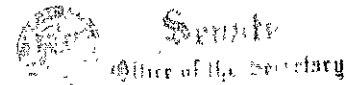


SIXTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
First Regular Session )



13 JUL 25 2010

SENATE  
S. No. 1110

---

Introduced by Senator Miriam Defensor Santiago

---

#### EXPLANATORY NOTE

The series of oil price hikes led to public clamor for the review of Republic Act No. 8479, otherwise known as the Downstream Oil Industry Deregulation Law of 1998. Upon the directive of then President Arroyo, the Department of Energy created an Independent Review Committee (IRC) consisting of professionals from the private sector to review and assess whether the Oil Deregulation Law had been effective and whether it had attained its goals under the prevailing economic circumstances and conditions in the country.

Among the findings of the IRC was that effective enforcement of the law was the key issue. The reported malpractices and illegal activities, such as substandard service stations and petroleum product smuggling demoralized legitimate investors.

Deregulation of the oil industry does not necessarily mean absence of any form of government intervention. It is consistent with the government's mandate to supervise the industry and regulate those aspects where market forces may not operate satisfactorily and thus more active intervention may be justified to ensure a truly competitive market under a regime of fair prices and adequate and continuous supply of environmentally clean and high-quality petroleum products.

The IRC found that jurisdiction over the oil industry was spread out to many government agencies under Executive Order No. 377 (Providing the Institutional Framework for the Administration of the Deregulated Downstream Oil Industry), which made coordination and enforcement very difficult, with each agency trying to protect one's turf.

Thus, enforcement of laws, rules and regulations was one of the critical issues in monitoring the downstream sector particularly in the retailing of LPG and liquid fuels. Removing

certain powers from the DOE, under Republic Act No. 8479 led to the proliferation of illegal, unsafe, unfair practices in the LPG and liquid fuel (“botebote”) sectors of the oil industry, especially in the retailing sector.

Most of the players favored reinstatement and even strengthening of the DOE’s authority to register and issue certifications for qualified industry participants so that the DOE could effectively enforce compliance with rules and regulations on product quality, facility standards, and safety.

This bill, therefore, seeks to provide definitive rules and regulations to restore the DOE’s authority and police power to suspend operations and revoke licenses of violators and erring players in the industry in the context of a deregulated environment.\*

*Miriam Defensor Santiago*  
MIRIAM DEFENSOR SANTIAGO  
*ast*

---

\* As a result of a public hearing and consultations during the 13th Congress, this was the DOE-proposed substitute bill to amend Republic Act No. 8479. This bill was originally filed during the Fourteenth Congress, First Regular Session.

13 JUL 25 03:00

SENATE  
S. No. 1110

RECORDED BY: *ji*

Introduced by Senator Miriam Defensor Santiago

1 AN ACT  
2 AMENDING REPUBLIC ACT NO. 8679, OTHERWISE KNOWN AS THE  
3 "DOWNSTREAM OIL INDUSTRY DEREGULATION ACT OF 1998"

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

4 SECTION 1. Section 5 of Republic Act No. 8479 is hereby amended to read as follows:

5 Section 5. *Liberalization of the Industry.* – Any law to the contrary  
6 notwithstanding, any person or entity may import or purchase any quantity of crude oil  
7 and petroleum products from a foreign or domestic source, lease or own and operate  
8 refineries and other downstream oil facilities and market such crude oil and petroleum  
9 products either in a generic name or his or its own trade name, or use the same for his or  
10 its own requirement: *Provided,* That any person [who shall] ENGAGED OR  
11 INTENDING TO engage in any such activity shall give prior notice thereof to the DOE  
12 for monitoring purposes AND SHALL FIRST SECURE A CERTIFICATE OF  
13 COMPLIANCE (COC) OR, FOR LPG RELATED ACTIVITIES, A STANDARD  
14 COMPLIANCE CERTIFICATE (SCC) FROM THE DOE: *Provided, further,* That [such  
15 notice] THE ISSUANCE OF SAID COC/SCC shall NOT exempt such person or entity  
16 from securing certificates of quality, health and safety and environmental clearance from  
17 the proper governmental agencies: *Provided, furthermore,* That such person or entity  
18 shall, for monitoring purposes, report to the DOE his or its every importation/exportation:  
19 *Provided, finally,* That all oil importations shall be in accordance with the Basel  
20 Convention.

