

FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

8 FEB 12 P3:00

SENATE
S. No. 2074

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

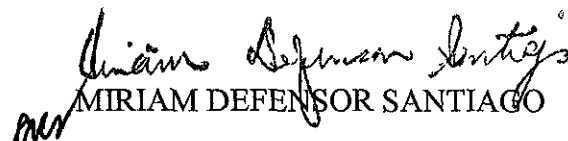
EXPLANATORY NOTE

The Constitution, Article 2, Section 15 provides:

The State shall protect and promote the right to health of the people and instill health consciousness among them.

Persons who produce or process food for human consumption have the responsibility to prevent or minimize food safety hazards related to their products. They should ensure that all fully processed or ready-to-eat food are processed in a sanitary manner in order to eliminate human pathogens or other potentially harmful substances likely to cause food-borne illness.

Hence, this bill seeks to establish a comprehensive program for the purpose of protecting human health, by ensuring that the food industry has effective programs in place to assure the safety of food products consumed in the Philippines.


MIRIAM DEFENSOR SANTIAGO

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1 AN ACT
2 TO ESTABLISH A COMPREHENSIVE PROGRAM TO ENSURE THE SAFETY OF
3 FOOD PRODUCTS INTENDED FOR HUMAN CONSUMPTION

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

6 SECTION 1. *Short Title.* – This Act shall be known as the “Consumer Food
7 Safety Act of 2008.”

8 SECTION 2. *Definitions.* – For purposes of this Act:

9 (A) The term “contaminants” includes bacteria, chemical contaminants, natural
10 toxins, viruses, parasites, and physical hazards that when found on or in food can cause
11 human illness or injury.

12 (B) The term “facility” shall include any factory, warehouse establishment, or
13 importer that handles or processes food.

14 (C) The term “process” means the harvesting, preparations, manufacture, and
15 transportation of food products.

16 (D) the term “Secretary” means the Secretary of Health.

17 TITLE I-NATIONAL FOOD SAFETY PROGRAM

18 SECTION 3. *Administration of National Program.* – (A) IN GENERAL – (1)
19 Persons who produce or process food for human consumption have the responsibility to
20 prevent or minimize food safety hazards related to their products. The Secretary shall
21 administer a national program for the purpose of protecting human health by ensuring
22 that the food industry has effective programs in place to assure the safety of food
23 products consumed in the Philippines.

1 (2) The program shall –

2 (a) be based on a comprehensive analysis of the hazards associated
3 with different food products and with the harvesting, processing and
4 handling of different food products, including the identification and
5 evaluation of –

6 (i) the severity of the potential health risks;

7 (ii) the sources and specific points of potential
8 contamination that may render food products unsafe for human
9 consumption; and

10 (iii) the potential for persistence, multiplication or
11 concentration of naturally occurring or added contaminants in
12 foods and food products;

13 (iv) take into consideration the distinctive characteristics of
14 food production and processing;

15 (v) establish inspection and oversight procedures to
16 monitor that facilities are utilizing preventive controls to minimize
17 or eliminate identifiable hazards; and

18 (vi) require each food processing facility to annually
19 register with the Secretary.

20 (B) PROGRAM ELEMENTS – The program shall provide for: (1)
21 implementation of a national system for the registration and quarterly inspection of
22 facilities and importers. Quarterly inspections can be waived by plants that meet the
23 Secretary's standards for exceptional or negligible-risk facilities or importers;

24 (2) development of a program to oversee the implementation of process
25 controls in food processing facilities;

26 (3) the establishment and enforcement of health-based standards for (a)
27 substances which may contaminate food; and (b) safety and sanitation in the
28 processing and in food processing facilities;

1 (4) implementation of a sampling program to ensure that industry
2 programs to prevent food contamination are effective and that food products meet
3 the standards established in paragraph (1);

4 (5) implementation of procedures and requirements to ensure the safety of
5 imported food products;

6 (6) coordination with other agencies in carrying out inspection,
7 enforcement, and monitoring;

8 (7) implementation of a national surveillance system to assess the health
9 risks associated with the human consumption of food products, in cooperation
10 with the Secretary of Agriculture;

11 (8) development of public education and advisory programs; and

12 (9) implementation of a research program in furtherance of the purposes
13 of this Act.

