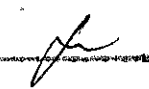


FOURTEENTH CONGRESS OF THE REPUBLIC)
 OF THE PHILIPPINES)
 First Regular Session)

7 FEB 2015

SENATE
 S. No. 1940

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The series of oil price hikes has 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 President Gloria Macapagal Arroyo, the Department of Energy created an Independent Review Committee (IRC) consisting of professionals from the private sector who are respected in their fields, to review and assess whether the Oil Deregulation Law has been effective and whether it has attained its goals under the prevailing economic circumstances and conditions in the country.

Among the findings of the IRC, effective enforcement of the law is the key issue. The reported malpractices and illegal activities, such as substandard service stations and petroleum product smuggling demoralize legitimate investors. It is in this area where it is believed most of the problems arise.

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 finds that jurisdiction over the oil industry is 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 makes coordination and enforcement very difficult, with each agency trying to protect one's turf.

Thus, enforcement of laws, rules and regulations is 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 has led to the proliferation of illegal, unsafe, unfair practices in the LPG and liquid fuel (“bote-bote”) sectors of the oil industry, especially in the retailing sector.

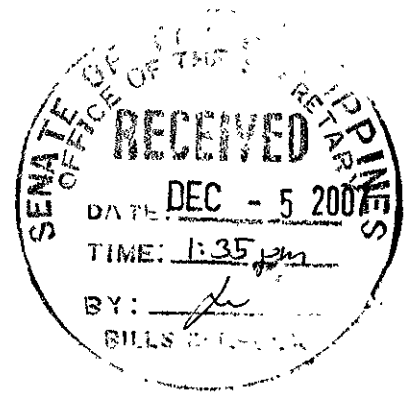
Most of the players favor reinstatement and even strengthening of the DOE’s authority to register and issue certifications for qualified industry participants so that the DOE can effectively enforce compliance with rules and regulations on product quality, facility standards, and safety.

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

* As a result of a public hearing and consultations during the 13th Congress, this is the DOE-proposed substitute bill that seeks to amend Republic Act No. 8479.

