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

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SENATE

S. No. 1207

Introduced by SENATOR RAMON BONG REVILLA, JR.

AN ACT
TO PROTECT FILIPINOS FROM THE HARMFUL EFFECTS OF TRANS-FATTY ACIDS, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Article II, Section 15 of the 1987 Constitution states that, "The State shall protect and promote the right to health of the people and instill health consciousness among them."

One of the health concerns is the amount of intake of trans-fat. According to the World Health Organization (WHO), "Increased intake of trans fat (>1% of total energy intake) is associated with increased risk of coronary heart disease mortality and events. Trans fat intake is responsible for approximately 500,000 premature deaths from coronary heart disease each year around the world." Because of this, WHO advocates the elimination of industrially-produced trans-fatty acids from the food supply through the implementation of six (6) strategic actions in the REPLACE package, namely:

- **Review** dietary sources of industrially-produced trans fats and the landscape for required policy change.
- **Promote** the replacement of industrially-produced trans fats with healthier fats and oils.
- **Legislate** or enact regulatory actions to eliminate industrially-produced trans fats.

- **Assess** and monitor trans fats content in the food supply and changes in trans fat consumption in the population.
- **Create** awareness of the negative health impact of trans fats among policy makers, producers, suppliers, and the public.
- **Enforce** compliance of policies and regulations.

On June 18, 2021, the Department of Health issued Administrative Order No. 2021-0039 regarding the "National Policy on the Elimination of Industrially-Produced Trans-Fatty Acids for the Prevention and Control of Non-Communicable Diseases". The said Administrative Order defines "Trans-Fatty Acids" (TFA) as "fatty acids with at least a double bond in the trans configuration, regardless of whether they are produced industrially or come from ruminant sources, including linoleic acid." Given the fact that there are about 3,000 people each year in the Philippines suffering from premature mortality related to high consumption of TFAs, the said National Policy aims to provide a policy framework to eliminate industrially-produced TFA in the Philippines food supply by 2023.

The "*Trans-Fat Free Philippines Act*" seeks to provide legislation toward this advocacy by protecting Filipinos from the threat of death and diseases linked to TFA consumption by removing industrially-produced TFA from the food supply.

This measure was introduced by Senator Francis N. Pangilinan in the 18th Congress.

In this light, the immediate passage of this bill is highly recommended.

RAMON BONG REVILLA, JR.

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S E N A T E

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

ARTICLE I.

GENERAL PROVISIONS

Section 1. *Short Title.* - This Act shall be known as the "*Trans-Fat Free Philippines Act*".

Sec. 2. *Declaration of Policy.* – It is the duty of the State to protect and promote the Filipinos' right to health and instill health consciousness among them. The State recognizes the right of people to safe and nutritious food, free from substances like trans-fatty acids (TFA) that increase their risk of contracting deadly diseases.

The State shall prioritize health promotion and preventive care as it progresses towards universal health care. In this regard, the State shall protect Filipinos from the threat of death and diseases linked to TFA consumption by removing industrially-produced TFA from the food supply.

Sec. 3. *Definition of Terms.* – For purposes of this Act, the following terms shall be defined as follows:

(a) *Certificate of Product Registration* – an authorization issued by the Food and Drug Authority (FDA) for specific health products including food, after evaluation and approval of submitted registration requirements.

(b) *Distributor* – means any person to whom a consumer product is delivered or sold for purposes of distribution in commerce but excluding the manufacturer or retailer of such product. Distributors may be importers, exporters, traders and wholesalers.

(c) *Food* – any substance or product, whether processed, partially processed or unprocessed that is intended for human consumption. It includes drinks, chewing gum, water and other substances that were used as an ingredient or a component in the manufacture, preparation or treatment of food, such as oils and fats, whether sold alone or incorporated in processed food and/or prepackaged food.

(d) *Food Service Establishment* – means any establishment that prepares, serves, markets, sells, or offers for sale, food or drink to be consumed within the establishment or taken-out.

(e) *Healthy Alternative Oils, Fats and Oilseeds* – oils, fats, and oilseeds rich in polyunsaturated fatty-acids or monounsaturated fatty-acids and with low levels of saturated fatty-acids.

(f) *Importer* – the consignee or the Philippine agent or representative of a foreign owner or consignee of raw materials, ingredients and/or finished products at the time of entry of such article into the Philippines.

(g) *Industrially-Produced TFA* – trans-fat other than trans-fat naturally occurring in fat of animal origin.

(h) *License to Operate (LTO)* – a license granted by the FDA to establishments involved in the manufacturing, packaging, re-packaging, importation, exportation, distribution, and retailing of processed foods, drugs, medical devices, in vitro diagnostic reagents, cosmetics, and household hazardous substance products.