14 SECTION 4. *Registration of Processors and Importers.* – (A) IN GENERAL –

15 Any facility engaged in processing of food products and any person who imports food
16 products shall register with the Secretary. Application for registration shall be made to
17 the Secretary using such forms and containing such information as the Secretary shall
18 prescribe by regulation within twenty-four (24) months after the date of enactment of this
19 Act. Upon receipt and review of a completed application, the Secretary shall issue to the
20 applicant a certificate of registration unless good cause is shown why such application
21 should be denied. The Secretary shall promptly notify any applicant of such denial,
22 include written explanation of the reasons for such denial, and provide an opportunity for
23 a hearing or reapplication upon request.

24 (B) SUSPENSION OF REGISTRATION –

25 (1) The registration may be suspended immediately by the Secretary for –

26 (a) failure to permit access for inspection under this Act;

1 (b) violation of this Act or regulation issued under this Act, where
2 the Secretary determines that such suspension is likely to prevent a
3 significant risk of adverse health consequences;

4 (c) conviction of the applicant or registrant of –

5 (i) any felony other than a felony based upon the acquiring,
6 handling, or distribution of adulterated or misbranded food; or

7 (ii) more than one violation of any law other than a
8 violation involving any fraud in connection with transactions in
9 food.

10 (2) Any registration suspended under paragraph (1) may be restricted
11 whenever the Secretary determines that suspension is no longer necessary.

12 (C) EXEMPTION AUTHORITY – The Secretary may by regulation exempt
13 classes of facilities from the requirements of paragraph (A) if the Secretary determines
14 that the registration of such facilities or persons is not needed for effective enforcement
15 of this Act.

16 SECTION 5. *Process Controls To Reduce The Adulteration Of Food Products.* –

17 (A) IN GENERAL – The Secretary shall, upon the basis of the best available
18 scientific and technological data, prescribe regulations to-

19 (1) limit the presence of human pathogens and other potentially harmful
20 substances in food products;

21 (2) ensure that all registered facilities implement appropriate measures to
22 control and reduce the presence and growth of human pathogens and other
23 potential substances on food products;

24 (3) ensure that all fully processed or ready-to-eat food products are
25 processed in a sanitary manner, using reasonably available techniques and
26 technologies to eliminate any human pathogens or other potentially harmful
27 substances likely to cause food-borne illness; and

1 (4) ensure that food products intended for final processing outside
2 commercial establishments are labelled with instructions for handling and
3 preparation for consumption which, when adhered to, will destroy any human
4 pathogens or other potentially harmful substances likely to cause food-borne
5 illness.

6 (B) REGULATIONS – The Secretary shall, within one (1) year of the enactment
7 of this Act, issue regulations that require all registered facilities to adopt processing
8 controls adequate to protect public health and to limit the presence and growth of human
9 pathogens and other potentially harmful substances in food products prepared in any
10 registered facility. Such regulations shall—

11 (1) set standards for sanitation;

12 (2) set tolerances for biological, chemical and physical hazards as appropriate;

13 (3) require process controls to assure that food is safe and that relevant regulatory
14 and safety standards are met;

15 (4) require record-keeping to monitor compliance;

16 (5) require sampling to assure that processing controls are effective and that
17 regulatory standards are being met; and

18 (6) provide for agency access to records kept by official establishments and
19 submission of copies of such records to the Secretary as the Secretary deems appropriate.

20 The Secretary may, as the Secretary deems necessary, require any person, firm or
21 corporation with responsibility for or control over food ingredients to adopt processing
22 controls, where such processing controls are needed to assure the protection of public
23 health.

24 SECTION 6. *Inspections of Processors and Importers.* – (A) NATURE OF
25 INSPECTIONS –

26 (1) The inspection system shall provide for frequent unannounced
27 inspections of food processing and importing facilities to determine if such
28 facilities are operated in a sanitary manner and if food products are unsafe for

1 human consumption, or adulterated or misbranded. Inspection shall include
2 review of processing records and sample.

3 (2) Inspections shall be conducted at least quarterly, unless the Products
4 determines that the facility, is an exceptional or negligible-risk facility under
5 standards established by the Secretary.

6 (3) Standards for exceptional or negligible-risk facilities shall consider the
7 hazards associated with the type of product being produced; and the facility's
8 history of compliance, food safety problems and such other factors as the
9 Secretary may deem appropriate. The Secretary shall specify an alternative
10 inspection frequency for each facility which is deemed exceptional or negligible-
11 risk. Each inspection shall include an examination of whether the facility
12 continues to meet the standards for exceptional or negligible-risk facilities.

