

HOUSE OF REPRESENTATIVES

House Bill No. 1904



Introduced by Representative Susan A. Yap

EXPLANATORY NOTE

In late 2012, the EcoWaste Coalition's Project Protect came out with a pre-Christmas analysis of toys indicating that 60 of the 100 samples (60%), contain lead and other toxic metals that have been linked with reproductive abnormalities, endocrine disorders, behavioral, developmental, and learning problems and even cancers. Found tainted with heavy metals above levels of concern were some dolls with PVC materials, play makeup sets, toy animals, toy boxing gadgets, toy cars, toy guns, toy musical instruments, among other toys.

The proposed measure seeks "to regulate the importation, manufacture, sale, and distribution of children's toys, school supplies, childcare articles and other related products containing toxic chemicals." These toxic chemicals include (but are not limited to) antimony, arsenic, cadmium, chromium, lead, and mercury, as well as bisphenol A (BPA) and phthalates.

The bill likewise seeks to delineate the roles played by the different implementing agencies in ensuring the health safety of consumers relative to the use of products.

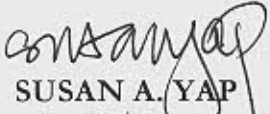
To ensure the health safety of consumers relative to the use of products covered in this Act, the bill mandates the Department of Health (DOH) to publish and update the list of toxic chemicals and substances used in the manufacture, sale and distribution of covered products for the information of the general public.

The bill mandates the Department of Environment and Natural Resources (DENR) to regulate, control, restrict or prohibit the importation, manufacture, processing, sale, distribution, handling, use, transport and disposal of chemical substances mixtures under Republic Act No. 6969, "Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990", among others.

The Department of Finance (DOF), on the other hand, shall monitor the entry of imported products as well as review and conduct examination of documentary requirements of imported products.

Moreover, the Department of Trade and Industry (DTI) is mandated to enforce policies and regulate the importation, manufacture, distribution and sale of educational kits or school supplies, ensure that covered products comply with the Philippine National Standards on the Safety of Toys set by the Bureau of Product Standards and monitor and conduct market inspections on covered products.

Finally, the bill creates a Children's Product Safety Council (CPSC), attached to the DOH to engage in studies and researches on harmful and toxic chemicals and substances; conducts consultations with stakeholders, information campaigns; undertakes activities to improve policies and rules and regulations on the subject.


SUSAN A. YAP
Representative, 2nd District of Tarlac

HOUSE OF REPRESENTATIVES
House Bill No. **1904**

Introduced by Representative Susan A. Yap

AN ACT
TO REGULATE THE IMPORTATION, MANUFACTURE, SALE AND
DISTRIBUTION OF CHILDREN'S TOYS, SCHOOL SUPPLIES, CHILDCARE
ARTICLES AND OTHER RELATED PRODUCTS, CONTAINING TOXIC
CHEMICALS AND FOR OTHER PURPOSES

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

1 SECTION 1. *Short Title.* – This Act shall be known as the “Safe and Nontoxic Children’s
2 Products Act of 2013”.

3 SECTION 2. *Declaration of Policy.* – It is hereby declared the policy of the State to protect and
4 promote the rights of the people to health, a balanced and healthful ecology and to information.
5 Toward these ends, the State shall regulate the importation, manufacture, sale and distribution of
6 children’s toys, school supplies and other childcare articles containing toxic chemicals.

7
8 SECTION 3. *Definition of Terms.* – For purposes of this Act, the following terms are hereby
9 defined:

10 (a) *Bioavailability* refers to the availability and possibility of the chemical from a product or
11 children’s toys to be released and absorbed into a child’s body via the gastro intestinal tract, the
12 lungs or the skin and mucus membranes.

13 (b) *Chemical substance* refers to any organic or inorganic substance of a particular
14 molecular identity, including:

15 (1) Any combination of such substances occurring, in whole or in part, as a result of
16 chemical reaction or occurring in nature; and

17 (2) Any element or uncombined chemical.

