S. No. 1698
H. Nos. 879; 4012; and 6076

Republic of the Philippines

# Congress of the Philippines

Metro Manila

Fourteenth Congress

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[ REPUBLIC ACT NO. 10028 ]

AN ACT EXPANDING THE PROMOTION OF BREASTFEEDING, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7600, OTHERWISE KNOWN AS "AN ACT PROVIDING INCENTIVES TO ALL GOVERNMENT AND PRIVATE HEALTH INSTITUTIONS WITH ROOMING-IN AND BREASTFEEDING PRACTICES AND FOR OTHER PURPOSES"

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

SECTION 1. *Short Title.* – This Act shall be known as the "Expanded Breastfeeding Promotion Act of 2009".

SEC. 2. Section 2 of Republic Act No. 7600 is hereby amended to read as follows:

"SEC. 2. *Declaration of Policy.* – The State adopts rooming-in as a national policy to encourage, protect and support the practice of breastfeeding. It shall create an environment where basic physical, emotional, and psychological needs of mothers and infants are fulfilled through the practice of rooming-in and breastfeeding.

"The State shall likewise protect working women by providing safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation. This is consistent with international treaties and conventions to which the Philippines is a signatory such as the Convention on the Elimination of Discrimination Against Women (CEDAW), which emphasizes provision of necessary supporting social services to enable parents to combine family obligations with work responsibilities; the Beijing Platform for Action and Strategic Objective, which promotes harmonization of work and family responsibilities for women and men; and the Convention on the Rights of the Child, which recognizes a child's inherent right to life and the State's obligations to ensure the child's survival and development.

"Breastfeeding has distinct advantages which benefit the infant and the mother, including the hospital and the country that adopt its practice. It is the first preventive health measure that can be given to the child at birth. It also enhances mother-infant relationship. Furthermore, the practice of breastfeeding could save the country valuable foreign exchange that may otherwise be used for milk importation.

"Breastmilk is the best food since it contains essential nutrients completely suitable for the infant's needs. It is also nature's first immunization, enabling the infant to fight potential serious infection. It contains growth factors that enhance the maturation of an infant's organ systems.

"Towards this end, the State shall promote and encourage breastfeeding and provide the specific measures that would present opportunities for mothers to continue expressing their milk and/or breastfeeding their infant or young child."

SEC. 3. Section 3 of Republic Act No. 7600 is hereby amended to read as follows:

"SEC. 3. *Definition of Terms.* – For purposes of this Act, the following definitions are adopted:

"a) Age of gestation – the length of time the fetus is inside the mother's womb.

"b) Bottlefeeding – the method of feeding an infant using a bottle with artificial nipples, the contents of which can be any type of fluid.

"c) Breastfeeding – the method of feeding an infant directly from the human breast.

"d) Breastmilk – the human milk from a mother.

"e) Breastmilk substitute – any food being marketed or otherwise represented as partial or total replacement of breastmilk whether or not suitable for that purpose.

"f) Donor milk – the human milk from a non-biological mother.

"g) Expressed breastmilk – the human milk which has been extracted from the breast by hand or by breast pump. It can be fed to an infant

using a dropper, a nasogastric tube, a cup and spoon, or a bottle.

"h) Expressing milk – the act of extracting human milk from the breast by hand or by pump into a container.

"i) Formula feeding – the feeding of a newborn with infant formula usually by bottlefeeding. It is also called artificial feeding.

"j) Health institutions – are hospitals, health infirmaries, health centers, lying-in centers, or puericulture centers with obstetrical and pediatric services.

"k) Health personnel – are professionals and workers who manage and/or administer the entire operations of health institutions and/or who are involved in providing maternal and child health services.

"l) Health workers – all persons who are engaged in health and health-related work, and all persons employed in all hospitals, sanitaria, health infirmaries, health centers, rural health units, barangay health stations, clinics and other health-related establishments, whether government or private, and shall include medical, allied health professional, administrative and support personnel employed regardless of their employment status.

"m) Infant – a child within zero (0) to twelve (12) months of age.

"n) Infant formula – the breastmilk substitute formulated industrially in accordance with applicable Codex Alimentarius standards, to satisfy the normal nutritional requirements of infants up to six (6) months of age, and adopted to their physiological characteristics.