13 (B) CONDUCT OF INSPECTIONS –

14 (1) An inspection under subsection (1) of any domestic, foreign or
15 importing facility shall extend to all things therein (including records required to
16 be maintained under subsection (5), processes, controls, and premises) that bear
17 on whether food products are in compliance with this Act. Access to records may
18 include the copying of such records.

19 (2) In conducting such inspections, officers or employees duly designated
20 by the Secretary, upon presenting appropriate credentials to the owner, operator or
21 agent in charge, are authorized-

22 (a) to enter at reasonable times any facility in which persons are
23 engaged in the food processing or importing of food products, or to enter
24 any vehicle being used to transport or hold such food products;

25 (b) to inspect in a reasonable manner such facility or vehicle and
26 all pertinent equipment, finished and unfinished materials, containers,
27 labelling, processes, controls, and premises; and

1 (c) to collect and retain samples of food products or ingredients or
2 of any other items found during an inspection that may contribute to a
3 finding of whether such food products are unsafe for human consumption
4 or adulterated or misbranded.

5 (3) Immediately after completion of inspection, the officer or employee
6 making the inspection shall give to the owner, operator, or agent in charge a
7 report in writing setting forth any conditions or practices observed which indicate
8 that either processing controls are inadequate to prevent or minimize food safety
9 hazards or that any food from such facility is unsafe for human consumption, or
10 adulterated or misbranded.

11 (C) PRODUCT DETENTION AND CONDEMNATION

12 (1) If, during an inspection conducted under this section, an officer or
13 employee making the inspection has reason to believe that a food product is
14 unsafe for human consumption, or adulterated or misbranded, such officer or
15 employee may order the food product segregated, impounded, and if objection is
16 not made within 48 hours, condemned. If objection is made, such food products
17 that are in perishable form may be processed to the extent necessary to prevent
18 spoilage, and a hearing shall be commenced expeditiously.

19 (2) if the Secretary determines that, through re-labelling or other action,
20 such food products can be brought into compliance with this Act, the food may be
21 released following a determination by the Secretary that such re-labelling or other
22 action as specified by the Secretary has been performed.

23 (3) Any food product condemned without objection, or after hearing and
24 judicial review, shall be destroyed under supervision of the Secretary.

25 (D) OFFICIAL MARK— The Secretary shall prescribe by regulation the
26 conditions under which any food product shall display an official mark, when needed to
27 facilitate exports, that signifies that the food product has been processed in accordance
28 with standards approved by the Secretary. Such a mark may be subject to a fee.

1 (E) MAINTENANCE OF RECORDS — Each facility or person registered under
2 this section shall maintain and make available for inspection by the Secretary such
3 records as the Secretary may prescribe. Such records shall be maintained for a reasonable
4 period of time as determined by the Secretary. The records shall include, but are not
5 limited to, information concerning —

6 (1) the origin, receipt, delivery, sale, movement, holding, and disposition
7 of food products or ingredients; the identity and amount of ingredients used in the
8 food; the processing of the food; the results of laboratory, sanitation, or other
9 quality control tests performed on the food or in the facility; consumer
10 complaints concerning the food or its packaging; and

11 (2) other matters reasonably related to whether food products may be
12 unsafe for human consumption, or adulterated or misbranded.

13 SECTION 7. *Tolerance for Contaminants in Food.* —

14 (A) TOLERANCES — The Secretary shall establish tolerances limiting the
15 quantity of contaminants that, when found in food products, may render such products
16 unsafe for human consumption. Contaminants include, but are not limited to bacteria,
17 chemical contaminants, natural toxins, viruses and parasites that when found on or in
18 food can cause human illness. Such tolerances may include indicators (including
19 indicator organisms) from which it may reasonably be inferred that a contaminant is
20 present in a food product. In developing a tolerance, the Secretary shall take into account
21 the extent to which consumers may be exposed to such contaminant from sources other
22 than food, and the extent to which such contaminant can be avoided or minimized in the
23 commercial handling and processing of such food.

24 (B) REGULATIONS — (1) The Secretary, after notice and an opportunity for
25 comment, shall promulgate regulations to implement paragraph (A) within forty-eight
26 (48) months after the date of enactment of this Act. In promulgating such regulations, the
27 Secretary shall establish for the contaminants that the Secretary determines are having the
28 greatest public health impact⁶ as early as feasible after implementation of this Act.

