Republic of the Philippines
Congress of the Philippines
Metro Manila

Eighth Congress

Republic Act No. 7394 April 13, 1992

THE CONSUMER ACT OF THE PHILIPPINES

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

TITLE I. – GENERAL PROVISIONS

Article 1. *Short Title*. – This Act shall be known as the "Consumer Act of the Philippines."

Article 2. *Declaration of Basic Policy*. – It is the policy of the State to protect the interests of the consumer, promote his general welfare and to establish standards of conduct for business and industry. Towards this end, the State shall implement measures to achieve the following objectives:

a) protection against hazards to health and safety;

b) protection against deceptive, unfair and unconscionable sales acts and practices;

c) provision of information and education to facilitate sound choice and the proper exercise of rights by the consumer;

d) provision of adequate rights and means of redress; and

e) involvement of consumer representatives in the formulation of social and economic policies.

Article 3. *Construction*. – The best interest of the consumer shall be considered in the interpretation and implementation of the provisions of this Act, including its implementing rules and regulations.

Article 4. *Definition of Terms*. – For purposes of this Act, the term:

a) "*Advertisement*" means the prepared and through any form of mass medium, subsequently applied, disseminated or circulated advertising matter.

b) "*Advertising*" means the business of conceptualizing, presenting or making available to the public, through any form of mass media, fact, data or information about the attributes, features, quality or availability of consumer products, services or credit.

c) "*Advertising agency or Agent*" means a service organization or enterprise creating, conducting, producing, implementing or giving counsel on promotional campaigns or programs through any medium for and in behalf of any advertiser.

d) "*Advertiser*" means the client of the advertising agency or the sponsor of the advertisement on whose account the advertising is prepared, conceptualized, presented or disseminated.

e) "*Agricultural purpose*" means a purpose related to the production, harvest, processing, manufacture, distribution, storage, transportation, marketing, exhibition or disposition of agricultural, fishery or marine products.

f) "*Amount financed*" in a consumer credit sale constitutes the cash price plus non-finance charges less the amount of any down payment whether made in cash or in property traded in, or in a consumer loan the amount paid to, receivable by or paid or payable to the buyer or to another person in his behalf.

g) "*Banned hazardous substance*" means (1) any toy or other articles intended for use by children, which are hazardous per se, or which bear or contain substances harmful to human beings; or (2) any hazardous substance intended or packaged in a form suitable for use in the household, which the implementing agency by regulation, classifies as "banned hazardous substance" notwithstanding the existence of cautionary labels, to safeguard public health and safety: Provided, That the implementing agency may, by regulation, exempt from this Act, articles which by reason of their functional purpose require the inclusion of the hazardous substance involved and which bear appropriate labels giving adequate directions and warnings for their safe use.

Procedures for the issuance, amendment or repeal of regulations pursuant to clause (2) or paragraph (g) of this Article shall be governed by the rules and regulations promulgated by the Department of Health; Provided, That if the Department of Health finds that the distribution for household use of the hazardous substance involved presents an imminent hazards to the public health, it may publish in a newspaper of general circulation a notice of such finding and such substance shall be deemed to be a "banned hazardous substance" pending the issuance of regulation formally banning such substance.

h) "*Batch*" means a quantity of any drug or device produced during a given cycle of manufacture.

i) "*Business name, firm name, or style*" means any name or designation other than the true name of a person, partnership, corporation or association which is used or signed in connection with his/its business or in

1) any written or printed receipt, including receipt for tax or business;

2) any written or printed contract not verified by a notary public;

3) any written or printed evidence of any agreement or business transaction; and

4) any sign or billboard kept conspicuously exhibited in plain view in or at the place of the business, announcing a firm name or business name or style.

j) "*Cash price or delivered price*", in case of trade transaction, means the amount of money which would constitute full payment upon delivery of the property (except money) or service purchased at the creditor's place of business. In the case of financial transactions, cash price represents the amount received by the debtor upon consummation of the credit transaction, net of finance charges collected at the time the credit is extended, if any.

k) "*Chain distribution plans*" or "pyramid sales schemes" means sales devices whereby a person, upon condition that he makes an investment, is granted by the manufacturer of his representative a right to recruit for profit one or more additional persons who will also be granted such right to recruit upon condition of making similar investments: Provided, That the profits of the person employing such a plan are derived primarily from the recruitment of other persons into the plan rather than from the sale of consumer products, services and credit: Provided, further, That the limitation on the number of participants does not change the nature of the plan.

l) "*Closing out sale*" means a consumer sale wherein the seller uses the announcement to create the impression that he is willing to give large discounts or merchandise in order to reduce, dispose or close out his inventory and business.

m) "*Commerce*" means the sale, lease, exchange, traffic or distribution of goods, commodities, productions, services or property, tangible or intangible.

n) "*Consumer*" means a natural person who is a purchaser, lessee, recipient or prospective purchaser, lessor or recipient of consumer products, services or credit.

o) "*Consumer credit*" means any credit extended by a creditor to a consumer for the sale or lease of any consumer product or service under which part or all of the price or payment therefor is payable at some future time, whether in full or in installments.

p) "*Consumer loan*" means a loan made by the lender to a person which is payable in installments for which a finance charge is or may be imposed. This term includes credit transactions pursuant to an open-end-credit plan other than a seller credit card.

q) "*Consumer products and services*" means goods, services and credits, debts or obligations which are primarily for personal, family, household or agricultural purposes, which shall include but not limited to food, drugs, cosmetics, and devices.

r) "*Consumer product safety rule*" means a consumer product safety standard described in Article 78 or a rule under this Chapter declaring a consumer product banned hazardous product.

s) "*Consumer transaction*" means (1) (i) a sale, lease, assignment, award by chance, or other disposition of consumer products, including chattels that are intended to be affixed to land, or of services, or of any right, title, or interest therein, except securities as defined in the Securities Act and contracts of insurance under the Insurance Code, or (ii) a grant of provision of credit to a consumer for purposes that are primarily personal, family, household or agricultural, or (2) a solicitation or promotion by a supplier with respect to a transaction referred to in clause (1).

t) "*Corrosive*" means any substance which on contact with living tissue will cause destruction of tissue by chemical action.

u) "*Cosmetics*" means (1) articles intended to be rubbed, poured, sprinkled or sprayed on, introduced into or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) article intended for use as a component of any such article except that such term shall not include soap.

v) "*Counterfeit product*" means any consumer product which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device, or any likeness thereof, of a consumer product manufacturer, processor, packer, distributor, other than the person or persons who in fact manufactured, processed, packed or distributed such product and which thereby falsely purports or is represented to be the product of, or to have been packed or distributed by such consumer product manufacturer, processor, packer, or distributor.

w) "*Credit card*" means any card, plate, coupon book or other credit device existing for the purpose of obtaining money, property, labor or services on credit.

x) "*Credit Sale*" means a sale products, services or an interest in land to a person on credit where a debt is payable in installments or a finance charge is imposed and includes any agreement in the form of a bailment of products or lease of products or real property if the bailee or lessee pays or agrees to pay compensation for use a sum substantially equivalent to or in excess of the aggregate value of the products or real property involved and it is agreed that the bailee or lessee will become, or for no other or a nominal consideration has the option to become, the owner of the products or real property upon full compliance with the terms of the agreement.

y) "*Credit transaction*" means a transaction between a natural person and a creditor in which real or personal property, services or money acquired on credit and the person's obligation is payable in installment.

z) "*Creditor*" means any person engaged in the business of extending credit and shall include any person who as a regular business practice makes loans or sells or rents property or services on a time, credit or installment basis, either as principal or as agent who requires as an incident to the extension of credit, the payment of a finance charge.

aa) "*Default or delinquency charge*" means, with respect to a consumer credit transaction, the penalty charge payable by the consumer-debtor for failure to pay an amount or installment in full on the date the same becomes due and demandable, or on or before the period specified for the purpose in the consumer credit sale documents.

ab) "*Device*" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part or accessory which is (1) recognized in the official United States Pharmacopoeia-National Formulary (USP-NF) or any supplement to them, (2) intended for use in the diagnosis of disease

or other condition or in the cure, mitigation, treatment or prevention of disease, in man or other animals; or (3) intended to affect the structure or any function of the body of man or other animals, and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

ac) "*Distributor*" means any person to whom a consumer product is delivered or sold for purposes of distribution in commerce, except that such term does not include a manufacturer or retailer of such product.

ad) "*Drugs*" mean (1) articles recognized in the current official United States Pharmacopoeia-National Formulary, official Homeopathic Pharmacopoeia of the United States, official National Drug Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or animals; and (4) articles intended for use as a component of any articles specified in clauses (1), (2), or (3) but do not include devices or their components, parts or accessories.

The term "drug" when used in this Act shall include herbal and/or traditional drug. They are defined as articles from indigenous plant or animal origin used in folk medicine which are: (1) recognized in the Philippine National Formulary; (2) intended for use in the treatment or cure, mitigation, of disease symptoms, injury or bodily defect for use in man; (3) other than food, intended to affect the structure of any function of the body of man; (4) put into finishes, ready to use form by means of formulation, dosage or dosage directions; and (5) intended for use as a component of any of the articles specified in clauses (1), (2), (3) and (4) of this paragraph.

ae) "*Expiry or expiration date*" means the date stated on the label of food, drug, cosmetic, device or hazardous substance after which they are not expected to retain their claimed safety, efficacy and quality or potency and after which it is no longer permissible to sell them.

af) "*Extremely flammable*" means any substance which has a flash point at or below negative six and six-tenths degrees centigrade as determined by the Tagliabue Open Cub Tester; and term "combustible" shall apply to any substance which has a flash point of above twenty-six and six-tenths degrees to and including sixty-five and five-tenths degrees centigrade as determined by the Tagliabue Open Cub Tester: Provided, That the flammability or combustibility of solids and of the contents of self-pressurized containers shall be determined through methods found by the implementing agency to be generally applicable to such materials or containers, respectively, and established by regulations issued by it.

ag) "*Food*" means any substance, whether processed, semi-processed or raw, intended for human consumption and includes chewing gum, drinks and beverages and any substance which has been used as an ingredient or a component in the manufacture, preparation or treatment of food.

ah) "*Food additive*" means any substance, the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified as having been adequately shown through scientific procedures to be safe under the conditions of the intended use.

ai) "*Generic name*" is the identification of drugs and medicines by their scientifically and internationally recognized active ingredients or by their official generic name as determined by the Bureau of Food and Drugs of the Department of Health.

aj) "*Guarantee*" means an expressed or implied assurance of the quality of the consumer products and services offered for sale or length of satisfactory use to be expected from a product or other similar specified assurances.

ak) "*Hazardous substance*" means:

(1) (i) Any substance or mixture of substances which is toxic, corrosive, irritant, a strong sensitizer, flammable or combustible, or generates pressure through decomposition, heat or other means, if such substance or mixture or substances any cause substantial injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable ingestion by children.

(ii) Any substance which the department finds to be under the categories enumerated in clause (1) (i) of this paragraph;

(iii) Any radioactive substance, if, with respect to such substance as used in a particular class of article or as packaged, the Department, upon approval of the Department determines by regulation that the substance is sufficiently hazardous to require labeling in accordance with this section in order to protect the public health;

(iv) Any toy or other articles intended for use by children which the director may, by regulation, determine the presence of an electrical, mechanical or thermal hazard.

(2) This term shall not apply to food, drugs, cosmetics, and devices nor to substances intended for use as fuels when stored in containers and used in the heating, cooking or refrigeration system of a house, but such term shall apply to any article which is not in itself a pesticide but which is a hazardous substance, as construed in clause (a) of paragraph (1), by reason of bearing or containing such harmful substances described therein.

al) "*Highly Toxic*" means any substance which has any of the following effects: (1) produces death within fourteen days to one-half or more than one-half of a group of ten or more laboratory white rats each weighing between Two hundred and three hundred grams, at a single dose of fifty milligrams or less per kilogram of body weight, when orally administered; or (2) produces death within fourteen days to one-half or more of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, when inhaled continuously for a period of one hour or less at an atmospheric concentration of two hundred parts per million by volume or less of gas or vapor or two milligrams per liter by volume or less of mist or dust, provided such concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner, or (3) produces death within fourteen days to one-half or more of a group of ten or more rabbits, when tested in a dosage of two hundred milligrams or less per kilogram of body weight, or when administered through continuous contact with the bare skin for twenty-four hours or less.

am) "*Home solicitation sale*" means consumer sales or leases which are personally solicited by any person or organization by telephone, person-to-person contact or by written or printed communication other than general advertising or consummated at the buyer's residence or a place of business, at the seller's transient quarters, or away from a seller's regular place of business.

an) "*Immediate container*" means the container or package which is immediately after or near the substance but does not include package liners.

ao) "*Imminently hazardous product*" means a consumer product which presents an unreasonable risk of death, serious illness or severe personal injury.

ap) "*Irritant*" means any substance not corrosive within the meaning of paragraph (t) of this Article which, on immediate, prolonged or repeated contact with normal living tissue will induce a local inflammatory reaction.

aq) "*Label, labeling*" means the display of written, 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 identify, components, ingredients, attributes, directions for use, specifications and such other information as may be required by law or regulations.

ar) "*Manufacture*" means and any and all operations involved in the production, including preparation, propagation, processing, formulating, filing, packing, repacking, altering, ornamenting, finishing or otherwise changing the container, wrapper or labeling of a consumer product in the furtherance of the distribution of the same from the original place of manufacture to the person who makes the final delivery or sale to the ultimate consumer.

as) "*Manufacturer*" means any person who manufactures, assembles or processes consumer products, except that if the goods are manufactured, assembled or processed for another person who attaches his own brand name to the consumer products, the latter shall be deemed the manufacturer. In case of imported products, the manufacturer's representatives or, in his absence, the importer, shall be deemed the manufacturer.

at) "*Mass media*" refers to any means or methods used to convey advertising messages to the public such as television, radio, magazines, cinema, billboards, posters, streamers, hand bills, leaflets, mails and the like.

au) "*Materially defective product*" means a product which, because of the pattern of the defect, the number of defective products distributed in commerce and the severity of the risk or otherwise, creates a substantial risk of injury to the public.

av) "*Mislabeled hazardous substance*" means any hazardous substance intended, or packaged in a form suitable, for use in households, especially by children, the packaging or labeling of which is in violation of the special packaging regulation issued by the Department of Health under ARTICLE 91 or if such substance fails to bear a label which (1) states conspicuously (i) the name and the exact address of the manufacturer, packer, distributor, or seller; (ii) the common or usual name of the hazardous substance or of each component which contributes substantially to the harmfulness of the substance, unless the Department by regulation approved by the Department permits or requires the use of the recognized generic name; (iii) the signal word "danger" on substances which are extremely flammable, corrosive, or highly toxic; (iv) the signal word "warning" or "caution" on all other hazardous substances; (v) a frank statement of the principal hazard or hazards involved, as "flammable", "vapor harmful", "causes burns", "absorbed through skin", or similar wording describing the action to be followed or avoided, except when modified by regulation by the Department pursuant to Section 46; (vi) instructions, when necessary or appropriate, for first aid treatment; (vii) the word "poison" for any hazardous substance which is defined as highly toxic; (viii) instructions for handling and storage of packages which require special care in handling or storage; and (ix) the statement "keep out of the reach of children", or its practical equivalent, if the article is intended for use by children and is not a banned hazardous substance, with adequate directions for the protection of children from the hazard involved. The aforementioned signal words, affirmative statements, description of precautionary measures, necessary instructions or other words or statements may be in the English language or its equivalent in Filipino; and

(2) on which any statement required under clause (1) of this paragraph are located prominently and in contrast by typography are located prominently and in contrast by typography, layout, with other printed matters on the label.

aw) "*New Drugs*" mean (1) any drug the composition of which is such that said drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety, efficacy and quality of drugs as safe, efficacious and of good quality for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or (2) any drug the composition of which is such that said drug, as a result of its previous investigations to determine its safety, efficacy and good quality for use under certain conditions, has become so recognized but which has not, otherwise than in such investigations, been used to a material extent or for a material time under new conditions.

