

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session



HOUSE BILL No. 173

Introduced by Reps. NERI JAVIER COLMENARES, CARLOS ISAGANI T. ZARATE,
LUZVIMINDA C. ILAGAN, EMERENCIANA A. DE JESUS, ANTONIO L. TINIO,
FERNANDO HICAP, and TERRY RIDON

AN ACT
REGULATING THE DOWNSTREAM PETROLEUM INDUSTRY AND FOR
OTHER RELATED PURPOSES

EXPLANATORY NOTE

The relentless oil price increases in the country have been caused by rising demand for petroleum, particularly by Chinese and Indian markets; the lack of spare supply capacity; the volatile political tensions in the Middle East; the financial crisis of now government-sequestered Russian oil giant Yukos; the stricter environmental regulations, especially in the United States; and scarcer oil. But these factors explain only to a certain degree the upward surges in world oil prices; they do not explain why oil prices are high to begin with. These claims rule out the control and influence of giant transnational oil corporations, which are almost invulnerable to the law of supply and demand and the vagaries of speculation.

The big transnational oil companies: Exxon-Mobil, Royal Dutch Shell, Chevron-Texaco (of which marketing arm is Caltex), British Petroleum (BP), and CFP-Total have almost complete control over the oil prices they collusively set worldwide. Even if the largest oil producing countries (Saudi Arabia, Iran, Venezuela, Mexico, and China) control 90 percent of the world's oil reserves, the five transnational oil companies can dictate world prices because they control 60 percent of oil production and hold all levels of the market through their vast global network of exploration and exploitation sites, partnerships with nationalized oil companies, refineries, pipelines, tankers, and stations.

The Big Three, or local subsidiaries of Shell and Caltex, plus Petron, claim that they do not overprice, that they set prices based on the price increases of Dubai oil exchanged in the spot market and on Peso-Dollar exchange rate fluctuations. Moreover, they deny the existence of a cartel, alleging that they merely and coincidentally follow the movements of world oil prices. They claim these even as they are minimally affected by prices in world markets and even as they are able to trade in the same currency between subsidiaries.

Oil companies operating in the Philippines have raised pump prices 14 times as of July 1, 2013. Recently, escalating world oil prices have prompted oil firms operating in the Philippines to hike pump prices of gasoline and diesel for seven straight weeks – from May 3 to June 25, 2013.

Overall, local pump prices were raised 14 times so far this year, bringing unleaded gasoline prices to between P47.75 to 55 a liter and diesel to between P38.70 to 42.05 a liter. Liquefied petroleum gas (LPG) is priced between P619.00-743.00 per 11-kilogram tank.

Up to 95 percent of the country's petroleum requirements are imported, rendering the country exceedingly vulnerable to the dictates of big transnational corporations. The worst implication of this is that our severe dependence on such corporations, which control not only the importation, refining, and retailing of crude and petroleum products from abroad, but also control the exploration, exploitation, refining, retailing, and even re-exportation of our country's indigenous petroleum and petroleum-based products, deprives us the opportunity to be self-sufficient and earn from the development of our own oil industry.

Even without factoring in the increases in the world demand for oil and the artificial effects of speculation, world oil prices are unreasonably and unjustifiably high because they are under the control of monopolistic transnational oil corporations. Given this set-up, government regulation is warranted since the State has a responsibility to promote social justice and an equitable national economy and patrimony.

Republic Act No. 8479, or the "Downstream Oil Industry Deregulation Act of 1998" holds the wrong premise that the world pricing of petroleum and petroleum products is fair and justifiable. Hence, this deregulation Act merely advocates fair pricing through the "mediation" between big oil companies (refiners and importers) and relatively small dealers, haulers, and LPG distributors; the opening of the market to new industry participants nonetheless dependent on big transnational oil corporations; and the relatively insignificant financial and operational support for small-scale gasoline station retailers.

From the very beginning, R.A. 8479 was bound to fail to implement fair prices since it ignored monopoly-pricing practices and cartel behavior by the giant transnational oil corporations. Worse, deregulation had given transnational oil corporations even more room to manipulate prices through automatic oil price hikes (OPH); less transparency in pricing, profits, and operations; and virtually no accountability to the consuming public.