"o) Lactation management – 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 risks associated with breastmilk substitutes and milk products not suitable as breastmilk substitutes such as, but not limited to, condensed milk and evaporated milk, the monitoring of breastfeeding mothers by health workers and breastfeeding peer counselors for service patients to ensure compliance with the Department of Health, World Health Organization (WHO) and the United Nations Children's Fund (UNICEF) on the implementation of breastfeeding policies, the physiology of lactation, the establishment and maintenance of lactation, the proper care of the breasts and nipples, and such other matters that would contribute to successful breastfeeding.

"p) Lactation stations – private, clean, sanitary, and well-ventilated rooms or areas in the workplace or public places where nursing mothers can wash up, breastfeed or express their milk comfortably and store this afterward.

"q) Low birth weight infant – a newborn weighing less than two thousand five hundred (2,500) grams at birth.

"r) Nursing employee – any female worker, regardless of employment status, who is breastfeeding her infant and/or young child.

"s) Mother's milk – the breastmilk from the newborn's own mother.

"t) Non-health facilities, establishment or institution – public places and working places, as defined in subparagraphs (u) and (y), respectively.

"u) Public place – enclosed or confined areas such as schools, public transportation terminals, shopping malls, and the like.

"v) Rooming-in – 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.

"w) 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.

"x) Wet-nursing – the feeding of a newborn from another mother's breast when his/her own mother cannot breastfeed.

"y) Workplace – work premises, whether private enterprises or government agencies, including their subdivisions, instrumentalities and government-owned and -controlled corporations.

"z) Young child – a child from the age of twelve (12) months and one (1) day up to thirty-six (36) months."

SEC. 4. Section 4 of Republic Act No. 7600 is hereby amended to read as follows:

"SEC. 4. *Applicability.* – The provisions in this Chapter shall apply to all private enterprises as well as government agencies, including their subdivisions and instrumentalities, and government-owned and -controlled corporations.

"Upon application to, and determination by, the Secretary of the Department of Labor and Employment for the private sector, and the Chairperson of the Civil Service Commission for the public sector, all health and non-health facilities, establishments and institutions may be exempted for a renewable period of two (2) years from Section 6 of this Act where the establishment of

lactation stations is not feasible or necessary due to the peculiar circumstances of the workplace or public place taking into consideration, among others, number of women employees, physical size of the establishment, and the average number of women who visit.

"All health and non-health facilities, establishments or institutions which are exempted in complying with the provisions of this Act but nevertheless opted to comply are entitled to the benefits herein stated: *Provided,* That they give their employees the privilege of using the same."

SEC. 5. Section 10 of Republic Act No. 7600 is hereby amended to read as follows:

"SEC. 10. *Provision of Facilities for Breastmilk Collection and Storage for Health Institutions.* – 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. Health institutions are likewise encouraged to set up milk banks for storage of breastmilk donated by mothers and which have undergone pasteurization. The stored breastmilk will primarily be given to children in the neonatal intensive care unit whose own mothers are seriously ill."

SEC. 6. A new Section 11, under a new Chapter, is added to read as follows:

"CHAPTER III

"LACTATION STATIONS

"SEC. 11. *Establishment of Lactation Stations.* – It is hereby mandated that all health and non-health facilities, establishments or institutions shall establish lactation stations. The lactation stations shall be adequately provided with the necessary

equipment and facilities, such as: lavatory for hand-washing, unless there is an easily-accessible lavatory nearby; refrigeration or appropriate cooling facilities for storing expressed breastmilk; electrical outlets for breast pumps; a small table; comfortable seats; and other items, the standards of which shall be defined by the Department of Health. The lactation station shall not be located in the toilet.

"In addition, all health and non-health facilities, establishments or institutions shall take strict measures to prevent any direct or indirect form of promotion, marketing, and/or sales of infant formula and/or breastmilk substitutes within the lactation stations, or in any event or circumstances which may be conducive to the same.

"Apart from the said minimum requirements, all health and non-health facilities, establishments or institutions may provide other suitable facilities or services within the lactation station, all of which, upon due substantiation, shall be considered eligible for purposes of Section 14 of this Act."