"New Drugs" shall include drugs (a) containing a newly discovered active ingredient; (b) containing a new fixed combination of drugs, either by molecular or physical combination; (c) intended for new indications; (d) an additional new mode of administration; or (e) in an additional dosage or strength of the dosage form, which meets the conditions as defined under the new drug.

The definition of "new drugs" covers to the extent applicable, "new devices".

ax) "*New Product*" means a consumer product which incorporates a design, material or form of energy exchange which has not previously been used substantially in consumer products and as to which there exists a lack of adequate information to determine the quality and safety of such product if used by the consumers.

ay) "*Open-end-credit plan*" means a consumer credit extended on an account pursuant to a plan under which:

1) the creditor may permit the person to make purchases or obtain loans, from time to time, directly from the creditor or indirectly by use of credit card, check or other device;

2) the person has the privilege of paying the balance; or

3) a finance charge may be computed by the creditor from time to time on an outstanding unpaid balance.

az) "*Package*" or "*packaging*" means any container or wrapping in which any consumer product is enclosed for use in the delivery or display of that consumer product to retail purchasers, but does not include:

1) shipping containers or wrappings used solely for the transportation of any consumer product in bulk or in big quantities by manufacturers, packers, or processors to wholesale retail distributors thereof;

2) shipping containers or outer wrappings used by retailers to ship or deliver any product to retail costumers if such containers and wrappings bear no printed matter pertaining any particular product;

3) The wrappers or containers of consumer products sold in small quantities by small retail stores to the consumer which by tradition are wrapped with ordinary paper.

ba) "*Person*" means any individual, partnership, corporation or association, trust, government or governmental subdivision or any other legal entity.

bb) "*Poisonous substance*" means any substance capable of destroying life or seriously endangering health when applied externally to the body or introduced internally in moderate doses.

bc) "*Price comparison*" means the direct comparison in any advertisement of a seller's current price for consumer products or services with any other price or statement of value for such property or services expressed in pesos, centavos, fractions or percentages.

bd) "*Price tag*" means any device, written, printed, affixed or attached to a consumer product or displayed in a consumer repair or service establishment for the purpose of indicating the retail price per unit or service.

be) "*Principal display panel*" means that part of the label that is most likely to be displayed, presented, shown or examined under normal and customary conditions of display for retail or sale.

bf) "*Private labeler*" means an owner of a brand or trademark on the label of consumer product other than a manufacturer of the product.

A consumer product bears a private label if (1) the product or its container is labeled with a brand or trademark of a person other than its manufacturer; or (2) the brand or trademark of the manufacturer of such product does not appear on such label.

bg) "*Radioactive substance*" means any substance which emits ionizing radiation.

bh) "*Referral selling*" means the sales device employed by the sellers wherein the buyer is induced to acquire goods or services by representing that after the acquisition of the goods or services, he will receive a rebate, commission or other benefit in return for the submission of names of potential customers or otherwise helping the seller enter into other sales, if the receipt of such benefit is contingent on an event occurring after the sale is made.

bi) "*Repair and service firm*" means any business establishment, engaged directly or indirectly, in the repair, service or maintenance of any consumer product.

bk) "*Retailer*" means a person engaged in the business of selling consumer products directly to consumers.

bl) "*Sale or distribution*" shall mean an act made by a manufacturer or seller, or their 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 distribution not for sale.

bm) "*Sales Promotion*" means techniques intended for broad consumer participation which contain promises of gain such as prizes, in cash or in kind, as reward for the purchase of a product, security, service or winning in contest, game, tournament and other similar competitions which involve determination of winner/s and which utilize mass media or other widespread media of information. It also means techniques purely intended to increase the sales, patronage and/or goodwill of a product.

bn) "*Seller*" means a person engaged in the business of selling consumer products directly to consumers. It shall include a supplier or distributor if (1) the seller is a subsidiary or affiliate of the supplier or distributor; (2) the seller interchanges personnel or maintains common or overlapping officers or directors with the supplier or distributor; or (3) the supplier or distributor provides or exercises supervision, direction or control over the selling practices of the seller.

bo) "*Service*" shall mean, with respect to repair and service firms, services supplied in connection with a contact for construction, maintenance, repair, processing, treatment or cleaning of goods or of fixtures on land, or distribution of goods, or transportation of goods.

bp) "*Services*" means services that are the subject of a consumer transaction, either together with, or separate from any kind of personal property, whether tangible or intangible.

bq) "*Special packaging*" means packaging that is designed or constructed to be significantly difficult for children five years of age to open or to obtain a toxic or harmful amount of the substance contained therein within a reasonable time and not difficult for normal adults to use properly but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

br) "*Standard*" means a set of conditions to be fulfilled to ensure the quality and safety of a product;

bs) "*Strong sensitizer*" means any substance which will cause on normal living tissue, allergy or photodynamic quality of hypersensitivity which becomes evident on reapplication of the same substance, to be designated as such by the implementing agency. Before designating any substance as a strong sensitizer, the implementing agency, upon consideration of the frequency of occurrence and severity of the reaction, shall find that the substance has a significant capacity to cause hypersensitivity.

bt) "*Substandard product*" means a product which fails to comply with an applicable consumer product safety rule which creates a substantial risk of injury to the public.

bu) "*Supplier*" means a person, other than a consumer, who in the course of his business, solicits, offers, advertises, or promotes the disposition or supply of a consumer product or who other than the consumer, engages in, enforces, or otherwise participates in a consumer transaction, whether or not any privity of contract actually exists between that person and the consumer, and includes the successor to, or assignee of, any right or obligation on of the supplier.

bv) "*Technical personnel of repair and service enterprise*" shall mean a machine or technician or any person who works or renders diagnosis or advice in connection with repair, service and maintenance of the consumer products in a repair and service firm.

bw) "*Toxic substance*" means any substance other than a radioactive substance which can cause injury, illness or death to man through ingestion, inhalation or absorption through any body surface.

bx) "*Trade name*" or "*trademark*" means a word or words, name, title, symbol, emblem, sign or device or any combination thereof used as an advertisement, sign, label, poster or otherwise for the purpose of enabling the public to distinguish the business of the person who owns and uses said trade name or trademark.

TITLE II

CHAPTER I
CONSUMER PRODUCT QUALITY AND SAFETY

Article 5. ***Declaration of Policy*****.** – It shall be the duty of the State:

a) to develop and provide safety and quality standards for consumer products, including performance or use-oriented standards, codes of practice and methods of tests;

b) to assist the consumer in evaluating the quality, including safety, performance and comparative utility of consumer products;

c) to protect the public against unreasonable risks of injury associated with consumer products;

d) to undertake research on quality improvement of products and investigation into causes and prevention of product related deaths, illness and injuries;

e) to assure the public of the consistency of standardized products.

Article 6. ***Implementing Agencies*****.** – The provisions of this Article and its implementing rules and regulations shall be enforced by:

a) the Department of Health with respect to food, drugs, cosmetics, devices and substances;

b) the Department of Agriculture with respect to products related to agriculture, and;

c) the Department of Trade and Industry with respect to other consumer products not specified above.

Article 7. ***Promulgation and Adoption of Consumer Product Standards*****.** – The concerned department shall establish consumer product quality and safety standards which shall consist of one or more of the following:

a) requirements to performance, composition, contents, design, construction, finish, packaging of a consumer product;

b) requirements as to kind, class, grade, dimensions, weights, material;

c) requirements as to the methods of sampling, tests and codes used to check the quality of the products;

d) requirements as to precautions in storage, transporting and packaging;

e) requirements that a consumer product be marked with or accompanied by clear and adequate safety warnings or instructions, or requirements respecting the form of warnings or instructions.

For this purpose, the concerned department shall adopt existing government domestic product quality and safety standards: Provided, That in the absence of such standards, the concerned department shall form specialized technical committees composed of equal number of representatives from each of the Government, business and consumer sectors to formulate, develop and purpose consumer product quality and safety standards. The said technical committees shall consult with the private sector, which may, motu proprio, develop its own quality and safety standards that shall be subject or agencies after public hearings have been conducted for that purpose; and shall likewise consider existing international standards recognized by the Philippine Government.

Article 8. ***Publication of Consumer Product Standards*****.** – The concerned departments shall, upon promulgation of the above standards, publish or cause the publication of the same in two (2) newspapers of general circulation at least once a week for a period of not less than one (1) month. It may likewise conduct an information campaign through other means deemed effective to ensure the proper guidance of consumers, businesses, industries and other sectors concerned.

Article 9. ***Effectivity of Rules*****.** – a) Each consumer product standard or safety rule shall specify the date such rule is to take effect, which shall not exceed ninety (90) days from the date promulgated unless the concerned department funds, for good cause shown, that a later effective date is in the public interest and publishes its reasons for such finding. After which, it shall no longer be legal to, or cause to, sell or distribute the consumer product not complying with the standards or rules.

b) The department may, by regulation, prohibit a manufacturer from stockpiling consumer products so as to prevent such manufacturer from circumventing the purposes of this paragraph. The term "stockpiling" means manufacturing or importing

a product between the date of promulgation of its consumer product safety rule and its effective date, at a rate which is significantly greater than the rate at which such product was produced or imported during a base period as prescribed in the regulation under this paragraph, ending before the date of promulgation of consumer product safety rule.

Article 10. ***Injurious, Dangerous and Unsafe Products*****.** – Whenever the departments find, by their own initiative or by petition of a consumer, that a consumer product is found to be injurious, unsafe or dangerous, it shall, after due notice and hearing, make the appropriate order for its recall, prohibition or seizure from public sale or distribution: Provided, That, in the sound discretion of the department it may declare a consumer product to be imminently injurious, unsafe or dangerous, and order is immediate recall, ban or seizure from public sale or distribution, in which case, the seller, distributor, manufacturer or producer thereof shall be afforded a hearing within forty-eight (48) hours from such order.

The ban on the sale and distribution of a consumer product adjudged injurious, unsafe or dangerous, or imminently injurious, unsafe or dangerous under the preceding paragraph shall stay in force until such time that its safety can be assured or measures to ensure its safety have been established.

Article 11. ***Amendment and Revocation of Declaration of the Injurious, Unsafe or Dangerous Character of a Consumer Product*****.** – Any interested person may petition the appropriate department to commence a proceeding for the issuance of an amendment or revocation of a consumer product safety rule or an order declaring a consumer product injurious, dangerous and unsafe.

In case the department, upon petition by an interested party or its own initiative and after due notice and hearing, determines a consumer product to be substandard or materially defective, it shall so notify the manufacturer, distributor or seller thereof of such finding and order such manufacturer, distributor or seller to:

a) give notice to the public of the defect or failure to comply with the product safety standards; and

b) give notice to each distributor or retailer of such product.

The department shall also direct the manufacturer, distributor or seller of such product to extend any or all of the following remedies to the injured person:

a) to bring such product into conformity with the requirements of the applicable consumer product standards or to repair the defect in order to conform with the same;

b) to replace the product with a like or equivalent product which complies with the applicable consumer product standards which does not contain the defect;

c) to refund the purchase price of the product less a reasonable allowance for use; and

d) to pay the consumer reasonable damages as may be determined by the department.

The manufacturer, distributor or seller shall not charge a consumer who avails himself of the remedy as provided above of any expense and cost that may be incurred.

Article 12. ***Effectivity of Amendments and Revocation of Consumer Product Safety Rule*****.** – Any amendment or revocation of a consumer product safety rule made by the concerned department shall specify the date on which it shall take effect which shall not exceed ninety days from the date of amendment or revocation is published unless the concerned department finds, for a good cause shown, that a later effective date is in the public interest and publishes its reasons for such finding. The department shall promulgate the necessary rules for the issuance, amendment or revocation of any consumer product safety rule.

Article 13. ***New Products*****.** – The concerned department shall take measures to make a list of new consumer products and to cause the publication by the respective manufacturers or importers of such products a list thereof together with the descriptions in a newspaper of general circulation.

Article 14. ***Certification of Conformity to Consumer Product Standards*****.** – The concerned department shall aim at having consumer product standards established for every consumer product so that consumer products shall be distributed in commerce only after inspection and certification of its quality and safety standards by the department. The manufacturer shall avail of the Philippine Standard Certification Mark which the department shall grant after determining the product's compliance with the relevant standard in accordance with the implementing rules and regulations.

Article 15. ***Imported Products*****.** –

a) Any consumer product offered for importation into the customs of the Philippine territory shall be refused admission if such product:

1) fails to comply with an applicable consumer product quality and safety standard or rule;

2) is or has been determined to be injurious, unsafe and dangerous;

3) is substandard; or

4) has material defect.

b) Samples of consumer products being imported into the Philippines in a quantity necessary for purposes of determining the existence of any of the above causes for non-admission may be obtained by the concerned department or agency without charge from the owner or consignee thereof. The owner or consignee of the imported consumer product under examination shall be afforded an opportunity to a hearing with respect to the importation of such products into the Philippines. If it appears from examination of such samples or otherwise that an imported consumer product does not conform to the consumer product safety rule or is injurious, unsafe and dangerous, is substandard or has a material defect, such product shall be refused admission unless the owner or the consignee thereof manifests under bond that none of the above ground for non-admission exists or that measures have been taken to cure them before they are sold, distributed or offered for sale to the general public.

Any consumer product, the sale or use of which has been banned or withdrawn in the country of manufacture, shall not be imported into the country.

c) If it appears that any consumer product which may not be admitted pursuant to paragraph (a) of this Article can be so modified that it can already be accepted, the concerned department may defer final examination as to the admission of such product for a period not exceeding ten (10) days, and in accordance with such regulations as the department and the Commissioner of Customs shall jointly promulgate, such product may be released from customs custody under bond for the purpose of permitting the owner or consignee an opportunity to so modify such product.

d) All modifications taken by an owner or consignee for the purpose of securing admission of an imported consumer product under paragraph (c) shall be subject to the supervision of the concerned department. If the product cannot be so modified, or if the owner or consignee is not proceeding to satisfactorily modify such product, it shall be refused admission and the department may direct redelivery of the product into customs custody, and to seize the product if not so redelivered.

e) Imported consumer products not admitted must be exported, except that upon application, the Commissioner of Customs may permit the destruction of the product if, within a reasonable time, the owner or consignee thereof fails to export the same.

f) All expenses in connection with the destruction provided for in this Article, and all expenses in connection with the storage, cartage or labor with respect to any consumer product refused admission under this Article, shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any future importation made by such owner or consignee.

Article 16. ***Consumer Products for Export*****.** – The preceding article on safety not apply to any consumer product if:

a) it can be shown that such product is manufactured, sold or held for sale for export from the Philippines, or that such product was imported for export, unless such consumer product is in fact distributed in commerce for use in the Philippines; and

b) such consumer product or the packaging thereof bears a stamp or label stating that such consumer product is intended for export and actually exported.

Article 17. ***Powers, functions and duties*****.** – In addition to their powers, functions and duties under existing laws, the concerned department shall have the following powers, functions and duties:

a) to administer and supervise the implementation of this Article and its implementing rules and regulations;

b) to undertake researches, develop and establish quality and safety standards for consumer products in coordination with other government and private agencies closely associated with these products;

c) to inspect and analyze consumer products for purposes of determining conformity to established quality and safety standards;

d) to levy, assess, collect and retain fees as are necessary to cover the cost of inspection, certification, analysis and tests of samples of consumer products and materials submitted in compliance with the provisions of this Article;

e) to 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 product-related deaths, illnesses and injuries.

f) to accredit independent, competent non-government bodies, to assist in (1) monitoring the market for the presence of hazardous or non-certified products and other forms of violations of Article 18; and (2) other appropriate means to expand the monitoring and enforcement outreach of the department in relation to its manpower, testing and certification resources at a given time.

g) to accredit independent competent testing laboratories.

PROHIBITED ACTS AND PENALTIES

Article 18. ***Prohibited Acts*****.** – It shall be unlawful for any person to:

a) manufacture for sale, offer for sale, distribute in commerce, or import into the Philippines any consumer product which is not in conformity with an applicable consumer product quality or safety standard promulgated in this Act;

b) manufacture for sale, offer for sale, distribute in commerce, or import into the Philippines any consumer product which has been declared as banned consumer product by a rule in this Act;

c) refuse access to or copying of pertinent records or fail or refuse to permit entry of or inspection by authorized officers or employees of the department;

d) fail to comply with an order issued under Article II relating to notifications of substantial product hazards and to recall, repair, replacement or refund of unsafe products;

e) fail to comply with the rule prohibiting stockpiling.