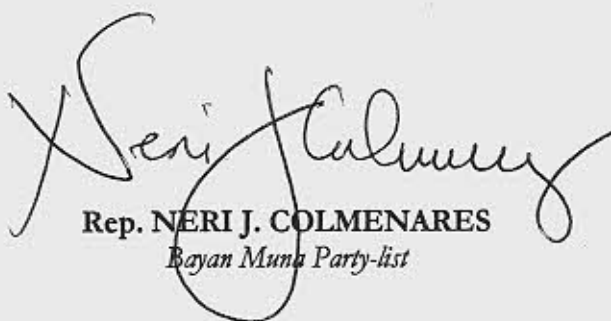
Deregulation has allowed oil price increases to go unchecked. With petroleum as a sensitive commodity, because price directly affects the cost of almost all other commodities and services, including essentials such as food, housing, social services, as well as transportation, deregulation has given transnational oil corporations even more leeway to influence the country's cost of living, livelihoods, business and commerce, employment, and the National Budget.

There is a pressing need to regulate the oil industry to protect the majority of Filipinos from current runaway increases in oil prices. Regulation can only be effective and truly beneficial if it is part of a program to institutionalize national oil industrialization, so that local oil prices can be brought down from unreasonable and unjustifiable levels set by giant transnational oil corporations and can be prevented from falling prey to further monopoly pricing and manipulation.

This Bill therefore requires the regulation of the petroleum industry through the creation of a petroleum regulatory council and a buffer fund which shall instead solely serve to cushion consumers against drastic increases in petroleum prices – unlike the Oil Price Stabilization Fund (OPSF) that reimbursed oil companies for "cost under-recoveries."

Immediate approval of this bill is earnestly sought in the 16th Congress.

Approved,

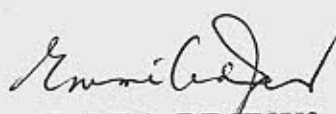


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Rep. TERRY RIDON
Kabataan Party-list

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AN ACT
REGULATING THE DOWNSTREAM PETROLEUM INDUSTRY AND FOR
OTHER RELATED 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 “**Downstream Oil Industry Regulation Act of 2013.**”

SECTION 2. Declaration of Policy. - It is enshrined in the Philippine Constitution that “the State shall promote social justice in all phases of national development” (Article II, Section X) and “shall pursue a trade policy that serves the general welfare and utilizes all forms and arrangements of exchange on the basis of equality and reciprocity” (Article XII, Section XIII).

Moreover, the Constitution also mandates “the State shall regulate or prohibit monopolies when the public interest so requires. No combinations in restraint of trade or unfair competition shall be allowed” (Article XII, Section XIV).

Consistent with the foregoing, crude oil and socially and economically sensitive refined petroleum or petroleum products, being vital to national security and their supply at reasonable prices being essential to the general welfare, it is hereby declared to be the policy of the State that the business of importing, exporting, re-exporting, marketing, distributing, and selling both at wholesale and retail of such products, as well as operations and activities of natural and juridical persons, firms, and entities engaged in such activities, shall be carried out in a manner consistent with the public interest. This policy aims to attain the following objectives and purposes:

- (a) To assure that locally refined and processed petroleum products, as well as imported crude oil and processed petroleum, shall be primarily for the benefit of the general welfare; and
- (b) To assure the public of reasonable prices for petroleum products and to prevent collusive practices in the industry, particularly as to prices.

SECTION 3. Coverage. - This Act shall apply to all natural and juridical persons, firms, and entities engaged in the business of importing, exporting, re-exporting, marketing, distributing,

and selling both at wholesale and retail crude oil and socially and economically sensitive petroleum products for their own use or for the use of other natural and juridical persons, firms, and entities engaged in any and all activities of the petroleum industry.

SECTION 4. Definition of Terms.

- (a) **"Council"** shall mean the Petroleum Regulatory Council (PRC).
- (b) **"Fund"** shall mean the Oil Price Buffer Fund (OPBF).
- (c) **"Petroleum"** shall refer to the naturally occurring mixture of compounds of hydrogen and carbon with a small proportion of impurities and shall include any mineral oil, petroleum gas, hydrogen gas, bitumen, asphalt, mineral wax, and all other similar or naturally-associated substances, with the exception of coal, peat, bituminous shale and/or other stratified mineral fuel deposits.
- (d) **"Crude oil"** or **"oil"** shall be used interchangeably with **"petroleum."**
- (e) **"Socially and economically sensitive petroleum products"** shall refer to liquefied petroleum gas (LPG), naphtha, gasolines, kerosenes, automatic/industrial diesel oils, and industrial/residual fuel oils.

