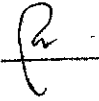


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SENATE

S. No. **2606**

RECEIVED BY: 

Introduced by Senator JUAN MIGUEL F. ZUBIRI

Explanatory Note

It is the policy of the State to support and promote breastfeeding. This bill seeks to promote, support and protect breastfeeding, which is considered to be the best form or gold standard of nutrition for infants. Breastfeeding is the most elemental form of parental care and the decision to breastfeed is the sole prerogative of the mother.

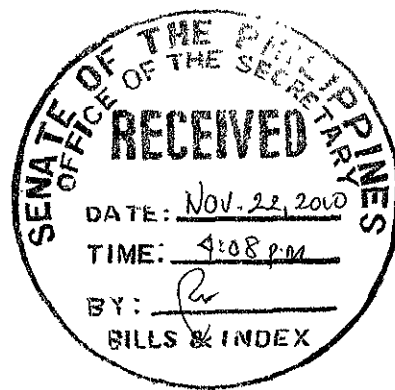
A major obstacle in achieving a higher breastfeeding rate in this country can be attributed to a recognized lack of education and awareness among pregnant women and mothers of infants of the significant benefits of exclusive breastfeeding for infants 0-6 months. This is coupled by a perceived lack of work-related support from their employers while such women had to contend with an economic need to continue work or employment, given the limited number of paid maternity leave presently allowed by social legislation.

In doing so, this bill aims to encourage women to practice exclusive breastfeeding for their infants from 0-6 months of age. This feeding ideal is to be achieved by creating an appropriate environment of awareness and support so that women can breastfeed in this manner. This is achieved by a number of interventions, such as: providing education to pregnant and lactating mothers on the advantage of breastfeeding as well as the proper care that would contribute to successful breastfeeding; encouraging employers of women to facilitate breastfeeding by setting up lactation facilities, educational programs on the benefit of breastfeeding, and scheduling breaks and work patterns to provide time for milk expression or breastfeeding; and the granting of incentives, in the form of tax deductions, to health institution or facilities and private employers who comply with the provisions of this bill.

It also seeks to prohibit advertisements and promotion of infant formula and to regulate advertisements and promotion of breastmilk substitutes intended for infants 6-12 months of age by requiring them to undergo a committee screening review processes. The decision of a mother not to breastfeed must be based on an informed choice. Thus, bottlefeeding shall be allowed only after the mother has been informed by a health professional of the advantages of breastfeeding and how to encourage and maintain lactation.

In view thereof, approval of this bill is highly and earnestly recommended.


JUAN MIGUEL F. ZUBIRI



SENATE
S. No. 2606

Introduced by Senator JUAN MIGUEL F. ZUBIRI

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

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

CHAPTER I

TITLE, POLICY, PRINCIPLES AND DEFINITION OF TERMS

Section 1. Title. This Act shall be known as the "*Breastfeeding Act of 2010.*"

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 breast milk from birth to six months of age. This feeding ideal is to be achieved by creating an appropriate environment of awareness and support so that women can breastfeed in this manner.

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:

a) "**Advertising**" means the act of publishing in magazines, periodicals and newspapers, and/or advertisements broadcasts through radio and television mass media and telecommunication systems.

