



## HOUSE OF REPRESENTATIVES

H. No. 6702

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BY REPRESENTATIVES PRIMICIAS-AGABAS, BRAVO (A.), CANAMA, MACAPAGAL-ARROYO, ROQUE (H.), SALON, YU, SARMIENTO (E.M.), AGGABAO, GONZALES (A.P.), NOGRALES (K.A.), FARIÑAS, BIAZON, GO (A.C.), LANETE, LOBREGAT, ALONTE, AMATONG, ARAGONES, BAG-AO, BENITEZ, DELOSO-MONTALLA, ESCUDERO, GO (M.), HOFER, LACSON, MALAPITAN, MONTORO, PADUANO, RAMOS, SUANSING (E.), TAN (A.), TUGNA, VELASCO-CATERA, VILLARIN, MARCOLETA, VILLARICA, BATOCABE, NIETO, TAMBUNTING, DALIPE, LAZATIN, SALO, PINEDA, SIAO, ROMERO, HERRERA-DY, VILLAFUERTE, LOPEZ (B.), BELARO, GARBIN, CAMPOS, BAUTISTA-BANDIGAN, LEE, SY-ALVARADO, COLLANTES, EUSEBIO, MARINO, BOLILIA, MARQUEZ, MADRONA, BERTIZ, DIMAPORO (M.K.), DEL ROSARIO, LIMKAICHONG, MATUGAS, ACOSTA, FUENTEBELLA, CRISOLOGO, MANGAOANG, ARCILLAS, MACEDA, BORDADO, RODRIGUEZ (M.), BARBERS AND ALMARIO, PER COMMITTEE REPORT NO. 487

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AN ACT REGULATING THE IMPORTATION, MANUFACTURE, DISTRIBUTION AND SALE OF CHILDREN'S 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:*

- 1 SECTION 1. *Short Title.* – This Act shall be known as the  
2 “Safe and Nonhazardous Children’s Products Act”.

1           SEC. 2. *Declaration of Policy.* – It is hereby declared the  
2 policy of the State to protect and promote children’s rights to health.  
3 The State is committed to ensure the right to health of our children  
4 as enshrined in Presidential Decree No. 603, otherwise known as  
5 the “Child and Youth Welfare Code”, Convention on the Rights of  
6 the Child and other conventions on hazardous substances to which  
7 the Philippines is a signatory. Towards this end, the State shall  
8 regulate the importation, manufacture, distribution and sale of  
9 children’s products containing hazardous chemicals.

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

11           (a) *Children* refer to persons under eighteen (18) years of age  
12 or those over but are unable to fully take care of themselves or  
13 protect themselves from abuse, neglect, cruelty, exploitation or  
14 discrimination because of physical or mental disability or condition;

15           (b) *Children’s products* refer to any product or material,  
16 whether or not likely to be put by children inside their mouths.  
17 These include children’s toys, educational kits, school supplies and  
18 childcare articles defined under Republic Act No. 9711 or the “Food  
19 and Drug Administration Act of 2009”; nonconventional toys such as  
20 electronic gadgets, mobile phones, tablets and pocket game consoles;  
21 mechanized or electronic toys such as the hover board; furnishings  
22 and fixtures like cribs, tables, chairs, shelves, walkers or strollers,  
23 decorative items for children’s use; indoor and outdoor playground  
24 equipment; and children’s books, reference materials and children’s  
25 accessories;

26           (c) *Distribution* or *Sale* refers to an act made by a  
27 manufacturer or seller, or the respective representative or agent to

1 make available consumer products, services or credit to consumers  
2 under a consumer sale transaction. It shall not include sampling or  
3 any other form of distribution which are not for sale;

4 (d) *Distributor* refers to any entity to which the children's  
5 product is delivered or sold for purposes of distribution in commerce  
6 or any entity which repackages children's products under a different  
7 trade name or trademark with permission from the original legal  
8 distributor: *Provided*, That such term does not include a  
9 manufacturer or retailer of such product;