SECTION 5. Creation of the Petroleum Regulatory Council. - There is hereby created an independent, quasi-judicial regulatory body to be named the Petroleum Regulatory Council (PRC), hereafter referred to as the Council.

The Council shall be composed of a Chairperson and six (6) Members to be appointed by the President of the Philippines. The Chairperson and the Council Members shall be natural-born citizens and residents of the Philippines; persons of good moral character; at least thirty-five (35) years of age; of recognized competence in any of the following fields: energy, law, economics, finance, commerce and industry, and management; or the transportation and consumer sectors; and with at least five (5) years of actual and distinguished experience in their respective fields of expertise or sectors: *Provided*, That out of the six (6) members of the Council, at least one (1) shall have had (10) years experience in the fields of management, economics, or commerce and industry; one (1) shall be a certified public accountant with at least ten (10) years experience in active practice; and one (1) shall be a sector leader who has been active for at least ten (10) years in the transportation, consumer, or industrial sector.

The term of office of the Chairperson and the Council Members shall be four (4) years: *Provided*, That for the first appointees, the Chairperson shall hold office for four (4) years, two (2) Members shall hold office for four (4) years, another two for three (3) years, and the remaining two (2) Members shall hold office for two (2) years: *Provided further*, That for subsequent appointees, the successor of each Member shall have the same tenure as his predecessor: *Provided further*, That appointment to any vacancy shall only be for the unexpired term of the predecessor: *Provided finally*, That in no case shall any member serve for more than four (4) years in the Council.

Within three (3) months from the creation of the Council, the Chairperson shall submit for the approval by the President of the Philippines the new organization structure and plantilla positions necessary to carry out the powers and functions of the Council.

The Chairperson and Members of the Council shall assume office upon their appointment and the administration of their respective oaths of office.

The Chairperson and the other members of the Council shall not be exempt from administrative cases. A preventively suspended Chairperson shall be temporarily replaced by the most senior, in terms of tenure, of the six (6) Members. The preventive suspension of the Chairman shall not toll the running of his/her term of office. In case of the Chairman's removal from office prior to the expiration of his/her term of office, the President shall appoint a new Chairman who shall serve only for the unexpired portion of the removed Chairman's term of office.

No person who, within four (4) years immediately prior to his appointment, has worked or is working in any firm engaged in the petroleum industry or any other entity whose main business is directly or indirectly related to any such firm shall be appointed to the Council. The Chairperson and Members of the Council shall be prohibited from holding any interest whatsoever, either as investor, stockholder, officer, or director, in any company or entity engaged in the business of exploring, exploiting, importing, exporting, re-exporting, shipping, transporting, processing, refining, storing, marketing, distributing, and selling both at wholesale and retail any petroleum resource. In case they do, they must divest through sale or legal disposition of any and all interest in the petroleum industry upon assumption of office.

The presence of at least four (4) members of the Council shall constitute a quorum and the vote of three (3) members in a meeting where there a quorum is present shall be necessary for the adoption of any rules, ruling, order, resolution, decision, or other act of the Council in the exercise of its quasi-judicial functions.

Former Chairpersons and members of the Council are prohibited from working directly or indirectly in any firm engaged in the petroleum industry or any other entity whose main business is directly or indirectly related to any such firm within one (1) year from the time they have ceased to be officially connected with the Council.

The Chairperson and the Council Members shall devote their full time to the Council and shall not accept any other employment while in office.

SECTION 6. Compensation and Other Emoluments for the Council. - The compensation and other emoluments for the Chairperson, Members, staff, and personnel of the Council shall be covered by Republic Act No. 6758, otherwise known as the "Salary Standardization Act".

The Chairperson of the Council shall be entitled to the same salaries, allowances, and benefits equal to those of a Department Secretary while the Council Members shall receive the same equal to those of a Department Undersecretary. The Chairperson and the other members of the Council shall, upon completion of their term or upon becoming eligible for retirement under existing laws, be entitled to the same retirement benefits and the privileges provided for Department Secretaries and Department Undersecretaries, respectively.

SECTION 7. Functions, Powers, and Duties of the Council Upon Notice and Hearing. - At the effectivity of this act, industry averages of prevailing market prices of socially and economically sensitive petroleum and petroleum products shall be the first set of prices. Any succeeding modification shall hereby be required to undergo public hearings, convened by the Council, before such become effective.

