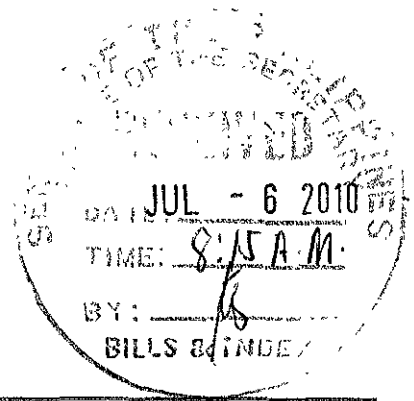


FIFTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

SENATE

S. B. No. 159



Introduced by Senator **TEOFISTO "TG" GUINGONA III**

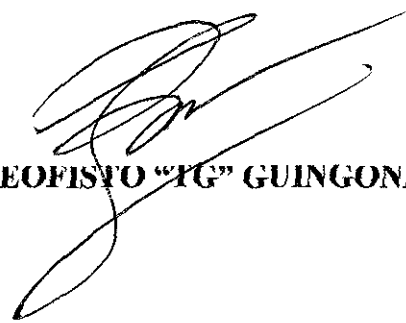
EXPLANATORY NOTE

With the Downstream Oil Industry Deregulation Act of 1998 (R.A. 8479), the Philippine oil and petroleum industry has been left in the hands of the free market to ensure competition and better prices. Nevertheless, it is of great importance that the government has a direct hand in protecting the country's supply security, especially over these essential commodities. A new balance between the market system and state control must be defined in order to stabilize not only the price of petroleum products but, more importantly, their supply.

The Philippine National Oil Corporation (PNOC) is mandated *to provide and maintain an adequate and stable supply of oil and petroleum products for the domestic requirement* (P.D. 334). The LPG shortage last January-February 2009 has given the Philippine government good reason to pause and come up with a strategy to ensure that the people's supply of petroleum products is secure. One of the obvious solutions is to establish a reserve to be used primarily in times of emergency and, incidentally, to augment existing supplies in the anticipation and prevention of a shortage. This strategy has been used by developed countries such as the United States of America and Japan, and has proved to be effective. Furthermore, unlike foreign reserves, which consist of crude oil, it will serve the Philippines best if the reserves consist of refined and ready-to-use petroleum products such as gasoline, diesel and liquefied petroleum gas (LPG).

When the market fails to meet the people's demand for whatever reason, the government *has to step in and act as the supplier of last resort*. Hence, this law shall provide the PNOC with a new mechanism for it to accomplish its task of meeting the country's petroleum product needs more efficiently.

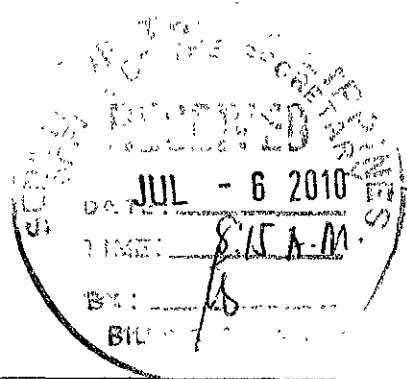
In view of the foregoing, the immediate enactment of this measure is earnestly sought.


TEOFISTO "TG" GUINGONA III

FIFTEENTH CONGRESS OF THE)
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Introduced by Senator TEOFISTO "TG" GUINGONA III

AN ACT
CREATING THE PHILIPPINE STRATEGIC PETROLEUM RESERVE AND FOR
OTHER PURPOSES.

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

SECTION 1. Short Title. – This Act shall be known as the "*Philippine Strategic Petroleum Reserve Act of 2010.*"

SECTION 2. Policy. – Consistent with the mandate of the Philippine National Oil Corporation (PNOC) to provide and maintain an adequate and stable supply of oil and petroleum products for the domestic requirement, it is the policy of the State to act as the people's supplier of last resort and establish a strategic petroleum reserve for the purpose of providing economic and national security during energy crises.

The ASEAN Petroleum Security Agreement (APSA), of which the Philippines is a signatory, recognizes the need to secure the ASEAN member countries' petroleum supplies, especially at a time when petroleum prices have soared to record highs. Thus, Petroleum Sharing Agreements among member countries in times of crisis as well as stockpiling of petroleum resources for such purpose is encouraged, although on a voluntary basis.

SECTION 3. Creating the Philippine Strategic Petroleum Reserve. – The PNOC shall establish a Strategic Petroleum Reserve (SPR) the sole purpose of securing the country's supply of petroleum products. The supplies, however, may be used in trade to provide funds for the maintenance of the reserve.

