

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



'16 JUL 21 P 3:30

SENATE

S. No. 853

RECEIVED BY: 

Introduced by Senator Ralph G. Recto

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”

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.

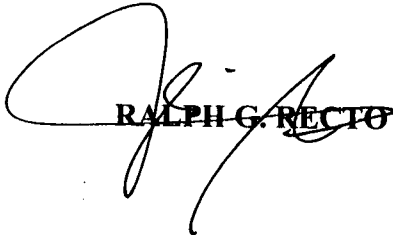
This bill also declares unlawful for oil companies to engage in unwarranted oil price increases, or unreasonable amounts of price increase or decrease as may be determined by the DOE and provides for the imposition of heavier penalties against erring oil companies and officials.

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 representatives from consumer and public transport groups 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 two (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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Be it enacted by the Senate and 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 Force

1 which shall be composed of an Undersecretary from Energy and Justice, as Co-
2 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 facilities;
- 16 c) To inspect the books of accounts of companies engaged in the oil industry;
- 17 d) To request all records that are deemed necessary to ensure transparency and
18 compliance of all oil industry participants with the provisions of this Act; and
- 19 e) To conduct an annual analysis of oil industry performance, including findings and
20 issues encountered by the Task Force to be posted in the DOE website.

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

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

33 "X X X

34 "X X X

35 "X X X

36 "X X X

37 "X X X."

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

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

3 “(a) X X X

4 “(b) X X X

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

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

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

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

21 “(b) X X X;

22 “(c) X X X;

23 “(d) X X X.

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

30 IT SHALL LIKEWISE BE UNLAWFUL TO CAUSE THE UNNECESSARY
31 INCREASE IN THE PRICES OF PETROLEUM PRODUCTS, OR CAUSE AN
32 UNREASONABLE AMOUNT OF INCREASE OR DECREASE IN THE SAME UNDER
33 SECTION 7 OF THIS ACT.

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

35 “SEC. 14. *MONITORING*. (a) The DOE shall monitor ACTIVELY and publish
36 daily international crude oil prices, as well as follow the movements of domestic oil
37 prices. IT SHALL DETERMINE THE FACTORS WHICH CAUSE THE CHANGE IN
38 THE PRICES OF PETROLEUM PRODUCTS, EVALUATE THE NECESSITY OF

1 THE CHANGE IN THE PRICES AND THE REASONABILITY OF THE AMOUNTS
2 OF INCREASE OR DECREASE BASED ON THE ACTUAL CONDITIONS OF THE
3 MARKET AND OTHER CAUSATIVE AND CONTRIBUTORY FACTORS AS
4 DETERMINED BY IT. It shall likewise monitor the quality of petroleum products and
5 stop the operation of businesses involved in the sale of petroleum products which do not
6 comply with the national standards of quality that are aligned with the national
7 standards/protocols of quality. The Bureau of Product Standards of the DTI, together with
8 the Department of Environment and Natural Resources (DENR), the DOE, the
9 Department of Science and Technology (DOST), representatives of the fuel and
10 automotive industries and the consumers, shall set the specifications for all types of fuel
11 and fuel-related products to improve fuel composition for increased efficiency and
12 reduced emissions. The BPS shall also specify the allowable content of additives in all
13 types of fuels and fuel-related products.

14 “(b) X X X

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

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

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

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

37 **SEC. 8. Implementing Rules and Regulations.-** The Department of Energy, in
38 coordination with the Departments of Justice and Trade and Industry, the Commission on Audit

1 and representatives from the consumer and transport groups, shall formulate and issue the
2 necessary rules and regulations within sixty (60) days from the effectivity of this Act.

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

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

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

Approved,