10 (e) *Hazardous chemical* refers to any substance or mixture of  
11 substances which is a physical or health hazard such as a toxic  
12 agent, corrosive substance, an irritant, a strong sensitizer,  
13 flammable or combustible substances, any substance or chemical  
14 that can generate pressure through decomposition, heat or other  
15 means; or agents which act on the hematopoietic system, or which  
16 damage the lungs, skin, eyes or mucous membranes, or cause any  
17 substantial injury or illness during or as a proximate result of any  
18 customary or reasonably foreseeable ingestion by children. It also  
19 includes substances which have been determined to be in one or  
20 more of the following categories of the United Nations Globally  
21 Harmonized System (GHS) of Classification and Labelling of  
22 Chemicals:

- 23 (1) Flammable liquids and solids: Category 1;  
24 (2) Explosives: Category 1.1;  
25 (3) Acute toxicity (oral, dermal, inhalation): Category 1;  
26 (4) Eye irritation/corrosivity: Category 1;  
27 (5) Dermal irritation/corrosivity: Category 1;

1 (6) Mutagenicity: Category 1A;

2 (7) Carcinogenicity: Category 1A;

3 (8) Reproductive toxicity: Category 1A; and

4 (9) Acute/chronic aquatic toxicity: Category 1A.

5 (f) *Importation* refers to the entry of a children's product into  
6 the Philippines, through seaports or airports of entry, whether  
7 already properly cleared through or still remaining under customs  
8 control, which is intended for direct consumption, merchandising,  
9 warehousing or for further processing;

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

16 (h) *License to Operate (LTO)* refers to the license issued by  
17 the Food and Drug Administration (FDA) to importers,  
18 manufacturers and distributors whose children's products conform  
19 to the health and safety requirements of the Department of Health  
20 (DOH) and the relevant Philippine National Standards and their  
21 future amendments;

22 (i) *Manufacturer* refers to any establishment that assembles  
23 or processes children's products: *Provided*, That if such products  
24 are manufactured, assembled or processed for another  
25 establishment that attaches its own brand name to the products,  
26 the latter shall be deemed the manufacturer. In case of imported  
27 products under this Act, the manufacturer, manufacturer's

1 designated representative or, in the absence of one of these parties,  
2 the importer shall be deemed the manufacturer; and

3 (j) *Philippine National Standards (PNS)* refer to the  
4 national standards promulgated by the Bureau of Product  
5 Standards of the Department of Trade and Industry (BPS-DTI).

6 SEC. 4. *Scope.* – This Act shall apply to the importation,  
7 manufacture, distribution or sale of children's products containing  
8 hazardous chemicals as defined in Section 3(b) hereof that are  
9 imported, manufactured, distributed or sold in the Philippines.

10 SEC. 5. *List of Hazardous Chemicals.* – Within three (3)  
11 months from the effectivity of this Act, the FDA, in coordination  
12 with the Environmental Management Bureau (EMB) of the  
13 Department of Environment and Natural Resources (DENR), shall  
14 prepare a list of hazardous chemicals which are banned or  
15 prohibited from being used in the manufacture, production, and  
16 preparation of children's products. Maximum levels and limits and  
17 reference values for certain chemicals used for this purpose shall  
18 also be specifically and clearly identified.

19 Hazardous chemicals deemed most harmful to children and  
20 commonly used in the manufacture and production of children's  
21 products shall include the following:

- 22 (a) Toxic Metals:  
23 (1) Antimony;  
24 (2) Arsenic;  
25 (3) Cadmium;  
26 (4) Chromium;  
27 (5) Cobalt;



1 (6) Lead;

2 (7) Mercury; and

3 (8) Nickel.

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

6 (1) Di (2-Ethylhexyl) Phthalate (DEHP);

7 (2) Dibutyl Phthalate (DBP);

8 (3) Benzyl Butyl Phthalate (BBP);

9 (4) Diisononyl Phthalate (DINP);

10 (5) Diisodecyl Phthalate (DIDP); and

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

12 (c) Bisphenol-A (BPA).

13 The list of additional hazardous chemicals shall be reviewed  
14 and updated at least every two (2) years, or as soon as new  
15 chemicals or substances are uncovered to be injurious, dangerous or  
16 unsafe to children's health.

17 *SEC. 6. Compliance with Philippine National Standards*  
18 *(PNS).* – Importers, manufacturers, distributors and sellers of  
19 children's products shall comply with the standards, rules and  
20 processes of the BPS-DTI which shall collaborate with other  
21 relevant government agencies to harmonize and upgrade existing  
22 standards, where applicable.