The Council shall revise oil prices only upon proper notice and hearing, in the exercise of its powers and functions, as follows:

(a) In revising prices, the Council shall be guided by the following considerations:

(a1) Whether claimed increases or decreases in costs, sales, or profits are real or simulated;

(a2) Whether expenses and costs which are claimed to have been incurred, or are being incurred, or are to be incurred are reasonable;

(a3) The impact of the proposed prices or change therein on the economy and on the consuming public, particularly low income groups and industries essential to the national welfare or security, given the daily cost of living and predominant wages;

(a4) The component costs and the profit levels or rates of return not only of the petroleum industry but also of other manufacturing industries in the country; and

(a5) The ability of the levels of the Oil Price Buffer Fund to maintain, through subsidy disbursements, current oil price levels until the next resetting.

(b) Hearings must have in attendance organizations from different sectors affected by the following regulations, including but not limited to consumer groups, the transport sector, other representative people's organizations, producers, and sellers, as well as independent experts.

Advance details of these public hearings, as well as for hearings required by Section 7 of this Act, shall be published in at least two (2) newspapers of major circulation at least two (2) weeks before the scheduled consultations.

(c) In exercise of its duties, the Council shall, for every hearing convened:

(c1) Present a concise report on the operations regarding the administration of the Oil Price Buffer Fund, including its complete sources and disbursements, since the last hearing or oil price adjustment;

(c2) Summarize data justifying and supporting the last oil price adjustments and how these have changed and contributed to the necessity to revise oil prices; and

(c3) Publish the proceedings of concluded hearings in at least two (2) newspapers of national circulation at least one month before the implementation of newly set oil prices, for which period the Council shall be open to petitions and appeals subject for review by the Council.

SECTION 8. Petitions for Hearings. - Local oil subsidiaries, wholesalers, and retailers are hereby required to file a petition with the Council every time they intend to implement oil price hikes. People's organizations, non-government organizations, and citizens may as well file petitions with the Council proposing to decrease oil prices.

SECTION 9. General Jurisdiction, Powers, Functions, and Duties of the Council. - The Council shall strictly regulate the pricing of crude oil and socially and economically sensitive

petroleum products at the levels of marketing, distribution, wholesale, and retail in the operations and activities of natural and juridical persons, firms, and entities engaged in such activities.

For this purpose, the general jurisdiction, powers, functions, and duties of the Council shall include the following:

- (a) Price monitoring and compilation of the prices involved in the movement of raw materials or finished products in the marketing, distribution, and sale both at wholesale and retail, of petroleum and socially and economically sensitive petroleum-based resources. In order that no unnecessary costs may be included in the pricing of petroleum and its derivatives, price monitoring and compilation shall also be done at the stages of shipment, transport, and storage. This shall be conducted in coordination with existing, independent monitoring bodies. These records shall be submitted weekly, or upon request, for the review of the Council. For cases where persons, firms, or entities refuse such information, the Council shall issue *subpoenas* and *subpoenas duces tecum* to compel such parties;
- (b) Compilation and analysis of information hereby required from local importers of crude oil and socially and economically refined petroleum products, refiners, dealers, and petroleum marketing companies on the following:
 - (b1) Comprehensive sales reports;
 - (b2) Inventories;
 - (b3) Prices of all involved products at various time intervals, as determined by the Council for petroleum and petroleum products; and
 - (b4) Demand forecasts for subsequent time intervals, as determined by the Council for involved petroleum and petroleum products.
- (c) The Council shall pursue systematized, random statistical sampling surveys to determine adherence to and violations of price regulation by the Council. These surveys shall be done by technical groups formed by the Council, in close coordination with Council-accredited organizations that undertake their own petroleum price surveys;
- (d) Issue *subpoena* and *subpoena duces tecum* in any inquiry, study, hearing, investigation, or proceedings which it may decide to undertake in the exercise of its powers, functions, and duties under this Act; and
- (e) Promulgate rules and regulations relevant to procedures governing hearings before it and enforce compliance, through the imposition of penalties, with any rule, ruling, regulation, order, resolution, decision, or other requirements of this Act or acts of the Council in the exercise of its quasi-judicial functions; *Provided*, That said rules and regulations take effect fifteen (15) days after publication in the Official Gazette.