1 SECTION 2. Section 14 of Republic Act No. 8479 is hereby amended to read as follows:

2 Section 14. *MONITORING AND ENFORCEMENT MECHANISMS.* –

3 (A) *CERTIFICATE OF COMPLIANCE/STANDARD COMPLIANCE*

4 *CERTIFICATE* – THE COC/SCC PROVIDED UNDER SECTION 5 HEREOF SHALL  
5 BE A MANDATORY REQUIREMENT FOR THE GRANT OR RENEWAL OF ANY  
6 LOCAL GOVERNMENT LICENSE OR PERMIT (*I.E.* BUSINESS/MAYOR’S  
7 PERMIT) TO ENGAGE IN ANY ACTIVITY IN THE DOWNSTREAM OIL  
8 INDUSTRY. NO BUSINESS PERMIT SHALL BE ISSUED OR RENEWED  
9 WITHOUT FIRST SECURING COC/SCC FROM THE DOE. THE COC/SCC SHALL  
10 INDICATE THAT THE PERSON/ENTITY APPLYING THEREFOR HAS COMPLIED  
11 WITH THE SUBMISSION OF ALL INFORMATION REQUIRED UNDER  
12 PERTINENT DOE CIRCULARS AND GUIDELINES AND SHALL STATE THAT  
13 THE FACILITIES OF SAID PERSON/ENTITY WAS SUBJECTED TO AND PASSED  
14 THE INSPECTION, BACKGROUND INVESTIGATION AND EVALUATION OF  
15 EQUIPMENT, PRODUCTS AND FACILITIES TO ENSURE COMPLIANCE WITH  
16 STANDARDS ON QUALITY, HEALTH, SAFETY AND ENVIRONMENTAL  
17 PROTECTION. THE SCC FOR PERSON/ENTITY INVOLVED IN THE RETAILING  
18 OF LPG SHALL INCLUDE THE SPECIFIC BRAND/S A RETAILER IS ALLOWED  
19 TO SELL AS PROVIDED FOR IN THE CERTIFICATION SUBMITTED BY THE  
20 BRAND OWNERS TO THE DOE.

21 THE DOE SHALL NOT ISSUE OR RENEW ANY COC/SCC IF, BASED ON  
22 ITS RECORDS, THE APPLICANT IS SUBJECT OF A COMPLAINT OR CASE  
23 FILED FOR NON-COMPLIANCE OF THE PROVISIONS OF THIS ACT AND  
24 RULES AND REGULATIONS ISSUED BY THE DOE IN RELATION THERETO,  
25 UNLESS SUCH COMPLAINT OR CASE HAS BEEN DISMISSED OF  
26 COMPLETELY RESOLVED THROUGH THE PAYMENT OF THE  
27 CORRESPONDING ADMINISTRATIVE FINES OR PENALTIES, AMONG  
28 OTHERS, *PROVIDED, FURTHER,* THAT THE DOE SHALL REVOKE A COC/SCC

1 AND DISQUALIFY FOR ISSUANCE OF NEW COC/SCC ANY PERSON/ENTITY  
2 FOUND TO HAVE COMMITTED THE SAME VIOLATION AT LEAST THREE (3)  
3 TIMES WITHIN A PERIOD OF TWELVE (12) SUCCEEDING MONTHS,  
4 REGARDLESS OF THE PAYMENT OF THE CORRESPONDING  
5 ADMINISTRATIVE FINE OR PENALTY FOR EACH VIOLATION.

6 THE COC SHALL BE VALID FOR FIVE (5) YEARS AND THE SCC SHALL  
7 BE VALID FOR ONE (1) YEAR FROM THE DATE OF ISSUANCE THEREOF,  
8 UNLESS SOONER REVOKED OR SUSPENDED. THE REVOCATION OR  
9 SUSPENSION OF A COC/SCC SHALL BE A GROUND FOR THE REVOCATION  
10 AND/OR SUSPENSION BY THE LGU CONCERNED OF THE PERMIT AND  
11 OPERATION OF ERRING PERSON/ENTITY.

