



HOUSE OF REPRESENTATIVES

H. No. 4629

BY REPRESENTATIVES BADELLES, ZUBIRI, CARMONA, FIGUEROA, MARAÑON, MANGUDADATU, PARAS, SUSANO, ARROYO (I.), GIDAYA, PUENTEVELLA, CHATTO, ALFELOR, ANDAYA, AQUINO (R.), MACAPAGAL ARROYO, BONDOC, CARI, GARIN, APOSTOL, GOZOS, GUINGONA, LACSON, LAPUS, MACIAS, NEPOMUCENO, PETILLA, REYES (V.), TEODORO, TEVES, VARGAS, VILLAFUERTE, HIZON, BATERINA, CUA (J.), DATUMANONG, SINGSON, TOMAWIS, ROSALES, AGUJA, DE GUZMAN, AQUINO (A.), VIRADOR, OCAMPO, MARIANO, PABLO, MADAMBA, VALDEZ, MAZA AND DEL MAR, PER COMMITTEE REPORT NO. 1002

AN ACT MANDATING THE USE OF BIOETHANOL OR ETHYL ALCOHOL AS TRANSPORT FUEL AND SUPPORTING THE DEVELOPMENT AND USE OF OTHER BIOFUELS, ESTABLISHING FOR THE PURPOSE THE NATIONAL BIOFUELS PROGRAM, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

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

1 SECTION 1. *Short Title.* – This Act shall be known as the “Biofuels Act
2 of 2005”.

3 SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the
4 State to pursue a policy towards energy independence consistent with the

1 country's sustainable economic growth that would expand opportunities for
2 livelihood, with due regard to the protection of public health and the
3 environment by mandating the use of bioethanol as motor fuel and supporting
4 the development and use of other biofuels as a measure to:

- 5 (a) mitigate toxic and greenhouse gas (GHG) emissions;
- 6 (b) provide indigenous renewable energy sources to reduce
7 dependence on imported fuel oil; and
- 8 (c) increase rural employment and income.

9 SEC. 3. *Definition of Terms.* – As used in this Act, the following terms
10 shall have the following meanings:

11 (a) “AFTA” shall refer to the ASEAN Free Trade Area initiated by the
12 Association of Southeast Asian Nations (ASEAN) at the fourth ASEAN
13 Summit in January 1992, which laid out a comprehensive program of regional
14 tariff reduction, to be carried out in phases through the year 2008.

15 (b) “Bioethanol” shall refer to ethanol (C₂H₅OH) produced from
16 biomass.

17 (c) “Bioethanol Fuel” shall refer to hydrous or anhydrous bioethanol
18 suitably denatured for use as motor fuel.

19 (d) “Biofuels” shall refer to a liquid fuel produced from biomass and
20 primarily used to fuel vehicles, but can also fuel engines or fuel cells for
21 electricity generation and may include bioethanol and biodiesel, among others.

1 (e) "Biomass" shall refer to any organic matter, particularly cellulose
2 or ligno-cellulosic matter, which is available on a renewable or recurring basis,
3 including trees, crops and associated residues, plant fiber, poultry litter and
4 other animal wastes, industrial wastes, and the biodegradable component of
5 municipal solid waste.

6 (f) "DA" shall refer to the Department of Agriculture created under
7 Executive Order No. 116, as amended.

8 (g) "DOE" shall refer to the Department of Energy created under
9 Republic Act No. 7638, as amended.

10 (h) "DENR" shall refer to the Department of Environment and Natural
11 Resources created under Executive Order No. 192, as amended.

12 (i) "DOF" shall refer to the Department of Finance created under
13 Executive Order No. 127.

14 (j) "DOST" shall refer to the Department of Science and Technology
15 created under Executive Order No. 192.

16 (k) "DOTC" shall refer to the Department of Transportation and
17 Communications created under Executive Order No. 125-A, as amended.

18 (l) "Feedstock" shall refer to organic sources such as molasses,
19 sugarcane, cassava or other biomass used in the production of bioethanol.

20 (m) "Gasohol" shall refer to gasoline blended with ethanol that meets
21 the motor fuel specification standards developed by the Technical Committee

1 on Petroleum Products and Additives, and promulgated by the Bureau of
2 Product Standards of the Department of Trade and Industry (DTI).

3 (n) "Gasoline" shall refer to a complex mixture of relatively volatile
4 hydrocarbons with or without small quantities of additives, blended to form a
5 fuel suitable for use in spark-ignition engines with Research Octane Number
6 (RON) of 93 or above.

7 (o) "Motor fuel" shall refer to all volatile and inflammable liquids
8 produced, blended or compounded for the purpose of, or which are suitable or
9 practicable for, operating motor vehicles.

10 (p) "NBB" or "Board" shall refer to the National Biofuels Board
11 created under Section 8 hereof.