(i) *Manufacturer* – means any person who manufactures, assembles or processes food products, including any person who attaches one's own brand name to a consumer product manufacturer, assembled, or processed for them. In the case of imported products, the manufacturer's representatives or, in their absence, the importer shall be deemed the manufacturer.

(j) *Micro, small and medium enterprise (MSME)* – any business activity or enterprise engaged in industry, agribusiness and/or services, whether single proprietorship, cooperative, partnership or corporation whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, and must have value falling under the following categories: (i) micro: not more than P3,000,000.00; (ii) small: P3,000,001.00 – P15,000,000.00; and (iii) medium: P15,000,001.00 – P100,000,000.00. The above definitions shall be subject to review and adjustments by the Micro, Small and Medium Enterprises Development (MSMED) Council under Section 6 of Republic Act No. 9501 or the Magna Carta for Micro, Small and Medium Enterprises, or upon recommendation of sectoral organizations concerned, taking into account inflation and other economic indicators.

(k) *Partially Hydrogenated Oil (PHO)* – fat or oil that has been hydrogenated, but not to complete or near complete saturation, and with an iodine value greater than 4, as determined by a method that is suitable for this analysis.

(l) *Prepackaged Food* – processed food prepared in advance and placed in a container, labelled and ready for sale or distribution, or for catering purposes.

(m) *Processed Food* – any food that has been subjected to any action that substantially alters the initial raw materials or product or ingredients.

(n) *Retailer* – any establishment that sells or offers to sell any food product directly to the general public.

(o) *TFA* – all fatty acids with a double bond in the trans configuration, regardless of whether they are produced industrially or come from ruminant sources.

Sec. 4. *Scope and Application.* – This Act shall apply to all food business operators as defined under Republic Act No. 10611 or the "Food Safety Act".

ARTICLE II.

ROLES AND RESPONSIBILITIES

Sec. 5. *Lead Agency.* – The Department of Health (DOH shall be responsible for ensuring that the provisions of this Act are implemented. As lead agency, the DOH shall perform the following functions:

(a) Convene and lead the inter-agency TFA Task Force composed of the following agencies for the implementation of this Act:

i. National Nutrition Council (NCC);

ii. FDA;

iii. Department of the Interior and Local Government (DILG);

iv. Department of Trade and Industry (DTI);

v. Department of Science and Technology (DOST);

vi. Department of Agriculture (DA);

vii. Department of Finance (DOF); and,

viii. Other agencies identified by the DOH.

(b) Issue policies, rules, regulations and standards for the implementation of this Act; and,

(c) Oversee and monitor the implementation of this Act.

Sec. 6. *Assistance and Capacity Building for Local Implementation and Enforcement.* – The FDA, in coordination with DILG and other relevant agencies, shall strengthen the capacity of LGUs in implementing and enforcing the provisions of this Act with regard to prepackaged and processed food produced and marketed in traditional markets and food service establishments.

The FDA shall assist local government units (LGUs) in regulating food service establishments, upon request of the LGU. Such assistance shall include the use of laboratories for testing and sharing of information relevant to products registered with the FDA.

Sec. 7. *Research and Development.* – The DOST shall:

(a) Conduct continuing research to identify and develop healthy alternative oils and food products such as:

i. Healthy alternative oilseeds through crop diversification programs and agricultural research, in coordination with the DA;

ii. Healthy oils and fats through the application of oil modification techniques and other methods; and,

iii. Healthy food products through product reformulation, research and development; and

(b) In coordination with the FDA, develop or adopt technology to reduce the cost of TFA testing.

Sec. 8. *Oilseeds Crop Diversification.* – The DA shall implement an oilseeds crop diversification program and continue research and development to support the production of healthy alternative oilseeds in coordination with DOST.

Sec. 9. *Training and Seminars on Reformulation.* – The DOH, in coordination with FDA, DTI, DOST-Philippine Council for Health Research and Development, DOST-Food and Nutrition Research Institute (DOST-FNRI), DILG, and the Technical Education and Skills Development Authority (TESDA), shall conduct trainings and seminars for food business operators and food service establishment on the reformulation of food products to comply with the provisions of this Act, and the use of healthy alternatives of oils.

ARTICLE III.
PROHIBITED ACTS

Sec. 10. *Prohibition on the Manufacture, Importation, Distribution, and Sale of PHOs and Oils and Fats with High TFA Content.* – The manufacture, importation, distribution and sale of the following are prohibited:

(a) PHOs to be consumed alone or used in preparation of food products;

(b) Oils and fats made or blended with PHOs; and,

(c) Oils and fats with TFA content of more than 2g per 100g, excluding TFA content from ruminant sources.