SEC. 7. A new Section 12 is hereby added to read as follows:

"SEC. 12. *Lactation Periods.* – Nursing employees shall be granted break intervals in addition to the regular time-off for meals to breastfeed or express milk. These intervals, which shall include the time it takes an employee to get to and from the workplace lactation station, shall be counted as compensable hours worked. The Department of Labor and Employment (DOLE) may adjust the same: *Provided,* That such intervals shall not be less than a total of forty (40) minutes for every eight (8)-hour working period."

SEC. 8. Section 11, which shall be under the renumbered Chapter IV of Republic Act No. 7600, is hereby amended to read as follows:

"CHAPTER IV

"INFORMATION, EDUCATION AND RE-EDUCATION DRIVE

"SEC. 13. *Continuing Education, Re-education and Training of Health Workers and Health Institutions.* – The Department of Health with the assistance of other government agencies, professional and nongovernmental organizations shall conduct continuing information, education, re-education, and training programs for physicians, nurses, midwives, nutritionists-dietitians, community health workers and traditional birth attendants (TBAs) and other health workers on current and updated lactation management.

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

SEC. 9. Section 12 of Republic Act No. 7600 is hereby renumbered and amended to read as follows:

"SEC. 14. *Information Dissemination and Educational Programs to Pregnant Women and Women of Reproductive Age.* – During the prenatal, perinatal and postnatal consultations and/or confinements of the mothers or pregnant women in a health institution, it shall be the obligation of the health institution and the health worker to immediately and continuously teach, train, and support the women on current and updated lactation management and infant care, through participatory strategies such as organization of mothers' clubs and breastfeeding support groups and to distribute written information materials on such matters free of charge.

"The Department of Health is hereby mandated to develop and provide breastfeeding

programs for working mothers whose employers are encouraged to avail of it as part of their human resource development programs.

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

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

SEC. 10. A new Section 15 is hereby added to read as follows:

"SEC. 15. *Integration of Breastfeeding Education in the Curricula.* – To encourage and promote breastfeeding, the Department of Education, the Commision on Higher Education, and the Technical Education and Skills Development Authority shall integrate in the relevant subjects in the elementary, high school, and college levels, especially in the medical and allied medical courses, and in technical vocational education, the importance, benefits, methods or techniques of breastfeeding, and change of societal attitudes towards breastfeeding."

SEC. 11. A new Section 16 is hereby added to read as follows:

"SEC. 16. *Breastfeeding Awareness Month.* – To raise awareness on the importance of and to further promote breastfeeding, the month of August

in each and every year throughout the Philippines shall be known as 'Breastfeeding Awareness Month'."

SEC. 12. A new Section 17 is hereby added to read as follows:

"SEC. 17. *Public Education and Awareness Program.* – To ensure the meaningful observance of breastfeeding month as herein declared, a comprehensive national public education and awareness program shall be undertaken in order to achieve the following objectives:

"a) To protect, promote and support breastfeeding in the Philippines as the normal, natural and preferred method of feeding infants and young children;

"b) To guarantee the rightful place of breastfeeding in society as a time honored tradition and nurturing value as well as a national health policy that must be enforced;

"c) To provide information about the benefits and superiority of breastfeeding and the high risks and costs of bottlefeeding;

"d) To generate awareness on, and full enforcement of, national and international laws, codes, policies and programs on the promotion and protection of safe and adequate nutrition for infants and young children by promoting and protecting breastfeeding and by regulating the marketing of certain foods and feeding bottles, teats and pacifiers; and

"e) To instill recognition and support and ensure access to comprehensive, current and culturally appropriate lactation care and services for all women, children and families, including support for breastfeeding mothers in the work force.

"The Department of Health shall lead in the implementation of the comprehensive national public education and awareness program on breastfeeding through a collaborative interagency and multi-sectoral effort at all levels."

SEC. 13. A new Section 18, which shall be under the renumbered Chapter V of Republic Act No. 7600, is hereby added to read as follows:

"CHAPTER V

"MISCELLANEOUS PROVISIONS

"SEC. 18. *Department of Health Certification.* – Any health and non-health facility, establishment or institution satisfying the requirements of Sections 6 and 7 herein relative to a proper lactation station may apply with the local Department of Health office for a 'working mother-baby friendly' certification. The Department of Health shall promulgate guidelines to determine eligibility for such certification, which shall include an annual Department of Health inspection to confirm the continued compliance with its standards.

