

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

THIRTEENTH CONGRESS
3rd Regular Session

HOUSE BILL NO. 5714

Introduced by Representative Eduardo C. Zialcita

EXPLANATORY NOTE

All children in the Philippines should enjoy their rights and should have a bright future with caring and protective families and communities. This is guaranteed by the highest law of the land, our Constitution. However, from alarming statistics, the failure to promote breastfeeding in our country as a basic right of children leads to a public health emergency. Thus, there is a need to strengthen the National Milk Code.

With 16,000 child deaths every year in the Philippines caused by formula feeding, this bill seeks to promote and support breastfeeding in the Philippines. Breastfeeding saves lives and increases the chances that children will grow to be healthy and educated. The benefits of breast feeding are for the good of the child, for the good of the mother, and for the good of the nation. Breastfeeding benefits the economy; if all lactating mothers breastfed their babies, we would save US\$57 million (roughly about 2.96 billion pesos) from milk formula imports every year. The positive impact of this bill which seeks to improve the health of Filipino children by promoting and advocating breastfeeding will be felt, not only by the cohort of babies today, but by all generations of Filipinos.

UNICEF has raised the alarm on declining breastfeeding rates in the country. The damage to children from lack of adequate breastfeeding and lack of good nutrition in the first two years of life can be permanent. Immune-system weakness, stunted growth, and compromised intelligence are just some of the possible consequences. In

the Philippines, half of all infants in 2003 were exclusively breastfed for less than 24 days, down from 1.4 months in 1998. By six to seven months old, only 1.4 per cent of babies are still exclusively breastfed. The duration of exclusive breastfeeding recommended by WHO and UNICEF for optimal infant growth, development and health is six months.

Babies who are breastfed have fewer illnesses and are better nourished than those who are fed other drinks and foods. If all babies were fed only breastmilk for the first six months of life, the lives of an estimated 1.5 million infants would be saved every year and the health and development of millions of others would be greatly improved.

Using breastmilk substitutes, such as infant formula or animal's milk, can be a threat to infants' health. This is particularly the case if parents cannot afford sufficient substitutes, which are quite expensive, or do not always have clean water with which to mix them.

Almost every mother can breastfeed successfully. Those who might lack the confidence to breastfeed need the encouragement and practical support of the baby's father and their family, friends and relatives. Health workers, women's organizations, the mass media and employers should also provide support. Everyone should have access to information about the benefits of breastfeeding and it is the duty of every government to actively promote this information and promote its use.

In light of the foregoing, the immediate passage of this bill is earnestly sought for.



REP. EDUARDO C. ZIALCITA

AN ACT PROVIDING FOR THE PROMOTION OF BREASTFEEDING
PRACTICES AND INSTITUTING MEASURES THEREFOR
AND FOR OTHER PURPOSES

ARTICLE I

TITLE, POLICY, PRINCIPLES AND DEFINITION OF TERMS

Section 1. ***Title*** – This Act shall be known as the “Breastfeeding Act of 2006”.

Section 2. ***Declaration of State Policy and Principles*** – Breastfeeding is the best form of nutrition for infants.

It is hereby declared policy of the State to consider breastfeeding as an important and basic act of nurture that must be encouraged in the interest of maternal and child health, and that all women shall be encouraged to practice exclusive breastfeeding and all infants should, as far as practicable, be fed exclusively on breastmilk from birth to six months of age. Thereafter, children should continue to be breastfed while receiving appropriate and adequate complementary foods for up to two years of age and beyond. This feeding ideal is to be achieved by creating an appropriate environment of awareness and support so that women can breastfeed in this manner.

Breastfeeding provides significant health benefits to both the mother and child. Infants who are breastfed receive protection against infection, illness and allergies and long-term positive effects on their development, intelligence and health. A protective effect against various types of cancer and greater emotional and physical health are found in mothers who breastfeed. Breastfeeding promotes sufficient birth spacing, improved vaccine effectiveness and decreased food and medical expenses, which all have positive economic and medical societal effects.