1 (2) A tolerance established under this section shall be based on –

2 (a) a scientific analysis of the health risks attributable to the contaminant for
3 which the tolerance is established; and

4 (b) analysis of the risk for sensitive groups, such as children, elderly, pregnant
5 women and the immune compromised.

6 (3) The Secretary shall, in a timely manner, issue revisions to the regulations
7 under paragraph (A) which take into account new information.

8 (C) REPORT – The Secretary shall report to the Congress on the progress of the
9 Secretary in establishing tolerances under this section. The report shall include a
10 description of the research that has been conducted with respect to such tolerances and
11 the research that must be conducted before additional tolerances, a timetable for the
12 establishment of such tolerances, and the estimated cost, including costs of research,
13 associated with the establishment of such tolerances. The report shall be transmitted on
14 or about the end of 18th month after the date of the enactment of this Act, and biennially
15 thereafter during the 6-year period that begins on such date of enactment.

16 SECTION 8. *Imports.* – (A) ROLE OF SECRETARY— Within twenty-four (24)
17 months after the date of enactment of this Act, the Secretary shall establish and
18 administer a comprehensive and efficient system to ensure the safety of food imported
19 into the Philippines. The Secretary shall routinely inspect processing facilities in
20 exporting nations and imports at ports of entry into the country. The Secretary shall
21 assure the effective operation; through verification and other activities, as the Secretary
22 considers necessary.

23 (B) IMPORT REQUIREMENTS— (1) No food product may enter the
24 Philippines, or be withdrawn from a warehouse, for consumption in the Philippines if
25 such food product –

26 (a) appears unsafe for human consumption, or adulterated or
27 misbranded;

1 (b) is not marked or labelled as required by regulations for
2 domestic or imported articles; or

3 (c) does not comply with the requirements of this Section.

4 (2) Upon entry for consumption in the Philippines, food products that are
5 not prohibited from entry or from withdrawal from a warehouse under paragraph
6 (A) shall be deemed to be treated as domestic food products, except that all
7 labelling of such products shall clearly identify the country of origin to facilitate
8 the identification of products linked to outbreaks of illness.

9 (C) INSPECTION OF IMPORTS – (1) Food products that are offered for
10 importation, or withdrawn from a warehouse, for consumption in the Philippines, shall be
11 subject to examinations inspections, sampling, and such other procedures at the port of
12 entry or in the exporting nation by officers or employees duly designated by the
13 Secretary. Such procedures shall be conducted with such frequency and in such manner
14 as the Secretary may prescribe by regulation.

15 (2) Food products from a nation that is certified for such food products
16 under subsection (E) (3) shall be subject to random examinations, inspection,
17 sampling, and other procedures. Food products from a nation that is not certified
18 for such food products under subsection (E) (3) shall be subject to such intensified
19 examinations, inspection, sampling, and other verification procedures, including
20 inspection in the country of origin, as the Secretary determines are necessary to
21 ensure compliance with this Act.

22 (D) DETENTION OF IMPORTED FOOD PRODUCT- If during an inspection or
23 other verification procedures came out under this section, an officer or employee
24 conducting the procedure has reason to believe that a food product is unsafe for human
25 consumption, or adulterated or misbranded, such officer or employee may order the food
26 product segregated, impounded, and if objection is not made within 48 hours,
27 condemned. If objection is made, such food products that are in perishable form may be
28 processed to the extent necessary to prevent spoilage, and a hearing shall be commenced

1 expeditiously. The final condemnation or other disposition of such food product shall be
2 subject to the provisions of this Act.

3 (E) AGREEMENTS WITH FOREIGN NATIONS— (1) The Secretary may
4 enter into an agreement with any nation desiring to export food products to the
5 Philippines. Prior to concluding such an agreement, the Secretary shall evaluate the food
6 safety program of the foreign nation to determine if such program provides at least the
7 same level of protection, with respect to food products intended for export to the
8 Philippines, as domestic laws that affect the safety of the food supply. In such evaluation,
9 the Secretary shall consider.