Initially, the petroleum reserve shall store gasoline, diesel, liquefied petroleum gas (LPG) in their final refined form.

At a future time and as may be required according to the judgment of the DOE or PNOC, other refined petroleum products may be added the list in the immediately preceding paragraph, without any need for further legislation.

SECTION 4. *Operation, Management and Administration.* – The petroleum reserve shall be operated, managed and administered by the PNOC by itself or in partnership or joint venture with other parties. The PNOC shall be the controlling government agency for the strategic reserve.

SECTION 5. *Funding Source.* – The amount necessary to implement and sustain the program under this Act shall be included in the annual General Appropriations Act or sourced from the sale of PNOC assets, should there be any.

SECTION 6. *Powers and Duties of the PNOC in relation to the Petroleum Reserve .-* In addition to the powers granted to it by Presidential Decree No. 334, the PNOC shall have the following powers and duties with regard to the petroleum reserve:

- (a) To establish, maintain, control and direct in any area within or without the national territory as it may deem appropriate, a petroleum reserve and construct, install or maintain therein duty-free ports adequate for the use of vessels, ports sufficient for direct service flights, telecommunications center and ship-to-shore communications facilities, provide electric power and fresh water supply, and perform such other acts as it may deem necessary and advantageous or convenient to such operations.
- (b) Set Implementing Rules and Regulations (IRR) for the proper management of the petroleum reserve.
- (c) Formulate strategies for petroleum product shortage prevention.
- (d) Monitor and determine the volume of petroleum products needed to keep the reserve adequate.
- (e) Manage the reserve to ensure that the country's petroleum product needs are met by releasing supplies to the public, either directly or through private distributors when the need arises.
- (f) Set the price of petroleum products originating from the reserve based on current market standards.
- (g) To exercise the right of eminent domain as may be necessary for the purpose of establishing the petroleum reserve.
- (h) Enter into contracts with any person or entity, domestic or foreign and with governments, by way of purchase, lease or rent or other deferred payment arrangements of equipment and/or raw materials and supplies, as well as for services connected therewith under such terms and conditions as it may deem proper and reasonable to establish, maintain and administer the petroleum reserve efficiently.
- (i) Enter into loan or exchange contracts with any person or entity, domestic or foreign and with governments to provide funds for the maintenance of the reserve, to increase reserve

capacity, to replace refined petroleum products that are about to degrade or under any other circumstances requiring trade or sale, under such terms and conditions as it may deem proper and reasonable to establish, maintain and administer the petroleum reserve efficiently.

SECTION 7. Drawdown Authority. – The drawdown of petroleum reserve is authorized only upon a finding by the Secretary of Energy of any of these instances:

- (1) **Full Drawdown** to counter an actual severe supply interruption. This situation exists when both the following conditions exist:
 - (a) An emergency situation exists and there is a significant reduction in supply which is of significant scope and duration; and
 - (b) A severe increase in the price of petroleum products has resulted from such emergency situation and such price increase is likely to cause a major adverse impact on the national economy.
- (2) **Limited Drawdown** to counter a perceived petroleum shortage. This exists when there is a reduction in supply that appears sufficiently severe to bring about an increase in the price of petroleum likely to cause a major adverse effect on the economy, and
- (3) **Trade Drawdown** which includes the sale or exchange of petroleum products with other ASEAN member countries as provided for in the APSA or with other parties for higher quality petroleum products, in exchange for storage capacity, or to resolve petroleum delivery problems of oil companies, among others, as may be determined by the President.

The IRR shall determine the aggregate quantity of petroleum to be withdrawn from the reserve under any of the above circumstances.

SECTION 8. Documents to be Submitted. – Within sixty (60) days from the effectivity of this Act, the Department of Energy (DOE), through the PNOC shall submit the following documents to the Legislature and the President:

- (1) Implementing Rules and Regulations (IRR);
- (2) Business plan and feasibility study of setting up the reserve;

In this regard, the Legislature shall conduct consultation sessions with PNOC, DOE and other concerned government agencies and petroleum industry players.

SECTION 9. Deadline for the Establishment of the Petroleum Reserve. – Within two (2) years from the lapse of the sixty (60) days set for the submission of the documents required in the previous section, the PNOC shall perform all the acts necessary and within its power to establish, manage, operate and develop the petroleum reserve.

SECTION 10. *Separability Clause.* – Should any section or provision of this act be held unconstitutional or invalid, such declaration shall not invalidate other provisions hereof.

SECTION 11. *Repealing Clause.* – All laws, decrees, executive orders, proclamations, rules and regulations inconsistent herewith are hereby repealed and/or modified accordingly.

SECTION 12. *Effectivity.* – This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,