

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Seventeenth Congress
Second Regular Session

HOUSE BILL NO. 7352



Introduced by HONORABLE MARK. O GO

EXPLANATORY NOTE

This measure seeks to amend certain provisions of Republic Act No. 8479 known as the "Downstream Oil Industry Deregulation Act of 1998".

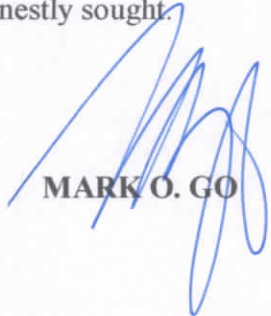
Republic Act 8479 was enacted in order to liberalize and regulate the downstream oil industry in order to ensure a truly competitive market under a regime of fair prices, adequate and continuous supply of environmentally-clean and high-quality petroleum products.

Since the enactment of the law on Oil Deregulation in 1998, consumers have been faced by fluctuating and high fuel prices. This also created disparities in pump prices in cities and provinces throughout the country resulting to transport strikes affecting public commuters. High price of oil burdens the people which equates to a lesser purchasing power on the part of the consumers. Pursuant to a study conducted by the Department of Energy, under a deregulated regime, changes in world oil prices are more immediately reflected in local pump prices. Even if the Philippines were producing significant quantities of crude oil, the country would still face higher local oil prices when world oil prices are high. At present, deregulation has allowed the unguarded increase of oil prices with adverse impact on the prices of basic commodities and other services.

Article XII Section 19 of the Constitution provides that 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.

It is therefore the role of the Department of Energy to ensure fair and reasonable pricing across areas, cities and municipalities. Such mandate of the agency will certainly prevent monopoly, oligopoly and will equally avert unfair competition aligned with the State's responsibility to promote social justice and equitable national economy for its people.

In view of this, the passage of this measure is earnestly sought.


MARK O. GO

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AN ACT
AMENDING REPUBLIC ACT NO. 8479, OTHERWISE KNOWN AS "THE
DOWNSTREAM OIL INDUSTRY DEREGULATION ACT"

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

SECTION 1. Section 2 of R.A. No. 8479 is hereby amended to read as follows:

"SEC. 2. Declaration of Policy- It shall be the policy of the State to liberalize and deregulate the downstream oil industry in order to ensure a truly competitive market under a regime of fair prices, adequate and continuous supply of environmentally-clean and high quality petroleum products. To this end, the State shall promote and encourage the entry of new participants in the downstream oil industry, and introduce adequate measures to ensure the attainment of these goals.

IT SHALL ALSO BE THE POLICY OF THE STATE TO ENSURE REASONABLE AND TRANSPARENT PRICES FOR PETROLEUM PRODUCTS AND TO PREVENT MONOPOLY, OLIGOPOLY, COMBINATION IN RESTRAINT OF TRADE, UNFAIR COMPETITION, AND ECONOMIC DOMINATION IN THE INDUSTRY IN CONSONANCE WITH PUBLIC INTEREST."

SECTION 2. Section 14 of R.A. No. 8479 is hereby amended to read as follows:

"SEC. 14. Monitoring. - a) The DOE shall monitor and publish daily international crude oil prices, as well as follow the movements of domestic oil prices. It shall likewise monitor the quality of petroleum products and stop the operation of businesses involved in the sale of petroleum products with the national standards of quality that are aligned with the international standards/protocols of quality. The Bureau of Product Standards (BPS) of the DTI, together with the Department of Environment and Natural Resources (DENR), the DOE, the Department of Science and Technology (DOST), representatives of the fuel and automotive industries and the consumers, shall set the specifications for all types of fuel and fuel related products to improve fuel composition for increased efficiency and reduced emissions. The BPS shall also specify the allowable content of additives in all types of fuels and fuel-related products.