Article 19. ***Penalties*****.** –

a) Any person who shall violate any provision of Article 18 shall upon conviction, be subject to a fine of not less than One thousand pesos (P1,000.00) but not more than Ten thousand pesos (P10,000.00) or imprisonment of not less than two (2) months but not more than one (1) year, or both upon the discretion of the court. If the offender is an alien, he shall be deported after service of sentence and payment of fine without further deportation proceedings.

b) In case the offender is a naturalized citizen, he shall, in addition to the penalty prescribed herein, suffer the penalty of cancellation of his naturalization certificate and its registration in the civil register and immediate deportation after service of sentence and payment of fine.

c) Any director, officer or agent of a corporation who shall authorize, order or perform any of the acts or practices constituting in whole or in part a violation of Article 18, and who has knowledge or notice of noncompliance received by the corporation from the concerned department, shall be subject to penalties to which that corporation may be subject.

In case the violation is committed by, or in the interest of a foreign juridical person duly licensed to engage in business in the Philippines, such license to engage in business in the Philippines shall immediately be revoked.

CHAPTER II
FOOD, DRUGS, COSMETICS AND DEVICES

Article 20. *Declaration of Policy*. – The State shall ensure safe and good quality of food, drugs, cosmetics and devices, and regulate their production, sale, distribution and advertisement to protect the health of the consumer.

Article 21. *Implementing Agency*. – In the implementation of the foregoing policy, the State, through the Department of Health, hereby referred as the Department, shall, in accordance with the provisions of this Act:

a) establish standards and quality measures for food, drugs, devices and cosmetics;

b) adopt measures to ensure pure and safe supply of foods and cosmetics, and safe, efficacious and good quality of drugs and devices in the Country;

c) adopt measures to ensure the rational use of drugs and devices, such as, but not limited to, banning, recalling or withdrawing from the market drugs and devices which are unregistered, unsafe, inefficacious or of doubtful therapeutic value, the adoption of an official National Drug Formulary, and the use of generic names in the labeling of drugs;

d) strengthen the Bureau of Food and Drugs.

Article 22. *Rules and Regulations on Definitions and Standards*. – Whenever in the judgment of the Department such action will promote honesty and fair dealing in the interest of consumers, it shall promulgate rules and regulations fixing and establishing a reasonable definition and standard of identity, a reasonable standard of quality and/or reasonable standard of fill of containers for food, drugs, cosmetics or devices.

Article 23. *Adulterated Food*. – A food shall be deemed to be adulterated:

a) 1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such food shall not be considered adulterated under this clause if the quantity of such substance does not ordinarily render it injurious to health;

2) if it bears or contains any added poisonous or deleterious substance other than one which is (i) a pesticide chemical in or on a raw agricultural commodity, (ii) a food additive, (iii) a color additive, for which tolerances have been established and it conforms to such tolerances;

3) if it consists in whole or in part of any filthy, putrid or decomposed substance, or if it is otherwise unfit for food;

4) if it has been prepared, packed or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby, it may have been rendered injurious to health;

5) if it is, in whole or part, the product of a diseased animal or of an animal which has died other than by slaughter;

6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

7) if it has passed its expiry date.

b) (1) If any valuable constituent has been, in whole or in part, omitted or abstracted therefrom and the same has not been substituted, by any healthful equivalent of such constituent;

2) if any substance, not a valuable constituent, has been added or substituted or in part therefor;

3) if damage or inferiority has been concealed in any manner; or

4) if any substance has been added thereto or packed therewith so as to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is.

c) if it is, or bears or contains a color additive which is unsafe under existing regulations: Provided, That the Department shall promulgate regulations providing for the listing of color additives which are harmless and suitable for use in food for which tolerances have been established;

d) if it is confectionary, and it bears or contains any alcohol or non-nutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glass not in excess of four-tenths (4/10) of one per centum (1%) natural gum and pectin: Provided, That this clause shall not apply to a safe non-nutritive article or substance if, in the judgment of the Department as provided by regulations, (1) such article or substance is of practical functional value in the manufacture, packaging or storage of such confectionery, (2) if the use of the substance does not promote deception of the consumer or otherwise results in adulteration or mislabeling in violation of any provision of this Act, and (3) would not render the product injurious or hazardous to health: Provided, further, That this paragraph shall not apply to any confectionery by reason of its containing less than one-half (½) of one per centum (1%) by volume of alcohol, derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless non-nutritive masticatory substance: Provided, finally,

That the Department may, for the purpose of avoiding or resolving uncertainty as to the application of this clause, promulgate regulations allowing or prohibiting the use of particular non-nutritive substances;

e) if it is oleomargarine, margarine or butter and any of the raw materials used therein consists in whole or in part of any filthy, putrid or decomposed substance, or such oleomargarine, margarine or butter is otherwise unfit for food;

f) if it has not been prepared in accordance with current acceptable manufacturing practice established by the Department through regulations.

Article 24. ***Regulation of Unprocessed Food.*** – The provincial, municipal and city governments shall regulate the preparation and sale of meat, fresh fruits, poultry, milk, fish, vegetables and other foodstuff for public consumption, pursuant to the Local Government Code.

Article 25. ***Tolerance for Poisonous Ingredients in Food.*** – Any poisonous or deleterious substance added to any food shall be deemed to be unsafe, except when such substance is required or can not be avoided in its production or can not be avoided by good manufacturing practice. In such case, the Department shall promulgate regulations limiting the quantity therein in such extent as he finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall be deemed to be unsafe. In determining the quantity of such added substance to be tolerated in different articles of food, the Department shall take into account the extent to which the use of such article is required or can not be avoided in the production or manufacture of such articles and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substance.

Article 26. ***Unsafe Food Additives, Exceptions for Conformity with Regulation.*** – A food additive, with respect to any particular use or intended use, shall be deemed unsafe unless:

a) it and its use or intended use conforms to the terms of an exemption for being solely intended for investigational use by qualified experts; or

b) it and its use or intended use is in conformity with a regulation issued by the Department prescribing the conditions under which such additives may be safely used.

Article 27. ***Petition for Regulation of Food Additive.*** – Any person may, with respect to any intended use of a food additive, file with the Department a petition proposing the issuance of a regulation prescribing the conditions under which such additives may be safely used.

The Department shall (1) establish a regulation prescribing, with respect to one or more proposed uses of the food additive involved, (i) the conditions under which a food additive may be safely used including, but not limited to, specifications as to the particular food, classes of food, in which such additive may be used, (ii) the maximum quantity which may be used, or permitted to remain in or on such food; (iii) the manner in which such additive may be added to or used in or on such food, and (iv) any directions or other labeling or packaging requirement for such additive deemed necessary to assure the safety of such use, and shall notify the petitioner of such order and the reasons for such action; or (2) deny the petition and notify the petitioner of and the reasons for such action.

The Department may, at any time upon his own initiative, issue a regulation prescribing, with respect to any particular food additive, the conditions under which such additive may be safely used and the reasons thereof, and cause the publication of the same.

Article 28. ***Effectivity of Regulations.*** – The regulations promulgated under the preceding articles shall take effect fifteen (15) days after its publication in a newspaper of general circulation but the Department may stay such effectivity if, after issuance of such order, a hearing is sought by any person adversely affected by such order.

DRUGS AND DEVICES

Article 29. ***Adulterated Drugs and Devices.*** – A drug or device shall be deemed to be adulterated:

a) 1) if it contains in whole or in part of any filthy, putrid, or decomposed substance which may affect its safety, efficacy or good quality; or (2) if it has been manufactured, prepared or held under unsanitary conditions whereby it may have been contaminated with dirt or filth or whereby it may have been rendered injurious to health; or (3) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or (4) if it bears or contains any color other than a permissible one as determined by the Department, taking into consideration standards of safety, efficacy or good quality.

b) If it purports to be or is represented as a drug, the name of which is recognized in an official compendium, and its strength differs from, or its safety, efficacy, quality or purity falls below the standards set forth in such compendium, except that whenever tests or methods of assay as prescribed are, in the judgment of the Department, insufficient for the making of such determination, the Department shall promulgate regulations prescribing appropriate tests or methods of safety, efficacy, quality or purity shall be made. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standards of strength, safety, efficacy, quality or purity therefor set forth in such compendium, if its difference in strength, safety, efficacy, quality or purity from such standards is plainly stated in its label and approved for registration as such.

c) If it is not subject to the provisions of paragraph (b) and its strength differs from, or its efficacy, quality or purity falls below, that which it purports or is represented to possess.

d) If a drug or device and any substance has been mixed or packed therewith, or any substance has been substituted wholly or in part thereof, so as to reduce its safety, efficacy, quality, strength or purity.

e) If the methods used in, or the facilities or controls used for its manufacture or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that such drug meets the requirements of this Act as to safety, quality and efficacy, and has the identity and strength, and meets the quality and purity characteristics which it purports or is represented to possess.

Article 30. ***Exemption in Case of Drugs and Devices.*** –

a) The Department is hereby directed to promulgate regulations exempting from any labeling or packaging requirement of this Act drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled or repacked in substantial quantities at establishments other than those where originally processes or packed, on conditions that such

drugs and devices are not adulterated or mislabeled under the provisions of this Act upon removal from such processing, labeling or repacking establishment.

b) 1) Drugs intended for use by man which:

(i) are habit-forming;

(ii) because of their toxicity or other potentiality for harmful effect, or method of their use is not safe for use except under the supervision of practitioner licensed by law to administer such drug;

(iii) are new drugs whose applications are limited to investigational use; shall be dispensed only (a) upon written prescription of a practitioner licensed by law to administer such drug, or (b) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by the pharmacist, or (c) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist. The act of dispensing a drug contrary to the provisions of this paragraph shall be deemed to be an act which results in the drug being mislabeled while held for sale.

2) Any drug dispensed by filling or refilling a written prescription of a practitioner licensed by law to administer such drug shall be exempt from the requirements of Article 89, except paragraphs (a), (h), (2) and (3), and the packaging requirements of paragraphs (f) and (g), if the drug bears a label containing the name and address of the dispenser, the serial number and the date of the prescription or its filling, the name of the prescriber and, if stated in the prescription the name of the patient and the directions for use and cautionary statements, if any, container in such prescription.

3) The Department may, by regulation, remove drugs subject to Article 89 (d) and Article 31 from the requirements of sub-article (b) (1) of this Article, when such requirements are not necessary for the protection of the public health.

4) A drug which is subject to sub-article (b) (1) of this Article shall be deemed to be mislabeled if any time prior to dispensing, its label fails to bear the statement "Caution: Should not be dispensed without prescription." A drug to which sub-article (b) (1) of this Article does not apply shall de deemed to be mislabeled it at any time prior to dispensing, its label bears the caution statement quoted in the preceding sentence.

Article 31. ***Licensing and Registration*****.** –

a) No person shall manufacture, sell, offer for sale, import, export, distribute or transfer any drug or device, unless an application filed pursuant to sub-article (b) hereof is effective with respect to such drug or device.

b) Any person may file with the Department, through the Department, an application under oath with respect to any drug or device subject to the provisions of sub-article (a) hereof. Such persons shall submit to the Department: (1) full reports of investigations which have been made to show whether or not such drug or device is safe, efficacious and of good quality for use based on clinical studies conducted in the Philippines; (2) a full list of the articles used as components of such drug or device; (3) a full statement of the composition of such drug or device; (4) a full description of the methods used in and the facilities and controls used for the manufacture of such drug or device; (5) such samples of such drug or device and of the articles used as components thereof as the Department may require; (6) specimens of the labeling proposed to be used for such drug or device; and (7) such other requirements as may be prescribed by regulations to ensure safety, efficacy and good quality of such drug and device.

c) Within one hundred eighty (180) days after the filing of an application under this sub-article, or such additional period as may be agreed upon by the Department and the applicant, the Department shall either (1) approve the application if he then finds that none of the grounds for denying approval specified in sub-article (d) applies, or (2) give the applicant notice of an opportunity for a hearing before the Department under sub-article (d) on the question whether such application is approvable.

d) If the Department finds, after due notice to the applicant and giving him an opportunity for a hearing, that (1) the reports of the investigations which are required to be submitted to the Department pursuant to sub-article (b) hereof, do not include adequate tests by all methods reasonably applicable to show whether or not such drug or device is safe, efficacious and of good quality for use under the conditions prescribed, recommended or suggested in the proposed labeling thereof; (2) the results of such test show that drug or device is unsafe, inefficacious or of doubtful therapeutic value for use under such conditions or do not show that such drug or device is safe, methods used in, and the facilities and controls used for the manufacture of such drug or device are inadequate to preserve its identity, strength, quality and purity; or (4) upon the basis of the information submitted to him as part of the application, or upon the basis of any other information before him with respect to such drug or device, he has insufficient information to determine whether such drug or device is safe, efficacious or of good equality for use under such conditions; or (5) evaluated on the basis of the information submitted to him as part of the application, and any other information before him with respect to such drug or device, there is a lack of substantial evidence that the drug or device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended or suggested in the proposed labeling thereof; or (6) based on a fair evaluation of all material facts, such labeling is false or misleading in any way; he shall issue an order disapproving the application.

e) The effectiveness of an application with respect to any drug or device shall, after due notice and opportunity for hearing to the applicant, by order of the Department be suspended if it finds (1) that clinical experience, tests by new methods, or tests by methods not deemed reasonably applicable when such application became effective show that such drug or device is unsafe or ineffective for use under the conditions of use upon the basis of which the application became effective, or (2) that the application contains any untrue statement of a material fact. The order shall state the findings upon which it is based.

f) The Department shall promulgate regulations for exempting from the operation of this Article drugs and devices intended solely for investigational used by experts qualified by scientific training and experience to investigate the safety and effectiveness of drugs and devices.

g) No person shall manufacture, sell, offer for sale, import, export, distribute or transfer any drug or device without first securing a license to operate from the Department after due compliance with technical requirements in accordance with the rules and regulations promulgated by the Department pursuant to this Act.

h) No drug or device shall be manufactured, sold, offered for sale, imported, exported, distributed or transferred, unless registered by the manufacturer, imported or distributor thereof, in accordance with rules and regulations promulgated by the Department pursuant to this Act. The provisions of Article 31 (b), (d) and (e), to the extent applicable, shall govern the registration of such drugs and devices.

i) The Department shall promulgate a schedule of fees for the issuance of the certificate of product registration and license to operate provided for under this Article.

Article 32. *Dangerous Drugs*. – The importation, distribution, manufacture, production, compounding, prescription, dispensing and sale of, and other lawful acts in connection with, dangerous drugs of such kind and quantity as may be deemed necessary according to the medical and research needs of the country and the determination of the quantity/quantities to be imported, manufactured and held in stock at any given time by an authorized importer, manufacturer or distributor of dangerous drugs shall be under the jurisdiction and authority of the Dangerous Drugs Board as provided for by existing laws and regulations.

Article 33. *Banned or Restricted Drugs*. – Banned or severely restricted drugs for health and safety reasons in their country of origin shall be banned and confiscated or its uses severely restricted whichever is appropriate, by the Department. The Department shall monitor the presence in the market of such drugs and cause the maintenance and regular publications of an updated consolidated list thereof.

CERTIFICATION OF DRUGS CONTAINING ANTIBIOTICS

Article 34. *Certification of Certain Drugs*. –

a) The Department shall, by regulations, provide for the certification of batches of drugs composed wholly or partially of any kind of antibiotic. A batch of such drug shall be certified if such drug has such characteristics of identity, strength, quality and purity, as the Department prescribes in such regulations as necessary to insure adequately safety and efficacy of use and good quality, but shall not otherwise be certified. Prior to the effective date of such regulations the Department, in lieu of certification, shall issue a release for any batch which, in his judgment, may be released without risk as to the safety and efficacy of its use. Such release shall prescribe the date of its expiration and other conditions under which it shall cease to be effective as to such batch and as to portions thereof. For purposes of this Article and of Article 89 (j), the term "antibiotic drug" means any drug intended for use by man containing any quantity of any chemical substance which is produced by a micro-organism and which has the capacity to inhibit or destroy micro-organisms in dilute solution (including the chemically synthesized equivalent of any such substance).

b) Whenever in the judgment of the Department, the requirements of this Article and of Article 89 (j) with respect to any drug or class of drugs are not necessary to insure safety and efficacy of use and good quality, the Department shall promulgate regulations exempting such drug or class of drugs from such requirements.

c) The Department shall promulgate regulations exempting from any requirement of this Article and of Article 89 (j), (l) drugs which are to be stored, processed, labeled, or repacked at establishments other than those where manufactured, or condition that such drugs comply with all such requirements upon removal from such establishments; (2) drugs which conform to applicable standards of identity, strength, quality, and purity prescribed by these regulations and are intended for use in manufacturing other drugs; and (3) drugs which are intended for investigational use by experts qualified by scientific training and experience to investigate the safety and efficacy of drugs.

