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BY REPRESENTATIVES DEL ROSARIO (A.G.), CRUZ-GONZALES, YAP (S.), TAN (A.), BRAVO (A.), PAEZ, RODRIGUEZ (R.), RODRIGUEZ (M.), LOBREGAT, KHO, CO, BATOCABE, PAQUIZ, REVILLA, TURABIN-HATAMAN, SEMA, ABAYON, ABELLANOSA, ACHARON, ACOSTA-ALBA, ALMONTE, ALVAREZ (M.), AMATONG (I.), AMATONG (R.), ARBISON, ASILO, BALINDONG, BAUTISTA, BELMONTE (V.), CABILAO, CAGAS, CAMINERO, CARI, CASTRO, CATAMCO, CERAFICA, CUEVA, DAYANGHIRANG, CERILLES, FORTUN, GARAY, GARCIA-ALBANO, GORRICETA, GULLAS, HERNANDEZ, IWAY, LLONARDIA, LOPEZ (C.), MACROHON-NUÑO, MANALO, MANGUDADATU, MATUGAS, MELLANA, MERCADO, MIRASOL, NAVA (J.), OAMINAL, RADAZA, ROMARATE, ROQUE, SACDALAN, SANTIAGO, UNABIA, UY (J.), VELASCO, YU, SAHALI, TAMBUNTING, ADIONG, GARCIA (G.), VILLARICA AND DE VENECIA, PER COMMITTEE REPORT NO. 453

AN ACT REGULATING THE IMPORTATION, MANUFACTURE, DISTRIBUTION AND SALE OF CHILDREN'S TOYS, SCHOOL SUPPLIES, CHILDCARE ARTICLES AND OTHER RELATED PRODUCTS CONTAINING HAZARDOUS CHEMICALS AND PROVIDING PENALTIES FOR VIOLATION THEREOF

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 "Safe and Non-Hazardous Children's Products Act"

SEC. 2. *Declaration of Policy.* - It is hereby declared the policy of the State to protect and promote the right to health of the people and of access to information on matters of public concern. Towards this end, the State shall regulate the importation, manufacture, distribution and sale of children's toys, school supplies and other childcare articles containing hazardous chemicals.

SEC. 3. *Definition of Terms.* – As used in this Act:

(a) *Bioavailability* refers to the amount or proportion of a chemical substance actually available to interact with human biological systems through ingestion by mouth, skin exposure or by inhalation of a product under consideration, taking into account solubility under conditions present in the body, biological deactivation mechanisms, accessibility to physiological activity sites, and other relevant factors;

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

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

(2) Any element or uncombined chemical.

(c) *Childcare article* refers to any product intended to facilitate sleep, relaxation, hygiene, the feeding of children or sucking on the part of children;

(d) *Children* refer to persons under fourteen (14) years of age;

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

(f) *Educational kit* refers to a collection of materials or associated scientific apparatus that is intended for children but is not likely to be chewed or put in the mouth by children and which are typically used to perform

experiments or demonstrations in the different fields of science or associated with educational purposes;

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

(h) *Hazardous substance* or *hazardous chemical* refers to a substance which has been determined to be in one (1) or more of the following categories of the United Nations Globally Harmonized System (GHS) for classification and labeling of chemicals:

(1) Flammable liquids and solids: Category 1

(2) Explosives: Category 1.1

(3) Acute toxicity (oral, dermal, inhalation): Category 1

(4) Eye irritation/corrosivity: Category 1

(5) Dermal irritation/corosivity: Category 1

(6) Mutagenicity: Category 1A

(7) Carcinogenicity: Category 1A

(8) Reproductive toxicity, Category 1A

(9) Acute/Chronic aquatic toxicity: Category 1A

(i) *Importation* refers to the entry of a product or substance into the Philippines (through seaports or airports of entry), whether already properly

cleared through or still remaining under customs control, which is intended for direct consumption, merchandising, warehousing or for further processing;

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

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

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

(m) *Philippine National Standards (PNS)* refer to the national standards promulgated by the Bureau of Product Standards of the Department of Trade and Industry (DTI);

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

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

(p) *School supplies* refer to items/articles used for educational purposes which are not likely to be put inside the mouth by children;

(q) *Testing laboratory* refers to a facility which is accredited by the Philippine Accreditation Office with International Organization for Standardization (ISO) 17025 or by an International Laboratory Accreditation Committee Mutual Recognition Agreement (ILAC MRA) signatory; and

(r) *Toy* refers to any product or material designed and clearly intended for use in play by children under fourteen (14) years of age.

SEC. 4. *Scope*. – This Act shall apply to the importation, manufacture, distribution and sale of children's toys, school supplies, and childcare articles as defined in Section 3 hereof that are manufactured, distributed, or sold in the Philippines.