SECTION 10. Council Staff. - The Chairperson and the Members of the Council shall appoint and maintain their adequate officers, staff, and personnel, including technical boards, to be maintained according to the functions, powers, and duties of the Council.

SECTION 11. Budget of the Petroleum Regulatory Council. - The amount of one hundred fifty million pesos (PhP150,000,000.00) is hereby allocated from the General Fund not otherwise appropriated for the initial operations of the Petroleum Regulatory Council. Thereafter, the annual budget of the Council shall be included in the regular or special appropriations under the General Appropriations.

SECTION 12. Procedures of the Council. - All inquiries, studies, hearings, investigations, and proceedings conducted by the Council shall be governed by rules adopted by the Council, and in the conduct thereof the Council shall not be bound by the technical rules of evidence: *Provided*, That the Council may summarily punish for contempt by a fine not exceeding five thousand pesos or by imprisonment not exceeding thirty (30) days or both, any person guilty of such misconduct in the presence of the Council or so near thereto as to seriously interrupt any hearing or session or any proceedings before it, including cases in which a person willfully fails or refuses, without just cause, to comply with summons, *subpoena ad testificandum*, *subpoena duces tecum*, decision or order, rules and regulations legally issued or promulgated by the Council; or being present at a hearing, session, or investigation, refuses to be sworn as a witness or to answer questions when lawfully required to do so, or to furnish information required by the Council. The sheriff and other police agencies of the place where the hearing or investigation is conducted shall, upon request of the Council, assist it to enforce the provisions of this Section.

The Council may, in any inquiry, study, hearing, investigation, or proceeding, by order in writing, cause the deposition of witnesses within or without the Philippines to be taken in the manner prescribed by the Rules of Court.

SECTION 13. Creation of the Oil Price Buffer Fund. - There is hereby created a trust fund directly under the custody and administration of the Petroleum Regulatory Council as an account booked under its liabilities. The trust fund shall be designated as the Oil Price Buffer Fund (OPBF), hereon referred to as the Fund, for the strict and unique purpose of cushioning consumers against the frequent and drastic price increases of local petroleum and petroleum products.

SECTION 14. Disbursement of the Fund. - The Fund shall solely and strictly release disbursements to subsidize local market oil price fluctuations between price resettings, as settled at hearings conducted by the Council under Section 7 of this Act. The Fund shall disburse as subsidies, initially on the first year upon the effectivity of this Act, 2.5% of cumulative increases in market prices across all socially and economically sensitive petroleum and petroleum products, between public hearings, which decide on the modification of previously set prices. Revised amounts shall become the new basis for Fund disbursements. When world oil prices decrease, the Council shall retain its existing prices, accrue all differences in set prices and market prices to the Fund, and maintain current prices until the next hearing modifies such. Modifications of this subsidy percentage shall likewise undergo public hearings before approval, and shall mainly depend on the needs of consumers and industries and on the present levels of the Fund.

The Oil Price Buffer Fund shall be strictly prohibited from being disbursed for the following purposes:

- (a) To reimburse persons, firms, and entities engaged in the petroleum industry for cost increases on crude oil and imported petroleum products resulting from exchange rate adjustment and/or increases in world market prices of crude oil;

- (b) Cost "underrecoveries" incurred by persons, firms, and entities engaged in the petroleum industry as a result of fuel oil sales to the National Power Corporation (NPC);
- (c) Projects relating to the consumption or use of crude oil, gas, and other petroleum products;
- (d) For the development of other sources of energy;
- (e) For exploration and researches on conservation, anti-pollution, and other similar studies to subsidize importation of crude oil and refined petroleum products by government agencies, or government-owned or controlled corporations (GOCCs); and
- (f) For any such purpose other than cushioning consumers against the high prices of local petroleum and petroleum products.

The President of the Philippines is hereby prohibited from sourcing from the Oil Price Buffer Fund, through Executive Order, any projects, programs, and other activities whatsoever.

SECTION 16. Fund Investments. - The Petroleum Regulatory Council may, after the first five years of the existence of the Fund, invest part of the proceeds from the Fund in secure bank deposits like regular savings accounts, current accounts, and time deposits: *Provided*, That these deposits are insured for the maximum insurable amounts in the banking industry: *Provided further*, That the Chairperson and all the Members of the Council are informed and approve of each and every Fund investment, in specific amounts: *Provided further*, That proceeds from the Fund may only be invested when the size of the Fund has reached a minimum amount wherein it is ten (10) times the average disbursement for the preceding five years: *Provided finally*, That all earnings from such placements shall strictly and solely redound to the Fund.