18 (c) *Childcare article* refers to any product intended to facilitate sleep, relaxation, hygiene,
19 the feeding of children or sucking on the part of children such as nipples, feeding bottles,
20 baby dresses, pacifiers, etc.

1 (d) *Children* refer to persons below eighteen (18) years of age or those over but are
2 unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty,
3 exploitation or discrimination because of a physical or mental disability or condition.

4 (e) *Distributor* refers to any entity to which the toy product is delivered or sold for
5 purposes of distribution in commerce, or in such case repackages toys under different trade
6 name or trademark with permission from the original legal distributor, except that such term
7 does not include a manufacturer or retailer of such product.

8 (f) *Educational kit* refers to a collection of materials and associated scientific apparatus
9 that are not likely to be licked or put in the mouth by children and which are typically used to
10 perform experiments or demonstrations in the different fields of science. These materials
11 include, among others, notebooks, pad papers, envelopes, plastic covers, folders, mugs, school
12 uniforms and school bags.

13 (g) *Hazardous wastes* refer to substances that are without any safe commercial, industrial,
14 agricultural, or economic usage to byproducts, side-products, process residues, spent reaction,
15 media, contaminated plant or equipment or other substances from manufacturing operations,
16 and as consumer discards from manufactured products. It can also refer to waste which,
17 because of its quantity, concentration, or physical, chemical, or infectious characteristics, may
18 pose a substantial present or potential hazard to human health or the environment when
19 improperly treated, stored or disposed of, otherwise mismanaged; or cause or contribute to an
20 increase in mortality, or an increase in irreversible or incapacitating illness.

21 (h) *Hazardous substance/chemical* refers to:

22 (1) A substance which presents short-term acute hazards, such as acute toxicity by
23 ingestion, inhalation or skin absorption, corrosivity or other skin or eye contact hazard or the
24 risk of fire or explosion;

25 (2) A substance which presents long-term environmental hazards, including chronic
26 toxicity upon repeated exposure, carcinogenicity (which may in some cases result from acute
27 exposure but with a long latent period), resistance to detoxification process such as
28 biodegradation, the potential to pollute underground or surface waters, or aesthetically
29 objectionable properties such as offensive odors;

30 (3) A chemical for which there is statistically significant evidence (based on at least one
31 study conducted according to established scientific principles) that acute or chronic health
32 effects may occur;

(4) Any radioactive substance, if, with respect to such substance as used in a particular class of article or as packaged, the Department of Health (DOH) determines by regulation that it is sufficiently hazardous to require labeling in accordance with this Act in order to protect the public health;

(5) Any toy or other articles intended for use by children that may, by regulation, be determined to contain an electrical, mechanical or thermal hazard; or

(6) Any substance which the DOH finds to be under the categories enumerated above.

(i) *Importation* refers to the entry of a product or substance into the Philippines (through the seaports or airports of entry) whether already properly cleared through or still remaining under customs control, which is intended for direct consumption, merchandising, warehousing and for further processing.

(j) *Label* refers to the display of printed or graphic matter on any consumer product, its immediate container, tag, literature or other suitable material affixed thereto for the purpose of giving information as to the identity, components, ingredients, attributes, directions for use, specifications and such other information as may be necessary to protect health and safety of the consumers.

(k) *License to operate (LTO)* refers to the license issued by the Food and Drug Administration (FDA) to manufacturers, importers and distributors whose toy products, children articles and school implements, under this Act, conform to the health and safety requirements of the DOH and the relevant Philippine National Standards (PNS) and their future amendments.

(l) *Manufacturer* refers to any establishment that assembles or processes products under this Act: *Provided*, That if such products are manufactured, assembled or processed for another establishment that attaches its own brand name to the products, the latter shall be deemed the manufacturer. In case of imported products under this Act, the manufacturer's representative or, in his absence, the importer shall be deemed the manufacturer.

(m) *Philippine National Standards (PNS)* refer to the national standards approved by the technical committee under the Bureau of Product Standards (BPS) of the Department of Trade and Industry (DTI).

(n) *Sale or distribution* refers to an act made by a manufacturer or seller, or the respective representative or agent to make available consumer products, services or credit to the end consumers under a consumer sale transaction. It shall not include sampling or any other

1 distribution not for sale.

