE NATIONAL MILK CODE OF 1986**

WHEREAS, Section 15, Article 2 of the 1987 Philippine Constitution declares that “[t]he State shall protect and promote the right to health of the people and instill health consciousness among them”.

WHEREAS, Section 2, Article 2 of the 1987 Philippine Constitution states in part that “The Philippines x x x adopts the generally accepted principles of international law as part of the law of the land x x x.”.

WHEREAS, adequate and proper nutrition is an important and universally-recognized component of each child’s right to the enjoyment of the highest attainable standard of health as declared in the United Nations Convention on the Rights of the Child, to which the Philippines is a signatory.

WHEREAS, the Philippines has adopted the 1981 International Code on the Marketing of Breastmilk Substitutes and Related Products drafted and approved by the World Health Organization (WHO), as well as the 2002 Global Strategy on Infant and Young Child Feeding developed jointly by WHO and the United Nations Children’s Educational Fund (UNICEF), and likewise supports various World Health Assembly Resolutions to implement the same, and thus has undertaken to comply with obligations thereunder.

WHEREAS, pursuant to the foregoing, Executive Order No. 51, or the National Milk Code of 1986, was issued by then President Corazon C. Aquino on October 20, 1986 as part of efforts to address the matter of safe and adequate nutrition for infants and young children, through the protection, promotion and support of breastfeeding.

WHEREAS, as a global public health recommendation under the WHO and UNICEF 2002 Global Strategy on Infant and Young Child Feeding and pertinent World Health Assembly Resolutions, newborn infants should be exclusively breastfed for the first six months of life to achieve optimal growth, development and health. Thereafter, they should be given proper and nutritionally adequate complementary food, including low-cost foods prepared with indigenous ingredients, to complement breastfeeding, which may continue up to two years of age and beyond.

WHEREAS, the use of breastmilk, which is widely recognized and affirmed as the optimal source of nutrition for infants and young children, promotes development of the emotional bond between mother and child, possesses anti-infective properties to protect infants and young children against disease, and assists in the avoidance of closely-spaced pregnancies.

WHEREAS, there is an urgent need to save the breastfeeding culture in the Philippines, especially in the National Capital Region and Southern Tagalog Region where less than one percent of nursing mothers exclusively breastfeed, and with an average duration of little more than one month instead of the ideal six months, such factor undoubtedly contributing to 16,000 deaths of Filipino infants annually.

WHEREAS, breastfeeding is a critical, far-reaching and cost-effective poverty alleviation strategy, as infant formula is imported at P3.1 Billion a year and sold at seven times its import cost or P21.5 Billion, while breastmilk is practically free.

WHEREAS, with the healthier population and expected drastic decrease in infant and young child mortality rates resulting from implementation of this Act, the Philippines will have the requisite healthy human resource base to allow realization of its goals and aspirations as a nation.

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

Section 1. Title -- This Act shall be known and cited as the *Infant and Young Child Feeding Act*.

Section 2. Purposes of the Code

- (a) 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 years of age and even beyond, as the effects of child malnutrition in the first two years of life are irreversible and affect an individual's intelligence, mental and emotional stability, and physical health.
- (b) To promote, protect and support Exclusive Breastfeeding, as defined herein, as the means of nourishment for the first six months of life.
- (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 marketing, promotional and sales practices and/or strategies of Manufacturers, Distributors, and Marketing Personnel.
- (e) To properly inform the general public, especially pregnant women, Nursing Mothers and member of their families, of the hazards of the use and misuse of Breastmilk Substitutes, including Infant Formula and other products marketed as infant or baby food, making readily available for such purpose adequate, consistent, objective and updated information.
- (f) To promote a mother- and baby-friendly environment in every healthcare institution, facility, healthcare organization and association, office, school and public place, conducive to the advancement of the breastfeeding culture.
- (g) To ensure compliance with pertinent provisions of binding international commitments and covenants entered upon by the Philippines, including specifically, the 2002 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 to which the Philippines is subject;
- (h) To widely promote and protect breastfeeding as a simple yet cost-effective means of alleviating the effects of 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, simultaneously affirming that such efforts do not necessarily require the involvement of Manufacturers, Distributors, and Marketing Personnel as each are defined herein.

Section 3. Scope of the Act

The Act applies to the use, sale, promotion and marketing, as well as practices related thereto, of Breastmilk Substitutes and Related Products, as both are defined

herein. It also applies to their quality and availability, and to information concerning their use and effects.