SECTION 17. Sources of the Oil Price Buffer Fund. - The Fund shall be sourced from the following:

I. Excise Taxes on Petroleum-based Manufactured Oils and Other Fuels

The Oil Price Buffer Fund shall be allocated twenty-five percent (25%) of the proceeds of excise taxes on covered petroleum-based manufactured oils and other fuels.

Section 148 of Republic Act No. 8424, otherwise known as Tax Reform Act of 1997, as amended by Republic Act No. 9337, is hereby amended to read:

"SEC. 148. Manufactured Oils and Other Fuels. - There shall be collected on refined and manufactured mineral oils and motor fuels, the following excise taxes which shall attach to the goods hereunder enumerated as soon as they are in existence as such:

"(a) XXXX;

"(b) XXXX;

"(c) XXXX;

"(d) XXXX;

“(e) Naphtha, regular gasoline and other similar products of distillation, per liter of volume capacity, Four pesos and thirty-five (P4.35): [Provided, however, That naphtha, when used as a raw material in the production of petrochemical products or as replacement fuel for natural-gas-fired-combined cycle power plant, in lieu of locally-extracted natural gas during the non-availability thereof, subject to the rules and regulations to be promulgated by the Secretary of Energy, in consultation with the Secretary of Finance, per liter of volume capacity, Zero (P0.00):] Provided, [further,] That the by-product including fuel oil, diesel fuel, kerosene, pyrolysis gasoline, liquefied petroleum gases and similar oils having more or less the same generating power, which are produced in the processing of naphtha into petrochemical products shall be subject to the applicable excise tax specified in this Section, except when such by-products are transferred to any of the local oil refineries through sale, barter or exchange, for the purpose of further processing or blending into finished products which are subject to excise tax under this Section; : *PROVIDED FURTHER*, THAT OF TOTAL EXCISE TAXES COLLECTED ON NAPHTHA, REGULAR GASOLINE, AND OTHER SIMILAR PRODUCTS OF DISTILLATION, TWENTY-FIVE PERCENT (25%) SHALL ACCRUE DIRECTLY TO THE OIL PRICE BUFFER FUND;

“(f) Leaded premium gasoline, per liter of volume capacity, Five pesos and thirty-five centavos (P5.35); unleaded premium gasoline, per liter of volume capacity, Four pesos and thirty-five centavos (P4.35): *PROVIDED*, THAT OF TOTAL EXCISE TAXES COLLECTED ON LEADED PREMIUM GASOLINE, TWENTY-FIVE PERCENT (25%) SHALL ACCRUE DIRECTLY TO THE OIL PRICE BUFFER FUND;

“(g) XXXX;

“(h) XXXX;

“(i) XXXX;

“(j) XXXX;

“(k) XXXX; and

“(l) XXXX.”

II. Value-Added Taxes on the Sale of Petroleum and Petroleum Products

The Oil Price Buffer Fund shall be allocated twenty-five percent (25%) of the proceeds of value-added taxes on petroleum-based manufactured oils and other fuels.

Section 106 of Republic Act No. 8424, otherwise known as Tax Reform Act of 1997, as amended by Republic Act No. 9337, is hereby amended to read:

“SEC. 106. Value-Added Tax on Sale of Goods or Properties. –

“(A) XXXX:

“(i) XXXX; or

“(ii) XXXX.

- “(1) XXXX.
- “(a) XXXX;
- “(b) XXXX;
- “(c) XXXX;
- “(d) XXXX; and
- “(e) XXXX;

“The term “gross selling price” means the total amount of money or its equivalent which the purchaser pays or is obligated to pay to the seller in consideration of the sale, barter or exchange of the goods or properties, excluding the value-added tax. The excise tax, if any, on such goods or properties shall form part of the gross selling price.

PROVIDED, THAT OF THE TOTAL VALUE-ADDED TAXES COLLECTED ON LIQUEFIED PETROLEUM GAS (LPG), NAPHTHA, GASOLINES, KEROSENEs, AUTOMATIC/INDUSTRIAL DIESEL OILs, AND INDUSTRIAL/RESIDUAL FUEL OILs, TWENTY-FIVE PERCENT (25%) SHALL ACCRUE DIRECTLY TO THE OIL PRICE BUFFER FUND;

“(2) XXXX:

- “(a) XXXX:
- “(1) XXXX;
- “(2) XXXX;
- “(3) XXXX;
- “(4) XXXX; and
- “(5) XXXX.