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



SENATE
S. No. 1940

Introduced by Senator Miriam Defensor Santiago

1 AN ACT
2 AMENDING REPUBLIC ACT NO. 8479, OTHERWISE KNOWN AS THE
3 "DOWNSTREAM OIL INDUSTRY DEREGULATION ACT OF 1998".

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

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

7 **Section 5. Liberalization of the Industry.** – Any law to the contrary
8 notwithstanding, any person or entity may import or purchase any quantity of
9 crude oil and petroleum products from a foreign or domestic source, lease or own
10 and operate refineries and other downstream oil facilities and market such crude
11 oil and petroleum products either in a generic name or his or its own trade name,
12 or use the same for his or its own requirement: *Provided,* That any person [who
13 shall] **ENGAGED OR INTENDING TO** engage in any such activity shall give
14 prior notice thereof to the DOE for monitoring purposes **AND SHALL FIRST**
15 **SECURE A CERTIFICATE OF COMPLIANCE (COC) OR, FOR LPG-**
16 **RELATED ACTIVITIES, A STANDARD COMPLIANCE CERTIFICATE**
17 **(SCC) FROM THE DOE:** *Provided, further,* That [such notice] **THE**
18 **ISSUANCE OF SAID COC/SCC** shall **NOT** exempt such person or entity from
19 securing certificates of quality, health and safety and environmental clearance
20 from the proper governmental agencies: *Provided, furthermore,* That such person
21 or entity shall, for monitoring purposes, report to the DOE his or its every
22 importation/exportation: *Provided, finally,* That all oil importations shall be in
23 accordance with the Basel 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**
5 **HEREOF SHALL BE A MANDATORY REQUIREMENT FOR THE**
6 **GRANT OR RENEWAL OF ANY LOCAL GOVERNMENT LICENSE OR**
7 **PERMIT (*I.E.* BUSINESS/MAYOR’S PERMIT) TO ENGAGE IN ANY**
8 **ACTIVITY IN THE DOWNSTREAM OIL INDUSTRY. NO BUSINESS**
9 **PERMIT SHALL BE ISSUED OR RENEWED WITHOUT FIRST**
10 **SECURING COC/SCC FROM THE DOE. THE COC/SCC SHALL**
11 **INDICATE THAT THE PERSON/ENTITY APPLYING THEREFOR HAS**
12 **COMPLIED WITH THE SUBMISSION OF ALL INFORMATION**
13 **REQUIRED UNDER PERTINENT DOE CIRCULARS AND GUIDELINES**
14 **AND SHALL STATE THAT THE FACILITIES OF SAID**
15 **PERSON/ENTITY WAS SUBJECTED TO AND PASSED THE**
16 **INSPECTION, BACKGROUND INVESTIGATION AND EVALUATION**
17 **OF EQUIPMENT, PRODUCTS AND FACILITIES TO ENSURE**
18 **COMPLIANCE WITH STANDARDS ON QUALITY, HEALTH, SAFETY**
19 **AND ENVIRONMENTAL PROTECTION. THE SCC FOR**
20 **PERSON/ENTITY INVOLVED IN THE RETAILING OF LPG SHALL**
21 **INCLUDE THE SPECIFIC BRAND/S A RETAILER IS ALLOWED TO**
22 **SELL AS PROVIDED FOR IN THE CERTIFICATION SUBMITTED BY**
23 **THE BRAND OWNERS TO THE DOE.**

24 **THE DOE SHALL NOT ISSUE OR RENEW ANY COC/SCC IF,**
25 **BASED ON ITS RECORDS, THE APPLICANT IS SUBJECT OF A**
26 **COMPLAINT OR CASE FILED FOR NON-COMPLIANCE OF THE**
27 **PROVISIONS OF THIS ACT AND RULES AND REGULATIONS ISSUED**
28 **BY THE DOE IN RELATION THERETO, UNLESS SUCH COMPLAINT**
29 **OR CASE HAS BEEN DISMISSED OF COMPLETELY RESOLVED**

1 THROUGH THE PAYMENT OF THE CORRESPONDING
2 ADMINISTRATIVE FINES OR PENALTIES, AMONG OTHERS,
3 *PROVIDED, FURTHER,* THAT THE DOE SHALL REVOKE A COC/SCC
4 AND DISQUALIFY FOR ISSUANCE OF NEW COC/SCC ANY
5 PERSON/ENTITY FOUND TO HAVE COMMITTED THE SAME
6 VIOLATION AT LEAST THREE (3) TIMES WITHIN A PERIOD OF
7 TWELVE (12) SUCCEEDING MONTHS, REGARDLESS OF THE
8 PAYMENT OF THE CORRESPONDING ADMINISTRATIVE FINE OR
9 PENALTY FOR EACH VIOLATION.

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

17 *(B) MONITORING AND STANDARDS COMPLIANCE INSPECTION*

18 - THE DOE, BY ITSELF OR IN PARTNERSHIP WITH OTHER
19 CONCERNED GOVERNMENT AGENCIES, SHALL CONDUCT
20 REGULAR MONITORING AND INSPECTION OF PERSON/ENTITY
21 INVOLVED IN THE DOWNSTREAM OIL ACTIVITIES TO ENSURE
22 THAT CLEAN, ENVIRONMENTALLY-SAFE AND WORKER-BENIGN
23 TECHNOLOGIES ARE APPLIED AND TO ENSURE CONFORMITY
24 WITH QUALITY AND SAFETY STANDARDS AND OTHER
25 MANDATORY REQUIREMENTS OF THE LAW. THE DOE SHALL
26 NOT ISSUE COC/SCC UNLESS IT IS SHOWN UPON PROPER
27 CONDUCT OF STANDARD COMPLIANCE INSPECTION, THAT THE
28 PERSON/ENTITY ENGAGED IN THE DOWNSTREAM OIL

1 ACTIVITIES HAS COMPLIED WITH THE PROVISIONS OF THIS ACT,
2 THE PNS ON PETROLEUM PRODUCTS AND FACILITIES AND SUCH
3 OTHER RULES AND REGULATIONS AS MAY BE PRESCRIBED BY
4 THE DOE.

