

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4317

**INTRODUCED BY ANAKPAWIS PARTY-LIST REPRESENTATIVE
RAFAEL V. MARIANO**

EXPLANATORY NOTE

For the past 12 years since the downstream oil industry was deregulated in 1998 through Republic Act 8479, big oil companies, as well as so-called new players had a free reign in the pricing of oil products - resulting to almost weekly oil price adjustments to the disadvantage of consumers and the Filipino people.

According to non-government independent think tank IBON, the onslaught of foreign monopolies on the toiling people has been most visible in the behavior of oil prices. Contrary to the promise of deregulation, oil prices have increased 139 times since deregulation in April 1996 to 2008, or in effect every two weeks.

From 2009 to mid-2010, gasoline prices increased 40 times (cumulative P36.00 in adjustments) and decreased 25 times (cumulative P18.25 in adjustments) while diesel prices increased 33 times (P30.25) and decreased 34 times (P23.50). *(Source: IBON, Department of Energy)*

The domestic downstream oil industry is currently dominated by two (2) major oil refining and marketing companies; Petron and Pilipinas Shell. A third oil refiner and marketer, Caltex Philippines Inc. converted its 86,500 bbl/d refinery into an import terminal in 2003 and now operates as a plain marketing and distributing company under the name 'Chevron', but maintains its Caltex brand.

Philippine National Oil Company (PNOC), a state-owned company, and Saudi Aramco jointly own Petron; each with a 40 percent stake while the public holds the remaining 20 percent share. Petron operates a 180,000 bbl/d refinery and over 1,200 gasoline stations nationwide; Pilipinas

Shell has a 110,000 bbl/d refinery and about 800 gasoline stations; and Caltex/Chevron has 2 import terminals, and around 850 retail gas stations nationwide. Caltex built the first petroleum refinery in 1954.

Operating like a cartel, major oil companies Petron, Shell and Chevron as well as new oil players consistently manipulated oil prices and overpriced oil products by using the fluctuating world crude oil prices and peso-dollar exchange as convenient excuses.

The Downstream Oil Deregulation Act of 1998 removed all government control over the pricing of oil products and gave oil firms a free hand to dictate local pump prices.

Oil price hikes have become so frequent that even the Department of Energy (DOE) admitted that oil companies only inform them of price hikes through text or short messaging system (SMS).

The government of former President Gloria Macapagal-Arroyo was not able to curb the institutionalized practice of oil companies of pushing for frequent increases.

In fact, the previous administration has done very little to prevent oil price hikes. Since 2001, oil pump prices have more than doubled. Oil price increases under Arroyo's term comprise almost 42 percent of total increases since deregulation.

Based on estimates, prices of premium, unleaded and regular gasoline have increased by almost 160 to 170 percent during Arroyo's nine-year presidency. The high price of oil was even more exacerbated with the imposition of 12 percent Value Added Tax (VAT) on all oil products in 2005. *(Source: IBON, Department of Energy)*

DOE was merely reduced to being a monitoring body for oil price hikes and claimed that the government has no power or 'teeth' to control oil prices under a deregulated environment.

After typhoons and calamities struck the country in October 2009, the government issued Executive Order 839 that supposedly set price ceiling on oil products. But as soon as the 'price freeze' was lifted, frequent oil price hikes again inundated consumers. In 2010, oil prices have been in the uptrend again especially during the El Nino phenomenon.

Aside from price manipulation, oil companies have always been guilty of overpricing petroleum products.

In a study, the National Economic and Development Authority (NEDA) estimated that that oil prices are overpriced by as much as P8.12 per liter in January 2010 and that domestic oil prices are relatively high compared to adjustments in world crude prices.

Estimates by cause-oriented groups showed that local oil products are overpriced by almost P7 per liter at the end of 2010.

Soaring oil prices and increasing cost of living have aggravated the country's poverty situation. According to the Social Weather Station (SWS) survey, hunger among Filipinos worsened to historic levels. SWS' year-end 2010 survey showed that 3.4 million families have gone hungry because they lacked anything to eat.

This is expected to worsen in 2011, as the World Bank warned that "global food prices are rising to dangerous levels and threaten tens of millions of poor people around the world."

Even if the DoE published in its website the official formula in determining pump prices, it is not enough to determine if the unabated price hikes imposed by oil companies are justified.

Oil companies have abused the deregulation law for their ultimate objective of profiteering at the expense of consumers grueling from the domino effect of excessive oil prices on basic goods, services and utilities.

