

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



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SENATE
S. No. 1214

RECEIVED BY: *je*

Introduced by Senator Ralph G. Recto

Explanatory Note

Republic Act (R.A.) No. 8479, otherwise known as the "Downstream Oil Industry Deregulation Act of 1998" was enacted to liberalize and deregulate the downstream oil industry to ensure a truly competitive market under a regime of fair prices, adequate and continuous supply of environmentally-clean and high-quality petroleum products. Under the law, the government can no longer interfere with the pricing of oil products except to monitor which also means that it is freed from providing costly subsidies.

However, R.A. No. 8479 failed to mitigate the effects of a global oil crisis. Worse, it appeared that the deregulation policy even strengthened the cartelization of oil industry players since automatic oil price hikes are allowed without control from the government.

Frequent oil price hikes aggravated the hardships of the public consisting of the consumer, agriculture, manufacturing and service sectors. Thus, people's organizations have been demanding for a review of R.A. No. 8479. These groups have consistently raised concerns on whether international price movements were accurately considered in the pricing of petroleum products. It is, therefore, incumbent upon the government to ensure transparency in the pricing of petroleum products by the local oil industry players and to determine the computations or assumptions employed in their price adjustments to prevent oil companies from engaging in unwarranted profiteering.

To achieve this purpose, this measure shall require the submission of financial documents of local oil companies that are pertinent in the determination of price adjustments of petroleum products. Submission of these documents is mandatory and penalties for non-compliance are increased.

This bill also declares unlawful for oil companies to engage in unwarranted oil price increases, or unreasonable amounts of price increase or decrease as may be determined by the DOE and provides for the imposition of heavier penalties against erring oil companies and officials.

To strengthen the Task Force created under Section 14 of the law, which is tasked to investigate and file complaints against unreasonable rise in the prices of petroleum products, this bill seeks the inclusion of the Commission on Audit (COA) and consumer and public transport group, in the Task Force together with the Departments of Energy, Justice and Trade and Industry. The COA, with its auditing and accounting expertise, will fortify the capability of the Task Force in scrutinizing the financial documents and reports of the oil companies.

Finally, to provide Filipinos the best energy choices and to ensure transparency in the pricing of oil products, the Task Force is mandated to post twice a month on the DOE's official website and publish in at least 2 national newspapers the prevailing price of petroleum products in the retail market.


With the foregoing considered, the approval of this bill is earnestly sought.


RALPH G. RECTO

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AN ACT
TO PROMOTE FAIR TRADE IN THE OIL INDUSTRY AND FOR OTHER PURPOSES,
AMENDING REPUBLIC ACT NO. 8479, OTHERWISE KNOWN AS THE
"DOWNSTREAM OIL DEREGULATION ACT OF 1998"

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

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

2 "SEC. 4. Definition of Terms. - For purposes of this Act, the following terms are
3 herein below defined:

4 "x x x

5 (O) PREVAILING RETAIL PRICE SHALL REFER TO THE CURRENT
6 RETAIL PRICE OF ALL PETROLEUM PRODUCTS IN THE COUNTRY.

7 [(o)] (P) *Singapore Import Parity (SIP)* shall refer to the deemed landed cost of a
8 petroleum product imported from Singapore at a free-on-board price equal to the average
9 Singapore Posting for that product at the time of loading;

10 [(p)] (Q) *Singapore Posting* shall refer to the price of petroleum products
11 periodically posted by oil refineries in Singapore and reported by independent
12 international publications;

13 (R) TASK FORCE SHALL REFER TO THE OIL MONITORING TASK
14 FORCE CREATED UNDER SECTION 2 OF THIS ACT;

15 [(q)] (S) *Wholesale Posted Price (WPP)* shall refer to the ceiling price of
16 petroleum products set by the Board based on its duly approved automatic pricing
17 formula.

18 **SEC. 2.** Creation of the Oil Monitoring Task Force. - The Oil Monitoring Task Force
19 shall be organized within one (1) month from the effectivity of this Act to implement the Anti-
20 Trust safeguards under Section 11 of Republic Act No. 8479 and ensure fair competition in the
21 oil industry.