5 SPECIFIC TO THE LPG SECTOR, THE DOE SHALL
6 CONFISCATE CYLINDERS FOUND TO BE IN VIOLATION OF RULES
7 AND REGULATIONS ON SAFETY, MEASUREMENT OR VOLUME
8 STANDARDS, MARKINGS AND RELATED MATTERS (*I.E.*
9 UNDERFILLED, UNBRANDED, POSSESSION OF TAMPERED,
10 ALTERED OR MODIFIED LPG CYLINDERS, AND THE LIKE) AND
11 SHALL FILE NECESSARY ADMINISTRATIVE AND/OR CRIMINAL
12 CHARGES IN COOPERATION WITH CONCERNED GOVERNMENT
13 AGENCIES. THE DOE SHALL FORMULATE RULES, IN
14 CONSULTATION WITH INDUSTRY PARTICIPANTS, FOR THE
15 DISPOSITION OF CONFISCATED, SEIZED AND IMPOUNDED LPG
16 CYLINDERS.

17 THE DOE SHALL REQUIRE PERSON/ENTITY ENGAGED IN
18 THE DOWNSTREAM OIL ACTIVITIES TO REGULARLY SUBMIT
19 INFORMATION SUCH AS, BUT NOT LIMITED TO, NATURE OF
20 BUSINESS, TRADE NAME/BRAND NAME OWNERS, LIST AND
21 ADDRESS OR LOCATION OF FACILITIES AND EQUIPMENT AND
22 SUCH OTHER RELEVANT INFORMATION AS MAY BE
23 DETERMINED BY THE DOE. THE DOE SHALL ESTABLISH A
24 CENTRAL DATABASE WITH ONE (1) YEAR FROM EFFECTIVITY OF
25 THIS ACT. THE DOE SHALL MAINTAIN THE DATABASE AND
26 UPDATE THE SAME ON A QUARTERLY BASIS. THE DATABASE
27 SHALL BE MADE AVAILABLE TO THE PUBLIC UPON REQUEST,
28 SUBJECT TO THE LIMITATIONS PROVIDED IN SECTION 15 (G) OF
29 THIS ACT AND THE APPROVAL OF THE DOE.

1 **(C) REPORTS AND DISCLOSURE TO DOE – THE DOE SHALL**
2 **HAVE THE AUTHORITY TO REQUIRE ANY PERSON/ENTITY**
3 **ENGAGED IN THE DOWNSTREAM OIL ACTIVITIES TO SUBMIT**
4 **WRITTEN, ELECTRONIC OR OTHER FORM OF REPORTS OR**
5 **DISCLOSURES, AS MAY DEEM REASONABLE AND NECESSARY TO**
6 **EFFECTIVELY PERFORM THEIR FUNCTIONS UNDER THIS ACT.**
7 **ANY PERSON/ENTITY WHO FAILS TO SUBMIT ANY SUCH REPORT**
8 **OR DISCLOSURE WITHIN THE PERIOD AND IN THE MANNER**
9 **PRESCRIBED BY THE DOE SHALL BE PENALIZED UNDER THIS**
10 **ACT.**