2 (o) *School implement* refers to a tool used for writing, drawing, coloring, marking, gluing or
3 erasing by children that are likely to be licked or put in the mouth.

4 (p) *School supplies* refer to items/articles used for educational purposes which are not
5 likely to be licked or put inside the mouth by children. These include, among others,
6 notebooks, crayons, pad papers, envelopes, plastic covers, folders, mugs, school uniforms and
7 school bags.

8 (q) *Testing laboratory* refers to an accredited facility for measuring, examining and
9 determining the level of chemical elements in products under this Act.

10 (r) *Toy* refers to an object or a number of objects clearly intended as a plaything for
11 children as defined in Section 3 of this Act.

12 (s) *Toxic substance* refers to any substance other than a radioactive substance which can
13 cause injury, illness or death through ingestion, inhalation or absorption through any body
14 surface.

15 SECTION 4. *Scope.* – This Act shall apply to the importation, manufacture, sale and
16 distribution of children’s toys, school supplies, childcare articles and other related products,
17 whether or not designed or intended for use or play solely by children under eighteen (18)
18 years old, and other childcare articles and related products that are sold or given free of charge
19 in the Philippines.

20 SECTION 5. *Chemicals and Substances Covered.* – Within three (3) months from the
21 effectivity of this Act, the FDA shall prepare a list of chemicals and substances used in
22 children’s products which cause or may cause harm, injury or death to children. The FDA
23 shall specifically identify absolutely banned or prohibited substances and chemicals used in the
24 manufacture, production and preparation of children’s products. Maximum levels and limits
25 and reference values for certain chemicals used for this purpose shall also be specifically and
26 clearly identified.

27 Chemicals and substances deemed most harmful and toxic to children and commonly
28 used in the manufacture and production of children’s products shall include, but shall not be
29 limited to, the following:

30 (a) Toxic metals:

31 (1) Antimony;

- (2) Arsenic;
- (3) Cadmium;
- (4) Chromium;
- (5) Lead; and
- (6) Mercury.

(b) Phthalates – when applied in the manufacture and production of products covered under this Act, include:

- (1) Di (2-Ethylhexyl) Phthalate (Dehp);
 - (2) Dibutyl Phthalate (Dbp);
 - (3) Benzyl Butyl Phthalate (Bbp);
 - (4) Diisononyl Phthalate (Dinp);
 - (5) Diisodecyl Phthalate (Didp); and
 - (6) Di-N-Octyl Phthalate (Dnop).
- (c) Bisphenol-A (Bpa).

SECTION 6. *Compliance With Philippine National Standards (PNS).* – Importers, manufacturers, distributors and sellers of products under this Act shall comply with the standards, rules and processes of the BPS of the DTL. The same shall collaborate with other relevant government agencies to harmonize/upgrade existing standards, where applicable.

SECTION 7. *Powers and Functions of the Department of Health (DOH).* – To effectively carry out its mandate of ensuring the quality of products under this Act, the DOH shall have the following powers and functions:

(a) Formulate guidelines in the filing of application for the issuance of LTO to importers, distributors and local manufacturers of products under this Act;

(b) Formulate specific guidelines on the issuance of the Certificate of Conformity (COC) to manufacturers, distributors and importers for every shipment, freight, batch/lot of their products covered in this Act;

(c) Issue quality control orders (QCOs) to enforce the provisions of this Act and to

1 ensure strict compliance with existing standards and regulations set by government authorities;

2 (d) Issue compliance orders (COs) if it finds noncompliance and/or nonconformity with
3 this Act, its rules and regulations, and guidelines issued to enforce and implement the same;

4 (e) Undertake researches, develop and establish quality and safety standards for products
5 covered by this Act in coordination with other implementing government agencies;

6 (f) Set the maximum allowable level of toxicity of chemical elements in products
7 covered by this Act;

8 (g) Inspect and analyze products covered by this Act for purposes of determining
9 conformity to established quality and safety standards;

10 (h) Conduct constant and regular inspection, product testing, and onsite and random
11 product testing and sampling of various children's products in the market;