22 1) Creation and Composition. - The Secretaries from the Departments of Energy
23 (DOE), Justice (DOJ) and Trade and Industry (DTI) and the Chairman of the
24 Commission on Audit (COA) shall jointly appoint the members of the Task

1 Force which shall be composed of an Undersecretary from Energy and Justice, as
2 Co-Chair with the following members:

- 3 a) One (1) member from the DOE;
- 4 b) One (1) member from the DOJ;
- 5 c) One (1) member from the DTI;
- 6 d) One (1) member from COA;
- 7 e) Two (2) members from the consumer and public transport groups which have
8 been in existence and active for the last five (5) years prior to this Act; and
- 9 f) One (1) industry financial expert.

10 2) The members of the Task Force shall adopt its rules and guidelines in the
11 performance of its duty. These guidelines shall ensure the efficiency, promptness,
12 and effectiveness in the handling of its cases.

13 **SEC. 3. Powers and Functions of the Oil Monitoring Task Force. -**

- 14 a) To establish stricter and more industry-specific reporting guidelines;
- 15 b) To conduct periodic and unannounced inspections of oil depots and
16 facilities;
- 17 c) To inspect the books of accounts of companies engaged in the oil
18 industry;
- 19 d) To request all records that are deemed necessary to ensure
20 transparency and compliance of all oil industry participants with the
21 provisions of this act; and
- 22 e) To conduct an annual analysis of oil industry performance, including
23 findings and issues encountered by the Task Force to be posted in
24 the DOE website.

25 **SEC. 4. Section 10 of Republic Act No. 8479 is hereby amended to read as follows:**

26 "SEC. 10. *Promotion of Retail Competition.* THE TASK FORCE SHALL
27 ADOPT ALL MEASURES TO PROMOTE FAIR TRADE IN THE RETAIL MARKET
28 AND THE CONSUMERS' RIGHT OF ACCESS TO ANY AND ALL INFORMATION
29 REGARDING THE PRICE OF ALL PETROLEUM PRODUCTS IN THE RETAIL
30 MARKET. THE TASK FORCE SHALL CONTINUE TO MONITOR THE
31 MOVEMENT OF OIL PRICE IN THE RETAIL MARKET AND POST THE
32 PREVAILING RETAIL PRICE ON THE DOE'S OFFICIAL WEBSITE AND
33 PUBLISH THE SAME IN AT LEAST TWO (2) NATIONAL NEWSPAPERS OF
34 GENERAL CIRCULATION ON A BIWEEKLY BASIS. THESE PRACTICES ARE
35 INTENDED TO PROVIDE THE CONSUMERS WIDER ACCESS TO PETROLEUM
36 PRODUCTS THAT GIVE BEST VALUE FOR MONEY."

37 "X X X

38 "X X X

1 "X X X
2 "X X X
3 "X X X."

4 **SEC. 5.** Section 11 of Republic Act No. 8479 is hereby amended to read as follows:

5 "Sec. 11. *Anti-Trust Safeguards.* To ensure fair competition and prevent cartels
6 and monopolies in the Industry, the following acts are hereby prohibited:

7 "(a) X X X

8 "(b) X X X

9 "Any person, including but not limited to the chief operating officer, chief
10 executive officer or chief finance officer of the partnership, corporation or any entity
11 involved, who is found guilty of any of the said prohibited acts shall suffer the penalty of
12 three (3) to seven (7) years imprisonment, and a fine ranging from [One million pesos (P
13 1,000,000.00) to] Two million pesos (P 2,000,000.00) TO THREE MILLION PESOS
14 (P 3,000,000.00).

15 **SEC. 6.** Section 12 of Republic Act No. 8479 is hereby amended to read as follows:

16 "Sec. 12. *Other Prohibited Acts.* To ensure compliance with the provisions of this
17 Act, the refusal to comply with any of the following shall likewise be prohibited:

18 "(a) Submission of any reportorial requirements SUCH AS BUT NOT LIMITED
19 TO BOOKS OF ACCOUNTS, AUDITED FINANCIAL STATEMENTS, VERIFIED
20 REPORTS OF THE COMPANY'S ASSUMPTIONS AND COMPUTATIONS IN THE
21 PRICING OF THEIR PETROLEUM PRODUCTS, WHETHER IN THE PROCESSING,
22 REFINING, SALE OR DISTRIBUTION OF SAID PRODUCTS, RELEVANT TO
23 ENSURE THAT OIL COMPANIES ARE NOT INVOLVED IN UNWARRANTED
24 PROFITEERING;

25 "(b) X X X;

26 "(c) X X X;

27 "(d) X X X.