Section 4. *Declaration of Principles.* – This Act is premised on the following vital underlying principles:

- a. Breastfeeding is the optimal and yet unparalleled means of nourishment for the healthy growth and development of infants and young children. It is best for babies up to two years old and even beyond.
- b. As declared and recommended in the 2002 Global Strategy for Infant and Young Child Feeding, infants should be Exclusively Breastfed during the first six months of life.
- c. Promotion, protection and support should be directed principally at the act of breastfeeding, rather than the mere feeding of breastmilk or Mother's Milk (which may be given through a bottle or with a cup), because it nurtures the physical and emotional bond between mother and child.
- d. Pregnant women, Nursing Mothers and members of their families have the right to decide how to nourish their children, and to full information and the appropriate conditions that will enable them to carry out their decisions.
- e. Breastmilk Substitutes, Non-human Milk including Infant Formula may be hazardous to an infant or young child's health and may impede optimal formative development. Further, according to World Health Assembly Resolutions, Infant Formula is not critical to the health of the infant or young child.
- f. From six months onwards, the infant should be given appropriate Complementary Food, which may consist of low-cost and/or indigenous foods, fruits and calcium-rich vegetables, legumes, whole grains and nuts.
- g. In order to fully and effectively promote, protect and support Breastfeeding, advertising, promotions, marketing or sponsorships of Breastmilk Substitutes, Milk Supplements, Infant Formula, and other related products must be prohibited.
- h. It is the duty of Government and all other stakeholders in the private sector to continuously formulate, improve and pursue an updated information and dissemination campaign or strategy, devoting human and other resources towards and research and study of breastfeeding and the effects of Breastmilk Substitutes and Related Products.
- i. Manufacturers, Distributors, Marketing Personnel and their agents and representatives, be welcome as resource persons, observers or guests at certain limited healthcare activities, but should not form part of any policymaking body, working group or other organization or entity geared towards the advancement of breastfeeding.

Section 5: Definition of Terms

For the purposes of this Code, the following definition of terms shall govern:

- (a) “**Act**” shall refer to this Infant and Young Child Feeding Act, as well as its implementing rules and regulations, as may both be amended from time to time.
- (b) “**Advertise**” refers to the making of any representation by any means whatsoever for the primary purpose of promoting the sale or distribution

of a Covered Product, regardless of whether the same is done via written, audio, visual or electronic media or transmission, including but not limited to -

- (i) postal mail, electronic mail, SMS or text messaging, telephone calls and website advertising
 - (ii) television, radio, film, video, facsimile, cinematic, theatrical, and other audio-visual presentations, rallies or assemblies, whether as direct advertisements or subliminally as part of the presentation or program
 - (iii) signage, billboard displays and notices
 - (iv) exhibits featuring pictures, images or actual models
 - (v) promotional activities and events and other gatherings under the guise of educational lectures, seminars and similar activities
 - (vi) newspaper and magazines articles and features, flyers, texts in educational books and teaching materials.
- (c) **“BFAD”** refers to the Bureau of Food and Drugs of the Department of Health.
- (d) **“Breastmilk Substitute”** refers to any food or product such as Non-human Milk and other milk products, food and beverages, including Complementary Foods, when marketed or otherwise represented to be suitable, with or without modification, as a partial or total replacement for breastmilk, whether or not actually suitable for that purpose.
- (e) **“Complementary Food”** means any food or product, whether manufactured or locally prepared, suitable as a complement (in addition) to breastmilk, when breastmilk becomes, for any reason, insufficient to satisfy the nutritional requirements of an infant or young child. This includes food and products commonly called “weaning food”, “breastmilk supplements”, “growing-up milk”, or “follow-on milk”, as well as indigenous food, fruits and vegetables, legumes, whole grains and nuts, among others. The use of Complementary Food as an appropriate component of infant and/or young child nutrition is referred to as **“Complementary Feeding”**.
- (f) **“Covered Products”** shall include Breastmilk Substitutes, all Non-human Milk, Complementary Foods, as well as Related Products. This shall also include any milk intended for or marketed towards pregnant women and/or Nursing Mothers
- (g) **“DepEd”** refers to the Department of Education.
- (h) **“Distributor”** means a person, corporation or any other entity in the public or private sector engaged in the business, directly or indirectly, of distributing and/or delivering, at the wholesale or retail level, a Covered Product. This shall include any corporation or other entity principally engaged in providing marketing services, insofar as it shall act on behalf or in the interest of such Distributor.
- (i) **“DOH”** refers to the Department of Health.
- (j) **“DSWD”** refers to the Department of Social Welfare and Development.
- (k) **“Exclusive Breastfeeding”** refers to the nourishment of infants and young children by means of breastmilk, without adding, diluting, or supplementing the same with water, teas, herbal preparations or other food or liquids.