Genuine promotion of family values should encourage public acceptance of this most basic act of nurture between a mother and her child.

Section 3. ***Definition of Terms*** – For purposes of this Act, the following definition are adopted:

“Advertising” means the act of publishing in magazines, periodicals and newspapers, and/or advertisements broadcasts through other mass media such as radio, television and telecommunication systems (telephone, etc) and advertisements published through digital/magnetic media such as the internet, CD-ROMs or floppy disks.

“Age of gestation” means the length of time the fetus is inside the mother's womb.

“BFAD” refers to the Bureau of Food and Drugs of the Department of Health

“Bottle-feeding” is the method of feeding an infant using a bottle with artificial nipples, the contents of which can be any type of fluid.

“Breastfeeding” is the method of feeding an infant directly from the human breast.

“Breastmilk” is the human milk from a mother.

“Breastmilk Substitute” means any food being marketed or otherwise represented as a partial or total replacement for breastmilk, whether or not suitable for that purpose including evaporated and condensed milk, ordinary cow’s milk, rice gruel (“am”) and the like.

“Committee” shall refer to the Inter-Agency Committee composed of the Secretary of Health, as Chairman, and the Secretary of Trade and Industry, the Secretary of Justice, and the Secretary of Social Welfare and Development, as members;

“Complementary Food or breastmilk supplement” means any food whether manufactured or locally prepared, suitable as a complement to breastmilk or to infant formula, when either becomes insufficient to satisfy the nutritional requirements of the infant. This can include products also commonly called as "weaning food"

“Container” means any form of packaging of products for sale as a normal retail unit, including wrappers.

“Distributor” means a person, corporation or any other entity in the public or private sector engaged in the business (whether directly or indirectly) of marketing at the wholesale or retail level a product under Section 27 of this Act. A "primary distributor" is a manufacturer's sales agent, representative, national distributor or broker.

“DoH” refers to the Department of Health

“Expressed Breastwork” refers to the human milk which has extracted from the breast by hand or by pump. It can be fed to an infant using the dropper, a nasogastric tube, a cup and spoon, or a bottle.

“Formula Feeding” is the feeding of a newborn with infant formula usually by bottlefeeding. It is also called artificial feeding.

"Health care system" means governmental, non-governmental or private institutions or organizations engaged, directly or indirectly, in health care for mothers, infants and pregnant women; and nurseries or childcare institutions. It also includes health workers in private practice. For the purpose of this Act, the health care system does not include pharmacies or other established sales outlets.

“Health Institutions” are hospitals, health infirmaries, health centers, lying-in centers, or puericulture centers with obstetrical and pediatric services.

“Health Worker” means a person working in a component of such health care system, whether professional or non-professional, including volunteer workers. It also

includes health workers in private practice. Traditional and other birth attendants, their assistants and other community volunteers involved in health and nutrition promotion and education shall likewise be included.

“Infant” means a person falling within the age bracket of 0-12 months.

“Infant Formula” means a breastmilk substitute formulated industrially in accordance with applicable Codex Alimentarius standards, to satisfy the normal nutritional requirements of infants up to between four to six months of age, and adapted to their physiological characteristics. Infant formula may also be prepared at home in which case it is described as "home-prepared."

“Label” means any tag, brand, mark, pictorial or other descriptive matter, written, printed, stenciled, marked, embossed or impressed on, or attached to, a container of any product under Section 27 of this Act.

“Lactation Management” is the general care of a mother-infant nursing couple during the mother's prenatal immediate postpartum and postnatal periods. It deals with educating and providing knowledge and information to pregnant and lactating mothers on the advantages of Breastfeeding, the physiology of lactation, the establishment and maintenance of lactation, the proper care that would contribute to successful breastfeeding.

“Low Birth Weight Infant” is a newborn weighing less than two thousand five hundred (2,500) grams at birth.

“Manufacturer” means a corporation or other entity 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 a product under Section 27 of this Act.