12 (q) "Oxygenate" shall refer to substances, which, when added to
13 gasoline, increase the amount of oxygen in that gasoline blend.

14 (r) "Renewable Energy Sources" shall refer to energy sources that do
15 not have an upper limit on the total quantity to be used. Such resources are
16 renewable on a regular basis, and whose renewal rate is relatively rapid to
17 consider availability over an indefinite period of time.

18 (s) "WTO" shall refer to the World Trade Organization which is the
19 only global international organization, created by the Uruguay Round of
20 Negotiations from 1986 to 1994 and established in Geneva, Switzerland on
21 January 1, 1995, dealing with the rules of trade among nations to help

1 producers, exporters and importers of goods and services conduct their
2 businesses, and which operates within the framework of the two agreements,
3 negotiated and signed by the bulk of the world's trading nations and ratified by
4 their respective congresses/parliaments.

5 SEC. 4. *Phasing Out of the Use of Harmful Gasoline Additives and/or*
6 *Oxygenates.* – Within six months from the effectivity of this Act, the DOE
7 shall gradually phase out the use of harmful gasoline additives and/or
8 oxygenates found to be detrimental to human health and the environment such
9 that within three years from the effectivity of this Act, such harmful gasoline
10 additives and/or oxygenates shall have been totally phased out nationwide.

11 SEC. 5. *Mandatory Use of Bioethanol.* – In pursuance of the above
12 policy, the DOE is hereby directed to immediately adopt a National
13 Bioethanol Program that will implement a mandated blending of gasoline with
14 bioethanol as motor fuel. Within two years from the effectivity of this Act, a
15 minimum of five percent (5%) bioethanol by volume shall be blended into all
16 gasoline to be distributed, sold and used as motor fuel. Thereafter, the NBB
17 shall periodically review and assess the impact of the use of bioethanol as well
18 as the availability of local supply of bioethanol fuel and shall recommend, as
19 appropriate, an increase in the mandated minimum blend by up to five percent
20 (5%) every two years thereafter until such time when the NBB shall determine

1 a higher limit: *Provided, however,* That the octane rating of the gasohol shall
2 in no case be lower than eighty-seven (87).

3 SEC. 6. *Incentive Scheme.* – To encourage private entities to invest in
4 the production and distribution of biofuels, the following incentive scheme is
5 hereby provided:

6 (a) Fiscal Incentives -

7 (1) All entities engaged in the production, storage, handling and
8 transport of biofuels and feedstock, including the blending of biofuel with
9 petroleum and other fuels, as may be certified by the DOE shall, for a period
10 of ten (10) years from the effectivity of this Act, be subject to a duty of one
11 percent (1%) in the importation of all types of inputs, machinery, equipment,
12 and planting and breeding materials as duly certified by the DA: *Provided,*
13 That the imported inputs, machinery, equipment, and planting and breeding
14 materials shall be for the exclusive use of the importing entity: *Provided,*
15 *further,* That such duty rate shall not apply to imported biofuels and feedstock;
16 and

17 (2) The sale of biofuels shall be VAT zero-rated, pursuant to Section
18 6, paragraph B, sub-paragraph 7 of Republic Act No. 9337.

19 (b) Non-Fiscal Incentives -

20 (1) Subject to the rules and regulations of the Board of Investments, all
21 investments in the production and blending of biofuels and biofuel feedstocks

1 as provided under the Philippine Energy Program shall enjoy the applicable
2 fiscal and non-fiscal incentives provided for under the Omnibus Investment
3 Code, as amended; and

4 (2) All water effluents such as, but not limited to, distillery slops from
5 the production of biofuels used as liquid fertilizer, or for other agricultural
6 purposes are considered reuse and are therefore not covered under Section 13
7 of Republic Act No. 9275, the Philippine Clean Water Act: *Provided,*
8 *however,* That such application shall be in accordance with the guidelines
9 issued pursuant to Republic Act No. 9275, subject to the monitoring and
10 evaluation by the DENR and approval of the DA.

11 (c) Financial Assistance -

12 Government Financial Institutions such as the Development Bank of the
13 Philippines, Land Bank of the Philippines, Quedancor and such other
14 government institutions providing financial services shall in accordance with
15 and to the extent allowed by the enabling provisions of their respective
16 charters or applicable laws, accord high priority to extend financing to entities
17 that shall engage in activities involving production of biofuels and feedstocks
18 such as, but not limited to, sugarcane, coconut palm, jatropha, cassava, sweet
19 sorghum and corn.