23 *SEC. 7. Role Delineation of Implementing Agencies.* – The  
24 provisions of this Act and its implementing rules and regulations  
25 (IRR) shall be enforced by the following agencies:

26 (a) The DOH, through the FDA, shall formulate policies,  
27 rules and regulations on food, drugs, cosmetics, devices and

1 substances. The FDA shall conduct regular testing of toxicity levels  
2 of chemical elements and substances content of children's products  
3 covered by this Act and accreditation of product importers. It shall  
4 strive to upgrade its capacity for laboratory testing using new  
5 methods and modern equipment;

6 (b) The DENR shall regulate, control, restrict or prohibit the  
7 importation, manufacture, processing, distribution, sale, handling,  
8 use, transport and disposal of chemical substances or mixtures  
9 listed under Republic Act No. 6969, otherwise known as the "Toxic  
10 Substances and Hazardous and Nuclear Wastes Control Act of  
11 1990". It shall monitor, review, and evaluate hazardous chemicals  
12 used as industrial raw material to produce the children's products  
13 in terms of their compliance to environmental laws;

14 (c) The Department of Finance (DOF), through the Bureau  
15 of Customs (BOC), shall monitor, hold and deny the entry or release  
16 of all imported shipment of children's products at the different ports  
17 of entry in the Philippines, pursuant to the provisions of Republic  
18 Act No. 10863, otherwise known as the "Customs Modernization  
19 and Tariff Act (CMTA)". It shall review and conduct an examination  
20 of documentary requirements of imported children's products  
21 pursuant to the guidelines of the DOF. It shall develop or use high  
22 technology devices to detect hazardous chemicals from imported  
23 children's products;

24 (d) The Department of Trade and Industry (DTI) shall  
25 ensure that children's products comply with PNS on the Safety of  
26 Toys. It shall likewise monitor safety of children's products through  
27 the conduct of market inspections.

1           SEC. 8. *Creation of the Children's Product Safety Council.* –

2   There is hereby created a Children's Product Safety Council (CPSC)  
3   which shall be attached to the DOH. It shall be composed of the  
4   following:

5           (a) Secretary of the DOH – Chairperson;

6           (b) Secretary of the DTI – Vice Chairperson;

7           (c) Secretary of the DENR – Member;

8           (d) Secretary of the Department of the Interior and Local  
9   Government (DILG) – Member;

10          (e) Secretary of the Department of Education (DepED) –  
11   Member;

12          (f) Secretary of the DOF – Member;

13          (g) Director General of the FDA – Member;

14          (h) A member of the National Consumer Affairs Council  
15   (NCAC) – Member;

16          (i) Executive Director of the Council for the Welfare of  
17   Children (CWC) – Member;

18          (j) Executive Director of the Early Childhood Care and  
19   Development Council (ECCDC) – Member;

20          (k) One (1) representative from a nongovernment  
21   organization (NGO) engaged in consumer safety and environment  
22   protection – Member; and

23          (l) One (1) representative from the health groups – Member.

24          The heads of the abovestated departments may be  
25   represented by their duly designated representatives whose rank  
26   shall not be lower than Director.



1           The Chairperson of the CPSC shall nominate to the President  
2 of the Philippines the representatives from the NGO sector.

3           The FDA shall serve as the Secretariat of the CPSC.

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

7           SEC. 9. *Powers and Functions of the CPSC.* – The CPSC  
8 shall have the following powers and functions:

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

13           (b) To engage in studies and researches on hazardous  
14 chemicals and provide the necessary information materials on the  
15 same;

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

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

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

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

25           (g) To create a Technical Advisory Committee composed of  
26 experts from both government and private sectors that would assist

1 the CPSC in providing technical and scientific recommendations  
2 necessary to effectively carry out its mandate; and

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

5 SEC. 10. *Injurious, Dangerous and Unsafe Products.* –

6 Whenever the DOH finds, by its own initiative or by petition of a  
7 consumer, that a children's product is injurious, dangerous, or  
8 unsafe, it shall, after due notice and hearing, make the appropriate  
9 order for its recall, prohibition, or seizure from public distribution or  
10 sale. It may declare a children's product to be imminently injurious,  
11 dangerous, or unsafe, and order its immediate recall, ban or seize  
12 from public distribution or sale, in which case, the distributor,  
13 producer or seller thereof shall be afforded a hearing within forty-  
14 eight (48) hours from such order.