- 1 **b) “Age of gestation”** means the length of time the fetus is inside the mother's
2 womb.
- 3 **c) “Bottle-feeding”** is the method of feeding an infant using a bottle with artificial
4 nipples, the contents of which can be any type of fluid.
- 5 **d) “Breastfeeding”** is the method of feeding an infant directly from the human
6 breast.
- 7 **e) “Breast milk”** refers to the human milk from a mother.
- 8 **f) “Breast milk Substitute”** means any food intended for infants being marketed
9 or otherwise represented as a partial or total replacement for breast milk, whether or not
10 suitable for that purpose.
- 11 **g) “Committee”** shall refer to the Inter-Agency Committee composed of the
12 Secretary of Health and Secretary of Trade and Industry as co-chairs, and the Secretary
13 of Justice, the Secretary of Finance, and the Secretary of Social Welfare and
14 Development, as members.
- 15 **h) “Complementary Food or Breast milk Supplement”** means any food whether
16 manufactured or locally prepared, suitable as a complement to breast milk or infant
17 formula when either becomes insufficient to satisfy the nutritional requirements of the
18 infant. This can include products also commonly called as "weaning food".
- 19 **i) “Container”** means any form of packaging of products for sale as a normal retail
20 unit, including wrappers.
- 21 **j) “Distributor”** means a person, corporation or any other entity in the public or
22 private sector engaged in the business (whether directly or indirectly) of marketing at
23 the wholesale or retail level a product under Section 27 of this Act. A "primary
24 distributor" is a manufacturer's sales agent, representative, national distributor or
25 broker.
- 26 **k) “DoH”** refers to the Department of Health.
- 27 **l) “Expressed Breast milk”** refers to the human milk which was extracted from the
28 breast by hand or by pump. It can be fed to an infant using the dropper, a nasogastric
29 tube, a cup and spoon, or a bottle.
- 30 **m) “FDA”** refers to the Food and Drug Administration (FDA) created pursuant to
31 Republic Act No. 9711, formerly known as the Bureau of Food and Drugs (BFAD).
- 32 **n) “Formula Feeding”** is the feeding of an infant with an infant formula usually by
33 bottle-feeding. It is also called artificial feeding.
- 34 **o) “Health care system”** means governmental, non-governmental or private
35 institutions or organizations engaged, directly or indirectly, in health care for mothers of

- 1 infants, infants and pregnant women; and nurseries or childcare institutions. It also
2 includes health workers in private practice engaged in health care for mothers of infants,
3 infants and pregnant women. For the purpose of this Act, the health care system does
4 not include pharmacies or other established sales outlets.
- 5 **p) “Health Institutions”** are hospitals, health infirmaries, health centers, lying-in
6 centers, or puericulture centers with obstetrical and pediatric services.
- 7 **q) “Health Worker”** means a person working in a component of the health care
8 system, whether professional or non-professional, including volunteer workers. It also
9 includes health workers in private practice engaged in health care for mothers of infants,
10 infants and pregnant women. Traditional birth attendants and their assistants shall
11 likewise be included.
- 12 **r) “Infant”** means a person falling within the age bracket of 0-12 months.
- 13 **s) “Infant Formula”** means a breast milk substitute formulated industrially in
14 accordance with applicable Codex Alimentarius standards, to satisfy the normal
15 nutritional requirements of infants up to between four to six months of age, and adapted
16 to their physiological characteristics. Infant formula may also be prepared at home in
17 which case it is described as “home-prepared.”
- 18 **t) “Label”** means any tag or other descriptive matter, written, printed, stenciled,
19 marked, embossed or impressed on, or attached to, a container of any product under
20 Section 27 of this Act.
- 21 **u) “Lactation Management”** is the general care of a mother-infant nursing couple
22 during the mother's prenatal, immediate postpartum and postnatal periods. It deals with
23 educating and providing knowledge and information to pregnant and lactating mothers
24 on the advantages of Breastfeeding, the physiology of lactation, the establishment and
25 maintenance of lactation, the proper care that would contribute to successful
26 breastfeeding.
- 27 **v) “Low Birth Weight Infant”** is a newborn weighing less than two thousand five
28 hundred (2,500) grams at birth.
- 29 **w) “Manufacturer”** means a corporation or other entity in the public or private
30 sector engaged in the business or function (whether directly or through an agent or an
31 entity controlled by or under contract with it) of manufacturing a product under Section
32 27 of this Act.
- 33 **x) “Marketing”** means product promotion and advertising services.
- 34 **y) “Marketing firm”** refers to any entity that does marketing or provides marketing
35 services.