COSMETICS

Article 35. *Adulterated cosmetics*. – A cosmetic shall be deemed to be adulterated:

a) if it bears or contains any poisonous or deleterious substance which may render it injurious to users under the condition of use prescribed in the labeling thereof, or under the condition of use as are customary or usual: Provided, That this provision shall not apply to color additive hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution: this product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness" and labeling of which bears adequate directions for such preliminary testing. For purposes of this paragraph (e) the term "hair dye" shall not include eyelash dyes or eyebrow dyes.

b) if it consists in whole or in part of any filthy, putrid, or decomposed substance.

c) if it has been prepared, packed or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

d) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

e) if it is not a hair dye, and it bears or contains color additive other than which is permissible.

f) if any of its substances has been (1) mixed or packed therewith so as to reduce its quality or strength or (2) substituted wholly or in parts therefor.

Article 36. *Factory Inspection*. –

a) For purposes of enforcement of this Article, officers or employees duly designated by the Department, upon presenting appropriate credentials to the owner, operator, or agent in charge, are authorized (1) to enter, at reasonable hours, any factory, warehouse or establishment in which food, drugs, devices or cosmetics are manufactured, processed, packed or held, for introduction into domestic commerce or are held after such introduction, or to enter any vehicle being used to transport or hold such food, drugs, devices, or cosmetics in domestic commerce; and (2) to inspect, in a reasonable manner, such factory, warehouse, or establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers and labeling therein.

b) If the officer or employee making any such inspection of a factory, warehouse or other establishment has obtained any sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

c) Whenever in the course of any such inspection of a factory or other establishment where food is manufactured, processed or packed, the officer or employee making the inspection obtains a sample of any such food, and an analysis made of such sample for the purpose of ascertaining whether such food consists in whole or in part of any filthy, putrid or decomposed substance, or is otherwise unfit for food, a copy of the results of such analysis shall be furnished promptly to the owner, operator or agent in charge.

Article 37. *Provisional Permits*. – Whenever the Department finds, after investigation, that the sale or distribution in commerce of any class of food, cosmetics, drugs or devices, may be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered into domestic commerce, it shall promulgate regulations providing for the issuance, suspension and revocation of provisional permits, offer for sale or transfer of such classes of food, cosmetics, drugs or devices to manufacturers, processors or packers of the same in such locality to which shall be attached such conditions governing the manufacture, processing or packing of such consumer products for such temporary period of time as may be necessary to protect public health; and after the effective date of such regulations, and during such temporary period, no person shall, offer for sale or transfer any such food, cosmetics, drugs or devices unless such manufacturer, processor or packer holds such permit.

Article 38. *Publicity and Publication*. –

a) The Department my cause to be disseminated information regarding food, drugs, devices, or cosmetics in situations involving, in the opinion of the Department, imminent danger to health, or gross deception to the consumer. Nothing in this Article shall be construed to prohibit the Department from collecting, reporting, and illustrating the results of its investigations.

b) The Department shall publish a Drug Reference Manual and Drug Bulletin to serve as reference by manufacturers, distributors, physicians, consumers and such other groups as may be deemed necessary. The Department is hereby authorized to sell the Drug Reference Manual at cost.

Article 39. *Administrative Sanctions*. – In addition to the administrative sanctions provided for under Letter of Instructions No. 1223, the Department is hereby authorized to impose, after notice and hearing, administrative fines of not less than One thousand pesos (P1,000.00) nor more than Five thousand pesos (P5,000.00) for any violation of this Act.

PROHIBITED ACTS AND PENALTIES

Article 40. *Prohibited Acts*. – The following acts and the causing thereof are hereby prohibited:

a) the manufacture, importation, exportation, sale, offering for sale, distribution or transfer of any food, drug, device or cosmetic that is adulterated or mislabeled;

b) the adulteration or misbranding of any food, drug, device or cosmetic;

c) the refusal to permit entry or inspection as authorized by Article 36 to allow samples to be collected;

d) the giving of a guaranty or undertaking referred to in Article 41 (b) hereof which guaranty or undertaking is false, except by a person who relied upon a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the Philippines from whom he received in good faith the food, drug, device, or cosmetic or the giving of a guaranty or undertaking referred to in Article 41 (b) which guaranty or undertaking is false;

e) forging, counterfeiting, simulating, or falsely representing or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of this Act;

f) the using by any person to his own advantage, or revealing, other than to the Department or to the courts when relevant in any judicial proceeding under this Act, any information concerning any method or process which as a trade secret is entitled to protection;

g) the alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device, or cosmetic, if such act is done while such product is held for sale (whether or not the first sale) and results in such product being adulterated or mislabeled;

h) the use, on the labeling of any drug or in any advertising relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under Article 31 hereof, or that such drug complies with the provisions of such articles;

i) the use, in labeling, advertising or other sales promotion, of any reference to any report or analysis furnished in compliance with Section 19 of Executive Order 175, series of 1987;

j) the manufacture, importation, exportation, sale, offering for sale, distribution, or transfer of any drug or device which is not registered with the Department pursuant to this Act;

k) the manufacture, importation, exportation, sale, offering for sale, distribution, or transfer of any drug or device by any person without the license from the Department required in this Act;

l) the sale or offering for sale of any drug or device beyond its expiration or expiry date;

m) the release for sale or distribution of a batch of drugs without batch certification when required under Article 34 hereof.

Article 41. *Penalties*. –

a) Any person who violates any of the provisions of Article 40 hereof shall, upon conviction, be subject to imprisonment of not less than one (1) year but not more than five (5) years, or a fine of not less than Five thousand pesos (P5,000.00) but not more than Ten thousand pesos (P10,000.00), or both such imprisonment and fine, in the discretion of the Court.

Should the offense be committed by a juridical person, the Chairman of the Board of Directors, the President, General Manager, or the partners and/or the persons directly responsible therefor shall be penalized.

b) No person shall be subject to the penalties of sub-article (a) of this Article for (1) having sold, offered for sale or transferred any product and delivered it, if such delivery was made in good faith, unless he refuses to furnish on request of the Department, the name and address of the person from whom he purchased or received such product and copies of all documents, if any there be, pertaining to the delivery of the product to him; (2) having violated Article 40 (a) if he established a guaranty or undertaking signed by, and containing the name and address of, the person residing in the Philippines from whom he received in good faith the product, or (3) having violated Article 40 (a), where the violation exists because the product is adulterated by reason of containing a color other than the permissible one under regulations promulgated by the Department in this Act, if such person establishes a guaranty or undertaking signed by, and containing the name and address, of the manufacturer of the color, to the effect that such color is permissible, under applicable regulations promulgated by the Department in this Act.

CHAPTER III
HAZARDOUS SUBSTANCE

Article 42. ***Declaration of Policy*****.** – The State shall adopt measures designed to protect the consumer against substances other than food, drugs, cosmetics and devices that are hazardous to his health and safety.

Article 43. ***Implementing Agency*****.** – The Department of Health, hereby referred to as the Department, shall enforce the provisions of this Chapter.

Article 44. ***Regulations Declaring Hazardous Substances and Establishing Variations and Exemptions*****.** – The Department shall promulgate the rules and regulations governing the implementation of this Article.

To resolve uncertainty as to the coverage of this Article, the Department may, by regulations, declare as hazardous any substance of mixture of substances which he finds meets the requirements of paragraph (ak), clause (1) (i) of Article 4.

If the Department finds that for good and sufficient reasons, full compliance with the labeling requirements otherwise applicable under this Chapter is impracticable or is not necessary for the adequate protection of public health and safety, it shall promulgate regulations exempting such substances from these requirements to the extent he deems consistent with the objective of adequately safeguarding public health and safety, and any hazardous substance which does not bear a label in accordance with such regulations shall be deemed to be a mislabeled hazardous substance.

Article 45. ***Imports: Regulations on Imported Hazardous Substances*****.** –

a) The Commissioner of Customs shall deliver to the Department, upon its request, samples of hazardous substances being imported or offered for import to the Philippines, giving notice thereof to the owner or consignee who may appear before the Department and exercise the right to make testimony. If it appears from the examination of such samples that such hazardous substance is a mislabeled hazardous substance or banned hazardous substance, then such hazardous substance shall be refused admission except as may be provided in an order issued by the Department authorizing delivery of the refused products or substance under the requirements imposed therein. The Commissioner of Customs shall cause the destruction of any hazardous substance refused admission unless such is exported, under regulations issued by the Commissioner within ninety (90) days from the date of notice of such refusal or within such additional time as may be fixed by him.

b) Pending decision on the admissibility of a hazardous substance being imported or offered for import, the Commissioner of Customs may authorize delivery of such hazardous substance to the owner or consignee upon execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default. If it appears to the Department that the hazardous substance can by relabeling or other action made to comply with the requirements of this Article final determination as to the admission of such hazardous substance may be deferred and upon filing of a timely written application by the owner or consignee and the execution by him of a bond as provided in the provision of this paragraph. The Department may, in accordance with regulations, authorize the applicant to perform such relabeling or other action specified in such authorization, including destruction or export of such rejected hazardous substance. All such relabeling or other action pursuant to such authorization shall be in accordance with regulations and shall be under the supervision of an officer or employee of the Commission of Customs and the Department.

PROHIBITED ACTS AND PENALTIES

Article 46. ***Prohibited Acts*****.** – It shall be unlawful for any person to:

a) introduce or deliver for introduction into commerce of any mislabeled hazardous substance or banned hazardous substance;

b) alter, mutilate, destroy, obliterate or remove the whole or any part of the label of a mislabeled hazardous substance, or banned hazardous substance, if such act is done while the substance is in commerce or while the substance is held for sale, whether or not it is the first sale;

c) receive in commerce any mislabeled hazardous substance or banned hazardous substance and the delivery or preferred delivery thereof at cost or otherwise;

d) give the guaranty or undertaking referred to in paragraph (b) of Article 93 and paragraph (b) of Article 45 if such guaranty or undertaking if false except by a person who relied upon a guaranty or undertaking which he received in good faith;

e) introduce or deliver for introduction into commerce or receive in commerce and subsequently deliver or preferred at cost or otherwise, or a hazardous substance in a refused food, drug, cosmetic or device container or in a container which, though not a reused container, is identifiable as a food, drug, cosmetic or device container by its labeling or by other identification. The use of a used food, drug, cosmetic or device container for a hazardous substance does not diminish the danger posed by the hazardous substance involved, therefore, such substance shall be deemed a mislabeled hazardous substance.

Article 47. *Penalties, exception*. –

a) Any person who violates any of the provisions of Article 46 shall, upon conviction, be subject to a fine of not less than One thousand pesos (P1,000.00) or an imprisonment of not less than six (6) months but not more than five (5) years or both upon the discretion of the court.

b) No person shall be subject to the penalties of paragraph (a) of this Article for (1) having violated paragraph (c) of Article 46 unless he refuses to furnish, upon request by the Department or his representative, the name and address of the person from who he purchased such hazardous substances and (2) having violated paragraph (a) of Article 46, if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person from whom he received in good faith, the hazardous substance to the effect that the hazardous substance is not a mislabeled hazardous substance or banned hazardous within the meaning of that term in this Act.

TITLE III. – PROTECTION AGAINST DECEPTIVE, UNFAIR ANDUNCONSCIONABLE SALES ACTS OR PRACTICES

CHAPTER I
DECEPTIVE, UNFAIR AND UNCONSCIONABLE SALES ACTS OR PRACTICES

Article 48. *Declaration of Policy*. – The State shall promote and encourage fair, honest and equitable relations among parties in consumer transactions and protect the consumer against deceptive, unfair and unconscionable sales acts or practices.

Article 49. *Implementing Agency*. – The Department of Trade and Industry, hereby referred to as the Department, shall enforce the provisions of this Chapter.

REGULATION OF SALES ACTS AND PRACTICES

Article 50. *Prohibition Against Deceptive Sales Acts or Practices*. – A deceptive act or practice by a seller or supplier in connection with a consumer transaction violates this Act whether it occurs before, during or after the transaction. An act or practice shall be deemed deceptive whenever the producer, manufacturer, supplier or seller, through concealment, false representation of fraudulent manipulation, induces a consumer to enter into a sales or lease transaction of any consumer product or service.

Without limiting the scope of the above paragraph, the act or practice of a seller or supplier is deceptive when it represents that:

a) a consumer product or service has the sponsorship, approval, performance, characteristics, ingredients, accessories, uses, or benefits it does not have;

b) a consumer product or service is of a particular standard, quality, grade, style, or model when in fact it is not;

c) a consumer product is new, original or unused, when in fact, it is in a deteriorated, altered, reconditioned, reclaimed or second-hand state;

d) a consumer product or service is available to the consumer for a reason that is different from the fact;

e) a consumer product or service has been supplied in accordance with the previous representation when in fact it is not;

f) a consumer product or service can be supplied in a quantity greater than the supplier intends;

g) a service, or repair of a consumer product is needed when in fact it is not;

h) a specific price advantage of a consumer product exists when in fact it does not;

i) the sales act or practice involves or does not involve a warranty, a disclaimer of warranties, particular warranty terms or other rights, remedies or obligations if the indication is false; and

j) the seller or supplier has a sponsorship, approval, or affiliation he does not have.

Article 51. *Deceptive Sales Act or Practices By Regulation*. – The Department shall, after due notice and hearing, promulgate regulations declaring as deceptive any sales act, practice or technique which is a misrepresentation of facts other than these enumerated in Article 50.

Article 52. *Unfair or Unconscionable Sales Act or Practice*. – An unfair or unconscionable sales act or practice by a seller or supplier in connection with a consumer transaction violates this Chapter whether it occurs before, during or after the consumer transaction. An act or practice shall be deemed unfair or unconscionable whenever the producer, manufacturer, distributor, supplier or seller, by taking advantage of the consumer's physical or mental infirmity, ignorance, illiteracy, lack of time or the general conditions of the environment or surroundings, induces the consumer to enter into a sales or lease transaction grossly inimical to the interests of the consumer or grossly one-sided in favor of the producer, manufacturer, distributor, supplier or seller.

In determining whether an act or practice is unfair and unconscionable, the following circumstances shall be considered:

a) that the producer, manufacturer, distributor, supplier or seller took advantage of the inability of the consumer to reasonably protect his interest because of his inability to understand the language of an agreement, or similar factors;

b) that when the consumer transaction was entered into, the price grossly exceeded the price at which similar products or services were readily obtainable in similar transaction by like consumers;

c) that when the consumer transaction was entered into, the consumer was unable to receive a substantial benefit from the subject of the transaction;

d) that when the consumer was entered into, the seller or supplier was aware that there was no reasonable probability or payment of the obligation in full by the consumer; and

e) that the transaction that the seller or supplier induced the consumer to enter into was excessively one-sided in favor of the seller or supplier.

Article 53. ***Chain Distribution Plans or Pyramid Sales Schemes*****.** – Chain distribution plans or pyramid sales schemes shall not be employed in the sale of consumer products.

Article 54. ***Home Solicitation Sales*****.** – No business entity shall conduct any home solicitation sale of any consumer product or service without first obtaining a permit from the Department. Such permit may be denied suspended or revoked upon cause as provided in the rules and regulations promulgated by the Department, after due notice and hearing.

Article 55. ***Home Solicitation Sales; When Conducted*****.** – Home solicitation sales may be conducted only between the hours of nine o'clock in the morning and seven o'clock in the evening of each working day: Provided, That solicitation sales may be made at a time other than the prescribed hours where the person solicited has previously agreed to the same.