- (l) **“Gifts”** includes any form of financial, personal or commercial reward, inducement, incentive, including intangible favors provided directly or indirectly by Manufacturers, Distributors, Marketing Personnel and their agents or representatives.
- (m) **“Government”** shall include the national government and all local government units, as well as departments, regulatory agencies, instrumentalities, and implementing units of the same.
- (n) **“Healthcare Facility”** refers to governmental, non-governmental or private institutions, organizations, hospitals, clinics or other operational venues engaged directly or indirectly in providing healthcare services, including but not limited to those intended to provide care for pregnant women, mothers, infants and young children, as well as nurseries or child care institutions.
- (o) **“Healthcare System”** refers to the aggregation, within the Philippines, of all Healthcare Facilities, Healthcare Workers, groups of healthcare professionals in private practice, as well as Governmental agencies, instrumentalities, and entities whose functions and responsibilities impact on healthcare. For purposes of this Act, the Healthcare System shall include pharmacies and other established sales outlets selling or otherwise dealing in Covered Products.
- (p) **“Healthcare Worker”** means a person working, whether formally or informally, on a full-time or part-time capacity, within a Healthcare Facility, whether professional or non-professional, including volunteer workers.
- (q) **“Infant”** means a person 12 months old or younger.
- (r) **“Infant Formula”** refers to Non-human Milk formulated industrially in accordance with applicable Codex Alimentarius standards, and likewise is considered a Breastmilk Substitute.
- (s) **“Label”** means 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.
- (t) **“Lactation Support”** refers to the general care directed towards mother and infant during the mother’s prenatal, immediate postpartum and postnatal periods. It includes educating and providing information to pregnant women and Nursing Mothers on the advantages of breastfeeding, the physiology, commencement and maintenance of lactation, proper care of the breasts and nipples, and such other matters that would contribute to successful breastfeeding, emphasizing thereby the hazards of bottle-feeding.
- (u) **“Manufacturer”** means a corporation or other entity, whether in the public or private sector, engaged in the business or function (whether directly or through an agent or an entity controlled by or under contract with it) of manufacturing or producing a Covered Product. This shall include any corporation or other 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.
- (v) **“Marketing”** refers to the aggregation of all activities and efforts to

present a product to the general public, comprised of elements of promotions, distribution and sales, advertising, public relations, information services, internet promotion and communication and all forms of information dissemination, including but not necessarily limited to, postal mail, electronic mail, SMS or text messaging, communicating via telephone or facsimile, or advertising via website, television, motion picture, theatrical performances, videos, newspapers, magazines, flyers, stage and radio programs, whether live or taped. Any activity deemed a component of Marketing herein shall, for purposes of this Act, be deemed as Marketing.

- (w) **“Marketing Personnel”** means any person whose functions involve, directly or indirectly, the Marketing of any Covered Product(s).
- (x) **“Milk Complement”** refers to Infant Formula, follow-on milk, or other foods given *in addition* to breastmilk from six months onwards; **“Milk Supplement”** refers to the same when intended *to replace* breast milk.
- (y) **“Mother’s Milk”** means breastmilk from the newborn’s own mother.
- (z) **“Non-human Milk”** includes Breastfeeding Substitutes such as Infant Formula, artificial milk, and any milk other than that sourced from humans, industrially formulated in accordance with applicable Codex Alimentarius standards. It also covers milk prepared at home in which case it is described as **“Home-prepared.”**
- (aa) **“Nursing Mothers”** refers to mothers of infants and/or young children, regardless of whether they actually breastfeed such infants and/or young children.
- (bb) **“Promotion”** means employing any method, scheme, or design, of directly or indirectly encouraging, inducing or enticing either members of the general public or a targeted group of persons sharing similar characteristics, to purchase, acquire, hold or use specific products.
- (cc) **“Related Products”** refers to all instruments, accessories, materials and utensils and implements used to administer, discharge or otherwise assist in, facilitate, or enable the consumption of Breastmilk Substitutes and Milk Supplements, such as but not limited to, feeding bottles, teats, pacifiers, dummies, and other non-natural feeding paraphernalia.
- (dd) **“Rooming-in”** refers to the practice of placing and maintaining the newborn infant beside his/her mother immediately after delivery up to discharge from the Healthcare Facility, so as to facilitate mother-infant bonding and to allow prompt initiation of breastfeeding. For such purpose, the infant must share his/her mother’s bed.
- (ee) **“Sample”** means single units or small quantities of a product provided for free or without cost as a promotional, marketing or sales strategy.
- (ff) **“Sponsorship”** shall refer 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 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.

- (gg) **“Young Child”** refers to person from the age of more than 12 months up to the age of three years.

Section 6. Information and Education

- (a) The Government shall ensure that objective, accurate, comprehensive and updated information on infant and young child feeding is publicly available at all times for reference by pregnant women, Nursing Mothers and their families, those in fields related to infant and young child nutrition, and any other interested member of the general public. This responsibility shall cover the collection and updating of relevant information and data, as well as planning, design, dissemination and regulation of literature and other reference materials relating to infant and young child nutrition.
- (b) Information and educational materials, whether in written, audio, visual, and/or electronic format, dealing with infant and young child nutrition, or intended to provide guidance to pregnant women, Nursing Mothers and their families, shall include clear, accurate and updated information on each of the following:
- (i) the benefits of breastfeeding and its superiority over other means of infant and young child nutrition
 - (ii) maternal nutrition, including preparation and maintenance measures for breastfeeding
 - (iii) potential hazards of the use and improper use of Non-human Milk and other Breastmilk Substitutes
 - (iv) the positive effect of unmedicated labor and early initiation (within 30 minutes to an hour after birth) on breastfeeding success
 - (v) negative effects of partial bottle-feeding on breastfeeding
 - (vi) the difficulty of reversing the decision not to breastfeed
 - (vii) in cases where Non-human Milk or any other Breastmilk Substitute has been properly prescribed by a licensed medical practitioner, proper use of the same, whether manufactured industrially or home-prepared.