"The Department of Health shall maintain a list of 'mother-baby-friendly' establishments, which it shall make available to the public."

SEC. 14. Section 13 of Republic Act No. 7600 is hereby renumbered and amended to read as follows:

"SEC. 19. *Incentives.* – The expenses incurred by a private health and non-health facility, establishment or institution, in complying with the provisions of this Act, shall be deductible expenses for income tax purposes up to twice the actual amount incurred: *Provided,* That the deduction shall apply for the taxable period when the expenses were incurred: *Provided, further,* That all

health and non-health facilities, establishments and institutions shall comply with the provisions of this Act within six (6) months after its approval: *Provided, finally,* That such facilities, establishments or institutions shall secure a "Working Mother-Baby-Friendly Certificate" from the Department of Health to be filed with the Bureau of Internal Revenue, before they can avail of the incentive.

"Government facilities, establishments or institutions shall receive an additional appropriation equivalent to the savings they may derive as a result of complying with the provisions of this Act. The additional appropriation shall be included in their budget for the next fiscal year."

SEC. 15. A new Section 20 shall be added to read as follows:

"SEC. 20. *Implementing Agency.* – The Department of Health shall be principally responsible for the implementation and enforcement of the provisions of this Act."

SEC. 16. Section 14 of Republic Act No. 7600 is hereby renumbered and amended to read as follows:

"SEC. 21. *Sanctions.* – Any private non-health facility, establishment and institution which unjustifiably refuses or fails to comply with Sections 6 and 7 of this Act shall be imposed a fine of not less than Fifty thousand pesos (Php50,000.00) but not more than Two hundred thousand pesos (Php200,000.00) on the first offense.

"On the second offense, a fine of not less than Two hundred thousand pesos (Php200,000.00) but not more than Five hundred thousand pesos (Php500,000.00).

"On the third offense, a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than One million pesos (Php1,000,000.00)

and the cancellation or revocation of the business permits or licenses to operate.

"In all cases, the fine imposed should take into consideration, among others, number of women employees, physical size of the establishment, and the average number of women who visit.

"In addition, the Secretary of Health is hereby empowered to impose sanctions on health institution for the violation of this Act and the rules issued thereunder. Such sanctions may be in the form of reprimand or censure and in cases of repeated willful violations, suspension of the permit to operate of the erring health institution.

"Heads, officials and employees of government health and non-health facilities, establishments and institutions who violate this Act shall further be subject to the following administrative penalties:

"First offense – Reprimand;

"Second offense – Suspension for one (1) to thirty (30) days; and

"Third offense – Dismissal.

"This shall be without prejudice to other liabilities applicable under civil service law and rules."

SEC. 17. *Funding.* – Government agencies, including their subdivisions and instrumentalities, shall use their respective budget for gender and development or their budgets for repairs, maintenance and materials acquisition to comply with Section 6 hereof.

SEC. 18. *Rules and Regulations.* – The Department of Health, as the lead agency, in coordination with the Department of Labor and Employment, the Department of Trade and Industry, the Department of Justice, the Department of Social Welfare and Development, the Department of Education, the Department of the Interior and

Local Government, the Civil Service Commission, the Commission on Higher Education, the Technical Education and Skills Development Authority and professional and nongovernmental organizations concerned, shall issue within one hundred and twenty (120) days upon its effectivity the rules and regulations necessary to carry out the provisions of this Act.

SEC. 19. *Separability Clause.* – If any clause, sentence, paragraph or part of this Act shall be declared to be invalid, the remainder of this Act or any provision not affected thereby shall remain in force and effect.

SEC. 20. *Repealing Clause.* – All laws, presidential decrees, executive orders, rules and regulations or parts thereof which are not consistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 21. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation, whichever comes earlier.

Approved,

PROSPERO C. NOGRALES
*Speaker of the House of Representatives*

JUAN PONCE ENRILE
*President of the Senate*

This Act which is a consolidation of Senate Bill No. 1698 and House Bill Nos. 879, 4012 and 6076 was finally passed by the Senate and the House of Representatives on December 16, 2009.

MARILYN B. BARUA YAP
*Secretary General*
*House of Representatives*

EMMA LIRIO-REYES
*Secretary of the Senate*

Approved: MAR 16 2010

GLORIA MACAPAGAL-ARROYO
*President of the Philippines*

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