12 (i) Levy, assess, collect and retain fees as are necessary to cover the cost of inspection,
13 certification, analysis and tests of samples of products under this Act;

14 (j) Investigate the causes of and maintain a record of product-related deaths, illnesses
15 and injuries for use in researches or studies on the prevention of such deaths, illnesses and
16 injuries;

17 (k) Accredite independent, competent nongovernment bodies to assist in monitoring the
18 market for the presence of toxic chemicals in products under this Act and to look for
19 appropriate means to expand the monitoring and enforcement outreach of the Department in
20 relation to its manpower, testing and certification resources at a given time;

21 (l) Accredite independent competent testing laboratories; and

22 (m) Perform such other functions as needed and necessary in the enforcement of this
23 Act.

24 SECTION 8. *Role Delineation of Implementing Agencies.* – The provisions of this Act and its
25 implementing rules and regulations (IRR) shall be enforced by the following agencies:

26 (a) DOH. – The Department of Health shall formulate policies, rules and regulations on
27 food, drugs, cosmetics, devices and substances.

28 The FDA shall conduct regular testing, evaluation, monitoring and post-market
29 surveillance of covered products to include all school implements as defined in Section 3 of

1 this Act to ensure compliance with the PNS on the Safety of Toys;

2 (b) DENR. – The Department of Environment and Natural Resources shall regulate,
3 control, restrict or prohibit the importation, manufacture, processing, sale, distribution,
4 handling, use, transport and disposal of chemical substances mixtures under Republic Act No.
5 6969, “Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990”. It shall
6 monitor toxic substances/chemicals used as industrial raw material to produce the covered
7 products under this Act in terms of their compliance to environmental laws. It shall
8 administer the industrial toxic chemicals through a system of review, evaluation and
9 monitoring of these toxic chemicals under DENR Administrative Order No. 2007-23 and
10 formulate policies and guidelines for the gradual phase-out of lead in paints pursuant to
11 Section 20(1) of DENR Administrative Order No. 20, Series of 1992 and DENR
12 Administrative Order No. 05, Series of 2005 (Toxic Chemical Substances for Issuance of
13 Chemical Control Orders);

14 (c) DOF. – The Department of Finance, through the Bureau of Customs (BoC), shall
15 monitor the entry of imported products covered under this Act at the different ports of entry
16 in the Philippines. It shall review and conduct examination of documentary requirements of
17 imported products pursuant to the guidelines of the Department; and

18 (d) DTI. – The Department of Trade and Industry shall enforce policies and regulate the
19 importation, manufacture, distribution and sale of educational kits or school supplies as
20 defined in Section 3 of this Act and other consumer products not covered by the mandates of
21 the other implementing agencies. It shall ensure that covered products comply with the PNS
22 on the Safety of Toys set by the BPS and shall monitor and conduct market inspections on
23 covered products.

24 SECTION 9. *Creation of the Children’s Product Safety Council (CPSC).* – There is hereby
25 created a Children’s Product Safety Council (CPSC) to be attached to the DOH and composed
26 of the following:

27 (a) The Secretary of the DOH, Chairperson;

28 (b) The Secretary of the DTI, Vice Chairperson;

29 (c) The Secretary of the DENR, member;

30 (d) The Secretary of the Department of the Interior and Local Government DILG,
31 member;

32 (e) The Secretary of the Department of Education (DepED), member;

1 (f) The Secretary of the DOF, member;

2 (g) The Director of the FDA, member;

3 (h) The National Consumer Affairs Council (NCAC), member;

4 (i) One (1) representative from a nongovernment organization (NGO) engaged in
5 consumer rights protection, member; and

6 (j) One (1) representative from an NGO engaged in environmental protection and
7 advocacy, member.

8 The departments and government agencies shall be represented by their respective heads
9 or their duly designated representatives who shall be of a rank not lower than Director level.

10 The Chairperson of the CPSC shall recommend the nominees for the NGO sector
11 representatives to the President of the Philippines.