- 1 **z) “Marketing personnel”** means any person whose functions involve the
2 marketing of a product or products coming under Section 27 of this Act.
- 3 **aa) “Mother's milk”** - the breast milk from the newborn's own mother.
- 4 **bb) “Other related products”** refers to all materials used to administer breast milk
5 substitutes, such as, but not limited to, feeding bottles, teats and other artificial feeding
6 paraphernalia.
- 7 **cc) “Products under Section 27 of this Act”** shall pertain to breast milk substitutes,
8 infant formula, and complementary foods, when marketed or otherwise used or
9 represented to be suitable, with or without modification, for use as a partial or total
10 replacement of breast milk; other related products such as feeding bottles, teats and
11 other artificial feeding paraphernalia. It also applies to their quality and availability, and
12 to information concerning their use.
- 13 **dd) “Promotions”** means the practice of giving temporary additional value to a
14 product or service to achieve specific marketing objectives.
- 15 **ee) “Rooming-in”** is the practice of placing the newborn in the same room as the
16 mother right after delivery up to discharge to facilitate mother-infant bonding and to
17 initiate breastfeeding. The infant may either share the mother's bed or be placed in a
18 crib beside the mother.
- 19 **ff) “Sample”** means single or small quantities of a product provided without cost.
- 20 **gg) “Seriously-ill Mothers”** are those who are: with severe infections; in shock; in
21 severe cardiac or respiratory distress; or dying or those with other conditions that may
22 be determined by the attending physician as serious.
- 23 **hh) “Supplies”** means quantities of a product provided for use over an extended
24 period, free or at a low price, for social purposes, including those provided to families in
25 need.
- 26 **ii) “Weaning”** means discontinuing the breastfeeding of an infant with substitution
27 of other feeding habits.
- 28 **jj) “Wet-nursing”** is the feeding of a newborn from another mother's breast when
29 his/her own mother cannot breast-feed.
- 30 **kk) “Young child”** means a person from the age of more than twelve (12) months
31 up to the age of three (3) years (36 months).

1 CHAPTER II
2 PROGRAM ON THE PROMOTION OF BREASTFEEDING
3

4 **Section 4. *Formulation of the Program.*** – There shall be a comprehensive program to
5 promote breastfeeding to be formulated by the Department of Health and the
6 Department of Social Welfare and Development in coordination with other government
7 agencies and private sector and industry concerned within one (1) year from the
8 effectivity of this Act.
9

10 CHAPTER III
11 RIGHTS OF NURSING MOTHERS
12

13 **Section 5. *Right of the Mother to Breastfeed.*** – The mother's right to breastfeed her
14 child who equally has the right to her breast milk is recognized. It is protected and
15 enforceable. No mother should be discriminated upon or socially ostracized for
16 breastfeeding her child.
17

18 **Section 6. *Mother's prerogative.*** – Breastfeeding is the most elemental form of
19 parental care. The decision to breastfeed is the sole prerogative of the mother. The
20 decision to do otherwise must be based on an informed choice. In health care facilities,
21 bottle feeding shall be allowed only after the mother has been informed by the attending
22 health personnel of the advantages of breastfeeding and how to encourage and
23 maintain lactation. The proper techniques of infant formula feeding shall be provided
24 only after the mother has opted to adopt formula feeding for her infant.
25

26 **Section 7. *Not indecent exposure.*** – No provision of law or ordinance on indecent
27 exposure shall apply to breastfeeding an infant. A mother may breastfeed her baby in
28 any location, public or private, where the mother is otherwise authorized to be, even if
29 not done discreetly, irrespective of whether the nipple of the mother's breast is
30 uncovered during or incidental to the breastfeeding.
31

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

- 36 (a) Women shall have the right to breastfeed their babies in the workplace.
37 (b) Employers are encouraged to facilitate the continuation of breastfeeding when their
38 women employees return to work, to set up lactation facilities and support for them,

1 including educational programs on the benefits of breastfeeding, and assistance in
2 handling breastfeeding problems, as well as difficulties often experienced by
3 breastfeeding mothers in the workplace.

4 (c) Employers shall develop written policies supporting breastfeeding practices for the
5 workplace that addresses issues including work schedule flexibility; scheduling
6 breaks and work patterns to provide time for milk expression and/or breastfeeding.

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

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

18
19 **CHAPTER IV**
20 **ROOMING-IN AND BREASTFEEDING OF INFANTS**
21

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

25
26 **Section 11. *Normal Spontaneous Deliveries.*** – The following newborn infants be put
27 to the breast of the mother immediately after birth and forthwith roomed-in within thirty
28 (30) minutes:

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

31
32 **Section 12. *Deliveries by Caesarian.*** – Infants delivered by caesarian section shall be
33 roomed-in and breastfed within three (3) to four (4) hours after birth.