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

Chemicals and substances deemed most harmful and hazardous to children and commonly used in the manufacture and production of children's products shall include the following:

(a) Toxic Metals:

(1) Antimony;

(2) Arsenic;

(3) Cadmium;

(4) Chromium,

(5) Lead; and

(6) Mercury.

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

(1) Di (2-Ethlyhexyl) Phthalate (DEHP);

(2) Dibutyl Phthalate (DBP);

(3) Benzyl Butyl Phthalate (BBP);

(4) Diisononyl Phthalate (DINP);

(5) Diisodecyl Phthalate (DIDP); and

(6) Di-N-Octyl Phthalate (DNOP).

(c) Bisphenol-A (BPA).

SEC. 6. *Compliance With Philippine National Standards (PNS).* – Importers, manufacturers, distributors and sellers of products under this Act shall comply with the standards, rules and processes of the Bureau of Product Standards of the DTI who shall collaborate with other relevant government agencies to harmonize and upgrade existing standards, where applicable.

SEC. 7 *Powers and Functions of the DOH.* – To effectively carry out its mandate of ensuring the quality of products under this Act, the DOH shall be vested with the following powers and functions:

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

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

(c) Issue Quality Control Orders (QCOs) to enforce the provisions of this Act and to ensure strict compliance with existing standards and regulations set by government authorities;

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

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

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

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

(h) Conduct constant and regular inspection, product testing, and on-sight and random product testing and sampling of various children's products in the market;

(i) Assess and collect fees as necessary to cover the cost of inspection, certification, analysis and tests of samples of products under this Act;

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

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

(l) Accredit independent competent testing laboratories; and

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

SEC. 8. *Role Delineation of Implementing Agencies.* – The provisions of this Act and its implementing rules and regulations shall be enforced by the following agencies:

(a) The DOH, through the FDA, shall formulate policies, rules and regulations on food, drugs, cosmetics, devices and substances; the FDA shall conduct regular testing of toxicity levels of chemical elements and substances content of products covered by this Act and accreditation of product importers;

(b) The Department of Environment and Natural Resources (DENR) shall regulate, control, restrict or prohibit the importation, manufacture, processing, distribution, sale, handling, use, transport and disposal of chemical substances or mixtures listed under Republic Act No. 6969, otherwise known as the "Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990". It shall monitor toxic substances/chemicals used as industrial raw material to produce the covered products under this Act in terms of their compliance to environmental laws. It shall administer the industrial toxic chemicals through a system of review, evaluation and monitoring of these toxic chemicals under DENR Administrative Order (DAO) No. 2013-24 and formulate policies and guidelines for the gradual phase-out of lead in paints pursuant to Section 20(1) of DAO 20, series of 1992 and DAO 05, series of 2005 (Toxic Chemical Substances for Issuance of Chemical Control Orders);

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

(d) The DTI shall ensure that the products covered by this Act comply with the Philippine National Standards on the Safety of Toys set by the Bureau of Product Standards and shall monitor prices of school supplies and conduct market inspections on these products.

SEC. 9. *Creation of the Children's Product Safety Council.* – There is hereby created a Children's Product Safety Council (CPSC) which shall be attached to the DOH. It shall be composed of the following:

(a) Secretary of the DOH – Chairperson;

(b) Secretary of the DTI – Vice Chairperson;

(c) Secretary of the DENR – member;

(d) Secretary of the Department of the Interior and Local Government (DILG) – member;

(e) Secretary of the Department of Education (DepED) – member;

(f) Secretary of the DOF – member;

(g) Director-General of the FDA – member;

(h) National Consumer Affairs Council (NCAC) – member;

(i) One (1) representative from a nongovernment organization (NGO) engaged in consumer safety and environment protection – member; and

(j) One (1) representative from the health groups – member.

The heads of departments may be represented by their duly designated representatives who shall be of a rank not lower than Director level.

The Chairperson of the CPSC shall nominate to the President of the Philippines the representative of the NGO sector.

The FDA shall serve as the Secretariat of the CPSC.

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

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

(a) To serve as primary link and coordinator for its member institutions such as the Business Processing and Licensing Office (BPLO) of the local government units (LGUs), the private sector and other stakeholders;

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

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

(d) To conduct information and education campaigns on the adverse health effects of hazardous chemicals on children;

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

(f) To provide periodic and regular reports to the Secretary of Health on the compliance of importers and manufacturers on the provisions of this Act;

(g) To create a Technical Advisory Committee composed of experts from both government and private sectors that would assist the Council in providing technical and scientific recommendations necessary to effectively carry out its mandate; and

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

SEC. 11. *Disclosure of Toxicological Information on Labels.* – It shall be mandatory for importers, manufacturers and distributors of products covered by this Act to provide documentation showing compliance with international standards when the products left the port of origin through test reports from testing laboratories accredited with ISO 17025 or by an ILAC MRA signatory.

