AS

[TO BE INTRODUCED IN THE SENATE]

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BILL

INTRODUCED ON 06.11.2023

to make provisions for protection of breast-feeding and nutrition for infants and young children

WHEREAS it is expedient to ensure safe and adequate nutrition for infants and young children by promoting and protecting breast-feeding and by regulating the marketing and promotion of designated products including breast-milk substitutes, feeding bottles, valves for feeding bottles, nipple shields, teats and pacifiers and to provide for matters connected therewith and ancillary thereto;

It is hereby enacted as follows:-

CHAPTER-1
INTRODUCTORY

1. Short title, extent and commencement. - (1) This Act may be called the Islamabad Capital Territory Protection of Breast-Feeding and Child Nutrition Act, *2023.*

(2) It extends to the Islamabad Capital Territory.

(3) It shall come into force at once.

2. Definitions.- In this Act, unless there is anything repugnant in the subject or context,-

(a) "advertise" or "advertising" means to make any communication or representation by any means whatsoever for the purpose of promoting the sale or use of a designated product, including but not limited to,-

(i) written publication, television, radio, film, electronic transmission including the internet, social media, video, telephone or mobile application;

(ii) display of signs, billboards or notices; or

(iii) exhibition of pictures or models;

(b) "baby food" means the infant formula, lactose free/ISOMIL, follow-up formula, grown-up formula and any other food manufactures or marketed for the infants and young children;

(c) "board" means the Islamabad Capital Territory Board for Protection of Breast-Feeding and Child Nutrition;

(d) "bottle feeding" means feeding liquid or semi-solid food from a bottle with nipple;

(e) "complementary food" means any food suitable as an addition to breast-milk or to a breast milk substitute when either become insufficient to satisfy the nutritional requirements of an infant, also commonly called "weaning food", or "breast-milk and young child substitute";

(f) "container" means any form of packaging of a designated product for sale as a retail unit;

(g) "designated product" means and includes,-

(i) any other product marketed or otherwise represented as suitable for feeding infants up to the age of six months and above;

(ii) complementary food product;

(iii) follow-up formula;

(iv) feeding bottles, teats and pacifiers;

(v) infant formula represented as a partial or total replacement for mother's milk, whether or not it is suitable for such replacement;

(vi) such other products as may be declared by the Board to be as a "designated product" for the purposes of this Act; and

(vii) young child/grow-up formula;

(h) "distributor" means a person, corporation or other entity engaged in the business of marketing any designated product, whether wholesale or retail and includes a person providing product public relations and information services;

(i) "feeding bottle" means any bottle or receptacle marketed for the purpose of feeding an infant or a young child;

(j) "follow-up formula" means a formula or formula-like product of animals or vegetable origin formulated industrially in accordance with the Codex Alimentarius standard for follow-up formula and marketed or otherwise represented as suitable for feeding infants and young children older than six months;

(k) "Government" means the Federal Government;

(l) "health care facility" means a Government, non-Government, semi-Government or private institution or organization, or private medical practitioner engaged, directly or indirectly, in the provision of health care to infants, young children, pregnant women or mothers and includes a day-care centre, nursery and any other child-care institution;

(m) "health professional" means a medical practitioner, nurse, nutritionist or such other person with a professional degree, diploma or license, as may be specified by the Ministry of National Health Services, Regulations and Coordination by a notification in the official Gazette;

(n) "health worker" means any person providing services to infants, young children, pregnant women or mothers, as a medical practitioner and includes a health professional, homeopath, hakim, nurse, midwife, traditional birth attendant, pharmacist, dispensed chemist, nutritionist, hospital administrator or employee, whether professional or not, whether paid or not, any other person providing such services or in a training to provide health care services in a health care facility, whether professional or non-professional, including community midwife or voluntary unpaid worker, as the Federal Government may, by notification in the official Gazette specify;

(o) "infant" means a child up to the age of twelve months;

(p) "inspector" means an inspector appointed by the board;

(q) "label" of "labelling" means a tag, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed, attached or otherwise appearing on a container of a designated product, which includes packaging and insets;

(r) "logo" means an emblem, picture or symbol by means of which a company or a designated product is identified;

(s) "manufacturer" means a person, corporation or other entity engaged or involved in the business of producing, processing, compounding, formulating, filling, packing, repacking, altering, ornamenting, finishing and labelling a designated product, whether directly, through an agent, or through a person controlled by or under an agreement;

(t) "market" or "marketing" means any method of introducing or selling a designated product and includes, but not limited to, promotion, distribution, advertising, distribution of samples, product public relations and product information;

(u) "pacifier" means an artificial teat or feeding bottle for babies to such also referred to as dummy;

(v) "person" means any individual, partnership, association, unincorporated organization, company, corporation, trustee, agent or any group of persons;

(w) "promotion of a designated product" means to employ any method directly or indirectly, encouraging a person, a health facility, health professional and health worker or any other entity including the business to purchase or use of a designated product, whether or not there is reference to a brand time, but does not include any prescription issued by a medical practitioner based on health grounds;

(x) "regulations & rules" means the regulations and rules made under this Act;

(y) "sample" means any quantity of a designated product without cost or on reduced price for the promotion or advertisement of a designated product; and

(z) "young child" means a child from the age of one year to the age of three years.