11 **(D) MONITORING OF DOWNSTREAM OIL INDUSTRY ACTIVITY**

12 –

13 **(D) [(a)]** The DOE shall monitor and publish daily international crude oil
14 prices, as well as follow the movements of domestic oil prices. **FOR THIS**
15 **PURPOSE, THE GENERAL APPROPRIATIONS ACT (GAA) SHALL**
16 **PROVIDE FOR THE DOE SUCH FUNDS, BUDGET OR ALLOCATION**
17 **FOR THE DOE’S SUBSCRIPTION TO INTERNATIONAL OIL PRICE**
18 **WIRE SERVICES.** It shall likewise monitor the quality of petroleum products
19 and stop the operation of businesses involved in the sale of petroleum products
20 which do not comply with the national standards of quality that are aligned with
21 the **INTERNATIONAL** standards/protocols of quality. The Bureau of Product
22 Standards of the DTI, together with the Department of Environment and Natural
23 Resources (DENR), the DOE, the Department of Science and Technology
24 (DOST), representatives of the fuel and automotive industries and the consumers,
25 shall set the specifications for all types of fuel and fuel-related products to
26 improve fuel composition for increased efficiency and reduced emissions. The
27 BPS shall also specify the allowable content of additives in all types of fuels and
28 fuel-related products.

1 (II) [(b)] The DOE shall monitor the refining and manufacturing processes
2 of local petroleum products to ensure that clean and safe (environment and
3 worker-benign) technologies are applied. This shall also apply to the process of
4 marketing local and imported petroleum products. **FOR THIS PURPOSE, THE
5 GAA SHALL FURTHER PROVIDE FOR ADDITIONAL BUDGETARY
6 SUPPORT TO THE DOE FOR THE ACQUISITION AND
7 MAINTENANCE OF THE APPROPRIATE MOBILE TESTING
8 FACILITIES AND EQUIPMENT.**

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

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

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

28 (V) [(e)] In times of national emergency, when the public interest so
29 requires, the DOE may, during the emergency and under reasonable terms

1 prescribed by it, temporarily take over or direct the operation of any person or
2 entity engaged in the Industry.

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

4 **Section 15. *Additional Powers of the DOE Secretary.*** -- In connection
5 with the enforcement of this Act, the DOE Secretary shall have the following
6 powers:

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

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

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

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

27 (e) [To recommend to the proper government agency the suspension or
28 revocation and termination of the business permit of an offender;] **FOR ANY**

1 **VIOLATION OR NON-COMPLIANCE WITH THIS ACT OR SUCH**
2 **RULES AND REGULATIONS ISSUED BY THE DOE IN RELATION**
3 **THERETO, TO IMPOSE AND COLLECT ADMINISTRATIVE FINES**
4 **AND PENALTIES WHICH SHALL RANGE FROM A MINIMUM OF**
5 **TEN THOUSAND PESOS (PHP 10,000.00) TO A MAXIMUM OF FIVE**
6 **HUNDRED THOUSAND PESOS (PHP 500,000.00) FOR EACH**
7 **VIOLATION OR NON-COMPLIANCE, REVOKE/SUSPEND A COC/SCC**
8 **AND CAUSE CORRESPONDING ACTION BY LGU ON THE**
9 **SUSPENSION OR REVOCATION AND TERMINATION OF THE**
10 **BUSINESS PERMIT OR LICENSE OF AN OFFENDER; *PROVIDED***
11 ***THAT, THE ADMINISTRATIVE FINE OR PENALTY THAT MAY BE***
12 ***IMPOSED BY THE DOE SHALL BE WITHOUT PREJUDICE TO THE***
13 ***FILING OF ANY CRIMINAL ACTION, IF WARRANTED UNDER THE***
14 ***CIRCUMSTANCES;***

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

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

1 agency that such information will be maintained in confidence and will be used
2 only for official law enforcement purposes; [and]

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

11 **(I) PERFORM SUCH OTHER POWERS AND FUNCTIONS AS**
12 **MAY BE NECESSARY IN FURTHERANCE OF THE OBJECTIVES OF**
13 **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. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
18 publication in at least two (2) newspapers of general circulation.

19 Approved,