Article 56. ***Home Solicitation Sales; by Whom Conducted*****.** – Home solicitation sales shall only be conducted by a person who has the proper identification and authority from his principal to make such solicitations.

Article 57. ***Receipts for Home Solicitation Sales*****.** – Sales generated from home solicitation sales shall be properly receipted as per existing laws, rules and regulations on sale transactions.

Article 58. ***Prohibited Representations*****.** – A home solicitation sale shall not represent that:

a) the buyer has been specially selected;

b) a survey, test or research is being conducted; or

c) the seller is making a special offer to a few persons only for a limited period of time.

Article 59. ***Referral Sales*****.** – Referral selling plans shall not be used in the sale of consumer products unless the seller executes in favor of the buyer a written undertaking that will grant a specified compensation or other benefit to said buyer in return for each and every transaction consummated by said seller with the persons referred by said buyer or for subsequent sales that said buyers has helped the seller enter into.

Article 60. ***Penalties*****.** –

a) Any person who shall violate the provisions of Title III, Chapter I, shall upon conviction, be subject to a fine of not less than Five Hundred Pesos (P500.00) but not more than Ten Thousand Pesos (P10,000.00) or imprisonment of not less than five (5) months but not more than one (1) year or both, upon the discretion of the court.

b) In addition to the penalty provided for in paragraph (1), the court may grant an injunction restraining the conduct constituting the contravention of the provisions of Articles 50 and 51 and/or actual damages and such other orders as it thinks fit to redress injury to the person caused by such conduct.

CHAPTER II
REGULATION OF PRACTICES RELATIVE TO WEIGHTS AND MEASURES GENERAL PROVISION

Article 61. ***Implementing Agency*****.** – The provincial, city, or municipal treasurers shall strictly enforce the provisions of this Chapter, and its implementing rules and regulations: Provided, That, with respect to the use of the Metric System, it shall be enforced by the Department of Trade and Industry.

Article 62. ***Sealing and Testing of Instruments of Weights and Measure*****.** – All instruments for determining weights and measures in all consumer and consumer related transactions shall be tested, calibrated and sealed every six (6) months by the official sealer who shall be the provincial or city or municipal treasurer or his authorized representative upon payment of fees required under existing law: Provided, That all instruments of weights and measures shall continuously be inspected for compliance with the provisions of this Chapter.

Article 63. ***Use of Metric System.*** – The system of weights and measures to be used for all products, commodities, materials, utilities, services and commercial transactions, in all contracts, deeds and other official and legal instruments and documents shall be the metric system, in accordance with existing laws and their implementing rules and regulations.

The Department of Trade and Industry shall also adopt standard measurement for garments, shoes and other similar consumer products.

PROHIBITED ACTS

Article 64. ***Fraudulent Practices Relative to Weights and Measures*****.** – The following acts relating to weights and measures are prohibited:

a) for any person other than the official sealer or his duly authorized representative to place or attach an official tag, seal, sticker, mark, stamp, brand or other characteristic sign used to indicate that such instrument of weight and measure has officially been tested, calibrated, sealed or inspected;

b) for any person to imitate any seal, sticker, mark, stamp, brand, tag or other characteristic sign used to indicate that such instrument of weight or measures has been officially tested, calibrated, sealed or inspected;

c) for any person other than the official sealer or his duly authorized representative to alter in any way the certificate or receipt given by the official sealer or his duly authorized representative as an acknowledgment that the instrument for determining weight or measure has been fully tested, calibrated, sealed or inspected;

d) for any person to make or knowingly sell or use any false or counterfeit seal, sticker, brand, stamp, tag, certificate or license or any dye for printing or making the same or any characteristic sign used to indicate that such instrument of weight or measure has been officially tested, calibrated, sealed or inspected;

e) for any person other than the official sealer or his duly authorized representative to alter the written or printed figures, letters or symbols on any official seal, sticker, receipt, stamp, tag, certificate or license used or issued;

f) for any person to use or reuse any restored, altered, expired, damaged stamp, tag certificate or license for the purpose of making it appear that the instrument of weight of measure has been tested, calibrated, sealed or inspected;

g) for any person engaged in the buying and selling of consumer products or of furnishing services the value of which is estimated by weight or measure to possess, use or maintain with intention to use any scale, balance, weight or measure that has not been sealed or if previously sealed, the license therefor has expired and has not been renewed in due time;

h) for any person to fraudulently alter any scale, balance, weight, or measure after it is officially sealed;

i) for any person to knowingly use any false scale, balance, weight or measure, whether sealed or not;

j) for any person to fraudulently give short weight or measure in the making of a scale;

k) for any person, assuming to determine truly the weight or measure of any article bought or sold by weight or measure, to fraudulently misrepresent the weight or measure thereof; or

l) for any person to procure the commission of any such offense abovementioned by another.

Instruments officially sealed at some previous time which have remained unaltered and accurate and the seal or tag officially affixed thereto remains intact and in the same position and condition in which it was placed by the official sealer or his duly authorized representative shall, if presented for sealing, be sealed promptly on demand by the official sealer or his authorized representative without penalty except a surcharge fixed by law or regulation.

Article 65. *Penalties*. –

a) Any person who shall violate the provisions of paragraphs (a) to (f) and paragraph (l) of Article 64 or its implementing rules and regulations shall, upon conviction, be subject to a fine of not less than Two hundred pesos (P200.00) but not more than One thousand pesos (P1,000.00) or by imprisonment of not more than one (1) year or both upon the discretion of the court.

b) Any person who shall violate the provisions of paragraph (g) of Article 64 for the first time shall be subject to a fine of not less than Five hundred pesos (P500.00) or by imprisonment of not less than one (1) month but not more than five (5) years or both, upon the discretion of the court.

c) The owner-possessor or user of instrument of weights and measure enumerated in paragraphs (h) to (k) of Article 64 shall, upon conviction, be subject to a fine of not less than Three hundred pesos (P300.00) or imprisonment not exceeding one (1) year, or both, upon the discretion of the court.

CHAPTER III
CONSUMER PRODUCT AND SERVICE WARRANTIES

Article 66. *Implementing Agency*. – The Department of Trade and Industry, shall strictly enforce the provision of this Chapter and its implementing rules and regulations.

Article 67. *Applicable Law on Warranties*. – The provisions of the Civil Code on conditions and warranties shall govern all contracts of sale with conditions and warranties.

Article 68. *Additional Provisions on Warranties*. – In addition to the Civil Code provisions on sale with warranties, the following provisions shall govern the sale of consumer products with warranty:

a) Terms of express warranty. – Any seller or manufacturer who gives an express warranty shall:

1) set forth the terms of warranty in clear and readily understandable language and clearly identify himself as the warrantor;

2) identify the party to whom the warranty is extended;

3) state the products or parts covered;

4) state what the warrantor will do in the event of a defect, malfunction of failure to conform to the written warranty and at whose expense;

5) state what the consumer must do to avail of the rights which accrue to the warranty; and

6) stipulate the period within which, after notice of defect, malfunction or failure to conform to the warranty, the warrantor will perform any obligation under the warranty.

b) Express warranty – operative from moment of sale. – All written warranties or guarantees issued by a manufacturer, producer, or importer shall be operative from the moment of sale.

1) Sales Report. – All sales made by distributors of products covered by this Article shall be reported to the manufacturer, producer, or importer of the product sold within thirty (30) days from date of purchase, unless otherwise agreed upon. The report shall contain, among others, the date of purchase, model of the product bought, its serial number, name and address of the buyer. The report made in accordance with this provision shall be equivalent to a warranty registration with the manufacturer, producer, or importer. Such registration is sufficient to hold the manufacturer, producer, or importer liable, in appropriate cases, under its warranty.

2) Failure to make or send report. – Failure of the distributor to make the report or send them the form required by the manufacturer, producer, or importer shall relieve the latter of its liability under the warranty: Provided, however, That the distributor who failed to comply with its obligation to send the sales reports shall be personally liable under the warranty. For this purpose, the manufacturer shall be obligated to make good the warranty at the expense of the distributor.

3) Retail. – The retailer shall be subsidiarily liable under the warranty in case of failure of both the manufacturer and distributor to honor the warranty. In such case, the retailer shall shoulder the expenses and costs necessary to honor the warranty. Nothing therein shall prevent the retailer from proceeding against the distributor or manufacturer.

4) Enforcement of warranty or guarantee. – The warranty rights can be enforced by presentment of a claim. To this end, the purchaser needs only to present to the immediate seller either the warranty card of the official receipt along with the product to be serviced or returned to the immediate seller. No other documentary requirement shall be demanded from the purchaser. If the immediate seller is the manufacturer's factory or showroom, the warranty shall immediately be honored. If the product was purchased from a distributor, the distributor shall likewise immediately honor the warranty. In the case of a retailer other than the distributor, the former shall take responsibility without cost to the buyer of presenting the warranty claim to the distributor in the consumer's behalf.

5) Record of purchases. – Distributors and retailers covered by this Article shall keep a record of all purchases covered by a warranty or guarantee for such period of time corresponding to the lifetime of the product's respective warranties or guarantees.

6) Contrary stipulations – null and void. – All covenants, stipulations or agreements contrary to the provisions of this Article shall be without legal effect.

c) Designation of warranties. – A written warranty shall clearly and conspicuously designate such warranty as:

1) "Full warranty" if the written warranty meets the minimum requirements set forth in paragraph (d); or

2) "Limited warranty" if the written warranty does not meet such minimum requirements.

d) Minimum standards for warranties. – For the warrantor of a consumer product to meet the minimum standards for warranty, he shall:

1) remedy such consumer product within a reasonable time and without charge in case of a defect, malfunction or failure to conform to such written warranty;

2) permit the consumer to elect whether to ask for a refund or replacement without charge of such product or part, as the case may be, where after reasonable number of attempts to remedy the defect or malfunction, the product continues to have the defect or to malfunction.

The warrantor will not be required to perform the above duties if he can show that the defect, malfunction or failure to conform to a written warranty was caused by damage due to unreasonable use thereof.

e) Duration of warranty. – The seller and the consumer may stipulate the period within which the express warranty shall be enforceable. If the implied warranty on merchantability accompanies an express warranty, both will be of equal duration.

Any other implied warranty shall endure not less than sixty (60) days nor more than one (1) year following the sale of new consumer products.

f) Breach of warranties. – 1) In case of breach of express warranty, the consumer may elect to have the goods repaired or its purchase price refunded by the warrantor. In case the repair of the product in whole or in part is elected, the warranty work must be made to conform to the express warranty within thirty (30) days by either the warrantor or his representative. The thirty-day period, however, may be extended by conditions which are beyond the control of the warrantor or his representative. In case the refund of the purchase price is elected, the amount directly attributable to the use of the consumer prior to the discovery of the non-conformity shall be deducted.

2) In case of breach of implied warranty, the consumer may retain in the goods and recover damages, or reject the goods, cancel and contract and recover from the seller so much of the purchase price as has been paid, including damages.

Article 69. *Warranties in Supply of Services*. –

a) In every contract for the supply of services to a consumer made by a seller in the course of a business, there is an implied warranty that the service will be rendered with due care and skill and that any material supplied in connection with such services will be reasonably fit for the purpose for which it is supplied.

b) Where a seller supplies consumer services in the course of a business and the consumer, expressly or by implication, makes known to the seller the particular purpose for which the services are required, there is an implied warranty that the services supplied under the contract and any material supplied in connection therewith will be reasonably fit for that purpose or are of such a nature or quality that they might reasonably be expected to achieve that result, unless the circumstances show that the consumer does not rely or that it is unreasonable for him to rely, on the seller's skill or judgment.

Article 70. *Professional Services*. – The provision of this Act on warranty shall not apply to professional services of certified public accountants, architects, engineers, lawyers, veterinarians, optometrists, pharmacists, nurses, nutritionists, dietitians, physical therapists, salesmen, medical and dental practitioners and other professionals engaged in their respective professional endeavors.

Article 71. *Guaranty of Service Firms*. – Service firms shall guarantee workmanship and replacement of spare parts for a period not less than ninety (90) days which shall be indicated in the pertinent invoices.

Article 72. *Prohibited Acts*. – The following acts are prohibited:

a) refusal without any valid legal cause by the total manufacturer or any person obligated under the warranty or guarantee to honor a warranty or guarantee issued;

b) unreasonable delay by the local manufacturer or any person obligated under the warranty or guarantee in honoring the warranty;

c) removal by any person of a product's warranty card for the purpose of evading said warranty obligation;

d) any false representation in an advertisement as to the existence of a warranty or guarantee.

Article 73. *Penalties*. –

a) Any person who shall violate the provisions of Article 67 shall be subject to fine of not less than Five hundred pesos (P500.00) but not more than Five thousand pesos (P5,000.00) or an imprisonment of not less than three (3) months but not more than two (2) years or both upon the discretion of the court. A second conviction under this paragraph shall also carry with it the penalty or revocation of his business permit and license.

b) Any person, natural or juridical, committing any of the illegal acts provided for in Chapter III, except with respect to Article 67, shall be liable for a fine of not less than One thousand pesos (P1,000.00) but not more than Fifty thousand pesos (P50,000.00) or imprisonment for a period of at least one (1) year but not more than five (5) years, or both, at the discretion of the court.

The imposition of any of the penalties herein provided is without prejudice to any liability incurred under the warranty or guarantee.

CHAPTER IV
LABELING AND FAIR PACKAGING

Article 74. *Declaration of Policy*. – The State shall enforce compulsory labeling, and fair packaging to enable the consumer to obtain accurate information as to the nature, quality and quantity of the contents of consumer products and to facilitate his comparison of the value of such products.

Article 75. *Implementing Agency*. – The Department of Trade and Industry shall enforce the provisions of this Chapter and its implementing rules and regulations: Provided, That with respect to food, drugs, cosmetics, devices and hazardous substances, it shall be enforced by the concerned department.

Article 76. *Prohibited Acts on Labeling and Packaging*. – It shall be unlawful for any person, either as principal or agent, engaged in the labeling or packaging of any consumer product, to display or distribute or to cause to be displayed or distributed in commerce any consumer product whose package or label does not conform to the provisions of this Chapter.

The prohibition in this Chapter shall not apply to persons engaged in the business of wholesale or retail distributors of consumer products except to the extent that such persons:

a) are engaged in the packaging or labeling of such products;

b) prescribe or specify by any means the manner in which such products are packaged or labeled; or

c) having knowledge, refuse to disclose the source of the mislabeled or mispackaged products.

Article 77. *Minimum Labeling Requirements for Consumer Products*. – All consumer products domestically sold whether manufactured locally or imported shall indicate the following in their respective labels of packaging:

a) its correct and registered trade name or brand name;

b) its duly registered trademark;

c) its duly registered business name;

d) the address of the manufacturer, importer, repacker of the consumer product in the Philippines;

e) its general make or active ingredients;

f) the net quality of contents, in terms of weight, measure or numerical count rounded of to at least the nearest tenths in the metric system;

g) country of manufacture, if imported; and

h) if a consumer product is manufactured, refilled or repacked under license from a principal, the label shall so state the fact.

The following may be required by the concerned department in accordance with the rules and regulations they will promulgate under authority of this Act:

a) whether it is flammable or inflammable;

b) directions for use, if necessary;

c) warning of toxicity;

d) wattage, voltage or amperes; or

e) process of manufacture used if necessary.

Any word, statement or other information required by or under authority of the preceding paragraph shall appear on the label or labeling with such conspicuousness as compared with other words, statements, designs or devices therein, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase or use.

The above requirements shall form an integral part of the label without danger of being erased or detached under ordinary handling of the product.

Article 78. ***Philippine Product Standard Mark*****.** – The label may contain the Philippine Product Standard Mark if it is certified to have passed the consumer product standard prescribed by the concerned department.

Article 79. ***Authority of the Concerned Department to Provide for Additional Labeling and Packaging Requirements*****.** – Whenever the concerned department determines that regulations containing requirements other than those prescribed in Article 77 hereof are necessary to prevent the deception of the consumer or to facilitate value comparisons as to any consumer product, it may issue such rules and regulations to:

a) establish and define standards for characterization of the size of a package enclosing any consumer product which may be used to supplement the label statement of net quality, of contents of packages containing such products but this clause shall not be construed as authorizing any limitation on the size, shape, weight, dimensions, or number of packages which may be used to enclose any product;

b) regulate the placement upon any package containing any product or upon any label affixed to such product of any printed matter stating or representing by implication that such product is offered for retail at a price lower than the ordinary and customary retail price or that a price advantage is accorded to purchases thereof by reason of the size of the package or the quantity of its contents;

c) prevent the nonfunctional slack-fill of packages containing consumer products.