“(6) The sale of goods, supplies, AND equipment [and fuel] to persons engaged in international shipping or international air transport operations: *PROVIDED*, THAT THE TERM “GOODS” DOES NOT INCLUDE PETROLEUM AND PETROLEUM PRODUCTS AND BY-PRODUCTS.

PROVIDED, THAT OF THE TOTAL VALUE-ADDED TAXES COLLECTED ON LIQUEFIED PETROLEUM GAS (LPG), NAPHTHA, GASOLINES, KEROSENEs, AUTOMATIC/INDUSTRIAL DIESEL OILs, AND INDUSTRIAL/RESIDUAL FUEL OILs, TWENTY-FIVE PERCENT (25%) SHALL ACCRUE DIRECTLY TO THE OIL PRICE BUFFER FUND;

- “(b) XXXX.
- “(c) XXXX.

PROVIDED, THAT OF THE TOTAL VALUE-ADDED TAXES COLLECTED ON LIQUEFIED PETROLEUM GAS (LPG), NAPHTHA, GASOLINES, KEROSENEs, AUTOMATIC/INDUSTRIAL DIESEL OILs, AND INDUSTRIAL/RESIDUAL FUEL OILs, TWENTY-FIVE PERCENT (25%) SHALL ACCRUE DIRECTLY TO THE OIL PRICE BUFFER FUND.

- “(B) XXXX:
- “(1) XXXX;
- “(2) XXXX:

- “(a) XXXX; or
- “(b) XXXX;
- “(3) XXXX; and
- “(4) XXXX.

“(c) XXXX.”

III. Value-Added Taxes on the Sale of Services Directly Involving Petroleum and Petroleum Products

Section 108 of Republic Act No. 8424, otherwise known as Tax Reform Act of 1997, as amended by Republic Act No. 9337, is hereby amended to read:

“SEC. 108. Value-added Tax on Sale of Services and Use or Lease of Properties. -

“(A) XXXX:

- “(i) XXXX; or
- “(ii) XXXX.

“The phrase ‘sale or exchange of services’ means the performance of all kinds or services in the Philippines for others for a fee, remuneration or consideration, including those performed or rendered by construction and service contractors; stock, real estate, commercial, customs and immigration brokers; lessors of property, whether personal or real; warehousing services; lessors or distributors of cinematographic films; persons engaged in milling processing, manufacturing or repacking goods for others; proprietors, operators or keepers of hotels, motels, resthouses, pension houses, inns, resorts; proprietors or operators of restaurants, refreshment parlors, cafes and other eating places, including clubs and caterers; dealers in securities; lending investors; transportation contractors on their transport of goods or cargoes, including persons who transport goods or cargoes for hire another domestic common carriers by land, air and water relative to their transport of goods or cargoes; common carriers by air and sea relative to their transport of passengers, goods or cargoes from one place in the Philippines to another place in the Philippines; sales of electricity by generation companies, transmission, and distribution companies; services of franchise grantees of telephone and telegraph, radio and television broadcasting and all other franchise grantees except those under Section 119 of this Code; services of banks, non-bank financial intermediaries and finance companies; and non-life insurance companies (except their crop insurances), including surety, fidelity, indemnity and bonding companies; and similar services regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental faculties: *PROVIDED, THAT OF THE TOTAL VALUE-ADDED TAXES COLLECTED ON LIQUEFIED PETROLEUM GAS (LPG), NAPHTHA, GASOLINES, KEROSENEs, AUTOMATIC/INDUSTRIAL DIESEL OILS, AND INDUSTRIAL/RESIDUAL FUEL OILS, TWENTY-FIVE PERCENT (25%) SHALL ACCRUE DIRECTLY TO THE OIL PRICE BUFFER FUND;*

“The phrase ‘sale or exchange of services’ shall likewise include:

- “(1) XXXX;
- “(2) XXXX;
- “(3) XXXX;
- “(4) XXXX;
- “(5) XXXX.
- “(6) XXXX;

"(7) XXXX; and

"(8) XXXX.

"XXXX.

"XXXX.

"(B) XXXX;

"(1) XXXX;

"(2) XXXX;

"(3) XXXX;

"(4) XXXX;

"(5) XXXX;

"(6) XXXX; and

"(7) XXXX.