Whenever such materials contain information on the use of Non-human Milk and/or other Covered Products, they shall likewise include clear, direct and simple statements on the social and financial implications of such use; health hazards posed by inappropriate foods or feeding methods to infants and/or young children, including, in particular, the health hazards of unnecessary or improper use of Non-human Milk and other Complementary Foods. Such materials shall not use any picture or text which may idealize the use of any Covered Product, including but not limited to any picture of babies below five (5) years of age, parents and/or caregivers.

- (c) The Government shall likewise encourage, through the proper information, awareness and educational programs and materials, that infants and young children more than six months old be continuously breastfed up to 2 years of age and even beyond, the same being coupled with timely and appropriate Complementary Feeding through increased consumption of indigenous fruits and calcium-rich vegetables, legumes, whole grains and nuts.

Section 7. Advertising, Promotion, Marketing, Sales, and Sponsorships

- (a) No advertising, promotional or marketing materials, sponsorships and/or similar activities for Breastmilk Substitutes intended for infants and young children up to two years of age shall be allowed. This includes any of the

same which, while not referring directly to Breastmilk Substitutes, tend to convey subliminal messages or impressions that undermine or compete with breastmilk and breastfeeding, and/or exaggerate the benefits and value of Breastmilk Substitutes and other 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. This prohibition seeks to avoid, among others, the common misconception that breastmilk causes allergies in infants and/or young children in cases where such allergies are in fact actually caused by the presence of large protein molecules from Non-human Milk ingested by the breastfeeding mother.
- (c) Any allowable promotion, advertising and marketing of Covered Products must be objective, comprehensive, accurate and up-to-date, stating as facts only such medical findings and statements as are long-established and undisputed in the field of medical science, and should in no event equate nor represent the product or any other means of infant or young child nutrition, to be as good as or better than breastmilk or breastfeeding. It must not in any case undermine or have the effect of undermining breastmilk or breastfeeding as the optimal source of infant and young child nutrition. The total effect of any such promotion should not directly or indirectly suggest that use of the product so promoted 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, intelligence or other abilities, or make any other similar claims.
- (d) 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 or which idealize or glamorize the use of Breastmilk Substitutes.
 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.
 3. 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 Breastmilk Substitutes such as Non-human Milk.
- (e) No publication or announcement of health, nutritional or developmental claims or findings pertaining, whether directly or incidentally, to Covered Products shall be allowed except in scientific journals through scientifically-proven studies embodied in peer-reviewed papers or professional publications. All health and nutrition claims of whatever tenor for Covered Products shall be absolutely prohibited in any advertisement or promotional or marketing activity. 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 be disallowed. Further, false, inaccurate, incomplete or

misleading information or claims made by or on behalf of Manufacturers, Distributors, or Marketing Personnel are prohibited and will be subject to the severest penalty.

- (f) It shall be prohibited for Manufacturers, Distributors, and Marketing Personnel to distribute, sell, give, or deliver, or promise to do the same, directly or indirectly, in any manner and at any place, samples and/or units of Covered Products or Gifts, giveaways, or promotional items of any sort, to any pregnant woman or Nursing Mother, members of their respective families, Healthcare Workers, and Healthcare Facilities.
- (g) All point-of-sale advertising and any other promotional or marketing device intended or tending to induce sales and directed towards consumers at the retail level, such as special displays, discount coupons, premiums, rebates, special sales, bonus, tie-in sales, loss-leaders, raffles, games and contests, prizes or gifts, pertaining directly or indirectly to Covered Products, shall be prohibited. However, nothing herein shall restrict efforts to establish and maintain pricing policies and practices intended to make available Covered Products at lower prices on a long-term basis.
- (h) Manufacturers, Distributors and Marketing Personnel are prohibited from offering, giving, or promising to do the same, in any form whatsoever, travel grants or benefits, subsidies and/or allowances to doctors, Healthcare Workers and other professionals or employees in Healthcare Facilities. However, subsidiaries or affiliates of such Manufacturers and Distributors whose business and operations are in no way connected to Covered Products are not prevented from so doing, so long as the brand or company name used does not in any way suggest any connection to Breastmilk Substitutes or any Covered Product, and provided that the same is not being offered or given in order to indirectly promote or market any Breastmilk Substitute or Covered Product.
- (i) No Manufacturer, Distributor or Marketing Personnel, nor medical doctors or other professionals hired by any of them, shall be allowed to appear in, participate, conduct or be in any manner involved in any activity or event promoting or supporting breastfeeding, or in the production, publication and/or dissemination of literature and other materials on breastfeeding, or in classes or seminars for pregnant women, Nursing Mothers, and members of their families.
- (j) A Manufacturer or Distributor who wishes to contribute to breastfeeding education, awareness and support shall do so through donating funds directly to DOH, DOH's receipt of which shall in any event be on the condition that such donation shall be without any onerous, promotional or marketing implications relating to the use of the company name or other mark identifying a product or range of products in the utilization of the donated funds.
- (k) In no event shall a person or juridical entity distribute for sale, stock or exhibit for sale any Covered Product that:
 - (1) has reached its expiration date
 - (2) has not been issued a Certificate of Product Registration (CPR) by the BFAD after a public hearing on the product's health and nutritional claims participated in by representatives from UNICEF, WHO and the scientific/health/advocacy community.
- (l) Upon the lapse of three years from the effectivity of this Act, Non-human Milk and other Covered Products may be purchased only from duly-