10 (a) the potential for health, sanitary, environmental, or other
11 conditions within the foreign nation to adversely affect the safety of food
12 products exported from such nation; and

13 (b) how well the food safety programs of the foreign nation
14 function to minimize any adverse effects on such safety

15 (2) Any agreement under this subsection with a nation desiring to export
16 food products to the Philippines shall—

17 (a) require that the exporting nation shall—

18 (i) establish and maintain a food safety system that is adequate to
19 ensure that the food products intended for export to the Philippines are
20 safe for human consumption, and not adulterated or misbranded; and

21 (ii) promptly notify the Secretary of any violations affecting the
22 safety of food products exported or intended for export to the Philippines;

23 (b) provide for such activities (whether in the exporting nation or at the
24 port of entry during importation) by the Secretary, including examinations,
25 inspections, sampling and testing, at such stages in the growth or harvest of food,
26 or in the processing or handling of food products, as the Secretary considers
27 appropriate to ensure that the food safety program of the exporting nation
28 continues to provide at least the same level of protection, with respect to food

1 products intended for export to the Philippines, as domestic laws that affect the
2 safety of the food supply; and

3 (i) provide for reciprocity with respect to the treatment of food
4 imports and exports between the Philippines and the exporting nation.

5 (3) If the Secretary determines that a nation desiring to export food
6 products to the Philippines has a program that provides at least the saline level of
7 protection, with respect to food products intended for export to the Philippines, as
8 domestic laws that affect the safety of the food supply, the Secretary shall, upon
9 entry into force of an agreement under subsection (E)(1), certify the types of food
10 products for which the nation maintains such a program.

11 (4) The Secretary shall periodically or for good cause, and not less than
12 once every three years, review certifications made under paragraph (3), and shall
13 revoke the certification of any nation that the Secretary determines is not
14 maintaining a food safety program that provides at least the same level of
15 protection, with respect to food products intended for export to the Philippines, as
16 domestic laws that affect the safety of the food supply.

17 (5) The Secretary shall review and modify, as needed, an agreement made
18 under paragraph (1) with any nation whose certification has been revoked under
19 subparagraph (i) of this paragraph.

20 TITLE II-RESEARCH AND EDUCATION

21 SECTION 9. *Public Health Assessment System.* – (A) PUBLIC HEALTH 22 SAMPLING –

23 (1) Within twelve (12) months after the date of enactment of this Act, the
24 Secretary in cooperation with the Secretary of Agriculture shall establish
25 guidelines for a sampling system under which the Secretary of Agriculture shall
26 take and analyze samples of food products to assist the Secretary in carrying out
27 this Act and to more accurately assess the nature, frequency of occurrence and
28 amounts of contaminants in food products.

1 (2) Such sampling system shall provide—

2 (a) statistically valid monitoring, including market-basket studies,
3 on the nature, frequency of occurrence, and amounts of contaminants in
4 food products available to consumers; and

5 (b) at the request of the Secretary, such other information,
6 including may analysis of monitoring and verification samples, as the
7 Secretary determines be useful in assessing the occurrence of
8 contaminants in food products.

9 (B) ASSESSMENT OF HEALTH HAZARDS— Through the surveillance system
10 referred to in subsection (A) (1) and the sampling system described in subsection (A) (2),
11 the Secretary shall rank food categories based on their hazard to human health and
12 identify appropriate industry and regulatory approaches to minimize hazards in the food
13 supply. Such analysis could include –

14 (1) the safety of commercial harvesting and processing, as compared with
15 the health hazards associated with food products that are harvested for
16 recreational or subsistence purposes and prepared non-commercially;

17 (2) the safety of food products that are domestically harvested and
18 processed, as compared with the health hazards associated with food products that
19 are harvested or processed outside of the Philippines; and

20 (3) contamination originating form handling practices that occur prior to
21 or after the sale of food products to consumers.

22 SECTION 10. *Public Education and Advisory System.* –

23 (A) PUBLIC EDUCATION. – The Secretary, in cooperation with private and
24 public organizations, shall design and implement a national public education program on
25 food safety. The program shall provide -

26 (1) information to the public regarding standards and good practice require
27 a national public education program on food safety. The program shall provide

1 and promotion of public awareness understanding, and acceptance of such
2 standards and requirements;

3 (2) information to health professionals so that they may improve diagnosis
4 and treatment of food-related illness and advise individuals whose health
5 conditions place them in particular risk; and

6 (3) such other information or advice to consumers and other persons as the
7 Secretary determines will promote the purposes of this Act.