34
35 **Section 13. *Deliveries Outside Health Institutions.*** – Newborns delivered outside
36 health institutions whose mothers have been admitted to the obstetrics department/unit

1 and who both meet the general conditions stated in Section 11 of this Act, shall be
2 roomed-in and breastfed immediately.

3
4 **Section 14. Exemptions** - Infants whose conditions do not permit rooming-in or breast-
5 feeding as determined by the attending physician, and infants whose mothers are
6 either:

- 7 (a) seriously ill;
8 (b) taking medications contraindicated to breastfeeding;
9 (c) violent psychotics; or
10 (d) whose conditions do not permit breastfeeding and rooming-in as determined by the
11 physician shall be exempted from the provisions of Sections 11, 12, and 13:
12 *Provided*, That these infants shall be fed expressed breastmilk or wet-nursed as
13 may be determined by the attending physician.

14
15 **CHAPTER V**
16 **EXTENDED BREASTFEEDING AND WEANING**

17
18 **Section 15. Benefits.** – Extended breastfeeding should be encouraged. There is no
19 evidence that breastfeeding a child beyond infancy and allowing a child to wean
20 naturally is harmful.

21
22 **Section 16. Weaning.** – Mothers shall be responsive to needs of the child and shall
23 allow their child to wean naturally. Weaning, as a personal decision to be made by each
24 mother based on her particular family situation and individual circumstances, is
25 recognized. Young children who nurse past their infancy have their own developmental
26 timetables.

27
28 **CHAPTER VI**
29 **INFORMATION AND EDUCATION**

30
31 **Section 17. Information and Education.**

- 32 (a) The Department of Health shall ensure that objective and consistent information is
33 provided on infant and young child feeding for use by families and those involved in
34 the field of infant and young child nutrition. This responsibility shall cover the
35 planning, provision, design and dissemination of information, and the control
36 thereof, on infant and young child nutrition.
37 (b) The Department of Health should take appropriate measures to encourage and
38 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 11.

- (c) Manufacturer, distributor or representatives of products covered by this Act are allowed to conduct or be involved in the promotion, education and production of Information, Education and Communication (IEC) materials on breastfeeding, infant and young child care and nutrition, as long as the programs and materials used are reviewed and approved by the IAC. Promotion of products intended for infants 0-6 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.

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 institution, it shall be the obligation of the health institution and the health personnel to immediately and continuously teach, train, and support the women on current and updated lactation management and infant care, and to distribute written information materials on such matters free of charge.

Section 20. Classes for mothers of infants and pregnant women. – In health education classes for mothers of infants and pregnant women, health workers and community workers shall emphasize the benefits of breast milk and the hazards and risks of the improper use of breast milk 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 under Section 27 of this Act shall not, as part of their job responsibilities, perform educational functions in relation to pregnant

women or mothers of infants. This should not be understood as preventing such personnel from being used for other functions by the health care systems.

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:

- (a) benefits and superiority of breastfeeding;
- (b) maternal nutrition, and the preparation for and maintenance of breastfeeding;
- (c) negative effect on breast feeding of introducing partial bottle-feeding;
- (d) difficulty of reversing the decision not to breastfeed;
- (e) 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 breast milk substitutes. Such materials shall not use any picture or text, which may idealize the use of breast milk 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.

CHAPTER VII HUMAN MILK BANK

Section 24. *Provision of Facilities for Breast milk Collection and Storage.* – The health institution adopting rooming-in and breastfeeding shall provide equipment,

1 facilities, and supplies for breast milk collection, storage and utilization, the standards of
2 which shall be defined by the Department of Health.