12 The FDA shall serve as the secretariat and operational arm of the CPSC.

13 Other government agencies and private sector representatives may be invited to
14 participate in the CPSC as the exigencies and circumstances may require.

15 SECTION 10. *Powers and Functions of the CPSC.* – The CPSC shall have the following
16 powers and functions:

17 (a) To provide coordination and linkage mechanisms between and among its members,
18 other government agencies concerned, local government units (LGUs), the private sector and
19 other stakeholders;

20 (b) To engage in studies and researches on harmful and toxic chemicals and substances,
21 and provide the necessary information materials on the same;

22 (c) To conduct and facilitate consultation and dialogues within and among all concerned
23 stakeholders in the industry;

24 (d) To conduct information and education campaigns, especially for children;

25 (e) To propose amendments to laws, rules and regulations pursuant to its mandate and
26 the objectives of this Act;

27 (f) To provide periodic and regular reports to the Secretary of Health;

1 (g) To create a technical advisory committee composed of experts from both
2 government and private sectors that would assist the council in providing technical and
3 scientific recommendations necessary to effectively carry out its mandate;

4 (h) To provide coordination and linkage mechanisms between and among its members,
5 other government agencies concerned, the Business Processing and Licensing Office (BPLO)
6 of LGUs, the private sector and other stakeholders; and

7 (i) To perform such other functions as may be directed by the DOH.

8 SECTION 11. *Application to Trade.* – The following procedures shall be observed at the
9 first port of entry of imported products:

10 (a) The FDA or its commissioned/designated agent, in coordination with the BoC, shall
11 conduct product inspection, sample testing and clearance of imported products covered under
12 this Act for compliance with the national standards for the safety of toys prior to their
13 assessment and charging of tariffs and other charges by the BoC;

14 (b) Samples of products covered by this Act being imported into the Philippines shall be
15 obtained for purposes of determining the toxicity level of chemical elements and substances
16 content without charge from the owner or consignee thereof. The owner or consignee of the
17 imported product under examination shall be afforded an opportunity to a hearing with
18 respect to the importation of such product into the Philippines. If it is proven that such
19 product does not conform to the allowable level of chemical elements and substances content
20 as provided for under the IRR of this Act, said product shall be refused admission;

21 (c) Any product covered by this Act, the sale or use of which has been banned or
22 withdrawn in the country of manufacture, shall not be imported into the country; and

23 (d) All expenses in connection with the storage, destruction and disposition of any
24 product under this Act which was refused admission shall be paid by the owner or consignee
25 and, in default of such payment, shall constitute a lien against any future importation made by
26 such owner or consignee.

27 SECTION 12. *Clearance for Customs Release.* – All importers of products under this Act
28 shall secure a clearance for customs release from the DOH prior to importation.

29 A clearance for conditional release shall be issued by the appropriate center of the FDA
30 to facilitate the release of goods from BoC custody pending the issuance of the COC. The
31 importer, however, shall not sell, distribute or transfer, in whole or in part, the products to
32 any place other than the address specified in the conditional release. To ensure that no

1 distribution, sale, transfer to or use of products covered by this Act in any place other than
2 the address specified in the conditional release is made, the importers shall allow authorized
3 personnel of the FDA to conduct an inspection/inventory of the import shipment within
4 three (3) days from the date of issuance of the clearance for conditional release at any time
5 within official working hours.

6 SECTION 13. *Certification.* – The DOH, after the conduct of a thorough examination,
7 shall issue the necessary certificate to show whether or not the imported products are safe for
8 distribution in the market.

9 SECTION 14. *Disposal of Noncompliant Products.* – All products covered by this Act that
10 are recalled by the manufacturer or the Department for whatever reason, shall be disposed of
11 in accordance with the submitted disposal plan subject to the FDA approval. The plan shall
12 comply with the existing rules and regulations set by all concerned agencies of the government
13 and other related laws of the country. The concerned manufacturer, importer or distributor
14 shall shoulder the expenses to be incurred in the disposal of the recalled products.

15 All import-shipments denied the requisite COC shall not be disposed of in the domestic
16 market in any manner. They must be properly disposed in accordance with the provisions of
17 the Tariff and Customs Code of the Philippines and other pertinent rules and regulations.