12 (B) *MONITORING AND STANDARDS COMPLIANCE INSPECTION* – THE  
13 DOE, BY ITSELF OR IN PARTNERSHIP WITH OTHER CONCERNED  
14 GOVERNMENT AGENCIES, SHALL CONDUCT REGULAR MONITORING AND  
15 INSPECTION OF PERSON/ENTITY INVOLVED IN THE DOWNSTREAM OIL  
16 ACTIVITIES TO ENSURE THAT CLEAN, ENVIRONMENTALLY-SAFE AND  
17 WORKER-BENIGN TECHNOLOGIES ARE APPLIED AND TO ENSURE  
18 CONFORMITY WITH QUALITY AND SAFETY STANDARDS AND OTHER  
19 MANDATORY REQUIREMENTS OF THE LAW. THE DOE SHALL NOT ISSUE  
20 COC/SCC UNLESS IT IS SHOWN UPON PROPER CONDUCT OF STANDARD  
21 COMPLIANCE INSPECTION, THAT THE PERSON/ENTITY ENGAGED IN THE  
22 DOWNSTREAM OIL ACTIVITIES HAS COMPLIED WITH THE PROVISIONS OF  
23 THIS ACT, THE PNS ON PETROLEUM PRODUCTS AND FACILITIES AND SUCH  
24 OTHER RULES AND REGULATIONS AS MAY BE PRESCRIBED BY THE DOE.

25 SPECIFIC TO THE LPG SECTOR, THE DOE SHALL CONFISCATE  
26 CYLINDERS FOUND TO BE IN VIOLATION OF RULES AND REGULATIONS ON  
27 SAFETY, MEASUREMENT OR VOLUME STANDARDS, MARKINGS AND  
28 RELATED MATTERS (I.E. UNDERFILLED, UNBRANDED, POSSESSION OF  
29 TAMPERED, ALTERED OR MODIFIED LPG CYLINDERS, AND THE LIKE) AND

1 SHALL FILE NECESSARY ADMINISTRATIVE AND/OR CRIMINAL CHARGES IN  
2 COOPERATION WITH CONCERNED GOVERNMENT AGENCIES. THE DOE  
3 SHALL FORMULATE RULES, IN CONSULTATION WITH INDUSTRY  
4 PARTICIPANTS, FOR THE DISPOSITION OF CONFISCATED, SEIZED AND  
5 IMPOUNDED LPG CYLINDERS.

6 THE DOE SHALL REQUIRE PERSON/ENTITY ENGAGED IN THE  
7 DOWNSTREAM OIL ACTIVITIES TO REGULARLY SUBMIT INFORMATION  
8 SUCH AS, BUT NOT LIMITED TO, NATURE OF BUSINESS, TRADE  
9 NAME/BRAND NAME OWNERS, LIST AND ADDRESS OR LOCATION OF  
10 FACILITIES AND EQUIPMENT AND SUCH OTHER RELEVANT INFORMATION  
11 AS MAY BE DETERMINED BY THE DOE. THE DOE SHALL ESTABLISH A  
12 CENTRAL DATABASE WITH ONE (1) YEAR FROM EFFECTIVITY OF THIS ACT.  
13 THE DOE SHALL MAINTAIN THE DATABASE AND UPDATE THE SAME ON A  
14 QUARTERLY BASIS. THE DATABASE SHALL BE MADE AVAILABLE TO THE  
15 PUBLIC UPON REQUEST, SUBJECT TO THE LIMITATIONS PROVIDED IN  
16 SECTION 15 (G) OF THIS ACT AND THE APPROVAL OF THE DOE.

17 (C) *REPORTS AND DISCLOSURE TO DOE* – THE DOE SHALL HAVE THE  
18 AUTHORITY TO REQUIRE ANY PERSON/ENTITY ENGAGED IN THE  
19 DOWNSTREAM OIL ACTIVITIES TO SUBMIT WRITTEN, ELECTRONIC OR  
20 OTHER FORM OF REPORTS OR DISCLOSURES, AS MAY DEEM REASONABLE  
21 AND NECESSARY TO EFFECTIVELY PERFORM THEIR FUNCTIONS UNDER  
22 THIS ACT. ANY PERSON/ENTITY WHO FAILS TO SUBMIT ANY SUCH REPORT  
23 OR DISCLOSURE WITHIN THE PERIOD AND IN THE MANNER PRESCRIBED  
24 BY THE DOE SHALL BE PENALIZED UNDER THIS ACT.