CHAPTER-II
ADMINISTRATION

3. Establishment of the Board.- (1) The Federal Government shall, by notification in the official Gazette, establish the Islamabad Capital Territory Protection of Breast-Feeding and Child Nutrition Board.

(2) Minister/Minster of State for National Health Services, Regulations and Coordination shall be the Chairperson of the Board.

(3) The Board shall be a body corporate, having perpetual succession and a common seal, with power to enter into contract, acquire or dispose of property, and may, by its name, sue or be sued.

(4) The Board shall consist of a Chairperson, a Secretary and not more than such number of members, as the Federal Government may prescribe:

Provided that not less than half of the total number of the Members of the Board shall comprise of such persons who are professionally qualified with respect to infant and young child nutrition and at least one member of the Board shall be selected from the industry involved in the manufacturing and marketing of designated products.

(5) The Secretary, Ministry of National Health Services, Regulations and Coordination shall act as ex-officio member of the Board.

4. Terms and conditions of the Chairperson and the Members of the Board.- (1) The Federal Government shall nominate and notify the Chairperson and the Members of the Board.

(2) The Chairperson and the members, other than ex-officio members, shall hold the office for a term of three years and shall be eligible for re-appointment.

(3) A person shall not be appointed as Chairperson or a member, other than ex-officio member, for more than two terms, whether consecutive or otherwise.

(4) The Chairperson or a member, other than an ex-officio member, may resign from his office, by serving one month's notice in writing, to the Federal Government.

5. Removal of the Chairperson and the Members of the Board.- (1) The Federal Government may, remove the Chairperson or a member, other than ex-officio member, from the Board, if he,-

(a) has been declared as an discharged solvent; or

(b) has been convicted of an offence which involves moral turpitude; or

(c) has become physically or mentally incapable of acting as the Chairperson or the member; or

(d) has abused his position and rendered his continuance in the office prejudicial to public interest; or

(e) has entered into any direct or indirect relationship with or has accepted funding or any other form of support from a private sector entity that manufactures or distributes designated products under this Act.

(2) The Chairperson or a member shall not be removed from office except after affording him a reasonable opportunity of being heard.

6. Powers and functions of the Board.- (1) The Board shall regulate and monitor the business as per the provisions of this Act.

(2) The Board shall be the sole authority to,-

(a) formulate method of sampling, analysis of samples and reporting of results;

(b) set standards of designated products including labelling requirement whether imported or locally manufactured;

(c) specify procedures and guidelines for setting-up and accreditation of food laboratories;

(d) specify licensing, prohibition orders, fine, recall procedures, improvement notices or prosecution;

(e) provide scientific advice and technical support to the Federal Government in matters relating to designated products;

(f) to issue instructions to inspectors as to actions to be taken, or take such other actions as the case may be, against any person found to be violating the provisions of this Act or the rules promulgated pursuant thereto;

(g) to receive reports of violation of the provisions of this Act or rules;

(h) to recommend investigation of cases against manufactures, distributors or health workers found to be violating the provision of this Act or rules;

(i) to plan for and coordinate the dissemination of informational and educational materials on the topic of infant-feeding and recommend continuing awareness courses for health workers on topics related to this Act;

(j) to frame rules and regulations under the Act to achieve the purpose of this Act for approval by competent authority; and

(k) perform any other function to achieve the objective of this Act.

(3) The Board shall also oversee the following activities for quality and compliance,-

(a) collect and analyze relevant scientific and technical data relating to the designated products;

(b) certify designated product for exports;

(c) levy fee for registration, licensing and other services; and

(d) organize training programmes to promote purpose of this Act;

7. Powers and functions of the Secretary of the Board.- (1) The Secretary of the Board shall have the power to designate any employee of the Ministry as a Coordinator for implementing actions prescribed by the Board and any staff, required to implement the activities prescribed by the Board.

(2) The Secretary of the Board shall call meetings of the Board, at the direction of the Chairperson and maintain minutes of such meetings.

(3) The Coordinator, subject to control and scrutiny of the Board, shall be responsible for accomplishing the objectives of this Act and for efficient implementation of the Act, the rules and the regulations.

(4) The Coordinator shall exercise such powers, as may be prescribed, or delegated to him by the Board.

CHAPTER-III
REGISTRATION OF DESIGNATED PRODUCTS AND QUALITY ASSURANCE

8. Registration of designated products.- (1) The Board shall cause all designated products to be registered in accordance with such conditions and procedures, as may be prescribed.

(2) Once the registration of a designated product has been approved, a Certificate of Registration shall be issued.

9. Quality assurance.- (1) No designated product shall be manufactured, sold or otherwise distribute in Pakistan, unless it is formulated industrially in accordance with the standards, recommended by the Codex Alimentarius Commission and the Codex Code of Hygiene Practice for Food for Infants and Children, and in addition, shall meet such applicable standards specified in this Act and the rules.