3 4 **CHAPTER VIII** 5 **RESEARCH** 6

7 **Section 25. *Research, Ethics Committee, Purpose.*** – The DoH shall ensure that
8 research conducted for public policy purposes, related to infant and young child feeding,
9 should, at all times, be free from any commercial influence/bias; accordingly, the health
10 worker or researcher involved in such must disclose any actual or potential conflict of
11 interest with the company/person funding the research. In any event, such research
12 and its funding shall be subjected to independent peer review. Towards accomplishing
13 these ends;

14 (a) Assistance for research and clinical trials involving products under Section 27
15 hereof given by manufacturers and distributors are allowed only upon approval by
16 an Ethics Committee of the DoH. The same committee shall monitor said
17 researches.

18 (b) The researches shall be conducted in accordance with an approved protocol. Any
19 changes in the protocol after it has been approved will be subject to a new review
20 and approval by the Ethics Committee.

21 (c) Assistance for research may be allowed subject to the following conditions:

22 1. Researches involving well or ill infants and young children as subjects shall
23 be limited to physiological factors and therapeutic studies;

24 2. These studies should in no case be harmful to the subject;

25 3. Should be limited to those with potential benefits for the particular subject.

26 (d) Recipients of research awards shall not allow themselves, their organizations or
27 their subjects, to be used directly or indirectly for any promotional activity related to
28 products under Section 27. These may be by way of display of posters and
29 streamers patronizing the Company, their products and/or as
30 lecturers/speakers or testimonials in the promotion of the products under Section
31 27 that undermine breastfeeding.

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

35
36 **Section 26. *Public Disclosure.*** – For transparency purposes, a disclosure and/or
37 disclaimer of the sponsoring company should be done by the company itself, health

1 worker, researcher involved through verbal declaration during public presentation of the
2 research and in print upon publication.

3
4 **CHAPTER IX**
5 **MARKETING OF BREASTMILK SUBSTITUTES, BREASTMILK**
6 **SUPPLEMENTS AND RELATED PRODUCTS**
7

8 **Section 27. Scope.** – This Article applies to the marketing, and practices related
9 thereto, of the following products: breast milk substitutes, infant formula, and
10 complementary foods, when marketed or otherwise used or represented to be suitable,
11 with or without modification, for use as a partial or total replacement of breast milk;
12 feeding bottles, teats and other artificial feeding paraphernalia. It also applies to their
13 quality and availability, and to information concerning their use.

14
15 **Section 28. Advertising.** –

- 16 (a) Advertising for products under Section 27 intended for infants **0 to 6 months shall**
17 **not be allowed.**
18 (b) Advertising for products under Section 27 intended for infants 6-12 **months shall**
19 **be allowed upon review and approval of the IAC.**

20
21 **Section 29. Promotions.** – Promotions to the general public and mothers:

- 22 (a) Promotion for products under Section 27 of this Act intended for infants 0-6 months
23 shall not be allowed.
24 (b) Promotion for products under Section 27 of this Act intended for infants 6-12
25 months shall be allowed upon review and approval of the IAC.

26
27 **Section 30. Contents of Materials.** – The following are deemed to undermine
28 breastfeeding, hence, shall be not be allowed to be included in advertising, promotional
29 and marketing materials of products under Section 27 hereof:

- 30 (a) Texts, pictures, illustrations or information which discourage or tend to undermine
31 the benefits or superiority of breastfeeding or which idealize the use of products
32 under Section 27 hereof. In this connection, no pictures of infants, person holding a
33 feeding bottle, feeding bottles and infant with product shots shall be used in any
34 advertisements of products under Section 27 hereof.
35 (b) The term “humanized”, “Maternalized”, “close to mother’s milk” or similar words
36 describing infant formula or breast milk substitutes;
37 (c) Pictures or texts that idealize the use of infant formula.

1 **Section 31. *Health and Nutritional Claims.* -**

2 (a) Health and nutritional claims for products within the scope of the Act are allowed as
3 long as it is based on scientific and factual information upon review and approval by
4 the IAC.

5 (b) False or misleading information or claims of products within the scope of the Act are
6 prohibited.

7 (c) Promotion of products under Section 27 must be objective and should not equate or
8 make the product appear to be as good or equal to breast milk or breastfeeding in
9 the advertising concept. It must not in any case undermine breast milk or
10 breastfeeding.