licensed pharmacies or drug stores, and only upon execution by the purchaser of a standard waiver, in a language understandable in the locality, read by the seller to the purchaser if the latter is illiterate, setting forth attendant risks to use of the product including a statement that the purchaser accepts all such risks.

Upon the lapse of five years from the effectivity of this Act, all purchases of Non-human Milk and other Covered Products shall be made only upon prescription by a duly-licensed physician, pursuant to which the physician assumes responsibility for attendant risks to use by the patient of the product. No waiver from the purchaser will be necessary or effective.

- (m) Importation of any Covered Product that has been recalled or withdrawn from any market outside the Philippines due to contamination or for any reason whatsoever, shall be deemed as illegal importation of a prohibited and/or dangerous drug, and the Distributor, relevant Marketing Personnel and importer of the same shall be dealt with accordingly.
- (n) The use by Breastmilk Substitutes, Milk Supplements, and other Covered Products of brand names which are identical or similar to those used for products not covered by this Act, including similar colors, designs or physical appearance of containers, shall be prohibited so as not to confuse the buying public. For products not covered by this Act, brand names belonging to or identified with affiliates or subsidiaries of Manufacturers and Distributors may be used, provided that the same shall not in any way be connected or indicate any connection to Breastmilk Substitutes and any other Covered Product.
- (o) Manufacturers, Distributors and Marketing Personnel are prohibited from employing, requesting the participation of, and using in any manner, Healthcare Workers, Healthcare Facilities and the Healthcare System in the production, dissemination, distribution and promotion of Covered Products.
- (p) Manufacturers, Distributors, and Marketing Personnel shall be prohibited from offering, delivering or otherwise giving Gifts of any kind, regardless of whether the same bear the company name, slogan, logo, or product or brand name, to any member of the general public, hospitals and other Healthcare Facilities, including their personnel and members of their families. The practice of invoicing product sales, carrying them as accounts receivable, and thereafter taking them off the books as bad debts, shall be deemed as a means employed to circumvent this provision and is absolutely prohibited.
- (q) No Manufacturer, Distributor or Marketing Personnel 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 use of these venues to market their products, brands or company names.
- (r) Manufacturers, Distributors and Marketing Personnel are prohibited from offering, donating, giving, delivering, or promising to do the same, directly or indirectly, Samples and supplies of Breastmilk Substitutes intended for infants and young children up to two (2) years of age, to any organization or group of individuals involved in the distribution of goods in disaster, calamity or emergency areas, as this may result in the use of unclean or contaminated water in its use and preparation, and considering

further its potential misuse and abuse, and the potential resulting addiction thereto by mothers, infants and young children, all of which undermine breastfeeding and the other purposes of this Act.

- (s) No Government official shall endorse, directly or indirectly, any Covered Product.

Section 8. Healthcare Facilities and the Healthcare System

- (a) DOH shall assume a primary role in initiating and implementing appropriate measures to encourage, protect and promote breastfeeding. For this purpose, it shall provide objective, consistent, accurate, comprehensive and updated information, training and advice to Healthcare Workers relative to infant and young child nutrition.
- (b) No machinery, property or premises of any Healthcare Facility shall be used for the purpose of promoting or marketing any Covered Product. However, nothing herein shall preclude the dissemination of information to Healthcare Workers as provided in Section 9(b).
- (c) The employment, deployment or use by Healthcare Facilities of “professional service representatives”, “mothercraft nurses” or similar personnel, provided, recommended or paid for by Manufacturers, Distributors, or Marketing Personnel, shall not be permitted.
- (d) In any and all educational healthcare classes intended for pregnant women, Nursing Mothers and members of their respective families, Healthcare Workers and/or community workers shall emphasize and clearly explain the hazards and risks attendant to the use and misuse of Breastmilk Substitutes, particularly Non-human Milk.
- (e) Whenever Non-human Milk is prescribed, used in the Health Care System, or recommended in any manner, the mother shall be apprised by the person so prescribing, using or recommending, of the hazards and risks attendant to the giving of the same, and shall be required to sign a standard waiver declaring the attending Health Worker free from liability for any injury or death that may result from the proper or improper use thereof. Such waiver must likewise state the hazards of bottle-feeding.
- (f) For purposes of promoting and supporting Exclusive Breastfeeding during the first six months of life, each and every Healthcare Facility shall allow, and formulate appropriate guidelines for, Rooming-In, and shall further develop and implement, at the soonest possible time, a Lactation Support program.