25 (D) *MONITORING OF DOWNSTREAM OIL INDUSTRY ACTIVITY*–

26 (I) [(a)] The DOE shall monitor and publish daily international crude oil prices, as  
27 well as follow the movements of domestic oil prices. FOR THIS PURPOSE, THE  
28 GENERAL APPROPRIATIONS ACT (GAA) SHALL PROVIDE FOR THE DOE  
29 SUCH FUNDS, BUDGET OR ALLOCATION FOR THE DOE'S SUBSCRIPTION TO

1 INTERNATIONAL OIL PRICE WIRE SERVICES. It shall likewise monitor the quality  
2 of petroleum products and stop the operation of businesses involved in the sale of  
3 petroleum products which do not comply with the national standards of quality that are  
4 aligned with the international standards/protocols of quality. The Bureau of Product  
5 Standards of the DTI, together with the Department of Environment and Natural  
6 Resources (DENR), the DOE, the Department of Science and Technology (DOST),  
7 representatives of the fuel and automotive industries and the consumers, shall set the  
8 specifications for all types of fuel and fuel-related products to improve fuel composition  
9 for increased efficiency and reduced emissions. The BPS shall also specify the allowable  
10 content of additives in all types of fuels and fuel-related products.

11 (II) [(b)] The DOE shall monitor the refining and manufacturing processes of  
12 local petroleum products to ensure that clean and safe (environment and worker-benign)  
13 technologies are applied. This shall also apply to the process of marketing local and  
14 imported petroleum products. FOR THIS PURPOSE, THE GAA SHALL FURTHER  
15 PROVIDE FOR ADDITIONAL BUDGETARY SUPPORT TO THE DOE FOR THE  
16 ACQUISITION AND MAINTENANCE OF THE APPROPRIATE MOBILE TESTING  
17 FACILITIES AND EQUIPMENT.

18 (III) [(c)] The DOE shall maintain a periodic schedule of present and future total  
19 industry inventory of petroleum products for the purpose of determining the level of  
20 supply. To implement this, the importers, refiners, and marketers are hereby required to  
21 submit monthly to the DOE their actual importations, local purchases, sales and/or  
22 consumption, and inventory on a per crude/product basis.

23 (IV) [(d)] Any report from any person of an unreasonable rise in the prices of  
24 petroleum products shall be immediately acted upon. For this purpose, the creation of the  
25 DOE-DOJ Task Force is hereby mandated to determine within thirty (30) days the merits  
26 of the report and initiate the necessary action warranted under the circumstance:  
27 *Provided*, That nothing herein shall prevent the said task force from investigating and/or  
28 filing the necessary complaint with the proper court or agency *motu proprio*.

1           Upon the effectivity of this Act, the Secretaries of Energy and Justice shall jointly  
2 appoint the members of a committee who shall be tasked with the drafting of the rules  
3 and guidelines to be adopted by the Task Force in the performance of its duty. These  
4 guidelines shall ensure the efficiency, promptness, and effectiveness in the handling of its  
5 cases. The Task Force shall be organized and its members appointed within one (1)  
6 month from the effectivity of this Act.

7           (V) [(e)] In times of national emergency, when the public interest so requires, the  
8 DOE may, during the emergency and under reasonable terms prescribed by it,  
9 temporarily take over or direct the operation of any person or entity engaged in the  
10 Industry.

11       SECTION 3. Section 15 of Republic Act No. 8479 is hereby amended to read as follows:

12           Section 15. *Additional Powers of the DOE Secretary.* – In connection with the  
13 enforcement of this Act, the DOE Secretary shall have the following powers:

14           (a) To gather and compile appropriate information concerning, and to investigate  
15 from time to time the organization, business, conduct, practices, and management of any  
16 person or entity in the Industry;

17           (b) To require, by general or special orders, persons or entities engaged in a  
18 particular activity of the industry: (i) to file an annual or special report, or both in such  
19 form as the Secretary may prescribe, or (ii) to answer specific questions in writing,  
20 furnishing to the Secretary such information as he may require as to the organization,  
21 business, conduct, practices, management, and relation to other corporations,  
22 partnerships, and individuals of the respective persons or entities filing such reports or  
23 answer. Such reports and or answer shall be filed with the Secretary under oath and  
24 within such reasonable time as the Secretary may prescribe;