“Marketing” means product promotion, distribution, selling, advertising, product public relations, and information services.

“Marketing firm” refers to any entity that does marketing or provides marketing services.

“Marketing personnel” means any person whose functions involve the marketing of a product or products coming under Section 27 of this Act.

“Milk company” shall refer to the owner, manufacturer, distributor, of breastmilk substitute or supplements, including their representatives who promote or otherwise advance their commercial interests in marketing those products.

“Mother's milk” - the breastwork from the newborn's own mother.

“Other milk products, foods and beverages” refers to any provision or drink marketed as a partial or total replacement of breastmilk.

“Other related products” refers to all materials used to administer breastmilk substitutes, such as, but not limited to, feeding bottles, teats and other artificial feeding paraphernalia.

“Products under Section 27 of this Act” shall pertain to breastmilk substitutes, including infant formula, other milk products, food and beverages, including bottle-fed complementary foods, as well as feeding bottles, teats and other commodities which intend to replace or substitute, in whole or in part, breastmilk and breastfeeding.

“Promotions” means the practice of giving temporary additional value to a product or service to achieve specific marketing objectives. (Act of Ethics for Advertising)

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

“Sample” means single or small quantities of a product provided without cost.

“Seriously-ill Mothers” are those 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.

“Supplies” means quantities of a product provided for use over an extended period, free or at a low price, for social purposes, including those provided to families in need.

“Weaning” means discontinuing the breastfeeding of an infant with substitution of other feeding habits

“Wet-nursing” is the feeding of a newborn from another mother's breast when his/her own mother cannot breast-feed.

“Young child” means a person from the age of more than twelve (12) months up to the age of three (3) years (36 months)

ARTICLE II

PROGRAM ON THE PROMOTION OF BREASTFEEDING

Section 4. ***Formulation of the Program*** - There shall be a comprehensive program to promote breastfeeding to be formulated by the Department of Health and the Department of Social Welfare and Development in coordination with other government agencies and private sector concerned within one (1) year from the effectivity of this Act.

ARTICLE III

RIGHTS OF NURSING MOTHERS

Section 5. ***Right of the Mother to Breastfeed*** - The mother's right to breastfeed her child who equally has the right to her breastmilk is recognized. It is protected and enforceable. No mother should be discriminated upon or socially ostracized for breastfeeding her child.

Section 6. ***Mother's prerogative*** - Breastfeeding is the most elemental form of parental care. The decision to breastfeed is the sole prerogative of the mother. The decision to do otherwise must be based on an informed choice. 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 the proper techniques of infant formula feeding and the mother has opted in writing to adopt formula feeding for her infant.

Section 7. ***Not indecent exposure*** - No provision of law or ordinance on indecent exposure shall apply to breastfeeding an infant. A mother may breastfeed her baby in any location public or private, where the mother is otherwise authorized to be, even if not done discreetly, irrespective of whether the nipple of the mother's breast is uncovered during or incidental to the breastfeeding.

Section 8. ***Breastfeeding and the workplace*** - Majority of women who continue to breastfeed upon returning to work miss less time from work due to baby-related illnesses, and even if they do miss work have shorter absences compared to women who do not breastfeed. Thus,

- (a) Women shall have the right to breastfeed babies in the workplace.
- (b) Employers are encouraged to facilitate the continuation of breastfeeding when women return to work. To set up lactation facilities and support for their employees, including educational programs on the benefits of breastfeeding, and assistance in handling breastfeeding problems, as well as difficulties often experienced by breastfeeding mothers in the workplace.
- (c) Employers shall develop written policies supporting breastfeeding practices for the workplace that addresses issues including work schedule flexibility; scheduling breaks and work patterns to provide time for milk expression and/or breastfeeding.

- (d) Employers shall provide mothers with reasonable unpaid break time to express milk or breastfeed.