15 There shall be immediate information dissemination, through  
16 the mass media, of the children's products which are found to be  
17 injurious, dangerous and unsafe.

18 SEC. 11. *Product Confiscation.* – Imported children's  
19 products shall be allowed entry into the country when accompanied  
20 by Certificates of Testing or Analysis of its composition. The BOC  
21 shall require pertinent clearance or certification from the FDA prior  
22 to entry. The entire shipment or batch of children's products found  
23 to be in violation of the provisions of this Act shall be seized. The  
24 confiscated children's products shall be properly disposed of in  
25 accordance with the prescribed procedure to be issued by the DOH  
26 in coordination with the DENR.

1           SEC. 12. *Information Dissemination in All Media.* – The  
2 DOH, together with the other members of the CPSC, is mandated to  
3 conduct information campaigns on children's products and  
4 hazardous chemicals utilizing any form of mass media and other  
5 electronic means deemed effective to ensure the proper guidance of  
6 consumers, industries, businesses and other concerned sectors.

7           The DOH shall regularly publish the updated list of  
8 hazardous chemicals and the list of children's products that may be  
9 on the market that have been determined to be noncompliant.  
10 An information campaign on the dangers of hazardous substances  
11 exposure, the corresponding proper first aid or remedy when  
12 exposed to a hazardous product, and proper disposal of a product  
13 containing hazardous chemical or substance shall be disseminated  
14 in all media. An information campaign against buying hazardous  
15 children's products may also be launched.

16           Information dissemination of advisories or warnings in all  
17 media shall be done in a manner easily understood by parents,  
18 guardians and children. These advisories shall be printed or dubbed  
19 in any language or dialect determined by the DOH to be culturally  
20 and linguistically appropriate for a particular audience.

21           SEC. 13. *Prohibited Acts.* – The following acts are hereby  
22 prohibited:

23           (a) Importation, manufacture, distribution or sale of  
24 children's products containing more than the allowable level of  
25 substances listed in Section 5 of this Act;

1 (b) Intentional misrepresentation or concealment of  
2 significant data or information about the children's product sought  
3 for certification;

4 (c) Importation, manufacture, distribution, sale, labelling or  
5 operation without license or registration;

6 (d) Noncompliance with the standards and requirements of  
7 the DOH on the importation, manufacture, distribution or sale of  
8 children's products; and

9 (e) Refusal to allow required inspections as determined by  
10 the DOH.

11 SEC. 14. *Administrative Sanctions.* - Where there is a  
12 finding of a violation against the provisions of Section 13 of this Act  
13 and a determination of the persons liable thereto, after notice and  
14 hearing, the following administrative penalties shall be imposed by  
15 the DOH-FDA:

16 (a) Suspension of License to Operate (LTO) of a producer or  
17 manufacturer, distributor, seller or importer of a children's product;

18 (b) Revocation of LTO of a producer or manufacturer,  
19 distributor, seller or importer of a children's product; and

20 (c) Seizure of the unregistered, noncompliant or falsely  
21 represented children's product.

22 SEC. 15. *Penalties.* - Any person who shall commit any of  
23 the prohibited acts under Section 13 hereof shall, upon conviction,  
24 suffer the penalty of imprisonment ranging from one (1) year but  
25 not more than ten (10) years or a fine of not less than fifty thousand  
26 pesos (P50,000.00) but not more than five hundred thousand pesos  
27 (P500,000.00) or both, at the discretion of the court and in