It shall be the burden of the manufacturer, importer, distributor or seller to demonstrate that TFA in excess of 2g per 100g is from ruminant sources.

No registration, license or permit shall be issued to any food manufacturer, importer or distributor that manufactures, imports, distributes, or sells food in violation of this provision.

Sec. 11. *Prohibition on the Manufacture, Importation, Distribution, and Sale of Processed and Prepackaged Food with PHOs and High TFA Content.* – The manufacture, importation, distribution and sale of the following are prohibited:

(a) Processed and prepackaged food prepared with PHOs, including food prepared by food service establishments;

(b) Processed and prepackaged food prepared with oils and fats made or blended with PHOs, including food prepared by food service establishment; and,

(c) Processed and prepackaged food with TFA content of more than 2g per 100g of total fat, excluding TFA content from ruminant sources.

It shall be the burden of the manufacturer, importer, distributor or seller to demonstrate that TFA content in excess of 2g per 100g is from ruminant sources.

No registration, license, or permit shall be issued to any food manufacturer, importer, or distributor for any processed or prepackaged food manufactured, imported, distributed or sold in violation of this provision.

Sec. 12. *Prohibition on Trans-Fat Free Claims.* – Claims on the packaging, labelling, marketing, or advertising, that a food product is TFA-free is prohibited. A TFA-free claim is any claim that states or suggests that the food product does not contain TFA, such as "Trans-Fat Free", with "0g Trans Fat", or any other similar claim.

Sec. 13. *Material Misrepresentation.* – Any material misrepresentation with regard to the requirements mandated by the FDA in the application for a CPR shall be a ground for the imposition of appropriate penalties prescribed under this Act. For purposes of this Act, there is material misrepresentation when the applicant makes a false representation of a material fact in the applicant for a CPR, tending directly to induce the FDA to grant the application when otherwise it will be denied.

ARTICLE IV.
ENFORCEMENT

Sec. 14. *Enforcing Agencies.* – The FDA and local government units (LGUs) shall be responsible for the enforcement of this Act with regard to the following food products:

(a) Processed and prepackaged food – The FDA shall enforce the provisions of this Act in relation to prepackaged and processed food including oils and fats, whether domestic or imported.

(b) Food produced and marketed in traditional markets and food service establishments – The LGUs shall enforce the provisions of this Act with regard to the prepackaged and processed food produced and marketed in traditional markets and food service establishments within their jurisdiction.

Sec. 15. *Inspection Powers and Record-keeping.* – The FDA, through its authorized agents, shall have the power to inspect the premises and records of food manufacturers to determine compliance with this Act. The FDA shall issue guidelines on record-keeping and inspection procedures.

Sec. 16. *Enforcement Procedure for Processed and Prepacked Food.* – If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision or part not otherwise affected shall remain valid and subsisting. In case of imported processed and prepackaged food, the existing rules of procedure of the DOF-Bureau of Customs shall apply in the enforcement of this Act.

Sec. 17. *Enforcement for Traditional Markets and Food Service Establishments.* – LGUs, through an appropriate issuance, shall establish a mechanism to enforce the provisions of this Act with regard to prepackaged and processed food produced and marketed in traditional markets and food service establishments within their jurisdiction and shall impose penalties for violations thereof.

Sec. 18. *Civil Society Participation for Monitoring and Surveillance.* – The FDA shall implement programs encouraging citizen participation in the conduct of post-market monitoring and surveillance of TFA content in food and reporting violations of this Act. For this purpose, the FDA shall develop and publicize a web-based user-friendly consumer complaints portal to encourage citizens participation.

ARTICLE V.
FINES AND PENALTIES

Sec. 19. *Administrative Penalties.* – The following administrative penalties shall be imposed on food business operators found to be in violation of Section 10, 11, and 12 of this Act:

(a) For the first violation, a fine of not less than Fifty Thousand Pesos (P50,000.00) but not more than One hundred thousand pesos (P100,000.00) and suspension of the CPR and/or LTO for one (1) month;

(b) For the second violation, a fine of not less than One hundred thousand pesos (P100,000.00) but not more than Two hundred thousand pesos (P200,000.00) and suspension of CPR and/or LTO for three (3) months; and,

(c) For the third violation, a fine of not less than Two hundred thousand pesos (P200,000.00) but not more than Three hundred thousand pesos (P300,000.00). Suspension of CPR and/or LTO for one (1) year or revocation of the CPR, LTO, and other relevant licenses and permits.