Section 9. ***Lactation facilities*** –A woman's milk supply is directly related to how much stimulation the breasts receive. Failure to breastfeed or pump sufficiently may result in the loss of the mother's milk supply that can result in the baby weaning prematurely. Employers shall provide a clean and private location in the workplace where mothers can express milk or breastfeed in privacy. Such location shall have access to clean, safe water source and sink for washing hands and rinsing out any needed breast-pumping equipment; and access to hygienic storage facilities for the mother's breastmilk.

ARTICLE IV

ROOMING-IN AND BREASTFEEDING OF INFANTS

Section 10. ***Applicability*** - The provisions in this Article shall apply to all private and government health institutions adopting rooming-in and breastfeeding as defined in this Act.

Section 11. ***Normal Spontaneous Deliveries*** - The following newborn infants be put to the breast of the mother immediately after birth and forthwith roomed-in within thirty (30) minutes:

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

Section 12. ***Deliveries by Caesarian*** - Infants delivered by caesarian section shall be roomed-in and breastfed within three (3) to four (4) hours after birth.

Section 13. ***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 5 of this Act, shall be roomed-in and breastfed immediately.

Section 14. ***Exemptions*** - Infants whose conditions do not permit rooming-in and breast-feeding as determined by the attending physician, and infants whose mothers are either:

- (a) seriously ill;
- (b) taking medications contraindicated to breastfeeding;
- (c) violent psychotics; or

(d) whose conditions do not permit breastfeeding and rooming-in as determined by the physician shall be exempted from the provisions of Sections 11, 12, and 13: *Provided*, That these infants shall be fed expressed breastmilk or wet-nursed as may be determined by the attending physician.

ARTICLE V

EXTENDED BREASTFEEDING AND WEANING

Section 15. ***Benefits*** – Extended breastfeeding should be encouraged. There is no evidence that breastfeeding a child beyond infancy and allowing a child to wean naturally is harmful. Toddlers and young children are benefited nutritionally and psychologically. Prolonged nursing is associated with better social adjustment.

Section 16. ***Weaning*** – Mothers shall be responsive to needs of the child and shall allow their child to wean naturally. Weaning, as a personal decision to be made by each mother based on her particular family situation and individual circumstances, is recognized. Children who nurse past their infancy have their own developmental timetables and are the ones who determine if breastfeeding is to continue.

ARTICLE VI

INFORMATION AND EDUCATION

Section 17. ***Information and Education***

(a) The Department of Health shall ensure that objective and consistent information is provided on infant and young child feeding for use by 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, and the control thereof, on infant and young child nutrition.

(b) The Department of Health should take appropriate measures to encourage and protect breastfeeding, and promote the principles of this Act. It should give appropriate information, training and advice to health workers in regard to their responsibilities, including the information specified in Section 5(c).

(c) Manufacturer, distributor or representatives of products covered by the Act may be 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 IAC.

Promotion of products intended for infants 0-12 months as covered by this Act will not be allowed in such venues.

Section 18. *Continuing Education, Re-education and Training of Health Personnel*

(a) The Department of Health with the assistance of other government agencies, professional and non-government organizations shall conduct continuing information, education, re-education, and training programs for physicians, nurses, midwives, nutritionist, dietitians, community health workers and traditional birth attendants (TBAs) and other health personnel on current and updated lactation management, including their obligations under this Act.

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

(b) Manufacturers and distributors of products under Section 27 of this Act may assist in the research, scholarships and continuing education of health professionals, in accordance with the rules and regulations promulgated by the Department of Health.

Section 19. *Information Dissemination to Pregnant Women* - During the prenatal, perinatal and postnatal consultations and/or confinements of the mothers or pregnant women in a 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, through participatory strategies such as organization of mother's clubs and breastfeeding support groups and to distribute written information materials on such matters free of charge.

Section 20. *Classes for mothers and the general public* - In health education classes for mothers and the general public, health workers and community workers shall emphasize the benefits of breastmilk and the hazards and risks of the improper use of breastmilk substitutes particularly infant formula. Feeding with infant formula shall be demonstrated only to mothers who may not be able to breastfeed for medical or other legitimate reasons.