11

12 **Section 32. *Information to Health Workers.* –** Information provided by manufacturers
13 and distributors to health professionals regarding products under Section 27 shall be
14 restricted to scientific and factual information, and such information shall not imply or
15 create a belief that bottle-feeding is equivalent or superior to breastfeeding.

16

17 **Section 33. *Promotions in Healthcare System.* -**

18 (a) No facility of the health care system shall be used for the purpose of promoting
19 products intended for infants 0-6 months under Section 27. This Act does not,
20 however, preclude the dissemination of scientific and factual information to health
21 professionals as provided in Section 32.

22 (b) Facilities of the health care system shall not be used for the display of products,
23 posters and materials intended for infants 0-6 months under Section 27 as provided
24 by a manufacturer or distributor.

25 (c) Manufacturers, distributors and marketing firms or their representatives are
26 prohibited from using the health workers in the dissemination, distribution and
27 promotion of products intended for infants 0-6 months under Section 27.

28 (d) The use by the health care system of "professional service representatives",
29 "mothercraft nurses" or similar personnel provided or paid for by manufacturers or
30 distributors, shall not be permitted.

31

32 **Section 34. *Classes, Seminars for Women.* –** Manufacturers, distributors and
33 representatives of products covered by Section 27 of this Act shall not be allowed to
34 hold activities, classes, and seminars, related to the promotion of products intended for
35 infants 0-6 months, for pregnant women and mother of infants.

36

37 **Section 35. *Inducements.* –** Financial or material inducements to promote products
38 under Section 27 of this Act, shall not be given by manufacturers, distributors and

representatives of such products, nor shall this be accepted by mothers of infants, 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 36. *Samples and Supplies.* – Samples and supplies of products under Section 27 intended for infants 0-6 months or equipment/utensils for the preparation or use of these products from manufacturers, distributors and representatives shall not be allowed to be given to any member of the general public, mothers of infants, pregnant women, health workers, hospitals and other health institutions, as well as personnel within the healthcare system, including members of their families except as provided for in Sections 25 and 44.

Section 37. *Gifts of any sort.* – Gifts of any sort to promote products covered under Section 27 of this Act intended for infants 0-6 months, from manufacturers, distributors, and representatives shall not be allowed to be given to, mothers of infants, pregnant women, health workers, hospitals and other health institutions, as well as personnel within the healthcare system, including members of their families.

Section 38. *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 products intended for infants 0-6 months under Section 27 of this Act. 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 39. *Containers / Labels.* -

(a) Containers and/or labels shall be designed to provide the necessary information about the appropriate use of products under Section 27 of this Act, 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

1 3. A statement that the product shall be used only on the advice of a health
2 worker as to the need for its use and the proper methods of use; and

3 4. Instructions for appropriate preparation, and a warning against the health
4 hazards of inappropriate preparation.

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

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

9 (e) Neither the container nor the label of milk products intended for infants 0-6 months
10 under Section 27 of this Act shall have pictures of babies and children together with
11 their mothers, fathers, siblings, grandparents, other relatives or caregivers (or
12 yayas).

13
14 **Section 40. *Infant Feeding Warning.*** – Food products under Section 27 of this Act
15 marketed for infant feeding, which do not meet all the requirements of an infant formula
16 but which can be modified to do so, shall carry on the label a warning that the
17 unmodified product should not be the sole source of nourishment of an infant.

18
19 **Section 41. *Authority of the FDA.*** – The labels of food products under Section 27 of
20 this Act shall, in addition to the requirements in the preceding paragraphs, conform with
21 the rules and regulations of the Food and Drugs Administration not inconsistent with the
22 provisions of this Act.

23
24 **Section 42. *Quality.*** –

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

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

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

34 **CHAPTER X**

35 **DONATION**

36 **Section 43. *Donations.*** – Donations of products under Section 27 of this Act intended
37 for infants 0-6 months from manufacturers and distributors shall be allowed upon the
38 approval of the Inter-Agency Committee.

