

SENATE OF THE PHILIPPINES

S. NO. 1767

Introduced by Senator Juan M. Flavier

EXPLANATORY NOTE

Studies have shown that breastfeeding means better health for babies. One recent study by New Zealand researchers Drs. John Horwood and David Fergusson of the Christ Church School of Medicine found that "breastfeeding a child for at least eight months may help improve cognitive functioning and academic performance later in life." In their study of more than 1,000 teenagers, those who were breastfed the longest as infants scored highest on standardized test and IQ exams.

In view of these findings, it has been the policy of the State to protect and promote breastfeeding. Executive Order No. 51, otherwise known as the "National Code of Marketing of Breastmilk Substitutes, Breastmilk Supplements and Other Related Products" requires public information regarding the proper use of breastmilk substitutes and supplements. Republic Act No. 7600 entitled "Rooming-In and Breastfeeding Act of 1992" provides for breastfeeding rooms in government and private hospitals. In these institutions, only mothers who are still confined therein for delivery, have the right to use the breastfeeding or nursery room.

Aside from government and private hospitals, there are no facilities outside the home where the mother can comfortably and privately breastfeed or express her milk. This poses a problem for mothers committed to breastfeed their babies up to their second year. Hence, there is need for the State to ensure the existence of private, clean and well-ventilated areas in buildings, institutions, establishments and domestic inter-island vessels where nursing mothers can breastfeed or express their milk.

There are many problems confronting a nursing mother and her infant. Although this bill does not profess to solve all their problems, it earnestly seeks to lighten their physical and emotional responsibilities by providing private, clean and well-ventilated facilities where they can nourish their infant even outside the home.

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


JUAN M. FLAVIER
Senator

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AN ACT PROMOTING BREASTFEEDING BY ESTABLISHING AND MAINTAINING LACTATION STATIONS IN WORKPLACES FOR WORKING MOTHERS PROVIDING PENALTIES FOR ITS VIOLATION THEREOF AND FOR OTHER PURPOSES

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

SECTION 1. Short Title. This Act shall be known as the "Breastfeeding Promotion Act of 2004".

SEC 2. Declaration of Policy. It is declared policy of the State to protect and promote the right to health of the people and instill consciousness among them, to strengthen the protection of the rights of workers and to defend the right of the children to assistance including proper care and nutrition. Section 14 Article XIII of the 1997 Philippine constitution provides that "*The State shall 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* strategic objective which is to promote 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.

Towards this end, the State shall promote and encourage breastfeeding and provide the specific measures that would provide opportunities for mothers to continue breastfeeding their infant or express their milk.

SEC. 3. Definition of Terms. Whenever used in this Act, the following terms shall mean as follows:

- a. Workplace – means the office, premises or work site where the nursing female employees are habitually employed, whether in government agencies, including their subdivisions, instrumentalities and government owned and controlled corporations, or private enterprises, and
- b. Lactation Stations – means private, clean and well-ventilated rooms or areas situated in the workplace where nursing mothers can breastfeed or express their milk.

SEC. 4. Establishment of Lactation Stations. It is hereby mandated that lactations shall be established in workplaces for nursing female employees, which must have a lavatory for hand-washing, refrigeration for storing and comfortable seats.

SEC 5. Lactation Periods. Subject to such regulations as the Secretary of the Department of Labor and Employment (DOLE) may prescribe, nursing female employees are given reasonable time during working hours to express their milk in the lactation station in their workplace, which time shall be considered as compensable hours worked.

SEC. 6. Coverage. Upon application and as determined by the Secretary of DOLE, government agencies, including their subdivisions, instrumentalities and government owned and controlled corporations, or private enterprises, maybe exempted from Section 4 of this Act:

- a. where the number of employees is less than 10; and
- b. where the establishment of lactation stations is not feasible or necessary due to the peculiar circumstances of the workplace or its employee composition.

SEC. 7. Integration of Breastfeeding Education in the Curricula. To encourage and promote breastfeeding, the Department of Education and Commission on Higher Education shall integrate in the subjects of Health and Family Life and Science in the Elementary level, Biology and Home Economics in the High School level, to both female and male students, the importance and benefits of breastfeeding.

SEC. 8. Incentives. The expenses incurred by private enterprises or entities in complying with Section 4 hereof and in maintaining the lactation stations shall be allowed as deductible expenses for income tax purposes. Provided, however, that the deduction shall apply for the taxable period when the expenses were incurred. Provided, further, that the private enterprises or entities shall comply with the provisions of this Act within six (6) months after its approval.

Government agencies, including their subdivisions and instrumentalities shall use their respective budget on Gender and Development to comply with Section 4 hereof.

SEC. 9. Implementing Rules and Regulations. The Department of Health, as lead agency in coordination with the Civil Service Commission, Department of Labor and Employment, Department of Education, Commission on Higher Education, Department of Interior and Local Government, shall formulate the implementing rules and regulations within 60 days after the approval of this Act. The Department of Health in coordination with the above-enumerated government agencies shall be responsible for monitoring compliance of this Act.

SEC. 10. Penalty Clause. Anyone found violating any provision of this Act shall upon conviction by a court of competent jurisdiction, be fined a minimum amount of Ten Thousand Pesos (P10,000) to a maximum of Fifty Thousand Pesos (P50,000); Provided, however, that the President, Manager or Administrator or the person in-charge of the building space, as the case maybe, shall be held criminally liable for any violation of this Act and shall suffer the penalty of imprisonment of not less than one (1) month but not more than one (1) year. Provided, further, that in the case of public officials they shall be without prejudice to any liability for violation of any provision of the Revised Penal Code and other applicable laws.

SEC. 11. Separability Clause. If any part or provision of this Act shall be held unconstitutional or invalid, other provisions thereof are not affected thereby and shall continue to be in full force and effect.

SEC. 12. 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. 13. Effectivity Clause. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspaper of general circulation, whichever comes earlier.

Approved.