Personnel employed in marketing products shall not, as part of their job responsibilities, perform educational functions in relation to pregnant women or mothers of infants and young children. This should not be understood as preventing such personnel from being used for other functions by the health care systems at the request and with the written approval of the appropriate authority of the government concerned.

Section 21. *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:

- (1) benefits and superiority of breastfeeding
- (2) maternal nutrition, and the preparation for and maintenance of breastfeeding
- (3) negative effect on breast feeding of introducing partial bottle-feeding
- (4) difficulty of reversing the decision not to breastfeed
- (5) where needed, the proper use of infant formula, whether manufactured industrially or home-prepared. 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 inappropriate foods or feeding methods; and, in particular, the health hazards of unnecessary or improper use of infant formula and other breastmilk substitutes. Such materials shall not use any picture or text, which may idealize the use of breastmilk substitutes.

Section 22. *Donations of informational or educational equipment or materials-*

Donations of informational or educational equipment or materials by manufacturers or distributors should be made only upon written approval of the appropriate government authority. Such equipment or materials may bear the donating company's name or logo, but should not refer to a proprietary product that is under Section 27, and should be distributed only through the health care system.

Section 23. *Breastfeeding as part of the curriculum* – In coordination with the DOH, the Department of Education shall formulate a comprehensive education program on breastfeeding to be incorporated in the elementary and secondary curriculum. The Commission on Higher Education 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.

ARTICLE VII

HUMAN MILK BANK

Section 24. *Provision of Facilities for Breastmilk Collection and Storage* - The health institution adopting rooming-in and breastfeeding shall provide equipment, facilities, and supplies for breastmilk collection, storage and utilization, the standards of which shall be defined by the Department of Health.

ARTICLE VIII

RESEARCH

Section 25. *Research, Ethics Committee, Purpose* - The DoH shall ensure that research conducted for public policy purposes, related to infant and young child feeding, should, at all times, be free from any commercial influence/bias; accordingly,

the health worker or researcher involved in such must disclose any actual or potential conflict of interest with the company/person funding the research. In any event, such research and its funding shall be subjected to independent peer review. Towards accomplishing these ends;

(a) Assistance for research and clinical trials given by manufacturers and distributors are allowed only upon approval by an Ethics Committee and 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 will be subject 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 should in no case be harmful to the subject
3. Should be limited to those with potential benefits for the particular subject.

(d) Recipients of research awards shall not allow themselves, their organizations or their subjects, to be used directly or indirectly for any promotional activity related to products under Section 27. These may be by way of display of posters and streamers patronizing the Company, their products and/or as lecturers/speakers or testimonials in the promotion of the products that undermine breastfeeding.

(e) Assistance for support of laboratory costs, reagents and other materials shall be allowed only upon approval and review by the Ethics Committee regarding the used based on submitted protocol.

Section 26 - **Public Disclosure** – For transparency purposes, a disclosure and/or disclaimer of the sponsoring company should be done by the company itself, health worker, researcher involved through verbal declaration during public presentation of the research and in print upon publication.

ARTICLE IX

MARKETING OF BREASTMILK SUBSTITUTES, BREASTMILK SUPPLEMENTS AND RELATED PRODUCTS

Section 27. **Scope** – This Article applies to the marketing, and practices related thereto, of the following products: breastmilk substitutes, including infant formula; other milk products, foods and beverages, including bottle-fed complementary foods,

when marketed or otherwise used represented to be suitable, with or without modification, for use as a partial or total replacement of breast milk; feeding bottles, teats and other commodities. It also applies to their quality and availability, and to information concerning their use.

Section 28. *Inter-Agency Committee (IAC)*

The Inter-Agency Committee (IAC) composed of the following members is hereby created:

Secretary of Trade and Industry -----	Chairman
Secretary of Health-----	Co-Chairman
Secretary of Justice -----	Member
Secretary of Social Welfare and Development -----	Member
Secretary of Finance -----	Member
Secretary of Labor -----	Member

The members may designate their duly authorized representative to every meeting of the Committee.