"(c) XXXX."

IV. Increases in Taxes on Petroleum and Petroleum Products

Of any authorized increases in the tax collection from ad-valorem tax, excise tax, or customs duty imposed on petroleum and petroleum products, through Executive Orders of the President or through subsequent Congressional legislation, twenty-five percent (25%) shall hereby directly accrue to the Oil Price Buffer Fund under the Petroleum Regulatory Council.

V. Extraordinary Gains

Whenever an authorized increase in the prices of petroleum products will result in an extraordinary gain from existing inventories, the Council is hereby empowered to take measures, including the payment in the full amount of the extraordinary gain by the persons, firms, or entities benefited to the Oil Price Buffer Fund.

VI. Proceeds collected from the penalties for violations, as stated under Section 19 of this Act.

SECTION 18. Annual Reports of the Council. - The Council shall publish an annual report, with or without the convening of hearings, on the administration of the Oil Price Buffer Fund, including its complete sources and disbursements; data that justify and support any and all adjustments in petroleum prices in the past year; information on the general state and prospects of the local downstream petroleum industry; and other such vital information derived from inquiries, studies, and investigations by the Council in the exercise of its powers, functions, and duties.

SECTION 19. Penalties for Violations.

(a) Any person who gives false or misleading data or information or willfully or through gross negligence, conceals or falsifies a material fact, in any investigation, inquiry, study, or other proceeding held pursuant to this Act, shall be punished with imprisonment of not less than two but not more than six months, and with a fine of not less than one thousand but not more than ten thousand pesos: Provided, however, That if the false or misleading data or information shall

have been given under oath, the maximum penalty for giving false testimony or perjury shall be imposed;

(b) Any person who violates any provision of this Act or any order, decision, ruling, or regulation of the Council shall, upon conviction, be sentenced for a period of not less than six months but not more than five years and a fine of not less than ten thousand pesos but not more than fifty thousand pesos. If the offender be a corporation, partnership, or juridical person, the penalty shall be imposed on the officer or officers responsible for permitting or causing a violation by the corporation, partnership, or juridical person of the provisions of this Act;

(c) If the offender is a government official or employee, the maximum penalty prescribed in paragraph (b) shall be imposed and the offender shall suffer the additional penalty of perpetual disqualification from public office without prejudice to any administrative action against him;

(d) If the offender is a member of the Petroleum Regulatory Council or any of its attached agencies and companies, and the commission of the offense is attended by clear abuse of discretion on his part, or by any corrupt practice defined in Republic Act No. 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act", or other similar irregularity, the penalty imposed shall be a fine of one hundred thousand pesos and imprisonment of not less than ten years. A similar penalty shall be imposed upon any private person, whether in the government service or not, who induces, aids, or abets the offender in the commission of the offense;

(e) It shall be an offense, penalized as provided in paragraph (c) or (d) above, whichever may be applicable, for any person serving in the Petroleum Regulatory Council or any of its attached agencies and companies, either as a Chairperson, Member, or as a member of the staff to directly or indirectly be employed by, or to receive any compensation from, or to have any direct or indirect financial interest in, any firm engaged in the business of exploring, exploiting, importing, exporting, re-exporting, shipping, transporting, processing, refining, storing, marketing, distributing, and selling both at wholesale and retail any petroleum resource; and

(f) Any alien violating this Act shall, in addition to the penalty herein provided, be deported after service of sentence and shall not be permitted reentry into the Philippines.

(g) All monetary penalties shall directly accrue to the Oil Price Buffer Fund.

SECTION 20. Implementing Rules and Regulations. - The Petroleum Regulatory Council shall formulate and issue the necessary implementing rules and regulations within thirty (30) days after the effectivity of this Act.

SECTION 21. General Repealing Clause.

(a) Republic Act No. 8479, also known as the "Downstream Oil Industry Deregulation Act of 1998" is repealed.

(b) All other laws, decrees, executive orders, rules and regulations, or parts thereof inconsistent with any of the provisions of this Act, are hereby repealed or amended accordingly.

SECTION 22. Separability Clause. - If, for any reason, any section or provision of this Act is declared unconstitutional or invalid, such other sections or provisions not affected thereby shall remain in full force and effect.

SECTION 23. Effectivity. – This Act shall take effect fifteen days after its complete publication in two (2) national newspapers of general circulation.

Approved,