20 SEC. 7. *Powers and Functions of the Department of Energy.* – In
21 addition to its existing powers and functions, the DOE is hereby mandated to

1 take appropriate and necessary actions to implement the National Bioethanol
2 Program. In pursuance thereof, the DOE shall:

3 (a) Prepare the National Bioethanol Program consistent with the
4 Philippine Energy Plan;

5 (b) Within six months from the effectivity of this Act:

6 (1) establish standards for the minimum alcohol content of anhydrous
7 bioethanol fuel, denaturing, addition of color, blending and labeling of
8 bioethanol fuel and gasohol for motive fuel; and

9 (2) establish the guidelines for the transport and handling of bioethanol
10 fuel;

11 (c) Impose fines and penalties against persons or entities found to have
12 committed any of the prohibited acts under Section 11 (b) through (e) hereof;

13 (d) Confiscate gasoline and gasohol sold in the market that are found
14 to be not compliant with the specifications provided for under Sections 4 and 5
15 hereof and corresponding issuances of the DOE;

16 (e) Monitor the production and importation of bioethanol and other
17 biofuels intended for motor fuel use through the Bureau of Internal Revenue
18 (BIR) and the Bureau of Customs (BOC);

19 (f) Propose a national program for biofuels other than bioethanol; and

20 (g) Conduct an information and education campaign (IEC) to promote
21 the use of gasohol and other biofuels.

1 SEC. 8. *Creation of the NBB.* – The NBB is hereby created. It shall be
2 composed of the Secretary of the DOE or his designated undersecretary as
3 chairman and the secretaries or the designated undersecretaries or assistant
4 secretaries of the DTI, the DOF, the DOTC, the DOST, the DA, the DENR,
5 the Department of Labor and Employment (DOLE), the Administrator of the
6 Sugar Regulatory Administration (SRA), the Administrator of the Philippine
7 Coconut Authority (PCA), and one representative each from the feedstock
8 producers for bioethanol, distillery industry, petroleum industry and
9 automotive manufacturers, duly endorsed by their respective industry
10 associations and appointed by the President of the Republic of the Philippines,
11 as members.

12 The DOE secretary or his designated undersecretary, in his capacity as
13 chairperson, shall, within one month from the effectivity of this Act, convene
14 the NBB.

15 The Board shall be assisted by a technical secretariat whose personnel
16 shall be on detail from the DOE and/or other departments/agencies comprising
17 the Board. The Technical Secretariat shall be attached to the Office of the
18 Secretary or the Undersecretary of the DOE.

19 SEC. 9. *Powers and Functions of the NBB.* – The NBB shall have the
20 following powers and functions:

1 (a) Formulate, within six months from the effectivity of this Act, the
2 implementing rules and regulations (IRR) under Section 14 hereof for
3 approval by the Congressional Biofuels Oversight Committee;

4 (b) Approve the National Bioethanol Program and other biofuels
5 programs as may be proposed by the DOE;

6 (c) Approve the DA Program to ensure the availability of feedstock for
7 the production of biofuels for motor fuel;

8 (d) Monitor and review the implementation of the National Bioethanol
9 Program and other biofuels programs;

10 (e) Monitor the supply and utilization of bioethanol fuel and gasohol
11 and recommend appropriate measures in cases of shortage of feedstock supply
12 for approval by the Secretary of the DOE;

13 (f) Monitor the development and implementation of a research and
14 development (R&D) program supporting a sustainable improvement in
15 bioethanol fuel and other biofuels production and utilization technology by the
16 DOST through the Philippine Council for Industry and Energy Research
17 Development (PCIERD);

18 (g) Evaluate plans for further expansion of the National Bioethanol
19 Program and other biofuels programs;

20 (h) Review and increase the minimum mandated bioethanol blend for
21 gasoline as it deems appropriate; and

1 (i) Recommend specific actions concerning the implementation of the
2 National Bioethanol Program and other biofuels programs to be executed by
3 the DOE and other appropriate agencies of government.

4 SEC. 10. *Role of Government Agencies.* – To ensure the effective
5 implementation of this program, concerned agencies shall perform the
6 following functions:

7 (a) The DOF shall:

8 (1) in coordination with the Tariff Commission, create and classify a
9 tariff line for bioethanol fuel and gasohol and other biofuels;

10 (2) review provisions of the Tax Code covering transactions related to
11 the sale/purchase of denatured and undenatured bioethanol intended for motor
12 fuel use. In addition, review existing levels of specific tax on petroleum
13 products, and re-align to consider the gasohol blend vis-à-vis other petroleum
14 products;

15 (3) identify suitable incentives to encourage investments in domestic
16 production of bioethanol fuel and other biofuels and cause the petroleum
17 companies operating in the Philippines to blend and retail ethanol-gasoline
18 blended fuel and other biofuels-blended gasoline; and

19 (4) through the BIR and the BOC, impose fines and penalties to any
20 person or juridical entity committing the prohibited act under Section 11(a) of

1 this Act and coordinate with the DOE on enforcement of bioethanol fuel and
2 gasohol specifications and standards.