(2) The Board may require an Inspector or any other person with powers under this Act, to test any designated product sold in Pakistan, in order to determine whether or not it is fit for human consumption.

(3) A designated product, which does not meet the standards for use in the country of manufacture, shall not be sold in Pakistan.

(4) A designated product, which has reached the expiry date shall not be marketed, sold or distributed.

(5) A designated product shall be sold only in the original container in order to prevent quality deterioration, adulteration or contamination thereof.

CHAPTER-IV
PENALTIES

10. Inspectors.- (1) The Board shall, appoint such persons as it deem fit, having the prescribed qualifications for the purpose of this Act, to be Inspectors within such local limits as it may assign to them respectively:

Provided that no person who have any direct or indirect financial interest in any designated product shall be so appointed.

(2) Notwithstanding anything contained in this section, the Board, in public interest, may confer the powers of an Inspector to any government servant.

11. Powers of inspectors.- An Inspector may, within the local limits, to which he or she is appointed,-

(a) exercise such other powers as may be prescribed by the Board;

(b) inspect and investigate any premises, where any designated product is imported, manufactured, sold, stocked, exhibited for sale, advertised or promoted;

(c) impose fine on the business which violate the provisions of this Act or regulations made thereunder;

(d) seal an institute, which violate the provisions of this Act or regulations; and

(e) seize any designated product found in violation of this Act and the regulations made thereunder.

12. Investigation and filing of case.- (1) After an inspection for purposes of this Act, an Inspector shall refer the case, to the Board.

(2) Upon completion of an investigation and receipt of a complete report and after giving the concerned party an opportunity of being heard, the Board, along its opinion, shall forward such report to the Ministry.

(3) The Ministry may consider the report and reduce its findings in the form of writing and in-case, the concerned party has been found guilty under the provision of this Act, such case would be forwarded to the Session Court.

13. Punishments.- (1) If any business or any person on its behalf contravenes or violates the provisions of this Act, shall be punishable with imprisonment which shall not be less than four years, or with fine which shall extend to five hundred thousand rupees, but shall not be less than one hundred thousand rupees or with both.

(2) If any business, commits an offence more than once, under the provisions of this Act, he shall be liable to,-

(a) twice the punishment of imprisonment and fine, provided under sub-section (1); and

(ii) the license of a business mentioned in sub-section (1) may be cancelled;

(3) Where, the offence is found to have been committed by a company, corporation, partnership or an institution, as a result of an institutional or operational instruction issued by it or implemented by it, such organizations, in addition to the individuals directly responsible for the commission of such offence, may be declared guilty.

14. Cognizance of cases.- All offences under this Act shall be non-cognizable.

15. Trial of cases.- No Court inferior to that of the Session Court shall have jurisdiction to try cases under this Act.

16. Appeal.- An appeal against the final order of the Court of Session, shall lie to the High Court within thirty days of the passing of such order.

17. Code of Criminal Procedure and Qanun-e-Shahadat Order to apply.- The Code of Criminal Procedure, 1898 (Act No. V of 1898) and the Qanun-e-Shahadat Order, 1984 (P.O. No. 10 of 1984), shall mutatis mutandis apply to the proceedings under this Act.

18. Public Servants.- The Chairperson, the members and the employees of the Board shall be deemed, when acting in the discharge of their functions under this Act, to be public servants, within the meaning of section 21 of the Pakistan Penal Code, 1860 (XLV of 1860).

19. Immunity.- No prosecution or other legal proceedings shall lie against the Federal Government, any of its officer, the Board, the Chairperson, a member or any employee of the Board for anything which is done in good faith under this Act, the rules or the regulations.

20. Overriding effect.- The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

21. Power to make rules.- The Federal Government, may make rules for carrying out the purposes of this Act.

22. Power to make regulations.- Subject to this Act, the Board may, make regulations to give effect to the provisions of this Act.

23. Repeal and savings.- (1) The Protection of Breast Feeding and Child Nutrition Ordinance, 2002 (Ordinance No. XCIII of 2002), to extent of the Islamabad Capital Territory is hereby repealed.

(2) Notwithstanding the aforesaid repeal, anything done, action taken, rules made and notification or order issued under the aforesaid Act, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued, under this Act and shall have effect accordingly.

STATEMENT OF OBJECTS AND REASONS

The concept of breast feeding is widely accepted and appreciated all over the world, as an infant health is associated and best served only through mother's milk and it is advisable by the paediatricians all over the world, to keep the child up to the age of two years on mother's feed. While realizing the significance of the said subject, the Federal Government introduced an Ordinance, named as the Protection of Breastfeeding and Young Child Nutrition Ordinance, 2002, but since, then, it has been not implemented in the latter and spirit. After Constitution (18th Amendment) Act, 2010, subject of health has been devolved to provinces. So, it becomes the need of hour to improve and strengthen legislation related to this subject and as health is a provincial subject, Parliament can only legislate on it only to the extent of the Islamabad Capital Territory. Hence, this bill has been introduced for promotion and support of breast feeding in the Federal Capital.

2. This bill is aimed to achieve the above-said objective.

PROF. DR. MEHR TAJ ROGHANI
Member-In-Charge