The following administrative penalties shall be imposed on food businesses operators found to be in violation of Section 13 of this Act:

(a) For this violation, a fine of not less than One hundred thousand pesos (P100,000.00) but not more than Two hundred thousand pesos (P200,000.00) and suspension of the CPR and/or LTO one (1) year; and,

(b) For the second violation, a fine of not less than Two hundred thousand pesos (P200,000.00) but not more than Three hundred thousand pesos (P300,000.00) and revocation of CPR and/or LTO.

The imposition of fines shall take into consideration the annual gross sales, capital investment and employee size of the food business operator.

Sec. 20. *Imprisonment.* – In addition to administrative penalties, the following penalties of imprisonment may be imposed on food business operators:

(a) For violations under Sections 10, 11, and 12, imprisonment of not less than one (1) month but not more than six (6) months; and,

(b) For violations under Section 13, imprisonment of not less than six (6) months but not more than one (1) year.

Criminal and administrative actions for violations of this Act may be instituted separately and independently from one another. Should offense be committed by a juridical person, the Chair of the Board of Director, the President, General Manager, or the partners and/or the persons directly responsible therefore shall be penalized.

(b) In coordination with relevant agencies, the FDA shall determine and ensure the adequacy of personnel trained on TFA regulation, testing, monitoring and surveillance.

Sec. 25. *Duty-free Importation of TFA Testing Equipment.* – The importation of laboratory equipment for testing TFA shall be exempt from payment of customs duties and taxes.

ARTICLE VII.
INCENTIVES FOR REPLACING TFA

Sec. 26. *Early Compliance Incentives for MSMEs.* – The DTI and LGUs, through its business process and licensing offices, shall develop and implement policies and programs providing incentives for MSMEs to encourage early voluntary compliance with this Act.

Sec. 27. *Expedited Processing for CPR Applications on Reformulated Products.* – The FDA shall expedite the assessment of new CPR applications for food products reformulated in compliance with this Act.

ARTICLE VIII.
MISCELLANEOUS PROVISIONS

Sec. 28. *Consumer Information, Education, and Communication Program.* – The DOH, in coordination with the Philippine Information Agency, Department of Education, Commission on Higher Education, and Department of Information and Communication Technology, shall develop and implement a comprehensive information, education and communications program to raise public awareness on the provisions of this Act, the health harms resulting from TFA, sources of TFA in the diet, and ways to replace PHOs with healthy alternative oils and fats.

Sec. 29. *Implementing Rules and Regulations.* – Within sixty (60) days from the effectivity of this Act, the DOH shall develop and issue implementing rules and regulations (IRR) of this Act in consultation with NNC, FDA, DILG, DTI, DOST, DA, and other relevant government agencies and stakeholders.

Sec. 30. *Transitory Provisions.* – Within two (2) years from the effectivity of this Act:

(a) Food manufacturers and importers shall comply with the additional requirements for CPR application as determined by the FDA; and,

(b) Food business operators shall be allowed to sell their existing food products that do not comply with Sections 10 and 11 of this Act.

All manufacturers, importers, distributors, and retailers of oils and fats, and food service establishments shall be required to submit their existing inventory of food products as of the date of effectivity of this Act to the FDA and DTI. Food business operators shall submit their inventory within sixty (60) days from the effectivity of the IRR of this Act to monitor the phase out of non-compliant food products.

Sec. 31. *Monitoring and Evaluation.* – The DOH shall periodically report to the President and the Congressional Committees on Health, Agriculture and Food, and Trade and Industry on the implementation of this Act. The DOH shall, in coordination with DOST-FNRI, further monitor and evaluate the following:

(a) TFA exposure screening and surveillance – The DOST-FNRI shall include the regular screening and monitoring of the TFA population consumption in the Expanded National Nutrition Survey; and,

(b) TFA nutrient profiling – The DOST-FNRI shall include the testing and monitoring of TFA content in food in the Food Composition Table and Food Composition Databases.

Sec. 32. *Appropriations and Use of Fees, Charges, and Penalties.* – The initial amount necessary for the implementation of this Act shall be charged against the current appropriation of all concerned agencies. Such funds necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act.

All fines and fees that may be collected from the enforcement of this Act shall be used exclusively for its implementation.

Sec. 33. *Conflict of Interest.* – Pursuant to the fundamental objective of this Act to advance public health, the implementation and enforcement of this Act and the development of related policies shall promote multi-sectoral coordination while safeguarding against potential conflict of interest.

Sec. 34. *Separability Clause.* – If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision or part not otherwise affected shall remain valid and subsisting.

Sec. 35. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule, or regulation contrary to or inconsistent with the provisions of this Act are hereby repealed, modified, or amended accordingly.

Sec. 36. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,