1 CHAPTER XI
2 INCENTIVES
3

4 **Section 44. Incentives.** – The expenses incurred by private health, business, and other
5 institutions in complying with the provisions of this Act, shall be deductible expenses for
6 income tax purpose up to twice the actual incurred: *Provided*, That the deduction shall
7 apply for the taxable period when the expenses were incurred: *Provided, further*, That
8 the health, business, and institutions shall comply with the provisions of this Act within
9 six (6) months after its approval.

10 Government health institutions shall receive an additional appropriation
11 equivalent to the savings they may derive as a result of adopting rooming-in and
12 breastfeeding. The additional appropriation shall be included in their budget for the next
13 fiscal year.
14

15 **Section 45. Advertisements.** – Hospitals and health institutions may advertise
16 themselves as “Baby Friendly” if they comply with 80% of the requirements to become a
17 “Baby Friendly” health facility, and business and other work institutions may advertise
18 themselves as “Mother Friendly Employers” if they comply with all the requirements for
19 such, as determined under the program established in Section 4 of this Act.
20

21 CHAPTER XII
22 IMPLEMENTATION AND MONITORING
23

24 **Section 46. Inter-Agency Committee (IAC).** – The Inter-Agency Committee (IAC)
25 composed of the following members is hereby created:

- 26 (a) Secretary of Health ----- Co-chair
27 (b) Secretary of Trade & Industry----- Co-chair
28 (c) Secretary of Justice ----- Member
29 (d) Secretary of Finance ----- Member
30 (e) Secretary of Social Welfare and Development ----- Member
31

32 The members may designate their duly authorized representative to every meeting
33 of the Committee who shall render periodic reporting to their respective Secretaries.
34

35 **Section 47. Powers and Functions of the Inter-Agency Committee.** – The
36 Committee shall be principally responsible for the implementation and enforcement of
37 the provisions of this Act. For this purpose, the Committee shall have the following
38 powers and functions:

- (a) 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.
- (b) 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.
- (c) To cause the prosecution of the violators of this Act.
- (d) 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.

In addition, the Committee shall have the following powers and functions relative to Article IX of this Act:

1. To review and examine all advertising, promotional or other marketing materials, whether written, audio or visual, on products under Section 27. All such materials must have been approved and consented to in writing by the Committee before their first public or commercial exhibition;
2. To approve or disapprove, delete objectionable portions from and prohibit 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 28 and 29.

The Committee shall develop, update substantive and procedural guidelines for reviewing advertising, promotional and marketing materials, including its screening when deemed appropriate.

No advertising, promotion or other marketing materials as defined under sections 28 and 29, whether written, audio, visual and audio-visual shall be printed, published, distributed, exhibited and broadcasted or in any manner released to the public without the prior review and approval by the IAC.

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

Section 48. Sanctions. –

- 1 (a) Any person who violates the provisions of this Act or the rules and regulations
2 issued pursuant to this Act shall, upon conviction, be punished by a penalty of two
3 (2) months to one (1) year imprisonment or a fine of not less than One Thousand
4 Pesos (PhP 1,000.00) nor more than Thirty Thousand (PhP 30,000.00) or both.
5 Should the offense be committed by a juridical person, the Chairman of the Board
6 of Directors, the president, general manager, or the partners and/ or the persons
7 directly responsible therefore, shall be penalized.
- 8 (b) Any license, permit or authority issued by any government agency to any health
9 worker, distributor, manufacturer, or marketing firm or personnel for the practice of
10 their professional or occupation, or for the pursuit of their business, may, upon
11 recommendation of the Department of Health and the IAC, be suspended or
12 revoked in the event of repeated violations of this Act, or of the rules and
13 regulations issued pursuant to this Act.

14
15 **CHAPTER XIII**
16 **MISCELLANEOUS PROVISIONS**
17

18 **Section 49. Repealing Clause.** – All laws, orders, issuances, and rules and regulations
19 or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.
20

21 **Section 50. Separability Clause.** – The provisions of this Act are hereby deemed
22 separable. If any provision thereof be declared invalid or unconstitutional, such invalidity
23 or unconstitutionality shall not affect the other provisions which shall remain in full force
24 and effect.
25

26 **Section 51. Effectivity.** – This Act shall take effect fifteen (15) days following its
27 publication in any newspaper of general circulation.
28

29 Approved,