For purposes of paragraph (c) of this Article, a package shall be deemed to be nonfunctionally slack-filled if it is filled to substantially less than its capacity for reasons other than (1) protection of the contents of such package, (2) the requirements of machines used for enclosing the contents in such package, or (3) inherent characteristics of package materials or construction being used.

Article 80. ***Special Packaging of Consumer Products for the Protection of Children*****.** – The concerned department may establish standards for the special packaging of any consumer product if it finds that:

a) the degree or nature of the hazard to children in the availability of such product, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling and use of such product; and

b) the special packaging to be required by such standard is technically feasible, practicable and appropriate for such product. In establishing a standard under this Article, the concerned department shall consider:

1) the reasonableness of such standard;

2) available scientific, medical and engineering data concerning special packaging and concerning accidental, ingestions, illnesses and injuries caused by consumer product;

3) the manufacturing practices of industries affected by this Article; and

4) the nature and use of consumer products.

Article 81. ***Price Tag Requirement*****.** – It shall be unlawful to offer any consumer product for retail sale to the public without an appropriate price tag, label or marking publicly displayed to indicate the price of each article and said products shall not be sold at a price higher than that stated therein and without discrimination to all buyers: Provided, That lumber sold, displayed or offered for sale to the public shall be tagged or labeled by indicating thereon the price and the corresponding official name of the wood: Provided, further, That if consumer products for sale are too small or the nature of which makes it impractical to place a price tag thereon price list placed at the nearest point where the products are displayed indicating the retail price of the same may suffice.

Article 82. ***Manner of Placing Price Tags*****.** – Price tags, labels or markings must be written clearly, indicating the price of the consumer product per unit in pesos and centavos.

Article 83. ***Regulations for Price Tag Placement*****.** – The concerned department shall prescribe rules and regulations for the visible placement of price tags for specific consumer products and services. There shall be no erasures or alterations of any sort of price tags, labels or markings.

Article 84. ***Additional Labeling Requirements for Food*****.** – The following additional labeling requirements shall be imposed by the concerned department for food:

a) expiry or expiration date, where applicable;

b) whether the consumer product is semi-processed, fully processed, ready-to-cook, ready-to-eat, prepared food or just plain mixture;

c) nutritive value, if any;

d) whether the ingredients use are natural or synthetic, as the case may be;

e) such other labeling requirements as the concerned department may deem necessary and reasonable.

Article 85. ***Mislabeled Food*****.** – A food shall also be deemed mislabeled:

a) if its labeling or advertising is false or misleading in any way;

b) if it is offered for sale under the name of another food;

c) if it is an imitation of another food, unless its label bears in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated;

d) its containers is so made, formed, or filled as to be misleading;

e) if in package form unless it bears a label conforming to the requirements of this Act: Provided, That reasonable variation on the requirements of labeling shall be permitted and exemptions as to small packages shall be established by the regulations prescribed by the concerned department of health;

f) if any word, statement or other information required by or under authority of this Act to appear on the principal display panel of the label or labeling is not prominently placed thereon with such conspicuousness as compared with other words, statements, designs or devices in the labeling and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

g) if it purports to be or is represented as a food for which a definition or standard of identity has been prescribed unless:

1) it conforms to such definition and standard; and

2) its labels bears the name of the food specified in the definition or standards, and insofar as may be required by such regulations, the common names of optional ingredients other than spices, flavoring and coloring, present in such food;

h) if it purports to be or represented as:

1) a food for which a standard of quality has been prescribed by regulations as provided in this Act and its quality fall below such standard, unless its label bears in such manner and form as such regulations specify, a statement that it falls below such standard; or

2) a food for which a standard or standards or fill of container have been prescribed by regulations as provided by this Act and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

i) if it is not subject to the provisions of paragraph (g) of this Article unless its label bears:

1) the common or usual name of the food, if there be any; and

2) in case it is manufactured or processed from two or more ingredients, the common or usual name of such ingredient; except the spices, flavorings and colorings other than those sold as such, may be designated as spices, flavorings and colorings without naming each: Provided, That to the extent that compliance with the requirement of clause (2) of this paragraph is impracticable or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the concerned department of health;

j) if it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin or mineral or other dietary properties as the concerned department determines to be, or by regulations prescribed as necessary in order fully to inform purchasers as its value for such uses;

k) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling, stating that fact: Provided, That to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the concerned department. The provisions of this paragraph or paragraphs (g) and (i) with respect to the artificial coloring shall not apply in the case of butter, cheese or ice cream.

Article 86. ***Labeling of Drugs*****.** – The Generics Act shall apply in the labeling of drugs.

Article 87. ***Additional Labeling Requirements for Cosmetics*****.** – The following additional requirements may be required for cosmetics:

a) expiry or expiration date;

b) whether or not it may be an irritant;

c) precautions or contra-indications; and

d) such other labeling requirements as the concerned department may deem necessary and reasonable.

Article 88. ***Special Labeling Requirements for Cosmetics*****.** – A cosmetic shall be deemed mislabeled:

a) if its labeling or advertising is false or misleading in any way;

b) if in package form unless it bears a label conforming to the requirements of labeling provided for in this Act or under existing regulations: Provided, That reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the concerned department;

c) if any word, statement or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

d) if its container is so made, formed or filled as to be misleading; or

e) if its label does not state the common or usual name of its ingredients.

Article 89. ***Mislabeled Drugs and Devices*****.** – A drug or device shall be deemed to be mislabeled:

a) if its labeling is false or misleading in any way;

b) if its in package form unless it bears a label conforming to the requirements of this Act or the regulations promulgated therefor: Provided, that reasonable variations shall be permitted and exemptions as to small packages shall be established by regulations prescribed by the concerned department.

c) if any word, statement or other information required by or under authority of this Act to appear on the principal display panel of the label or labeling is not prominently placed thereon with such conspicuousness as compared with other words, statements, designs or devices in the labeling and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

d) if it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote or sulfonmethane, or any chemical derivative of such substance, which derivative has been designated by the concerned department after investigation, and by regulations as habit forming; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning-May be habit forming";

e) its labeling does not bear:

1) adequate directions for use; and

2) such adequate warning against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users: Provided, That where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the concerned department may promulgate regulations exempting such drug or device from such requirement;

f) if it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein: Provided, That the method of packing may be modified with the consent of the concerned department;

g) if it has been found by the concerned department to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the concerned department, shall by regulations, require as necessary for the protection of the public health;

h) 1) if it is a drug and its container is so made, formed or filled as to be misleading; or

2) if it is an imitation of another drug; or

3) if it is dangerous to health when used in the dosage, or with the frequency of duration prescribed, recommended or suggested in the labeling thereof;

j) if it is, purports to be or is represented as a drug composed wholly or partly of insulin or of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, bacitracin, or any other antibiotic drug, or any derivative thereof, unless:

1) it is from a batch with respect to which a certificate of release has been issued pursuant to regulations of the concerned department; and

2) such certificate of release is in effect with respect to such drug: Provided, That this paragraph shall not apply to any drug or class of drugs exempted by regulations promulgated under Authority of this Act.

Article 90. ***Regulation-making Exemptions*****.** – The concerned department may promulgate regulations exempting from any labeling requirements of this Act food, cosmetics, drugs or devices which are, in accordance with the practice of trade, to be processed, labeled or repacked in substantial quantities at establishments other than those where originally processed, labeled or packed on condition that such food, cosmetics, drugs or devices are not adulterated or mislabeled under the provisions of this Act and other applicable laws upon approval from such processing, labeling and repacking establishments.

Article 91. ***Mislabeled Hazardous Substances*****.** – Hazardous substances shall be deemed mislabeled when:

a) having been intended or packaged in a form suitable for use in households, especially for children, the packaging or labeling of which is in violation of the special packaging regulations issued by the concerned department;

b) such substance fails to bear a label;

1) which states conspicuously:

(i) the name and the place of business of the manufacturer, packer, distributor or seller;

(ii) the common or usual name or the chemical name, if there be no common or usual name, of the hazardous substance or of each component which contributes substantially to the harmfulness of the substance, unless the concerned department by regulation permits or requires the use of the recognized generic name;

(iii) the signal word "danger" on substances which are extremely flammable, corrosive or highly toxic;

(iv) the signal word "warning" or "caution" with a bright red or orange color with a black symbol on all other hazardous substances;

(v) a clear statement as to the possible injury it may cause if used improperly;

(vi) precautionary measures describing the action to be followed or avoided;

(vii) instructions when necessary or appropriate for first-aid treatment;

(viii) the word" poison" for any hazardous substance which is defined as highly toxic;

(ix) instructions for handling and storage of packages which require special care in handling and storage; and

(x) the statement "keep out of the reach of children", or its practical equivalent, if the article is not intended for use by children and is not a banned hazardous substance, with adequate directions for the protection of children from the hazard involved. The aforementioned signal words, affirmative statements, description of precautionary measures, necessary instructions or other words or statements may be in English language or its equivalent in Filipino; and

2) on which any statement required under clause 1) of this paragraph is located prominently in bright red and orange color with a black symbol in contrast typography, layout or color with the other printed matters on the label.

Article 92. ***Exemptions*****.** – If the concerned department finds that for good or sufficient reasons, full compliance with the labeling requirements otherwise applicable under this Act is impracticable or is not necessary for the adequate protection of public health and safety, it shall promulgate regulations exempting such substances from these requirements to the extent it deems consistent with the objective of adequately safeguarding public health and safety, and any hazardous substance which does not bear a label in accordance with such regulations shall be deemed mislabeled hazardous substance.

Article 93. ***Grounds for Seizure and Condemnation of Mislabeled Hazardous Substances*****.** –

a) Any mislabeled hazardous substance when introduced into commerce or while held for sale shall be liable to be proceeded against and condemned upon order of the concerned department in accordance with existing procedure for seizure and condemnation of articles in commerce: Provided, That this Article shall not apply to a hazardous substance intended for export to any foreign country if:

1) it is in a package labeled in accordance with the specifications of the foreign purchaser;

2) it is labeled in accordance with the laws of the foreign country;

3) it is labeled on the outside of the shipping package to show that it is intended for export; and

4) it is so exported,

b) any hazardous substance condemned under this Article shall after entry of order of condemnation be disposed of by destruction or sale as the concerned department may direct, and the proceeds thereof, if sold, less the legal cost and charges, shall be paid into the treasury of the Philippines; but such hazardous substance shall not be sold under any order which is contrary to the provisions of this Act; Provided, That, after entry of the order and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such hazardous substance shall not be sold or disposed of contrary to the provisions of this Act, the concerned department may direct that such hazardous substance be delivered to or retained by the owner thereof for destruction or for alteration to comply with the provisions of this Act under the supervision of an officer or employee duly designated by the concerned department. The expenses for such supervision shall be paid by the person obtaining release of the hazardous substance under bond.

c) all expenses in connection with the destruction provided for in paragraphs (a) and (b) of this Article and all expenses in connection with the storage and labor with respect to such hazardous substance shall be paid by the owner or consignee, and default in such payment shall constitute a lien against any importation by such owner or consignee.

Article 94. ***Labeling Requirements of Cigarettes*****.** – All cigarettes for sale or distribution within the country shall be contained in a package which shall bear the following statement or its equivalent in Filipino: "Warning" Cigarette Smoking is Dangerous to Your Health". Such statement shall be located in conspicuous place on every cigarette package and shall appear in conspicuous and legible type in contrast by typography, layout or color with other printed matter on the package. Any advertisement of cigarette shall contain the name warning as indicated in the label.

Article 95. ***Penalties*****.** –

a) Any person who shall violate the provisions of Title III, Chapter IV of this Act, or its implementing rules and regulations, except Articles 81 to 83 of the same Chapter, shall be subject to a fine of not less than Five hundred pesos (P500.00) but not more than Twenty thousand pesos (P20,000.00) or imprisonment of not less than three (3) months but not more than two (2) years or both, at the discretion of the court: Provided, That, if the consumer product is one which is not a food, cosmetic, drug, device or hazardous substance, the penalty shall be a fine of not less than Two hundred pesos (P200.00) but not more than Five thousand pesos (P5,000.00) or imprisonment of not less than one (1) month but not more than one (1) year or both, at the discretion of the court.

b) Any person who violates the provisions of Article 81 to 83 for the first time shall be subject to a fine of not less than Two hundred pesos (P200.00) but not more than Five thousand pesos (P5,000.00) or by imprisonment of not less than one (1) month but not more than six (6) months or both, at the discretion of the court. A second conviction under this paragraph shall also carry with it the penalty of revocation of business permit and license.

CHAPTER V
LIABILITY FOR PRODUCT AND SERVICE

Article 96. ***Implementing Agency*****.** – The Department of Trade and Industry shall enforce the provisions of this Chapter and its implementing rules and regulations.

Article 97. ***Liability for the Defective Products*****.** – Any Filipino or foreign manufacturer, producer, and any importer, shall be liable for redress, independently of fault, for damages caused to consumers by defects resulting from design, manufacture, construction, assembly and erection, formulas and handling and making up, presentation or packing of their products, as well as for the insufficient or inadequate information on the use and hazards thereof.

A product is defective when it does not offer the safety rightfully expected of it, taking relevant circumstances into consideration, including but not limited to:

a) presentation of product;

b) use and hazards reasonably expected of it;

c) the time it was put into circulation.

A product is not considered defective because another better quality product has been placed in the market.

The manufacturer, builder, producer or importer shall not be held liable when it evidences:

a) that it did not place the product on the market;

b) that although it did place the product on the market such product has no defect;

c) that the consumer or a third party is solely at fault.

Article 98. ***Liability of Tradesman or Seller*****.** – The tradesman/seller is likewise liable, pursuant to the preceding article when;

a) it is not possible to identify the manufacturer, builder, producer or importer.

b) the product is supplied, without clear identification of the manufacturer, producer, builder or importer;

c) he does not adequately preserve perishable goods. The party making payment to the damaged party may exercise the right to recover a part of the whole of the payment made against the other responsible parties, in accordance with their part or responsibility in the cause of the damage effected.

Article 99. ***Liability for Defective Services*****.** – The service supplier is liable for redress, independently of fault, for damages caused to consumers by defects relating to the rendering of the services, as well as for insufficient or inadequate information on the fruition and hazards thereof.

The service is defective when it does not provide the safety the consumer may rightfully expect of it, taking the relevant circumstances into consideration, including but not limited to:

a) the manner in which it is provided;

b) the result of hazards which may reasonably be expected of it;

c) the time when it was provided.

A service is not considered defective because of the use or introduction of new techniques.

The supplier of the services shall not be held liable when it is proven:

a) that there is no defect in the service rendered;

b) that the consumer or third party is solely at fault.

Article 100. ***Liability for Product and Service Imperfection*****.** – The suppliers of durable or nondurable consumer products are jointly liable for imperfections in quality that render the products unfit or inadequate for consumption for which they are designed or decrease their value, and for those resulting from inconsistency with the information provided on the container, packaging, labels or publicity messages/advertisement, with due regard to the variations resulting from their nature, the consumer being able to demand replacement to the imperfect parts.

If the imperfection is not corrected within thirty (30) days, the consumer may alternatively demand at his option:

a) the replacement of the product by another of the same kind, in a perfect state of use;

b) the immediate reimbursement of the amount paid, with monetary updating, without prejudice to any losses and damages;

c) a proportionate price reduction.

The parties may agree to reduce or increase the term specified in the immediately preceding paragraph; but such shall not be less than seven (7) nor more than one hundred and eighty (180) days.

The consumer may make immediate use of the alternatives under the second paragraph of this Article when by virtue of the extent of the imperfection, the replacement of the imperfect parts may jeopardize the product quality or characteristics, thus decreasing its value.