Section 9. Healthcare Workers

- (a) Healthcare workers shall consistently encourage and promote breastfeeding and shall have the duty to study and familiarize themselves with updated, accurate and consistent information on maternal, infant and young child nutrition, the objectives of and principles underlying this Act, and their responsibilities hereunder.
- (b) Information and literature provided by Manufacturers, Distributors and Marketing Personnel to Healthcare Workers regarding Covered Products shall be restricted to scientific and factual matters and shall not imply nor tend to create a belief that bottle-feeding or feeding of an infant or young child through the use of Covered Products is equivalent or superior to

breastfeeding. It shall also include the information specified in Section 6(b).

- (c) No financial nor material inducements to promote, market or use Covered Products shall be offered, given, promised or delivered by Manufacturers, Distributors, or Marketing Personnel to Healthcare Workers or members of their families, nor shall these be accepted by the same.
- (d) The offering, giving or delivering samples of Non-human Milk and other Covered Products, or of equipment, accessories, implements or utensils for their preparation or use, to Healthcare Workers shall be prohibited. Further, no Healthcare Worker shall in turn give samples of Non-human Milk and other Covered Products to pregnant women and Nursing Mothers or members of their families.

Section 10. Marketing Personnel and Persons Employed by Manufacturers and Distributors

- (a) Marketing Personnel or any person employed by Manufacturers and Distributors shall not, as part of their job responsibilities or in any professional capacity, perform educational or other public service functions or duties in relation to pregnant women or Nursing Mothers or their families.
- (b) Marketing Personnel and all persons employed by Manufacturers and Distributors shall, at all times, and regardless of their designated functions and duties, make only objective, accurate, consistent and updated statements about the pertinent Covered Product, maintaining and upholding at all times and in any event the superiority of Mother's Milk over any Breastmilk Substitute, including but not limited to the brand and product which he/she has been employed to promote, market or sell.

Section 11. Containers and Labels

- (a) No Manufacturer, Distributor or Marketing Personnel shall offer for sale nor sell any Non-human Milk, Milk Complement or Milk Supplement unless the container or its Label conforms to all of the following:
 - (i) contains the words "GOVERNMENT WARNING" in capital letters and thereunder, the statement "Non-human milk is dangerous to the health of mother and baby. Breastfeeding provides the ideal food for the healthy growth and development of infants and young children. It protects against diarrhea and other illnesses." This should be printed in characters no less than one-third the size of the characters of the product name, and in no case less than 2mm in height
 - (ii) contains the word "IMPORTANT" and thereunder, the statement "Before deciding to complement breastfeeding with this product, seek the advice of a health professional. It is important for your baby's health that you follow all the preparation instructions carefully. It is more hygienic to feed from a cup than a feeding bottle." This should be printed in characters no less than one-third the size of the characters of the product name, and in no case less than 1.5mm in height
 - (iii) clearly states that the product shall not be used for infants less than six months old unless medically indicated by duly-licensed medical experts for those with inborn metabolism conditions
 - (iv) includes a feeding chart in the preparation instructions and clearly states that leftover formula should be discarded

- (v) does not use the terms “maternalized,” “humanized,” “close to mother’s milk” or terms similar thereto nor reflects any comparison with breastmilk
 - (vi) does not use photographs of children less than five years of age, as well as any text or image that may tend to discourage breastfeeding.
- (b) No Manufacturer, Distributor or Marketing Personnel shall offer for sale or sell Related Products, unless the package or Label indicates in a clear, conspicuous and easily readable manner, in English and in Filipino, all of the following particulars:
- (i) the words “GOVERNMENT WARNING” in capital letters and thereunder, the statement “Non-human milk is dangerous for babies up to two years of age. Breastfeeding provides the ideal food for the healthy growth and development of infants and young children. It protects against diarrhea and other illnesses. The use of this product may have adverse effects on breastfeeding.” These should be printed in characters no less than one-third the size of the characters of the product name, and in no case less than 2mm in height
 - (ii) the statement “IMPORTANT: It is important for your baby’s health that you follow the cleaning and sterilization instructions very carefully. Feeding with a cup is more hygienic than using a feeding bottle. If you use a feeding bottle, your baby may no longer want to feed from the breast. This product (including the pacifier) may interfere with, and have adverse effects on, breastfeeding.” These words should be printed in characters no less than one-third the size of the characters of the product name, and in no case less than 1.5 mm in height
 - (iii) instructions for cleaning and sterilization in simple words and graphics
 - (iv) 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
 - (v) the name and principal business address of the Manufacturer and Distributor.