8 (B) HEALTH ADVISORIES-The Secretary, in consultation with the Secretary of
9 Agriculture and the Secretary of Environment and Natural Resources, shall work to-

10 (1) develop and distribute regional and national advisories concerning
11 food safety; and

12 (2) develop standardized formats for written and broadcast advisories.

13 SECTION 11. *Research.* – (A) IN GENERAL. – The Secretary shall conduct
14 research to assist in the implementation of this Act, including studies to—

15 (1) improve sanitation and food safety practices in the processing of food
16 products;

17 (2) develop improved techniques for the monitoring of food and
18 inspection of food products;

19 (3) develop efficient, rapid, and sensitive methods for determining and
20 detecting the presence of contaminants in food products;

21 (4) determine the sources of contamination of food and food products
22 with contaminants; and

23 (5) develop consumption date with respect to food products.

24 (B) CONTRACT AUTHORITY— The Secretary is authorized to enter into
25 contracts and agreements with the University of the Philippines or any state university or
26 any other university, other government agencies or other persons to carry out the
27 activities under this Section.

1 TITLE III-ENFORCEMENT

2 SECTION 12. *Notification and Recall.* – (A) NOTICE TO SECRETARY OF
3 ADULTERATION OR MISBRANDNG. – Any person (other than a household
4 consumer or other individual who is intended consumer of an article of food) that has a
5 reasonable basis for believing that any article of food introduced into or in interstate
6 commerce, or held for sale (whether or not the first sale) after shipment in interstate
7 commerce, may be adulterated or misbranded, or otherwise be in violation of appropriate
8 laws shall immediately notify the Secretary, in such manner and by such means as the
9 Secretary may by regulation prescribe, of the identity and location of such article.

10 (B) RECALL AND CONSUMER NOTIFICATION – (1) VOLUNTARY
11 PROCEDURES – If the Secretary finds, upon notification under subsection (A) or
12 otherwise, that any article of food is adulterated or misbranded when introduced into or
13 while held for sale (whether or not for first sale) after shipment in interstate commerce
14 and there is a reasonable probability that such article, if consumed, would present a threat
15 to public health, as determined by the Secretary shall provide the appropriate persons
16 (including the manufacturers, importers, distributors, or retailers) with an opportunity to –

17 (a) cease distribution of such articles;

18 (b) notify all persons-

19 (i) producing, manufacturing, packing, processing,
20 preparing, treating, packaging, distributing, or holding such article;

21 or

22 (ii) to which such article has been distributed, transported,
23 or sold, to immediately cease distribution of such article; or

24 (c) recall such article;

25 (d) provide, in consultation with the Secretary, notice to consumers
26 to whom such article was, or may have been, distributed; or

27 (e) take any combination of the above measures, as appropriate in

28 the circumstances.

1 (2) PRE-HEARING ORDER TO CEASE DISTRIBUTION AND GIVE
2 NOTICE – If such person refuses to or does not voluntarily cease distribution,
3 make notification, recall such article, or provide notice to consumers, as
4 applicable, within the time and in the manner prescribed by the Secretary, the
5 Secretary shall, by order, require, as the Secretary deems necessary, such persons
6 to –

7 (a) immediately cease distribution of such articles;

8 (b) immediately notify all persons –

9 (i) producing, manufacturing, packing, processing,
10 preparing, treating, packaging, distributing, or holding such article;

11 or

12 (ii) to which such article has been distributed, transported,
13 or sold, to immediately cease distribution of such article; or

14 (iii) immediately take the actions specified in both
15 subparagraphs (B)(1) and (B) (2).

16 (3) NOTIFICATION OF CONSUMERS BY SECRETARY— The
17 Secretary shall, as the Secretary deems necessary, provide notice to consumers to
18 whom such article was, or may have been, distributed.

19 (4) HEARING ON ORDER— The Secretary shall provide any person
20 subject to an order under subsection (b) with an opportunity for a hearing, to be
21 held s soon as possible but not later than 2 days after the issuance of the order, on
22 the action ,required by the order and on why the article that is the subject of the
23 order should not be recalled.

24 (5) POST-HEARING RECALL ORDER—

25 (a) AMENDMENT OF ORDER— If, after providing opportunity
26 for a hearing under subsection (3), the Secretary determines that there is a
27 reasonable probability that the article that is the subject of an order under
28 subsection (2), if consumed, presents a threat to public health, the
29 Secretary, as the Secretary deems necessary, may—

1 (i) amend the order to require recall of such article or other
2 appropriate action;

3 (ii) specify a timetable in which the recall shall occur;

4 (iii) require periodic reports to the Secretary describing the
5 progress of the recall; and

6 (iv) provide notice to consumers to whom such article was,
7 or may have been, distributed.