The Committee shall have the following powers and functions:

- (1) To review and examine all advertising, promotional or other marketing materials, whether written, audio or visual, on product under Section 27.
- (2) To approve or disapprove, delete objectionable portions from and prohibited the printing, publication, distribution, exhibition and broadcast of, all advertising promotion or other marketing materials, whether written, audio or visual, on products under Section 27;
- (3) To prescribe the internal and operational procedure for the exercise of its powers and functions as well as the performance of its duties and responsibilities; and
- (4) To promulgate such rules and regulations as are necessary or proper for the implementation of Section 29 and 30.

The committee shall develop, update substantive and procedural guidelines for reviewing advertising, promotional and marketing materials, including its screening when deemed appropriate. All such materials must have approved and consented to in writing by the Committee before the Company's first public or commercial exhibition.

No advertising, promotion or other marketing materials as defined under sections 29 and 30, whether written, audio, visual, audio-visual, and electronic shall be printed, published, distributed, exhibited and broadcasted or in manner released to the public without the prior review and approved by the IAC.

No blanket or general approval shall be allowed. Such written approval must be specific in product and time bound.

Section 29. *Advertising*

- (a) Advertising for infant formula and other products under Section 27intended for infants 0-6 months shall not be allowed.
- (b) Advertising for infant formula and other products under Section 27intended for infants 6-12 months shall be allowed upon review and approval of the IAC.
- (c) Advertising of breastmilk supplement for a young child 12 months and older shall be allowed as long as it does not undermine superiority of breastfeeding.

Section 30. *Promotions*

- (a) The General Public and Mothers
 - 1. Promotion for products under Section 27intended for infants 0-6 months shall not be allowed.
 - 2. Promotion for infant formula and other products under Section 27intended for infants 6-12 months shall be allowed upon review and approval of the IAC.
 - 3. Promotions of breastmilk supplement for a young child 12 months and older shall be allowed as long as it does not undermine superiority of breastfeeding.
- (b) Healthcare System and Health Workers
 - 1. Promotion of products under Section 27intended for infants 0-12 months shall be allowed upon the review and approval of the IAC.
 - 2. Promotion of products for a young child 12 months and older shall be allowed as long as it does not undermine superiority of breastfeeding.

Section 31. *Contents of Materials* - The following shall not be included in advertising, promotional and marketing materials:

- (a) Texts, pictures, illustrations or information which discourage or tend to undermine the benefits or superiority of breastfeeding or which idealize the use of breastmilk substitutes and milk supplements. In this connection, no pictures of infants, person holding a feeding bottle, feeding bottles and infant with product shots shall be used in any advertisements.
- (b) The term “humanized”, “Maternalized”, “close to mother’s milk” or similar words describing breastmilk substitutes or milk supplements
- (c) Pictures or texts that idealize the use of infant and milk formula.

Section 32. *Health and Nutritional Claims*

- (a) Health and nutritional claims for products within the scope of the Act are allowed as long as it is based on scientific and factual information upon review and approval by the IAC.
- (b) False or misleading information or claims of products within the scope of the Act are prohibited.
- (c) Promotion of products under Section 27 must be objective and should not equate or make the product appear to be as good or equal to breastmilk or breastfeeding in the advertising concept. It must not in any case undermine breastmilk or breastfeeding.

Section 33. *Information to Healthcare workers*

Information provided by manufacturers and distributors to health professionals regarding products under Section 27 shall be restricted to scientific and factual information, and such information shall not imply or create a belief that bottle-feeding is equivalent or superior to breastfeeding. It shall also include the information specified in Section 17 (c).