1 accordance with Section 11 of the "Food and Drug Administration  
2 (FDA) Act of 2009": *Provided*, That if the offender is a  
3 manufacturer, importer or distributor of any product covered under  
4 this Act, the penalty of at least five (5) years imprisonment but not  
5 more than ten (10) years and a fine of at least five hundred  
6 thousand pesos (P500,000.00) but not more than five million pesos  
7 (P5,000,000.00) shall be imposed: *Provided, further*, That an  
8 additional fine of one percent (1%) of the economic value/cost of the  
9 violative product or violation, or one thousand pesos (P1,000.00),  
10 whichever is higher, shall be imposed for each day of continuing  
11 violation after reasonable notice of such violation: *Provided, finally*,  
12 That children's products found in violation of the provisions of this  
13 Act and other relevant laws, rules and regulations may be seized  
14 and held in custody pending proceedings, without hearing or court  
15 order, when the FDA Director-General has reasonable cause to  
16 believe from facts found by an authorized officer or employee of the  
17 FDA that the children's products may cause injury or prejudice to  
18 children.

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

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

26 SEC. 16. *Citizen Suit.* - For purposes of enforcing the  
27 provisions of this Act, any citizen may file an appropriate civil,



1 criminal or administrative action in the proper courts/bodies  
2 against:

3 (a) Any person who violates or fails to comply with the  
4 provisions of this Act;

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

8 (c) Any public officer who willfully or grossly neglects the  
9 performance of an act specifically enjoined as a duty by this Act; or  
10 abuses authority in the performance of duty; or, in any manner  
11 improperly performs the duties under this Act: *Provided, however,*  
12 That no suit can be filed until after a thirty (30)-day notice has been  
13 given to the public officer and the alleged violator concerned, and no  
14 appropriate action has been taken thereon.

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

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

23 SEC. 17. *Suits and Strategic Legal Action Against Public*  
24 *Participation (SLAPP) and the Enforcement of this Act.* – Where a  
25 suit is brought against a person who filed an action as provided in  
26 Section 16 of this Act, or against any person, institution or  
27 government agency that implements this Act or any other consumer

1 related laws, rules and regulations, it shall be the duty of the  
2 investigating prosecutor or the court, as the case may be, to  
3 immediately make a determination within a period not exceeding  
4 thirty (30) days whether legal action has been filed to harass, vex,  
5 exert undue pressure or stifle such legal recourses of the person  
6 complaining or enforcing the provisions of this Act. Upon  
7 determination of the evidence, the court may dismiss the case and  
8 award attorney's fees and damages.

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

13 SEC. 18. *Burden of Proof of Product Safety.* - The burden of  
14 proof to prove the exercise of due diligence, compliance with this Act  
15 and other laws, rules and regulations relating to consumer  
16 products, and appropriate precaution, and to prove the absence of  
17 fault or negligence shall lie with the manufacturer, producer,  
18 assembler, importer or seller of the children's product involved or  
19 concerned.

20 SEC. 19. *Appropriations.* - The amount as may be necessary  
21 to implement the provisions of this Act shall be included in the  
22 annual appropriations of the DOH and FDA under the General  
23 Appropriations Act.

24 SEC. 20. *Implementing Rules and Regulations.* - Within  
25 sixty (60) days after the effectivity of this Act, the DOH, in  
26 coordination with the DTI, DENR and DOF through the BOC, shall  
27 issue the IRR of this Act.

1           SEC. 21. *Congressional Oversight Committee.* – The Joint  
2 Congressional Oversight Committee created under Republic Act  
3 No. 9711 shall function as the oversight committee to monitor and  
4 evaluate the implementation of this Act.

5           SEC. 22. *Suppletory Applications.* – Pertinent provisions of  
6 Republic Act No. 9711, Republic Act No. 7394, otherwise known as  
7 the “Consumer Act of the Philippines” and Republic Act No. 10620,  
8 otherwise known as the “Toy and Game Safety Labelling Act of  
9 2013” shall have suppletory effect in the implementation of this Act.

10          SEC. 23. *Separability Clause.* – If, for any reason, a  
11 provision or part hereof is declared invalid, the other provisions not  
12 affected thereby shall remain in full force and effect.

13          SEC. 24. *Repealing Clause.* – All laws, decrees, executive  
14 orders, rules and regulations or parts thereof inconsistent with the  
15 provisions of this Act are hereby repealed, amended or modified  
16 accordingly.

17          SEC. 25. *Effectivity.* – This Act shall take effect fifteen (15)  
18 days after its publication in the *Official Gazette* or in a newspaper of  
19 general circulation.

Approved,

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