SEC. 12. *Application to Trade.* – Importers shall provide the FDA with test reports from laboratories accredited with ISO 17025 or by an ILAC MRA signatory, which confirms compliance of a representative sample of the products which left the port of origin with the following international standards:

(a) For heavy metals identified in PNS/ISO 8124-3, compliance with ISO 8124-3, EN-71-3, or ASTM F963-standards, and

(b) For phthalates listed in Secion 5(b), compliance with US CPSIA (Section 108 of CPSIA 2008) or EU REACH (Entity 52 of Annex XVII to REACH Regulation 1907/2006).

The following procedures shall be observed at the first port of entry in the inspection of imported products covered by this Act:

(1) The FDA, or its commissioned/designated agent, in coordination with the BOC, shall conduct inspection, testing and clearance of representative samples of imported products covered under this Act for compliance with the national standards for the safety of toys prior to their assessment and charging of tariffs and other charges by the BOC;

(2) Samples of products covered by this Act being imported into the Philippines shall be obtained for purposes of determining the toxicity level of chemical elements and substances content without charge from the owner or consignee thereof. The owner or consignee of the imported product under examination shall be afforded an opportunity to a hearing with respect to the importation of the product into the Philippines If it is proven that the product does not conform with the allowable level of chemical elements and substance content as provided for under the implementing rules and regulations of this Act, the product shall be refused admission:

(3) Imported products that are supported by test reports from laboratories accredited with ISO 17025 or by an ILAC MRA signatory which

confirms compliance of a representative sample with international standards when the products left the port of origin, shall be exempt from the requirements of subparagraphs (1) and (2) of this section:

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

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

SEC 13. *Clearance for Customs Release* - All importers of products under this Act shall secure a Clearance for Customs Release from the DOH prior to importation.

A Clearance for Conditional Release shall be issued by the appropriate office of the FDA to facilitate the release of goods from BOC custody, pending the issuance of the Certificate of Conformity The importer, however, shall not distribute, transfer, or sell in whole or in part, the products to any place other than the address specified in the conditional release. To ensure that no distribution, transfer, sale to or use of products covered by this Act in any place other than the address specified in the conditional release is made, the importers shall allow authorized personnel of the FDA to conduct an inspection/inventory of the import shipment within three (3) days from the date of issuance of the clearance for conditional release at anytime within official working hours.

SEC. 14. *Certification.* – The DOH, after the conduct of a thorough examination, shall certify whether or not the imported products are safe for distribution in the market.

SEC. 15. *Disposal of Noncompliant Products.* – All products covered by this Act that are recalled by the manufacturer or the DOH for whatever reason, shall be disposed of in accordance with the submitted disposal plan of the manufacturer subject to FDA approval. The plan shall comply with the existing rules and regulations set by all concerned agencies of the government and other related laws of the country. The concerned importer, manufacturer, or distributor shall shoulder the expenses to be incurred in the disposal of the recalled products.

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

SEC. 16. *Labeling and Packaging Requirement.* – The labeling and packaging requirement of products under this Act shall comply with relevant PNS and existing laws.

SEC 17. *Monitoring and Factory Inspection.* – The FDA shall observe the following procedures in the inspection and monitoring of establishments to determine compliance with safety regulations:

(a) Officers or employees duly designated by the FDA, upon presenting appropriate credentials to the owner, operator, or agent in charge, shall be authorized to enter, at reasonable hours, any factory, warehouse or establishment in which products under this Act are manufactured or held for introduction into domestic commerce or are held after such introduction, and any vehicle being used by such officers or employees to transport or hold the products shall likewise be allowed entry. They shall inspect, in a reasonable manner, the factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers and labeling therein;

(b) Upon completion of the inspection of a factory, warehouse, or other establishment and prior to leaving the premises, the officer or employee who conducted such inspection and has obtained a sample or samples in the course of the inspection, shall give the owner, operator, or agent in charge a receipt describing the samples obtained; and

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

SEC. 18. *Market Inspection.* – The DOH shall conduct routine inspection in the market and take samples of suspected products for examination.

SEC. 19. *Injurious, Dangerous, and Unsafe Products* – Whenever the DOH finds, by its own initiative or by petition of a consumer, that a product covered by this Act is injurious, dangerous, and unsafe, it shall, after due notice and hearing, make the appropriate order for its recall, prohibition, or seizure from public distribution or sale. It may declare a product to be imminently injurious, dangerous, and unsafe, and order its immediate recall, ban or seize from public distribution or sale, in which case, the distributor, producer, or seller thereof shall be afforded a hearing within forty-eight (48) hours from such order.