B) THE DOE SHALL REGULARLY MONITOR THE RETAIL AND PUMP PRICES OF FUEL AND OTHER PETROLEUM PRODUCTS. TO IMPLEMENT THIS, ANY PERSON OR ENTITY ENGAGED IN THE BUSINESS OF PETROLEUM SHALL SUBMIT A VERIFIED MONTHLY REPORT TO DOE FOR THEIR PRICES IN CONSIDERATION OF THE NECESSARY FACTORS AND VARIABLES CONTITUTING IN THE FORMULATION OF SUCH PRICES. SUCH REPORT SHALL BE CONSIDERED AS A MATTER OF PUBLIC INTEREST AND SHALL BE MADE PUBLIC FROM TIME TO TIME.

C) THE DOE SHALL HAVE THE AUTHORITY TO INSPECT THE BOOK OF ACCOUNTS AND RECORDS OF SUCH PERSON OR ENTITY AS PART OF THE MONITORING POWERS OF THE AGENCY.

D) [b)] The DOE shall monitor the refining and manufacturing processes of local petroleum products to ensure that clean and safe (environment and worker-benign) technologies are applied. This shall also apply to the process of marketing local and imported petroleum products.

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

F) [d)] Any report from any person of an unreasonable rise in the prices of petroleum products shall be immediately acted upon. For this purpose, the creation of DOE-DOJ Task Force is hereby mandated to determine within thirty (30) days the merits of the report and initiate the necessary actions warranted under the circumstances: *Provided*, That nothing herein shall prevent the said task force from investigating and/or filing the necessary complaint with the proper court or agency *moto proprio*. THE TASK FORCE SHALL CONDUCT VISITORIAL UNANNOUNCED INSPECTION OF PREMISES, LEASED AND OPERATED BY THE COMPANIES ENGAGED IN THE BUSINESS OF PETROLEUM.

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

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

SEC. 3. Section 15 of R.A. No. 8479 is hereby amended to read as follows:

“SEC. 15. Additional Powers of the DOE Secretary. - In connection with the enforcement of this Act, the DOE Secretary shall have the following powers:

A. TO SET A PRICE CEILING AND FIX THE MAXIMUM RATE OF INCREASE IN THE PRICES OF FUEL AND OTHER PETROLEUM PRODUCTS TO SAFEGUARD AGAINST DISPARITY BETWEEN LOCATIONS, AREAS AND COMMUNITIES.

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

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

D) [c]] Upon the direction of the President or either House of Congress, to investigate and report the facts relating to any alleged violation of this Act by any person or corporation;

E) [d]] Upon the application of the Secretary of Justice, to investigate and make recommendations for the adjustment of the business of any person or entity alleged to be violating this Act in order that such person or entity may thereafter maintain his or its organization, management, and conduct of business in accordance with laws;

F) [e]] To recommend to the proper government agency the suspension or revocation and termination of the business permit of an offender;

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

H) [g]] To make public from time to time such portions of the information obtained by him hereunder as are in the public interest; and to make annual and special reports to Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of his reports and decisions in such form and manner as may be best adapted for public information and use: *Provided*, That the Secretary shall not have any authority to make public any trade secret or any commercial or financial information which is obtained from any person or entity and which is privileged or confidential, except that the Secretary may disclose such information to officers and employees of appropriate law enforcement agencies or to any officer or employee of any such law enforcement agency upon the prior certification by an officer of any such law agency that such information will be maintained in confidence and will be used only for official law enforcement purposes: and;

I) [h]] Whenever a final order has been entered against any dependent in any suit brought by the government to prevent and restrain any violation of the anti-trust provisions of this Act to make investigation, upon his initiative of the manner in which the decree has been or is being carried out, and upon the application of the Secretary of Justice, it shall be his duty to make such investigation. He shall transmit to the Secretary of Justice a report embodying his findings and

recommendations as a result of any such investigation, and the report shall be made public at the discretion of the Secretary.”

SEC. 3. *Repealing Clause.*- All laws, decrees and orders or parts thereof inconsistent herewith, are deemed repealed or modified accordingly.

SEC. 4. *Separability Clause.*- If any of the sections or provisions of this Act is held invalid, all other provisions not affected thereby shall remain valid.

SEC. 5. *Effectivity Clause.*- This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation in the Philippines.

Approved,