25           (c) Upon the direction of the President or either House of Congress, to investigate  
26 and report the facts relating to any alleged violation of this Act by any person or  
27 corporation;



1 (d) Upon the application of the Secretary of Justice, to investigate and make  
2 recommendations for the readjustment of the business of any person or entity alleged to  
3 be violating this Act in order that such person or entity may thereafter maintain his or its  
4 organization, management, and conduct of business in accordance with law;

5 (e) [To recommend to the proper government agency the suspension or revocation  
6 and termination of the business permit of an offender;] FOR ANY VIOLATION OR  
7 NON-COMPLIANCE WITH THIS ACT OR SUCH RULES AND REGULATIONS  
8 ISSUED BY THE DOE IN RELATION THERETO, TO IMPOSE AND COLLECT  
9 ADMINISTRATIVE FINES AND PENALTIES WHICH SHALL RANGE FROM A  
10 MINIMUM OF TEN THOUSAND PESOS (PHP 10,000.00) TO A MAXIMUM OF  
11 FIVE HUNDRED THOUSAND PESOS (PHP 500,000.00) FOR EACH VIOLATION  
12 OR NON-COMPLIANCE, REVOKE/SUSPEND A COC/SCC AND CAUSE  
13 CORRESPONDING ACTION BY LGU ON THE SUSPENSION OR REVOCATION  
14 AND TERMINATION OF THE BUSINESS PERMIT OR LICENSE OF AN  
15 OFFENDER, PROVIDED THAT, THE ADMINISTRATIVE FINE OR PENALTY  
16 THAT MAY BE IMPOSED BY THE DOE SHALL BE WITHOUT PREJUDICE TO  
17 THE FILING OF ANY CRIMINAL ACTION, IF WARRANTED UNDER THE  
18 CIRCUMSTANCES;

19 (f) Concomitant with the policy of ensuring a continuous, adequate and economic  
20 supply of energy to exercise his powers and functions provided under Section 5 (c) of  
21 Republic Act No. 7638;

22 (g) To make public from time to time such portions of the information obtained  
23 by him hereunder as are in the public interest; and to make annual and special reports to  
24 Congress and to submit therewith recommendations for additional legislation; and to  
25 provide for the publication of his reports and decisions in such form and manner as may  
26 be best adapted for public information and use: *Provided*, That the Secretary shall have  
27 any authority to make public any trade secret or any commercial or financial information  
28 which is obtained from any person or entity which is privileged or confidential, except  
29 that the Secretary may disclose such information to officers and employees of appropriate

1 law enforcement agencies or to any officer or employee of any such law enforcement  
2 agency upon the prior certification by an officer of any such law enforcement agency that  
3 such information will be maintained in confidence and will be used only for official law  
4 enforcement purposes; [and]

5 (h) Whenever a final order has been entered against any defendant in any suit  
6 brought by the government to prevent and restrain any violation of the antitrust  
7 provisions of this Act to make investigation, upon his initiative, of the manner in which  
8 the decree has been or is being carried out, and upon the application of the Secretary of  
9 Justice, it shall be his duty to make such investigation. He shall transmit to the Secretary  
10 of Justice a report embodying his findings and recommendations as a result of any such  
11 investigation, and the report shall be made public at the discretion of the Secretary; AND

12 (I) PERFORM SUCH OTHER POWERS AND FUNCTIONS AS MAY BE  
13 NECESSARY IN FURTHERANCE OF THE OBJECTIVES OF THIS ACT.

14 SECTION 4. *Separability Clause.* – If any provision of this Act is held invalid or  
15 unconstitutional, the remainder of the Act or the provision not otherwise affected shall remain  
16 valid and subsisting.

17 SECTION 5. *Repealing Clause.* - Any law, presidential decree or issuance, executive  
18 order, letter of instruction, or administrative rule or regulation contrary to or inconsistent with the  
19 provision of this Act is hereby repealed, modified, or amended accordingly.

20 SECTION 6. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its  
21 publication in at least two (2) newspapers of general circulation.

Approved,