8 (b) VACATION OF ORDER— If, after such a hearing, the
9 Secretary determines that the adequate grounds do not exist to continue
10 the actions required by the order, the Secretary shall vacate the order.

11 (c) REMEDIES NOT EXCLUSIVE— The remedies provided in
12 this section shall be in addition to and not exclusive of other remedies that
13 may be available.

14 SECTION 13. *Civil Penalties.* –

15 (A) IN GENERAL. – (1) ACTS SUBJECT TO PENALTY; PENALTY
16 AMOUNT. – Any person that commits and act that violates this Act may be assessed a
17 civil penalty by the Secretary, subject to review in accordance with the administrative
18 code and - other pertinent laws, of not more than One Hundred Thousand Pesos
19 (P100,000.00) for such act. Each such act and each day during which such act continues
20 shall be a separate offense.

21 (2) NOTICE AND HEARING— No penalty shall be assessed by
22 the Secretary under this section unless such person is given notice and
23 opportunity for a hearing on the record before the Secretary in accordance
24 with laws pertinent to administrative proceedings.

25 (3) OTHER REQUIREMENTS— The amount of such civil
26 penalty shall be assessed by the Secretary by written order, taking into
27 account the gravity of the violation, degree of culpability, size and type of
28 business, and any history of prior offenses;

1 (B) COLLECTION ACTIONS— If any person fails to pay an assessment of a
2 civil penalty after it has become a final and unappealable order, the Secretary shall refer
3 the matter to the Solicitor General, who shall institute a civil action to recover the
4 amount. In such collection actions, the validity and appropriateness of the Secretary's
5 order imposing the civil penalty shall not be subject to review.

6 (C) SECRETARY'S DISCRETION TO PROSECUTE— Nothing in this Act
7 shall be construed as requiring the Secretary to report for prosecution, or for the
8 institution of libel or injunction proceedings, violations of this Act whenever the
9 Secretary believes that interest will be adequately served by assessment of civil penalties.

10 SECTION 14. *Whistleblower Protection.*— (A) IN GENERAL – employee or
11 other person may be harassed, prosecuted, held liable or discriminated against in any way
12 because that person—

13 (1) has commenced, caused to be commenced, or is about to commence a
14 the public proceeding, testified or is about to testify at a proceeding, or assisted or
15 participated or is about to assist or participate in any manner in such a proceeding
16 or in any other action to carry out the purposes, actions or responsibilities set forth
17 in this Act;

18 (2) is refusing to violate or assist in the violation of a law, rule or
19 regulation.

20 SECTION 15. *Traceback.* – The Secretary may impose on a food product
21 requirements for the traceability of such type or class of food product whenever such
22 requirements are necessary to assure the protection of the public health. Traceability
23 requirements shall be established in accordance with regulations and guidelines issued by
24 the Secretary.

25 SECTION 16. *Citizen's Civil Action.* – Any person may against-

26 (A) any person who violated any rule, tolerance, order, or ensure the
27 safety of food products; or

1 (B) the Secretary where there is alleged a failure of the Secretary to
2 perform any act or duty to ensure the safety of food products, which is not
3 discretionary.

4 TITLE IV-AUTHORIZATION

5 SECTION 17. *Authorization of Appropriations.*— (A) IN GENERAL-There are
6 authorized to be appropriated such sums as may be necessary to carry out the provisions
7 of this Act.

8 (B) RESEARCH PROGRAM AUTHORIZATION— Of the funds authorized to
9 be appropriated under subsection (1), there are authorized to be appropriated such sums as
10 may be necessary to carry out the research program authorized by this Act.

11 SECTION 18. *Separability Clause.* – If any provision, or part hereof, is held
12 invalid or unconstitutional, the remainder of the law or the provision not otherwise
13 affected shall remain valid and subsisting.

14 SECTION 19. *Repealing Clause.* – Any law, presidential decree or issuance,
15 executive order, letter of instruction, administrative order, rule or regulation contrary to
16 or inconsistent with, the provisions of this Act is hereby repealed, modified or amended
17 accordingly.

18 SECTION 20. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
19 after its publication in-at least two (2) newspapers of general circulation.

20 Approved