18 SECTION 15. *Labeling and Packaging Requirement.* – The labeling and packaging
19 requirement of products under this Act shall comply with the relevant PNS.

20 SECTION 16. *Monitoring and Factory Inspection.* – The FDA shall observe the following
21 procedures in the inspection and monitoring of establishments to determine compliance with
22 safety regulations:

23 (a) Officers or employees duly designated by the FDA, upon presenting appropriate
24 credentials to the owner, operator or agent in charge, are authorized:

25 (1) To enter, at reasonable hours, any factory, warehouse or establishment in which
26 products under this Act are manufactured or held for introduction into domestic commerce or
27 are held after such introduction, or to enter any vehicle being used to transport or hold such
28 products; and

29 (2) To inspect, in a reasonable manner, such factory, warehouse, establishment or vehicle
30 and all pertinent equipment, finished and unfinished materials, containers and labeling therein.

31 (b) Upon completion of the inspection of a factory, warehouse or other establishment
32 and prior to leaving the premises, the officer or employee who conducted such inspection and

1 has obtained any sample in the course of the inspection, shall give the owner, operator or
2 agent in charge a receipt describing the samples obtained; and

3 (c) Whenever in the course of any such inspection of a factory or other establishment
4 where products covered by this Act are manufactured or held, the officer or employee making
5 the inspection obtains a sample of any such product, and an analysis made of such sample for
6 the purpose of ascertaining whether such product contains, in whole or in part, disallowed
7 level of toxicity of chemical elements and hazardous substances, a copy of the result of such
8 analysis shall be furnished the owner, operator or officer-in-charge.

9 SECTION 17. *Market Inspection.* – The DOH shall conduct routine inspection in the
10 market and take samples of suspected products for examination.

11 SECTION 18. *Injurious, Dangerous and Unsafe Products.* – Whenever the DOH finds, by its
12 own initiative or by petition of a consumer, that a product covered by this Act is injurious,
13 dangerous or unsafe, it shall, after due notice and hearing, make the appropriate order for its
14 recall, prohibition or seizure from public sale or distribution. It may declare a product to be
15 imminently injurious, dangerous or unsafe, and order its immediate recall, ban or seize from
16 public sale or distribution, in which case, the seller, distributor or producer thereof shall be
17 afforded a hearing within forty-eight (48) hours from such order.

18 There shall be immediate information dissemination, through the mass media, of
19 products which are found to be injurious, dangerous and unsafe.

20 SECTION 19. *Product Confiscation.* – Imported products shall be allowed entry into the
21 country as provided under Section 11 of this Act when accompanied by certificate of testing
22 or analysis of its composition. The BoC shall require pertinent clearance or certification from
23 the FDA prior to entry. The entire shipment or batch of the product found to be in violation
24 of the provisions of this Act shall be seized. The confiscated products shall be properly
25 disposed of in accordance with the prescribed procedure to be issued by the DOH in
26 coordination with the DENR.

27 SECTION 20. *Publication and Information.* – The DOH is mandated to conduct
28 information campaigns utilizing any form of mass media and other electronic means deemed
29 effective to ensure the proper guidance of consumers, industries, businesses and other
30 concerned sectors.

31 The DOH shall likewise publish a consumer chemical substance advisory notice which
32 shall include a list of toxic chemicals and substances used in the manufacture, distribution and
33 sale of covered products for the information of the general public. Such advisory notice shall

1 be made available to government agencies, consumers, industries, businesses and the general
2 public.

3 The advisories to be issued under this Act shall explain in an easily understandable
4 manner, the dangers of hazardous substances exposure. It shall be printed in English and
5 Filipino or in any dialect determined by the DOH to be culturally and linguistically
6 appropriate utilizing any form of mass media and electronic means of communication.

7 SECTION 21. *Public Access to Records, Reports or Notification.* – The public shall have
8 access to records, reports, test results, or information concerning chemicals, substances and
9 mixtures, including safety data submitted, and methods of production and preparation.