Section 12. Quality

- (a) The quality of all Covered Products is essential to the protection of the health of infants and young children, and therefore the Government and all components of the Healthcare System shall endeavor to maintain the highest standards of quality for all Covered Products.
- (b) Any and all Covered Products shall be sold or otherwise distributed only when they meet applicable standards recommended by the Codex Alimentarius Commission and also the Codex Code of Hygienic Practice for Foods for Infants and Children.
- (c) To prevent quality deterioration, adulteration or contamination, it shall be prohibited for distribution outlets, stores and other retailers to open cans and boxes of Covered Products for the purpose of retailing them by the cup, bag or in any other form.

Section 13. Implementation and Monitoring

- (a) There shall be a National Board for Infant and Young Child Feeding, to be composed of the following members:

- (i) the DOH Secretary or his representative who shall be its ex officio-Chairman
 - (ii) the DepEd Secretary or his representative
 - (iii) the DSWD Secretary or his representative
 - (iv) the Chief Executive Officer of the Philippine Health Insurance Corporation, or his representative
 - (v) the head of the Philippine Information Agency or his representative
 - (vi) the President of the Philippine Academy of Lactation Consultants, Inc., affiliated with the Philippine Medical Association, or his representative who shall at all times be an internationally recognized lactation consultant (IBCLC or its equivalent)
 - (vii) the President of the Philippine Pediatric Society Inc., a specialty under the Philippine Medical Association, or his representative
 - (viii) representatives of various non-governmental organizations which advocate breastfeeding, provided they adhere to the standards of international ethics, do not hold any clearly conflicting interests and do not receive donations nor support of any kind from Manufacturers, Distributors or Marketing Personnel.
- (b) The National Board of Infant and Young Child Nutrition shall have the following powers and functions:
- (i) Advise the President of the Philippines and DOH Secretary on the formulation of a national policy for the promotion, support and protection of breastfeeding, as well as on matters relating to infant and young child nutrition
 - (ii) Advise the DOH Secretary on designing a national strategy for:
 - ii.a. developing public education and awareness programs for the promotion of breastfeeding, as well as informational and educational materials on infant and young child feeding
 - ii.b. continuing education for doctors, nurses, midwives, and Healthcare Workers on Lactation Support and the requirements of this Act
 - ii.c. establishing curricula for students in professions that involve Lactation Support
 - ii.d. ensuring that the general public is aware of this Act and its provisions
 - (iii) Issue guidelines directed at Healthcare Facilities and Healthcare Workers to ensure a mother- and baby- friendly atmosphere conducive to the advancement of the purposes of this Act—
 - (i) in hospitals and other Healthcare Facilities, where internationally recognized lactation experts may man the maternity wards, and where other measures may advance the purposes of Republic Act 7600, known as the Rooming-In Act
 - (ii) in Government and business offices and schools, where day care centers, facilities for breastfeeding mothers such as lactation stations with freezers, etc. may be provided
 - (iii) in shopping malls, bus and railroad terminals, aboard public transport and in other public places, where comfortable lactation centers may be provided.
 - (iv) Issue guidelines relating to school curricula for the education of doctors, health professionals, nurses, and other prospective Healthcare Workers, students in the high school and college levels, especially in medical schools, on the basic principles of breastfeeding and the laws that promote and protect it.
 - (v) Take the lead role in the celebration of World Breastfeeding Week from August 1 to 7 every year, in accordance with international

practice and in consonance with international standards of ethics, as promulgated in Presidential Proclamation No. xxxx, with the cooperation of the DOH, DSWD, DepEd, and others.

- (c) DOH shall be the Governmental department principally responsible for the implementation and enforcement of the provisions of this Act. For this purpose, it shall have the following powers and functions:
 - (i) Promulgate such rules and regulations as are necessary or proper for the implementation of this Act and the accomplishment of its purposes and objectives.
 - (ii) Request the assistance of Government agencies and/or the private sector to ensure the effective and efficient implementation and enforcement of, and strict compliance with, the provisions of this Act and the rules and regulations promulgated in accordance herewith.
 - (iii) Outsource monitoring functions to non-governmental organizations headed by internationally recognized lactation experts.
 - (iv) Outsource training of internationally recognized lactation experts to man maternity wards of hospitals and other Healthcare Facilities.
 - (v) Cause the prosecution of the violators of this Act and other pertinent laws on Covered Products.
 - (vi) Exercise such other powers and functions as may be necessary for or incidental to the attainment of the purposes and objectives of this Act.
- (d) All fees collected, charges imposed and administrative fines collected and paid as an incident to implementation of this Act shall accrue entirely to the DOH, to be used exclusively for the further promotion, support and protection of breastfeeding.