3 (b) The DOST and the DA shall coordinate in identifying and
4 developing viable feedstock for the production of bioethanol fuel such as
5 cassava, sweet sorghum, sugarcane, sugar syrups, molasses and cellulose
6 materials, and viable feedstock for the production of other biofuels.

7 (c) The DOST through the PCIERD shall develop and implement a
8 R&D program supporting a sustainable improvement in bioethanol fuel and
9 other biofuels production and utilization technology. It shall also publish and
10 showcase related technologies developed locally and abroad.

11 (d) The DA through its relevant agencies shall:

12 (1) within six months from the effectivity of this Act, develop a
13 national program for the production of crops for use as feedstock including but
14 not limited to sugarcane, cassava, sweet sorghum and corn to ensure
15 availability of feedstock for production of bioethanol for motor fuel;

16 (2) within six months from the effectivity of this Act, develop a
17 national program for the production of crops for use as feedstock including,
18 but not limited to, coconut and jatropha to ensure availability of feedstock for
19 production of biofuels for motor fuel;

20 (3) ensure increased productivity and sustainable supply of bioethanol
21 feedstock. It shall institute a program, which would guarantee sufficient and

1 reliable supply of feedstock for fuel ethanol production. Towards this end, the
2 Secretary of the DA shall instruct the Administrator of the SRA and other DA-
3 attached agencies within their authority to develop and implement policies
4 supporting the National Bioethanol Program; and

5 (4) publish information on available and suitable areas for cultivation
6 and production of such crops.

7 (e) The LGUs shall assist the DOE in monitoring the distribution, sale
8 and use of bioethanol fuel and gasohol.

9 SEC. 11. *Prohibited Acts.* – The following acts shall be prohibited:

10 (a) Diversion of bioethanol, whether locally produced or imported, to
11 non-fuel uses;

12 (b) Distribution, sale and use of gasoline without bioethanol blend and
13 gasohol with bioethanol concentration level not complying with the
14 requirement under Section 5 of this Act;

15 (c) Distribution, sale and use of automotive fuel containing harmful
16 additives and/or oxygenates at such concentration exceeding the limits to be
17 determined by the NBB;

18 (d) Noncompliance with the established standards and guidelines of
19 the DOE; and

20 (e) Inappropriate and fallacious labeling of bioethanol and gasohol
21 products.

1 SEC. 12. *Penal Provisions.* – Any person or entity that commits any of
2 the prohibited acts or any provision of this Act and its IRR shall be subject to
3 the following sanctions:

4 (a) Fine of not less than Fifty thousand pesos (P50,000.00) but not
5 more than One hundred thousand pesos (P100,000.00) per day of violation;

6 (b) Confiscation of gasoline not complying with the specifications
7 provided for under Sections 4 and 5 hereof and corresponding issuances of the
8 DOE; and

9 (c) Closure of distribution facilities for nonpayment of fines and
10 blatant disregard of DOE orders.

11 SEC. 13. *Appropriations.* – The fund necessary for the initial
12 implementation of this Act shall be charged against the current appropriations
13 of the DOE. Thereafter, the fund necessary to carry out the provisions of this
14 Act shall be included in the annual General Appropriations Act.

15 SEC. 14. *Implementing Rules and Regulations.* – The DOE, through
16 the NBB, in consultation with the Committees on Energy of the Senate and the
17 House of Representatives, the stakeholders and other agencies concerned,
18 shall, within six months after the effectivity of this Act, promulgate the IRR of
19 this Act: *Provided,* That the draft of the IRR shall be posted in the DOE
20 Website for one month prior to the approval by the Congressional Biofuels

1 Oversight Committee: *Provided, further,* That the approved IRR shall be
2 published in at least two newspapers of general circulation.

3 SEC. 15. *Congressional Oversight Committee.* – Upon the effectivity
4 of this Act, the Committee on Energy and the Committee on Agriculture and
5 Food of the Senate and of the House of Representatives, shall jointly monitor
6 the implementation of this Act. Likewise, the Oversight Committee shall be
7 co-chaired by the Chairpersons of the Committee on Energy and the
8 Committee on Agriculture and Food of both Houses of Congress.

9 SEC. 16. *Repealing Clause.* – All laws, presidential decrees, executive
10 orders, presidential proclamations, rules and regulations or parts thereof
11 inconsistent with the provisions of this Act are hereby repealed or modified
12 accordingly.

13 SEC. 17. *Separability Clause.* – If any provision of this Act is declared
14 unconstitutional, the same shall not affect the validity and effectivity of the
15 other provisions hereof.

16 SEC. 18. *Effectivity.* – This Act shall take effect upon its approval and
17 publication in at least two newspapers of general circulation.

Approved,