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

SEC. 20. *Product Confiscation.* – Imported products shall be allowed entry into the country as provided under Section 12 of this Act when

accompanied by Certificates of Testing or Analysis of its composition. The BOC shall require pertinent clearance or certification from the FDA prior to entry The entire shipment or batch of the product found to be in violation of the provisions of this Act shall be seized. The confiscated products shall be properly disposed of in accordance with the prescribed procedure to be issued by the DOH in coordination with the DENR.

SEC. 21 *Publication and Information* – The DOH is mandated to conduct information campaigns utilizing any form of mass media and other electronic means deemed effective to ensure the proper guidance of consumers, industries, businesses, and other concerned sectors.

The DOH shall likewise publish, for the information of consumers, a list of products that may be in the market that have been determined to be noncompliant.

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

SEC. 22. *Public Access to Records, Reports or Notification.* - The public shall be allowed easy access to publicly disclosed records, reports, test results, or information concerning chemicals, substances and mixtures, including safety data submitted, and methods of production and preparation.

The DOH shall establish a website to be maintained by the CPSC which shall publish all publicly disclosed information.

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

(a) The importation, manufacture, distribution and sale of products under Section 4 hereof containing more than the allowable level of substances listed in Section 5 of this Act;

(b) Intentional misrepresentation or concealment of significant data or information about the product sought for certification;

(c) Importation, manufacture, distribution, sale, labeling, and operation without registration;

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

(e) Refusal to allow required inspections as determined by the DOH; and

(f) Other prohibited acts stipulated in Republic Act No 9711, otherwise known as the "Food and Drug Administration (FDA) Act of 2009".

SEC. 24. *Administrative Sanctions* - Where there is a finding of a violation against the provisions of Section 23 of this Act and a determination of the persons liable thereto, after notice and hearing, the following administrative penalties shall be imposed.

(a) Suspension of LTO;

(b) Revocation of LTO; and

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

SEC. 25. *Penalties.* Any person who shall commit any of the prohibited acts under Section 23 hereof shall, upon conviction, suffer the penalty of imprisonment ranging from one (1) year but not more than ten (10) years or a fine of not less than fifty thousand pesos (P50,000.00) but not more than five hundred thousand pesos (P500,000.00), or both, at the discretion of the court and in accordance with Section 11 of the "Food and Drug Administration (FDA) Act of 2009": *Provided,* That if the offender is a manufacturer, importer or distributor of any product covered under this Act, the penalty of at least five (5) years of imprisonment but not more than ten (10) years and a fine of at least five hundred thousand pesos (P500,000.00) but not

more than five million pesos (P5,000,000.00) shall be imposed. *Provided, further,* That an additional fine of one percent (1%) of the economic value/cost of the violative product or violation, or one thousand pesos (P1,000.00), whichever is higher, shall be imposed for each day of continuing violation after reasonable notice of such violation: *Provided, finally,* That products found in violation of the provisions of this Act and other relevant laws, rules and regulations may be seized and held in custody pending proceedings, without hearing or court order, when the FDA Director-General has reasonable cause to believe from facts found by an authorized officer or employee of the FDA that the products may cause injury or prejudice to the consuming public.

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

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

SEC. 26. *Citizen Suit.* – For purposes of enforcing the provisions of this Act or its implementing rules and regulations, any citizen may file an appropriate civil, criminal or administrative action in the proper courts/bodies against:

(a) Any person who violates or fails to comply with the provisions of this Act and its implementing rules and regulations;

(b) Any official or employee of the DOH and other implementing agencies with respect to orders, rules and regulations issued inconsistent with this Act; and

(c) Any public officer who willfully or grossly neglects the performance of an act specifically enjoined as a duty by this Act or its implementing rules and regulations; or abuses authority in the performance of

duty; or, in any manner improperly performs the duties under this Act or its implementing rules and regulations: *Provided, however,* That no suit can be filed until after a thirty (30)-day notice has been given to the public officer and the alleged violator concerned, and no appropriate action has been taken thereon.

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

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

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

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

SEC. 28. *Burden of Proof of Product Safety.* – The burden of proof to prove the exercise of due diligence, compliance with this Act and other laws,

rules and regulations relating to consumer products, precaution, and to prove the absence of fault and/or negligence shall lie with the manufacturer, producer, assembler, importer, and/or seller of the children's product involved or concerned.

SEC. 29. *Appropriations.* – The amount as may be necessary to implement the provisions of this Act shall be included in the annual appropriations of the DOH under the General Appropriations Act.

SEC. 30. *Congressional Oversight Committee.* – The joint Congressional Oversight Committee created under Republic Act No. 9711, or the "Food and Drug Administration (FDA) Act of 2009", shall function as the oversight committee to monitor and evaluate the implementation of this Act.

SEC. 31. *Suppletory Provision.* – Pertinent provisions of Republic Act No. 7394, otherwise known as the "Consumer Act of the Philippines", shall have suppletory effect in the implementation of this Act

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

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

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

SEC. 35. *Effectivity* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,

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