Oil companies amassed billions in profits over the years. In the Top 1000 Corporations in the Philippines 2009, Petron Corp. placed first with recorded gross revenues of P268.8 billion in 2008, 26.2 percent higher year on year. Two other oil companies, Pilipinas Shell Petroleum Corp. (2nd) and Chevron Philippines, Inc. (5th) made it to the top five in the Top 1000 Corporations.

Up to the end of Arroyo's term, the issues of price speculation, transfer pricing and overcharging – which are manifestations of monopoly pricing and super-profits of oil companies have not been resolved.

While the current administration of President Simeon Benigno Aquino III declared that it is open to amending the Oil Deregulation Law, it is not included among the priority bills set by the Legislative-Executive Development Advisory Council (LEDAC).

The country needs a downstream oil industry that is not privatized, not deregulated and not controlled by big businesses. What we need is a downstream oil industry that is nationalized, state-owned, and effectively controlled by the Filipino people.

In his study "No hope for fair prices under deregulation", researcher Arnold Padilla stated that "a misleading and often recycled argument against proposals to regulate the country's downstream oil industry is the discredited Oil Price Stabilization Fund (OPSF)."

"OPSF failed because it was not used strictly as a buffer fund but was designed to protect the profits of the Big Three during oil price shocks. Established under Presidential Decree (PD) 1956 on Oct 10, 1984, oil firms replenished the OPSF when their pump prices were higher than world prices and withdrew from it when the reverse happened. To prevent the OPSF from drying up, government delayed rolling back the pump price even if world prices fell thus imposing the burden to refill the OPSF on hapless consumers while protecting the profits of the Big Three."

The study further cited, "in the past, Congress initiated reviews and proposed amendments on the downstream oil industry deregulation law but failed to propose the total repealing of the law, further allowing oil companies to adjust prices at their whim."

"In 2005, the DOE formed an "independent" body to review Republic Act 8479 and among its findings was that "subsidizing oil prices (through the OPSF) is not feasible in a regime of rising crude prices due to lack of government resources."

"While a buffer fund will be needed in a regime of regulated oil prices, such fund is entirely different from the flawed OPSF. It must be emphasized that it is possible to establish a buffer fund without passing on the burden to the taxpayers and consumers. One way of doing it is for the buffer fund to be financed by government earnings and savings from its increased participation in a regulated downstream oil industry."

"Under this proposal, the government will become the exclusive importer of crude oil and petroleum products. As such, the country can expand potential oil sources and shop for the cheapest available oil. Bilateral agreements with state-owned companies from oil exporting countries may be pursued under special arrangements, including commodity swaps, which can provide the country considerable discounts. Savings and earnings from these transactions can be used to finance the buffer fund. Such system of centralized procurement also addresses the concern that a buffer fund will not work because of rising global oil prices."

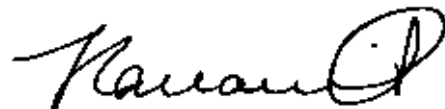
The study further recommended that the national government should also participate in storing, refining and retailing oil products in the country and use whatever earnings it will generate from these activities to finance the proposed buffer fund. Initially, the buffer fund can be financed through allocating a portion of the national budget and when unutilized within the fiscal year should be carried over to the next fiscal year. Uncollected taxes from the oil companies, such as the P21 billion in unpaid custom duties of Shell, can also serve as seed money for the buffer fund.

"A strict set of guidelines must be drawn up on when the government can tap into the buffer fund to prevent unwarranted utilization and corruption. A trigger price may be computed by the Department of

Energy (DOE) that will determine when the buffer fund should be used to mitigate sudden and huge increases in oil prices."

There are alternatives to the Downstream Oil Industry deregulation Act and a concrete set of measures to implement them are available.

In view of the foregoing, approval of this bill is highly and earnestly sought.



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**AN ACT REPEALING REPUBLIC ACT 8479, OTHERWISE KNOWN AS
AN ACT DEREGULATING THE DOWNSTREAM OIL INDUSTRY AND
FOR OTHER PURPOSES**

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

SECTION 1. Any provision of law to the contrary notwithstanding,
Republic Act numbered 8479 entitled "An Act Deregulating the
Downstream Oil Industry and for other purposes." is hereby repealed.

SECTION 2. This Act shall take effect fifteen (15) days after the
completion of its publication.

Approved.