10 Such documents shall be available for inspection or reproduction during normal business
11 hours: *Provided,* That the DTI may consider a record, report or information or particular
12 portions thereof confidential and which may not be made public when such would divulge
13 trade secrets, production or sales figures or methods, production or processes unique to such
14 manufacturer, processor or distributor, or would otherwise tend to affect adversely the
15 competitive position of such manufacturer, processor or distributor. The DTI, however, may
16 release information subject to claim of confidentiality to a medical research or scientific
17 institution where the information is needed for the purpose of medical diagnosis or treatment
18 of a person exposed to the chemical substance or mixture.

19 The DOH shall establish a website to be maintained by the CPSC which shall provide
20 the following information:

21 (a) Basic data on manufacturer, producer, assembler, importer, distributor and seller of
22 covered products;

23 (b) Kinds and amount of chemicals and substances used in the production of products;
24 and

25 (c) The potential risks and dangers to consumers.

26 The website shall also make available reports, records and inventories submitted by the
27 companies and businesses covered by this Act.

28 SECTION 22. *Disclosure of Toxicological Information on Labels.* – It shall be mandatory for
29 manufacturers, distributors and importers of products covered by this Act to disclose and
30 identify, through accurate and truthful labeling, the substances and chemical contents and
31 bioavailability of said substances/chemicals. Graphic symbols shall also be used in product
32 packaging showing product safety and regulatory compliance.

1 SECTION 23. *Prohibited Acts.* – The following acts are hereby prohibited:

2 (a) The importation, distribution, manufacture and sale of products under Section 4
3 hereof containing more than the allowable level of chemical elements and hazardous
4 substances such as, but not limited to, antimony, arsenic, bisphenol, cadmium, chromium,
5 lead, mercury and phthalate;

6 (b) Mislabeling of the level of chemical elements in products under this Act;

7 (c) Material misrepresentation or concealment of significant data or information about
8 the product sought for certification;

9 (d) Importation, manufacture, sale, distribution, labeling and operation without
10 registration;

11 (e) Noncompliance with the standards and requirements of the DOH on the
12 importation, manufacture, distribution and sale of covered products;

13 (f) Refusal to allow required inspections as determined by the Department; and

14 (g) Other prohibited acts stipulated in Republic Act No. 9711, otherwise known as the
15 “Food and Drug Administration (FDA) Act of 2009”.

16 SECTION 24. *Administrative Sanctions.* – Where there is a finding of a violation against
17 the provisions of this Act and a determination of the persons liable thereto, after notice and
18 hearing, the FDA director-general may impose one or more of the following administrative
19 penalties:

20 (a) Suspension of License to Operate (LTO);

21 (b) Revocation of LTO; and

22 (c) Seizure of the unregistered, noncompliant or falsely represented products covered by
23 this Act.

24 SECTION 25. *Penalties.* – Pursuant to Section 11 of Republic Act No. 9711, as amended,
25 any person who violates any of the provisions of Section 24 hereof and other prohibited acts
26 stipulated in the same Act shall, upon conviction, suffer the penalty of imprisonment ranging
27 from one (1) year but not more than ten (10) years or a fine of not less than Fifty thousand
28 pesos (P50,000.00) but not more than Five hundred thousand pesos (P500,000.00), or both, at
29 the discretion of the court: *Provided*, That if the offender is a manufacturer, importer or
30 distributor of any product covered under this Act, the penalty of at least five (5) years
31 imprisonment but not more than ten (10) years and a fine of at least Five hundred thousand

1 pesos (P500,000.00) but not more than Five million pesos (P5,000,000.00) shall be imposed:
2 *Provided, further,* That an additional fine of one percent (1%) of the economic value/cost of the
3 violative product or violation, or One thousand pesos (P1,000.00), whichever is higher, shall
4 be imposed for each day of continuing violation: *Provided, finally,* That products found in
5 violation of the provisions of this Act and other relevant laws, rules and regulations may be
6 seized and held in custody pending proceedings, without hearing or court order, when the
7 FDA director-general has reasonable cause to believe from facts found by him/her or an
8 authorized officer or employee of the FDA that such products may cause injury or prejudice
9 to the consuming public.