If the consumer opts for the alternative under sub-paragraph (a) of the second paragraph of this Article, and replacement of the product is not possible, it may be replaced by another of a different kind, mark or model: Provided, That any difference in price may result thereof shall be supplemented or reimbursed by the party which caused the damage, without prejudice to the provisions of the second, third and fourth paragraphs of this Article.

Article 101. ***Liability for Product Quantity Imperfection*****.** – Suppliers are jointly liable for imperfections in the quantity of the product when, in due regard for variations inherent thereto, their net content is less than that indicated on the container, packaging, labeling or advertisement, the consumer having powers to demand, alternatively, at his own option:

a) the proportionate price

b) the supplementing of weight or measure differential;

c) the replacement of the product by another of the same kind, mark or model, without said imperfections;

d) the immediate reimbursement of the amount paid, with monetary updating without prejudice to losses and damages if any.

The provisions of the fifth paragraph of Article 99 shall apply to this Article.

The immediate supplier shall be liable if the instrument used for weighing or measuring is not gauged in accordance with official standards.

Article 102. ***Liability for Service Quality Imperfection*****.** – The service supplier is liable for any quality imperfections that render the services improper for consumption or decrease their value, and for those resulting from inconsistency with the information contained in the offer or advertisement, the consumer being entitled to demand alternatively at his option:

a) the performance of the services, without any additional cost and when applicable;

b) the immediate reimbursement of the amount paid, with monetary updating without prejudice to losses and damages, if any;

c) a proportionate price reduction.

Reperformance of services may be entrusted to duly qualified third parties, at the supplier's risk and cost.

Improper services are those which prove to be inadequate for purposes reasonably expected of them and those that fail to meet the provisions of this Act regulating service rendering.

Article 103. ***Repair Service Obligation*****.** – When services are provided for the repair of any product, the supplier shall be considered implicitly bound to use adequate, new, original replacement parts, or those that maintain the manufacturer's technical specifications unless, otherwise authorized, as regards to the latter by the consumer.

Article 104. ***Ignorance of Quality Imperfection*****.** – The supplier's ignorance of the quality imperfections due to inadequacy of the products and services does not exempt him from any liability.

Article 105. ***Legal Guarantee of Adequacy*****.** – The legal guarantee of product or service adequacy does not require an express instrument or contractual exoneration of the supplier being forbidden.

Article 106. ***Prohibition in Contractual Stipulation*****.** – The stipulation in a contract of a clause preventing, exonerating or reducing the obligation to indemnify for damages effected, as provided for in this and in the preceding Articles, is hereby prohibited, if there is more than one person responsible for the cause of the damage, they shall be jointly liable for the redress established in the pertinent provisions of this Act. However, if the damage is caused by a component or part incorporated in the product or service, its manufacturer, builder or importer and the person who incorporated the component or part are jointly liable.

Article 107. ***Penalties*****.** – Any person who shall violate any provision of this Chapter or its implementing rules and regulations with respect to any consumer product which is not food, cosmetic, or hazardous substance shall upon conviction, be subject to a fine of not less than Five thousand pesos (P5,000.00) and by imprisonment of not more than one (1) year or both upon the discretion of the court.

In case of juridical persons, the penalty shall be imposed upon its president, manager or head. If the offender is an alien, he shall, after payment of fine and service of sentence, be deported without further deportation proceedings.

CHAPTER VI
ADVERTISING AND SALES PROMOTION

Article 108. ***Declaration of Policy*****.** – The State shall protect the consumer from misleading advertisements and fraudulent sales promotion practices.

Article 109. ***Implementing Agency*****.** – The Department of Trade and Industry shall enforce the provisions of this Chapter and its implementing rules and regulations: Provided, That with respect to food, drugs, cosmetics, devices and hazardous substances, it shall be enforced by the Department of Health.

FALSE, DECEPTIVE AND MISLEADING ADVERTISEMENT

Article 110. ***False, Deceptive or Misleading Advertisement*****.** – It shall be unlawful for any person to disseminate or to cause the dissemination of any false, deceptive or misleading advertisement by Philippine mail or in commerce by print, radio, television, outdoor advertisement or other medium for the purpose of inducing or which is likely to induce directly or indirectly the purchase of consumer products or services.

An advertisement shall be false, deceptive or misleading if it is not in conformity with the provisions of this Act or if it is misleading in a material respect. In determining whether any advertisement is false, deceptive or misleading, there shall be taken into account, among other things, not only representations made or any combination thereof, but also the extent to which the advertisement fails to reveal material facts in the light of

such representations, or materials with respect to consequences which may result from the use or application of consumer products or services to which the advertisement relates under the conditions prescribed in said advertisement, or under such conditions as are customary or usual.

Article 111. ***Price Comparisons*****.** – Comparative price advertising by sellers of consumer products or services shall conform to the following conditions:

a) Where the comparison relates to a former price of the seller, the item compared shall either have been sold at that price within the ninety (90) days immediately preceding the date of the advertisement, or it shall have been offered for sale for at least four (4) weeks during such ninety-day period. If the comparison does not relate to an item sold or offered for sale during the ninety-day period, the date, time or seasonal period of such sale or offer shall be disclosed in the advertisement.

b) Where the comparison relates to a seller's future price, the future price shall take effect on the date disclosed in the advertisement or within ninety (90) days after the price comparison is stated in the advertisement. The stated future price shall be maintained by the seller for a period of at least four (4) weeks after its effective date: Provided, That compliance thereof may be dispensed with in case of circumstances beyond the seller's control.

c) Where the comparison relates to a competitor's price, the competitor's price shall relate to the consumer products or services advertised or sold in the ninety-day period and shall be representative of the prices similar consumer products or services are sold or advertised in the locality where the price comparison was made.

Article 112. ***Special Advertising Requirements for Food, Drug, Cosmetic, Device, or Hazardous Substance*****.** –

a) No claim in the advertisement may be made which is not contained in the label or approved by the concerned department.

b) No person shall advertise any food, drug, cosmetics, device, or hazardous substance in manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quantity, composition, merit, or safety.

c) Where a standard has been prescribed for a food, drug, cosmetic, or device, no person shall advertise any article or substance in such a manner that it is likely to be mistaken for such product, unless the article complies with the prescribed standard or regulation.

d) No person shall, in the advertisement of any food, drug, cosmetic, device, or hazardous substance, make use of any reference to any laboratory report of analysis required to be furnished to the concerned department, unless such laboratory report is duly approved by such department.

e) Any businessman who is doubtful as to whether his advertisement relative to food, drug, cosmetic, device, or hazardous substance will violate or does not conform with this Act or the concerned department's pertinent rules and regulations may apply to the same for consideration and opinion on such matter before such advertisement is disseminated to the public. In this case, the concerned department shall give its opinion and notify the applicant of its action within thirty (30) days from the date of application; otherwise, the application shall be deemed approved.

f) No person shall advertise any food, drug, cosmetic, device, or hazardous substance unless such product is duly registered and approved by the concerned department for use in any advertisement.

Article 113. ***Credit Advertising*****.** – No advertisement to aid, promote, or assist, directly or indirectly, any extension of consumer credit may:

a) state that a specific periodic consumer credit amount or installment amount can be arranged, unless the creditor usually and customarily arranges credit payment or installments for that period and in that amount; and

b) state that a specified down payment is required in any extension of consumer credit, unless the creditor usually or customarily arranges down payment in that amount.

Article 114. ***Advertising of Open-end Credit Plan*****.** – In case of an open-end credit plan, the rate of interest and other material features of the plan shall be disclosed in the advertisement.

Article 115. ***Special Claims*****.** – Any advertisement which makes special claims shall:

a) substantiate such claims; and

b) properly use research result, scientific terms, statistics or quotations.

PROMOTION OF SALES OF CONSUMER PRODUCTS AND SERVICES

Article 116. ***Permit to Conduct Promotion*****.** – No person shall conduct any sales campaigns, including beauty contest, national in character, sponsored and promoted by manufacturing enterprises without first securing a permit from the concerned department at least thirty (30) calendar days prior to the commencement thereof. Unless an objection or denial is received within fifteen (15) days from filing of the application, the same shall be deemed approved and the promotion campaign or activity may be conducted: Provided, That any sales promotion campaign using medical prescriptions or any part thereof or attachment thereto for raffles or a promise of reward shall not be allowed, nor a permit be issued thereof.

Article 117. ***Suspension of Publication or Dissemination of Information*****.** – The concerned department may, after due notice and hearing, suspend the publication and dissemination of any information accompanying a sales promotion campaign, if it finds the campaign to be in violation of the provisions of this Chapter or its implementing rules and regulations.

Article 118. ***Conduct of Sales Promotion*****.** – A sales promotion which is intended for broad consumer participation and utilizes mass media shall indicate the duration, commencement and termination of the promotion, the deadline for submission of entries and the governing criteria or procedure to be followed therein.

Article 119. ***Packaging of Products Under Promotion*****.** – The packaging of the products covered by the sales promotion shall not be tampered, neither shall any change in the product's package be affected without the authority of the sponsoring agency or the owner or manufacturer of the product.

Article 120. ***Change in Starting and Termination Dates of Promotion*****.** – The concerned department shall be advised of any delay of starting dates or termination dates and details of any change in the conduct of a sales promotion. Any change in the termination dates shall be published in a newspaper of general circulation before the expiration of the original schedule or the termination date, whichever comes first.

Article 121. ***Determination of Winners*****.** – The winners in any sales promotion shall be determined at a definite time and place and shall be verified by a representative of the concerned department and the sponsor. Immediately after the winners are selected or determined, a list with their addresses and corresponding prizes shall be submitted to the concerned department. All winners shall be announced or published in the same manner that the sales promotion was announced or published: Provided, That publication in a newspaper of general circulation shall be done in a legible manner at least once, if the sales promotion is national in scope: Provided, further, That such announcement and publication shall be done not later than two (2) weeks after the determination of winners. In all cases where the amount of the price is Five hundred pesos (P500.00) or more, the winners shall also be notified in writing by registered mail or any communication wherein proof of notice or service can be verified.

Article 122. ***Injunctive Relief*** **.** –

a) Whenever the concerned department has the reason to believe (1) that any person, partnership or corporation is engaged in or is about to engage in the dissemination or the causing of dissemination of any advertisement in violation of Articles 110 to 115, and (2) that the enjoining thereof would be to the interest of the public, the concerned department shall direct the filing of a complaint in the court of competent jurisdiction, to enjoin the dissemination or the causing of the dissemination of such advertisement. Upon proper showing, a temporary injunction or restraining order shall be granted without bond. Any such complaint shall be filed in the locality in which the person, partnership or corporation resides or transacts business.

b) Any person who may suffer loss, damage or injury due to a false, misleading or deceptive advertisement as defined in Article 4 may file a complaint with injunction in his own name with any court of competent jurisdiction to recover damages, cost of suit and reasonable attorney's fees.

Article 123. ***Penalties*****.** –

a) any person, association, partnership or corporation who shall violate any of the provisions of Articles 110 to 115 shall, upon conviction, be subject to a fine of not less than Five Hundred Pesos (P500.00) but not more than Five thousand pesos (P5,000.00) or an imprisonment of not less than one (1) month but not more than (6) months or both upon the discretion of the court.

b) Any violation of the provisions of Articles 116 to 121 shall, upon conviction, subject the offenders to a fine of not less than Two hundred pesos (P200.00) but not more than Six hundred pesos (P600.00) or an imprisonment of not less than one (1) month but not more than six (6) months or both upon the discretion of the court. If the violation was committed by a juridical person, the manager, representative, director, agent or employee of said juridical person responsible for the act shall be deported after service of sentence and payment of the fine without need for further deportation proceedings.

Article 124. ***Exemption from Penalties*****.** – No publisher, radio broadcast, television licensee or medium for the dissemination of advertising shall be liable, under this Chapter, by reason of dissemination by him of any false advertisement unless he refuses, on the request of appropriate authorities, to furnish the name and post office address of the manufacturer, packer, distributor seller or advertising agency. This exemption shall not apply however, to the manufacturer, packer, distributor or seller of the consumer product or service and the advertising agency responsible for the false and misleading advertising.

CHAPTER VII
REGULATION OF REPAIR AND SERVICE FIRMS

Article 125. ***Declaration of Policy*****.** – The State shall cause the accreditation of repair and service firms or establishments and their technical personnel in order to protect the interest of the consumers availing of their services.

Article 126. ***Implementing Agency*****.** – The Department of Trade and Industry, hereby referred to as the Department, shall enforce the provisions of this Chapter.

Article 127. ***Minimum Requirements for Accreditation*****.** – The following shall be the minimum requirements for accreditation or repair and service firms:

a) the duly registered business name, firm name or style of the firm;

b) date of issue and effectivity of the certificate of accreditation;

c) number and skills of technical personnel; and

d) required license for the repair or servicing of any consumer product as required by special laws.

Article 128. ***Accreditation of Repair and Service Firm*****.** – No person shall operate a repair and service firm or act as technical personnel therein without first being accredited by the Department.

Article 129. ***Certification of Accreditation*****.** – Upon compliance with the requirements for accreditation, the Department shall issue the corresponding certificate of accreditation. A separate certificate shall be required for each branch of an enterprise located in areas outside of the main office. However, with respect to repair and service centers of factory authorized representatives of franchised dealers, such centers may display a certified true copy of the certificate of accreditation of the parent company.

Article 130. ***Suspension, Revocation or Cancellation of Certification of Accreditation*****.** – Any certificate of accreditation may be suspended, revoked or cancelled by the Department, for cause, after due notice and hearing.

TITLE IV. - CONSUMER CREDIT TRANSACTION

Article 131. ***Declaration of Policy*****.** – The State shall simplify, clarify and modernize the laws governing credit transactions and encourage the development of fair and economically sound consumer credit practices. To protect the consumer from lack of awareness of the true cost of credit to the user, the State shall assure the full disclosure of the true cost of credit.

Article 132. ***Determination of Finance Charges*****.** – Except as otherwise provided, the amount of the finance charges in connection with any consumer credit transaction shall be determined as the sum of all charges, payable directly or indirectly by the person to whom the credit is extended and imposed directly or indirectly by the creditor as an accident to the extension of credit, including any of the following type of charges which are applicable:

a) interest or time price differential and any amount payable under point or other system of additional charges;

b) collection fees which include finder's fees or similar charges;

c) credit investigation fees;

d) notarial fees, if any;

e) premium or other charges for any guarantee or insurance protecting the creditor against the obligor's default or other credit loss. The implementing agency shall determine what items shall be exempted from the computation of the finance charges.

Article 133. ***Determination of Simple Annual Rate*****.** – The simple annual rate applicable to any extension of consumer credit shall be determined in accordance with the rules and regulations promulgated by the implementing agency.

Article 134. ***Delinquency Charges*****.** – With respect to a consumer credit transaction other than one pursuant to an open-end credit plan, the parties may agree to a delinquency charge on any installment not pain in full on or before the tenth day after its scheduled or deferred due date.

Article 135. ***Deferral Charges*****.** – The parties in a consumer credit transaction may at any time agree in writing to a deferral of all or part of one or more unpaid installments and the creditor may make and collect a charge which shall not exceed the rate previously disclosed pursuant to the provisions on disclosure. A deferral charge may be collected at the time it is assessed.

Article 136. ***Finance Charge on Refinancing*****.** – The parties may agree on a finance charge in an open-end credit plan based on the amount financed resulting from the refinancing or consolidation at a rate not exceeding that permitted by the rules promulgated by the implementing agency.

Article 137. ***Right to Prepay*****.** – The person to whom credit is extended may prepay in full or in part, at any time without penalty, the unpaid balance of any consumer credit transaction.

Article 138. ***Rebate on Prepayment*****.** – Upon prepayment in full of the unpaid balance of a precomputed consumer credit transaction, refinancing or consolidation, an amount not less than the unearned portion of the finance charge calculated according to this Article shall be rebated to the person to whom credit is extended.

The unearned portion of the precomputed finance charge on consumer transactions repayable in substantially equal successive installments shall be equal to at least that portion of finance charge which the sums of the installment balances of the obligation scheduled to be outstanding after the installment date nearest the date of prepayment bears to the sum of all installment balances originally scheduled to be outstanding under the obligation.