Section 34. *Promotions in Healthcare System*

- (a) No facility of the health care system shall be used for the purpose of promoting products intended for infant 0-12 months under Section 27. This Act does not, however, preclude the dissemination of scientific and factual information to health professionals as provided in Section 33.
- (b) Facilities of the health care system shall not be used for the display of products, posters and materials intended for infants 0-12 months under Section 27 as provided by a manufacturer or distributor.
- (c) Manufacturers, distributors and marketing firms or the representatives are prohibited from using the health workers in the dissemination, distribution and promotion of products intended for infants 0-12 months under Section 27.
- (d) The use by the health care system of "professional service" representatives, "mothercraft nurses" or similar personnel provided or paid for by manufacturers or distributors, shall not be permitted.

Section 35. *Classes, Seminars for Women –*

Manufacturers, distributors and representatives of milk companies shall not be allowed to hold activities, classes and seminars for pregnant women and mother of infants related to the promotion of products intended for infants 0-12 months as covered by this Act.

Section 36. *Inducements*

Financial or material inducements to promote products under Section 27 shall not be given by milk companies to nor shall this be accepted by the general public, mothers, pregnant women, health workers, hospital and other health institution, as well as to personnel within the health care system including members of their families except as provided for in Sections 25 and 44.

Section 37. *Samples and Supplies*

Samples and supplies of products under Section 27 intended for infants 0-12 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, pregnant women, health workers, hospitals and other health institutions, as well as personnel within the healthcare system, including members of their families except as provided for in Sections 25 and 44.

Samples and supplies of products under Section 27 intended for infants 0-12 months cannot be given by health workers to the general public, mothers and pregnant women including members of their families.

Section 38. *Gifts of any sort*

Gifts of any sort with or without company name/logo, product or brand name to promote products or equipment/utensils/articles for the preparation or use of these products under Section 27 intended for infants 0-12 months from manufacturers, distributors and representatives shall not be allowed to be given to any member of the general public, mothers, pregnant women, health workers, hospitals and other health institutions, as well as personnel within the healthcare system, including members of their families.

Section 39. *Point of Sale*

There shall be no point of sale advertising, giving of samples or any promotion devices to induce sales directly to the consumers at the retail level, such as special displays, discount coupons, premiums, rebates, special sales, bonus and tie-in sales, loss-leaders, prizes or gifts for the products intended for infants 0-12 months under Section 27. This provision shall not restrict the establishment of pricing policies and practices intended to provide products at lower prices on a long-term basis.

Section 40. *Containers/Labels*

(a) Containers and/or labels shall be designed to provide the necessary information about the appropriate use of the products, and in such a way as not to discourage breastfeeding.

(b) Each container shall have a clear, conspicuous and easily readable and understandable message in Filipino or English printed on it, or on a label, which message can not readily become separated from it, and which shall include the following points:

1. the words "Important Notice" or their equivalent
2. a statement of the superiority of breastfeeding
3. a statement that the product shall be used only on the advice of a health worker as to the need for its use and the proper methods of use; and
4. instructions for appropriate preparation, and a warning against the health hazards of inappropriate preparation.

(c) Neither the container nor the label shall have pictures or texts which may idealize the use of infant formula. They may, however, have graphics for easy identification of the product and for illustrating methods of preparation.

(d) The term "humanized", "maternalized" or similar terms shall not be used.)

(e) Neither the container nor the label of milk products intended for infants 0-12 months under Section 27 shall have pictures of babies and children together with their mothers, fathers, siblings, grandparents, other relatives or caregivers (or yayas) or such other pictures and graphics of similar import.

Section 41. *Infant Feeding Warning*

Food products under Section 27 marketed for infant feeding, which do not meet all the requirements of an infant formula but which can be modified to do so, shall carry on the label a warning that the unmodified product should not be the sole source of nourishment of an infant.

Section 42. *BFAD'S Authority*

The labels of food products under Section 27 shall, in addition to the requirements in the preceding paragraphs, conform with the rules and regulations of the Bureau of Food and Drugs.

Section 43. *Quality* –

- (a) The quality of products is an essential element for the protection of the health of infants, and therefore shall be of high recognized standard.

(b) Food products under Section 27 shall, when sold or otherwise distributed, meet applicable standards recommended by the Codex Alimentarius Commission and also the Codex Act of Hygienic Practice for Foods for Infants and Children.