28 "Any person, including but not limited to the chief operating officer or chief
29 executive officer of the partnership, corporation or any entity involved, who is found
30 guilty of any of the said prohibited acts shall suffer the penalty of imprisonment for two
31 (2) years and a fine ranging from [Two hundred fifty thousand pesos (P 250,000.00) to]
32 Five hundred thousand pesos (P 500,000.00) TO SEVEN HUNDRED FIFTY
33 THOUSAND PESOS (P 750,000.00).

34 IT SHALL LIKEWISE BE UNLAWFUL TO CAUSE THE UNNECESSARY
35 INCREASE IN THE PRICES OF PETROLEUM PRODUCTS, OR CAUSE AN
36 UNREASONABLE AMOUNT OF INCREASE OR DECREASE IN THE SAME UNDER
37 SECTION 7 OF THIS ACT.

38 **SEC. 7.** Section 14 of Republic Act No. 8479 is hereby amended to read as follows:

1 “SEC. 14. MONITORING. (a) The DOE shall monitor ACTIVELY and publish
2 daily international crude oil prices, as well as follow the movements of domestic oil
3 prices. IT SHALL DETERMINE THE FACTORS WHICH CAUSE THE CHANGE IN
4 THE PRICES OF PETROLEUM PRODUCTS, EVALUATE THE NECESSITY OF
5 THE CHANGE IN THE PRICES AND THE REASONABILITY OF THE AMOUNTS
6 OF INCREASE OR DECREASE BASED ON THE ACTUAL CONDITIONS OF THE
7 MARKET AND OTHER CAUSATIVE AND CONTRIBUTORY FACTORS AS
8 DETERMINED BY IT. It shall likewise monitor the quality of petroleum products and
9 stop the operation of businesses involved in the sale of petroleum products which do not
10 comply with the national standards of quality that are aligned with the national
11 standards/protocols of quality. The Bureau of Product Standards of the DTI, together with
12 the Department of Environment and Natural Resources (DENR), the DOE, the
13 Department of Science and Technology (DOST), representatives of the fuel and
14 automotive industries and the consumers, shall set the specifications for all types of fuel
15 and fuel-related products to improve fuel composition for increased efficiency and
16 reduced emissions. The BPS shall also specify the allowable content of additives in all
17 types of fuels and fuel-related products.

18 “(b) X X X

19 “(c) The DOE shall maintain a periodic schedule of present and future total
20 industry inventory of petroleum products for the purpose of determining the level of
21 supply FOR THE SUCCEEDING MONTH. To implement this, the importers, refiners,
22 and marketers are hereby required to submit [monthly] EVERY THIRD WEDNESDAY
23 OF THE MONTH to the DOE their FORTY FIVE (45)-DAY INVENTORY of actual
24 importations, local purchases, sales and/or consumption[, and inventory] on a per
25 crude/product basis.

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

32 [Upon the effectivity of this Act, the Secretaries of Energy and Justice shall
33 jointly appoint the members of a committee who shall be tasked with the drafting of the
34 rules and guidelines to be adopted by the Task Force in the performance of its duty.
35 These guidelines shall ensure the efficiency, promptness, and effectiveness in the
36 handling of its cases. The Task Force shall be organized and its members appointed
37 within one (1) month from the effectivity of this Act.]

1 “(e) In times of national emergency, when the public interest so requires, the DOE
2 may, during the emergency and under reasonable terms prescribed by it, temporarily take
3 over or direct the operation of any person or entity engaged in the Industry.

4 **SEC. 8. *Implementing Rules and Regulations.***- The Department of Energy, in
5 coordination with the Departments of Justice and Trade and Industry, the Commission on Audit
6 and representatives from the consumer and transport groups, shall formulate and issue the
7 necessary rules and regulations within sixty (60) days from the effectivity of this Act.

8 **SEC. 9. *Separability Clause.***- If any provision of this Act is declared unconstitutional or
9 invalid, other parts or provisions hereof that are not affected thereby shall continue to be in full
10 force and effect.

11 **SEC. 10. *Repealing Clause.*** – All other laws, orders, issuances, circulars, rules and
12 regulations or parts thereof, which are inconsistent with the provisions of this Act are hereby
13 repealed or modified accordingly.

14 **SEC. 11. *Effectivity.*** This Act shall take effect fifteen (15) days from the date of
15 publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,