For the purpose of determining the installment date nearest the date of prepayment when payments are monthly, any payment made on or before the fifteenth day following an installment due date shall be deemed to have been made as of the installment due date, and if prepayment occurs after the fifteenth day, it shall be deemed to have been made on the succeeding installment due date. This method of calculating rebates may be referred to as the "rule of 78" or "sum of the digits" method.

The implementing agency may promulgate and adopt rules and regulations with respect to other precomputed consumer credit transactions.

Article 139. ***General Requirements on Credit Cost Disclosure*****.** – Each creditor shall disclose, in accordance with the regulations of the implementing agency, to each person to whom consumer credit is extended, the disclosures required by this Act.

If there is more than one obligor, a creditor need not furnish a statement of information required under this Act to more than one of them.

Article 140. ***Credit Sale, Required Disclosures*****.** – Any creditor extending a consumer credit sale other than one pursuant to an open-end credit plan shall disclose in a statement to the extent applicable, the following information:

a) the cash price or delivered price of the property or service to be acquired;

b) the amounts, if any, to be credited as down payment and/or trade in;

c) the total amount to be financed or the difference between the amounts set forth under paragraphs (1) and (2);

d) the charges, individually itemized, which are paid or to be paid by such person in connection with the transaction but which are not incident to the extension of credit;

e) the finance charge expressed in terms of pesos and centavos;

f) the percentage that the finance charge bears to the total amount to be financed expressed as a simple annual rate on the outstanding balance of the obligation;

g) the effective interest rate;

h) the number, amount and due dates or periods of payments scheduled to repay the indebtedness; and

i) the default, delinquency or similar charges payable in the event of late payments.

Article 141. ***Required Disclosure on Open-end Credit Plan*****.** – Before opening any account under an open-end consumer credit plan, the creditor shall disclose, to the extent applicable, the following information:

a) the conditions under which a finance charge may be imposed, including the time period, if any, within which any credit extended may be repaid without incurring a finance charge;

b) the method of determining the balance upon which a finance charge may be imposed;

c) the method of determining the amount of the finance charges, including any minimum or fixed amount imposed as a finance charge;

d) where one or more periodic rates may be used to compute a finance charge, each such rate, the range of balances to which it is applicable, and the corresponding simple annual rate;

e) the conditions under which the creditor may impose a security lien and a description of the goods to which such lien may attach.

The implementing agency shall prescribe regulations consistent with commonly accepted accounting standards to carry out the requirements of this Article.

Article 142. ***Required Disclosures on Consumer Loans Not Under Open-End Credit Plan*****.** – Any creditor extending a consumer loan or in a transaction which is neither a consumer credit sale nor under an open-end consumer credit plan shall disclose, to the extent applicable, the following information:

a) the amount of credit of which the debtor will have the actual use, or which is or will be paid to him or for his account or to another person on his behalf;

b) all charges, individually itemized, which are included in the amount of credit extended but which are not part of the finance charge;

c) the total amount to be financed or the sum of the amounts referred to in paragraphs (a) and (b);

d) the finance charge expressed in terms or pesos and centavos;

e) the effective interest rate;

f) the percentage that the finance charge bears to the total amount to be financed expressed as a simple annual rate on the outstanding unpaid balance of the obligation;

g) the default, delinquency or similar charges payable in the event of late payments;

h) a description of any security interest held or to be held or to be retained or acquired by the creditor in connection with the extension of credit and a clear identification of the property to which the security interest relates.

Article 143. ***Form and Timing of Disclosure*****.** – All disclosures required under this Act shall be made clearly and conspicuously in writing before the transaction is consummated.

Article 144. ***Periodic Statement of Charges*****.** – The periodic statement transmitted by the creditor in connection with any extension of consumer credit other than under an open-end consumer credit plan, shall set forth the following information:

a) the simple annual rate;

b) the effective interest rate;

c) the date by which, or the period (if any) within which payment must be made in order to avoid additional finance charges;

d) method of determining the balance upon which the finance charge may be imposed.

Article 145. ***Exempted Transaction*****.** – The foregoing requirements on consumer credit transactions shall not apply to the following credit transactions:

a) those involving extension of credits for business or commercial purposes, or to the Government and governmental agencies and instrumentalities, juridical entities or to organizations;

b) those in which the debtor is the one specifying the definite set of credit terms such as bank deposits, insurance contracts, sale of bonds or analogous transactions.

Article 146. ***Sale of Consumer Products On Installment Payment*****.** – In a consumer credit sale other than one pursuant to an open-end credit plan, the obligation of the consumer to whom credit is being extended shall be evidenced by a single instrument which shall include, in addition to the disclosures required by this act, the signature of the seller and the person to whom credit is extended, the date it was signed, a description of the property sold and a description of any property transferred as a trade-in. The instrument evidencing the credit shall contain a clear and conspicuous typewritten notice to the person to whom credit is being extended that:

a) he should not sign the instrument if it contains any blank space;

b) he is entitled to a reasonable return of the precomputed finance charge if the balance is prepaid; and

c) he is entitled to an exact, true copy of the agreement.

In cases where the instrument will be sold at a discount to a bank, financing company or other lender, the said transferee shall be subject to all claims and defenses which the debtor could assert against the seller of consumer products obtained hereto or with the proceeds thereof.

Article 147. *Penalties*. – Any creditor who in connection with any credit transaction fails to disclose to any person any information in violation of this Chapter or the Implementing rules and regulations issued thereunder shall be liable to such person in the amount of One thousand pesos (P1,000.00) or in amount equal to twice the finance charge required by such creditor in connection with such transaction, whichever is greater, except that such liability shall not exceed Three thousand pesos (P3,000.00) for any credit transaction and actual damages with the non-disclosure of the required information. Action to recover such penalty may be brought by such person within one (1) year from the date of the occurrence of the violation in any court of competent jurisdiction.

TITLE V. - THE NATIONAL CONSUMER AFFAIRS COUNCIL

CHAPTER I
ESTABLISHMENT AND COMPOSITION

Article 148. *National Consumer Affairs Council*. – To improve the management, coordination and effectiveness of consumer programs, a National Consumer Affairs Council is hereby created, hereinafter referred to as the "Council".

Article 149. *Composition*. – The Council shall be composed of representatives from the following government agencies and non-government agencies:

a) Department of Trade and Industry;

b) Department of Education, Culture and Sports;

c) Department of Health;

d) Department of Agriculture;

e) four (4) representatives from consumer organizations of nationwide base to be chosen by the President from among the nominees submitted by the various consumer groups in the Philippines;

f) two (2) representatives from business/industry sector to be chosen by the President from among the nominees submitted by the various business organizations.

Article 150. *Chairman; Functions*. – The Council shall be headed and presided by a Chairman who shall be elected by the members from among themselves. He shall establish, with the concurrence of the Council, the policies, procedures and standards to govern the implementation and interpretation of the functions and duties of the Council.

Article 151. *Per Diems of Members*. – The members of the Council shall be entitled to an allowance of Five hundred pesos (P500.00) per meeting actually attended but not more than Two thousand pesos (P2,000.00) a month.

Article 152. *The Secretariat*. – The Council shall appoint an Executive Director who shall assist the Chairman and act as Secretary of the Council. The Department of Trade and Industry shall provide the Secretariat which shall assist the Council in the effective performance of its functions.

CHAPTER II
POWERS AND FUNCTIONS

Article 153. *Powers and Functions*. – The Council have the following powers and functions:

a) to rationalize and coordinate the functions of the agencies charged with consumer programs and enforcement of consumer related laws to the end that an effective, coordinated and integrated system of consumer protection, research and implementation and enforcement of such laws shall be achieved;

b) to recommend new policies and legislation or amendments to existing ones;

c) to monitor and evaluate implementation of consumer programs and projects and to take appropriate steps to comply with the established priorities, standards and guidelines;

d) to seek the assistance of government instrumentalities in the form of augmenting the need for personnel facilities and other resources;

e) to undertake a continuing education and information campaign to provide the consumer with, among others;

1) facts about consumer products and services;

2) consumer rights and the mechanism for redress available to him;

3) information on new concepts and developments on consumer protection; and

4) general knowledge and awareness necessary for a critical and better judgment on consumption;

5) such other matters of importance to the consumer's general well-being.

Article 154. *Consumer Education in Schools*. – The Department of Education, Culture and Sports, with the cooperation and advice of the Council, shall develop and adopt a consumer education program which shall be integrated into existing curricula of all public and private schools from primary to secondary level.

A continuing consumer education program for out-of-school youth and adults shall likewise be developed and undertaken.

The consumer education program shall include information regarding:

a) the consumer as a responsible member of society and his responsibility to develop:

1) critical awareness which is the responsibility to be alert and questioning about the use of and price and quality of goods he uses;

2) assertiveness which is the responsibility to assert himself and act so he is assured of a fair deal, aware that for as long as he remains to be a passive consumer he will continue to be exploited;

3) social concern which is the responsibility to be aware of the impact of his consumption on other citizens, especially the disadvantaged; and

4) environmental awareness which is the responsibility to understand the environmental consequences of his consumption, recognizing his individual and social responsibility to conserve natural resources for future generations;

b) consumer rights; and

c) practical problems the consumer faces in daily life.

Article 155. *Concerned Departments, Powers and Duties Under Existing Laws*. – The concerned departments shall continue to exercise the powers and duties provided to them under existing laws, unless repealed or modified accordingly.

Article 156. *Consumer Participation*. – The Departments shall establish procedures for meaningful participation by consumers or consumer organizations in the development and review of department rules, policies and programs. Such procedures shall include provisions for a forum, where consumers can express their concerns and recommendations to decision makers. The departments shall exert efforts to inform consumers of pending proceedings where their participation is important.

Article 157. *Advisory Services*. – The departments shall render advisory services upon request. The technical and legal assistance shall be made available to consumers and their organizations and to the general public.

Article 158. *Consumer Program Reforms*. – Each concerned Department shall formulate and develop a consumer program consonant with the objectives of its charter or the applicable laws which program shall embody the standards set forth in Sections 156 and 157 of this Act. Copies of these program shall be furnished the Council. The Executive Director shall, among his other functions, monitor and coordinate the implementation by the concerned agencies of their respective consumer programs.

After the close of the fiscal year, the Council shall submit to Congress and the Office of the President, a full report on the progress of the implementation of consumer programs.

CHAPTER III
CONSUMER COMPLAINTS

Article 159. *Consumer Complaints*. – The concerned department may commerce an investigation upon petition or upon letter-complaint from any consumer: Provided, That, upon a finding by the department of prima facie violation of any provisions of this Act or any rule or regulation promulgated under its authority, it may motu proprio or upon verified complaint commerce formal administrative action against any person who appears responsible therefor. The department shall establish procedures for systematically logging in, investigating and responding to consumer complaints into the development of consumer policies, rules and regulations, assuring as far as practicable simple and easy access on the part of the consumer to seek redress for his grievances.

Article 160. *Consumer Arbitration Officers*. – The concerned Department Secretaries shall appoint as many qualified consumer arbitration officers as may be necessary for the effective and efficient protection of consumer rights: Provided, however, That there shall be not more than ten (10) consumer arbitration officers per province, including the National Capital Region.

Article 161. *Consumer Arbitration Officers; Qualifications*. – The consumer arbitration officer must be a college graduate with at least three (3) years experience in the field of consumer protection and shall be of good moral character.

Article 162. *Arbitration Officers; Jurisdiction*. – The consumer arbitration officers shall have original and exclusive jurisdiction to mediate, conciliate, hear and adjudicate all consumer complaints, Provided, however, That this does not preclude the parties from pursuing the proper judicial action.

Article 163. *Investigation Procedure*. –

a) The consumer arbitration officer shall conduct hearings on any complaint received by him or referred by the Council.

b) Parties to the case shall be entitled to notice of the hearing, and shall be informed of the date, time and place of the same. A copy of the complaint shall be attached to the notice.

c) The department shall afford all interested parties the opportunity to submit a statement of facts, arguments, offers of settlements or proposals of adjustments.

d) The Consumer arbitration officer shall first and foremost ensure that the contending parties come to a settlement of the case.

e) In the event that a settlement has not been effected, the Mediation officer may now proceed to formally investigate, hear and decide the case.

f) The Consumer arbitration officer may summon witnesses, administer oaths and affirmations, issue subpoena and subpoena duces tecum, rule upon offers of proof and receive relevant evidence, take or cause deposition to be taken whenever the ends of justice would be served thereby, regulate the course of the hearing, rule on any procedural request or similar matter and decide the complaint.

In hearing the complaint, the mediation officer shall use every and all reasonable means to ascertain the facts in each complaint speedily and objectively without regard to strict rules of evidence prevailing in suits before courts. The complaints shall be decided within fifteen (15) days from the time the investigation was terminated.

Article 164. *Sanctions*. – After investigation, any of the following administrative penalties may be imposed even if not prayed for in the complaint:

a) the issuance of a cease and desist order, Provided, however, That such order shall specify the acts that respondent shall cease and desist from and shall require him to submit a report of compliance therewith within a reasonable time;

b) the acceptance of a voluntary assurance of compliance or discontinuance from the respondent which may include any or all of the following terms and conditions:

1) an assurance to comply with the provisions of this Act and its implementing rules and regulations;

2) an assurance to refrain from engaging in unlawful acts and practices or unfair or unethical trade practices subject of the formal investigation;

3) an assurance to comply with the terms and conditions specified in the consumer transaction subject of the complaint;

4) an assurance to recall, replace, repair, or refund the money value of defective products distributed in commerce;

5) an assurance to reimburse the complaint out of any money or property in connection with the complaint, including expenses in making or pursuing the complaint, if any, and to file a bond to guarantee compliance therewith.

c) restitution or rescission of the contract without damages;

d) condemnation and seizure of the consumer product found to be hazardous to health and safety unless the respondent files a bond to answer for any damage or injury that may arise from the continued use of the product;

e) the imposition of administrative fines in such amount as deemed reasonable by the Secretary, which shall in no case be less that Five hundred pesos (P500.00) nor more than Three hundred thousand pesos (P300,000.00) depending on the gravity of the offense, and an additional fine of not more than One thousand pesos (P1,000.00) or each day of continuing violation.

Article 165. *Appeal from Orders*. – Any order, not interlocutory of the Consumer arbitration officer, becomes final and executory unless appealed to the Department Secretary concerned within fifteen (15) days from receipt of such order. An appeal may be entertained only on any of the following grounds:

a) grave abuse of discretion;

b) the order is in excess of the jurisdiction or authority of the consumer arbitration officer;

c) the order is not supported by the evidence or there is serious error in the findings of facts.

Article 166. *Decision on Appeal*. – The Secretary shall decide the appeal within thirty (30) days from receipt thereof. The decision becomes final after fifteen (15) days from receipt thereof unless a petition for certiorari is filed with the proper court.

TITLE VI
TRANSITORY AND FINAL PROVISIONS

Article 167. *Relation of the Act to Other Rights*. – The provisions of this Act shall apply notwithstanding any agreement to the contrary but shall not restrict, limit or derogate from any other rights or remedies of a consumer under any other law.

Article 168. *Application of Laws Enacted Prior to the Act*. – All actions or claims accruing prior to the effectivity of this Act shall be determined in accordance with the acts, laws, decrees and regulations in force at the time of the accrual.

Article 169. *Prescription*. – All actions or claims accruing under the provisions of this Act and the rules and regulations issued pursuant thereto shall prescribe within two (2) years from the time the consumer transaction was consummated or the deceptive or unfair and unconscionable act or practice was committed and in case of hidden defects, from discovery thereof.

Article 170. *Repealing Clause*. – All laws, executive orders, rules and regulations or parts thereof which are inconsistent with this Act are hereby repealed or amended accordingly.

Article 171. *Appropriations*. – For the initial operating expenses of the National Consumer Affairs Council, the sum of Two million pesos (P2,000,000.00) is hereby appropriated out of funds of the National Treasury not otherwise appropriated. Thereafter, such sums as may be necessary to carry out its purpose shall be included in the General Appropriations Act.

Article 172. *Separability Clause*. – If for any reason any article or provision of this Act or any portion thereof or the application of such article, provision or portion thereof to any person, group or circumstance is declared invalid or unconstitutional, the remainder of this Act shall not be affected by such decision.

Article 173. *Effectivity*. – This Act shall take effect thirty (30) days from the date of its publication in the Official Gazette.

Approved: **April 13, 1992**.