(c) To prevent quality deterioration, adulteration or contamination of food products under Section 27, distribution outlets, including the smallest sari-sari store, shall not be allowed to open cans and boxes for the purpose of retailing them by the cup, bag or in any other form.

ARTICLE X

DONATION

Section 44. *Donations*

Nothing herein contained shall prevent donations from manufacturers and distributors of products under Section 27 upon the approval of the Department of Health.

(a) Government and non-profit organizations accredited by the Department of Social Work and Development that care for infants and children, and lack access to wet nurses and lactating mothers may receive donations from manufacturers/distributors of products.

(b) In cases of disasters/emergencies, donations from manufacturers/distributors/ organizations and other institutions of products under Section 27 may be received/distributed to the affected population under the supervision of government agencies or non-profit organizations. The organizations concerned shall submit a written report within thirty (30) days from receipt of donations including name of organization, donations received, distribution list and other permanent details. Receiving institutions shall not participate in any promotional activities of manufacturer/distributors of products within the scope of the Act.

(c) Donations should only be the last resort when other means such as human milk banking and wet nursing have failed after reasonable effort.

(d) Equipment and materials, in addition to those referred to in Section 17(c), donated to health care system may bear a company's name or logo, but should not refer to any proprietary product under Section 27.

(e) Donations from manufacturers/ distributors/ organizations and other institutions of products under Section 27 may be received/distributed to babies with inborn error of metabolism.

ARTICLE XI

INCENTIVES

Section 45. ***Incentives*** - 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 incurred: *Provided*, That the deduction shall apply for the taxable period when the expenses were incurred: *Provided, further*, That the health, business, and institutions shall comply with the provisions of this Act within six (6) months after its approval.

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.

Section 46. ***Sales incentives, prohibited*** – In systems of sales incentives for marketing personnel, the volume of sales of infant formulas shall not be included in the calculation of bonuses, nor should quotas be set specifically for sales of these products. Payment of bonuses on the overall sales by a company of other products marketed by it shall not be prohibited.

Section 47. ***Advertisements*** – Hospitals and health institutions may advertise themselves as “Baby Friendly” if they comply with 80% of the requirements to become a “Baby Friendly” health facility, and business and other work institutions may advertise themselves as “Mother Friendly Employers” if they comply with all the requirements for such, as determined under the program established in Section 4 of this Act.

ARTICLE XII

IMPLEMENTATION AND MONITORING

Section 48. ***Implementation and Monitoring***

The Department of Health shall be principally responsible for the implementation and enforcement of the provisions of this Act. For this purpose, the Department of Health shall have the following powers and function:

(1) To promulgate such rules and regulations as are necessary or proper for the implementation of this Act and the accomplishment of its purposes and objectives.

(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 the rules and regulations promulgated in accordance herewith.

(3) To cause the prosecution of the violators of this Act and other pertinent laws on products covered by this Act.

(4) To exercise such other powers and functions as may be necessary for or incidental to the attainment of the purposes and objectives of this Act.

Section 49. *Sanctions* –

(a) Any person who violates the provisions of this Act or the rules and regulations issued pursuant to this Act shall, upon conviction, be punished by a penalty of _____ . Should the offense be committed by a juridical person, the Chairman of the Board of Directors, the president, general manager, or the partners and/ or the persons directly responsible therefore, shall be penalized.

(b) Any license, permit or authority issued by any government agency to any health worker, distributor, manufacturer, or marketing firm or personnel for the practice of their professional or occupation, or for the pursuit of their business, may, upon recommendation of the Department of Health, be suspended or revoked in the event of repeated violations of this Act, or of the rules and regulations issued pursuant to this Act.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

Section 50. *Repealing Clause*

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

Section 51. *Separability Clause*

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

Section 52. *Effectivity*

This Act shall take effect thirty (30) days following its publication in the Official Gazette.

Done in the City of Manila, this ____ day of _____, in the year of Our Lord, year two thousand and _____ .