Section 14. Violations of the Act

In addition to criminal and/or civil liabilities imposed by pertinent laws, rules and regulations otherwise applicable, the following sanctions shall be imposed upon any person, juridical or natural, found to have violated the provisions of this Act:

- (a) 1st violation – Issuance of an official warning, including an order to forever cease and desist from such act
- (b) 2nd violation – Imposition of an administrative fine ranging from Ten Thousand (P10,000.00) to Fifty Thousand (P50,000.00) Pesos depending on the gravity and extent of the violation, including if applicable the recall of the offending product
- (c) 3rd violation – Imposition of an administrative fine ranging from Sixty Thousand (P60,000.00) to One Hundred Fifty Thousand (P150,000.00) Pesos depending on the gravity and extent of the violation, including if applicable recall of the offending product and suspension of its Certificate of Product Registration (CPR)
- (d) 4th violation – administrative fine ranging from Two Hundred Thousand (P200,000.00) to Five Hundred Thousand (P500,000.00) Pesos, depending on the gravity and extent of the violation, recall of the product, revocation of its CPR, and suspension of the License to Operate (LTO) of the company or companies concerned for one year;

- (e) 5th and each succeeding violation - administrative fine of at least One Million (P 1,000,000.00) Pesos, recall of the offending product, cancellation of the CPR and revocation of the LTO of the company or companies concerned, as well as including it as a blacklisted company in a list to be furnished to the Department of Budget and Management (DBM), the Department of Trade and Industry (DTI) and Securities and Exchange Commission (SEC)
- (f) An additional penalty of Two Thousand Five Hundred (P2,500.00) Pesos per day shall be imposed for every day the violation persists after having received the order notifying and penalizing the company for the same.
- (g) For purposes of this Act, the number of violations shall be determined based on violations committed on a per entity or company basis, and not counted on a product-by-product, or on a person-by person basis. The first violation may merit a severe warning from the DOH Secretary; subsequent violations are deemed repeated violations and merit full prosecution under full force of the law.
- (h) Any license, permit or authority issued by any Governmental agency, unit or instrumentality, whether national or local, to any Health Worker, Distributor, Manufacturer or Marketing Personnel for the practice of their profession or occupation or for the pursuit of their business may, upon recommendation of the DOH Secretary, be suspended or revoked in the event of persistent violations of this Act.
- (i) Subject to Sections 14(j) to 14(c) herein, any person who violates any provision of this Act shall, upon conviction by final judgment before a court of law, be punished with a fine ranging from One Hundred Thousand (P100,000.00) to One Million (P1,000,000.00) Pesos and/or imprisonment of six (6) to twelve (12) months. Should the offense be committed by a juridical person, the Director or Directors, President, General Manager, and/or the Partners and/or officers, representatives or agents authorizing, participating in, or inducing such violation shall be held responsible and penalized accordingly.
- (j) Any physician or medical doctor, whether employed by or working within a Healthcare Facility found to have violated any provision of this Act shall, upon conviction by final judgment before a court of law, be punished with a fine ranging from Two Hundred Thousand (P200,000.00) to One Million (P1,000,000.00) Pesos and/or imprisonment of one (1) to three (3) years.
- (k) Any nurse, midwife or Healthcare Worker, whether employed by or working within a Healthcare Facility found to have violated the provisions of this Act shall, upon conviction by final judgment before a court of law, be punished with a fine of One Hundred Fifty Thousand (P150,000.00) to One Million (P1,000,000.00) Pesos and/or imprisonment of six (6) to twelve (12) months.
- (l) Any hospital, healthcare institution or center, or other Healthcare Facility found to have violated any provision of this Act shall, upon final judgment before a court of law, be punished with a fine ranging from Three Hundred Thousand (P300,000.00) to One Million (P1,000,000.00) Pesos and/or revocation of its permit to operate. The Director or Directors, President, General Manager, and/or the Partners and/or officers, representatives or agents authorizing, participating in, or inducing such violation shall likewise be held responsible and penalized accordingly.

- (m) Any official, employee, agent or consultant of the DOH or any of agencies or instrumentalities accused of receiving Gifts from Manufacturers, Distributors, and Marketing Personnel of Covered Products shall be immediately suspended and administratively charged, and if found guilty, shall be immediately dismissed from service, deprived of all retirement benefits, and prosecuted before a court of law for violation of this Act and other pertinent laws.
- (n) Any official, employee, agent or consultant of the DOH or any of its agencies or instrumentalities accused of approving, not objecting to, or tolerating to acts, events or circumstances which induce, tolerate or mask or otherwise prevent discovery of any violation of this Act shall be immediately suspended and administratively charged. If found guilty, the disciplining authority shall have the discretion, depending on the gravity and effect of such violation, to impose the penalty of dismissal from service, demotion in rank, suspension without pay for not more than one year, a fine in an amount not exceeding six months salary, or reprimand, and such additional or accessory penalties as may be appropriate, including but not limited to, forfeiture of retirement and other benefits, as well as perpetual disqualification from government service.
- (o) Any importation of a Covered Product 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 accordingly. 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.

Section 15. Repealing Clause.

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

Section 16. Separability Clause.

The provisions of this Act are hereby deemed distinct and separable from each other. If any provision hereof be declared invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions which shall remain in full force and effect.

Section 17. Effectivity

This Act shall take effect one hundred twenty (120) days following its publication in at least two newspapers of general circulation.