10 Should the offense be committed by a juridical person, the Chairman of the Board of
11 Directors, the president, general manager, or the partners and/or the persons directly
12 responsible therefor shall be penalized.

13 Should the offense be committed by a foreign national, he/she shall, in addition to the
14 penalties prescribed, be deported without further proceedings after service of sentence.

15 SECTION 26. *Citizens Suit.* – For purposes of enforcing the provisions of this Act or
16 its IRR, any citizen may file an appropriate civil, criminal or administrative action in the
17 proper courts/bodies against:

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

20 (b) The officials or employees of the DOH and other implementing agencies with
21 respect to orders, rules and regulations issued inconsistent with this Act; and/or

22 (c) Any public officer who willfully or grossly neglects the performance of an act
23 specifically enjoined as a duty by this Act or its IRR; or abuses authority in the performance of
24 duty; or, in any manner improperly performs his duties under this Act or its IRR: *Provided,*
25 *however,* That no suit can be filed until after a thirty (30)-day notice has been given to the
26 public officer and the alleged violator concerned and no appropriate action has been taken
27 thereon.

28 The court shall exempt such action from the payment of filing fees and shall likewise,
29 upon *prima facie* showing of the nonenforcement or violation complained of, exempt the
30 plaintiff from the filing of an injunction bond for the issuance of preliminary injunction.

31 In the event that the citizen suit should prosper, the court may award reasonable
32 attorney's fees, moral damages and litigation costs.

1 SECTION 27. *Suits and Strategic Legal Action Against Public Participation (SLAPP) and the*
2 *Enforcement of this Act.* – Where a suit is brought against a person who filed an action as
3 provided in Section 26 of this Act, or against any person, institution or government agency
4 that implements this Act or any other consumer related laws, rules and regulations, it shall be
5 the duty of the investigating prosecutor or the court, as the case may be, to immediately make
6 a determination within a period not exceeding thirty (30) days whether said legal action has
7 been filed to harass, vex, exert undue pressure or stifle such legal recourses of the person
8 complaining or enforcing the provisions of this Act. Upon determination of the evidences,
9 the court may dismiss the case and award attorney’s fees and damages.

10 This provision shall also apply and benefit public officers who are sued for acts
11 committed in their official capacity, there being no grave abuse of authority, and done in the
12 course of enforcing this Act, its rules, regulations and guidelines.

13 SECTION 28. *Burden of Proof of Product Safety.* – The burden of proof to prove the
14 exercise of due diligence, compliance with this Act and other laws, rules and regulations
15 relating to consumer products, precaution and to prove the absence of fault and/or negligence
16 shall lie with the manufacturer, producer, assembler, importer and/or seller of the children’s
17 product involved or concerned.

18 SECTION 29. *Appropriations.* – Such amount as may be necessary to implement the
19 provisions of this Act shall be included in the annual appropriations of the DOH under the
20 General Appropriations Act.

21 SECTION 30. *Congressional Oversight Committee.* – The Joint Congressional Oversight
22 Committee created under Republic Act No. 9711 or the “Food and Drug Administration
23 (FDA) Act of 2009” shall function as the oversight committee to monitor and evaluate the
24 implementation of this Act.

25 SECTION 31. *Suppletory Provision.* – Pertinent provisions of Republic Act No. 7394,
26 otherwise known as the “Consumer Act of the Philippines” shall have suppletory effect in the
27 implementation of this Act.

28 SECTION 32. *Implementing Rules and Regulations.* – Within sixty (60) days after the
29 effectivity of this Act, the DOH, in coordination with the DTI, the DENR and the DOF
30 through the BoC, shall issue the rules and regulations to implement the provisions of this Act.

31 SECTION 33. *Separability Clause.* – If, for any reason, any provision or part hereof is
32 declared invalid, the other provisions not affected thereby shall remain in full force and effect.

1 SECTION 34. *Repealing Clause.* – All laws, decrees, executive orders, rules and
2 regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed,
3 amended or modified accordingly.

4 SECTION 35. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
5 publication in any newspaper of general circulation.

Approved,

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