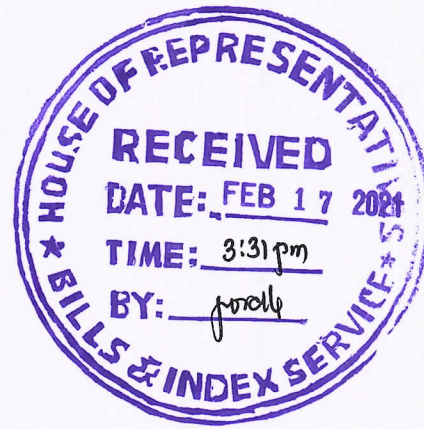


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 8764



Introduced by **HON. EDGAR M. CHATTO**
First District, Bohol

EXPLANATORY NOTE

In February 1998, Congress passed Republic Act No. 8479 or the “Downstream Oil Industry Deregulation Law”. RA 8479 has two main objectives¹: (1) to ensure a truly competitive market under a regime of fair prices, and (2) to ensure adequate and continuous supply of environmentally clean and high-quality petroleum products.

To implement the first objective of ensuring fair prices, the DOE is tasked² to monitor and publish daily international crude oil prices, and to follow the movements of domestic oil prices. The DOE subscribes to the Mean of Platts Singapore (MOPS), which shows daily trading prices of crude and refined oil in Singapore.³

According to the DOE, consistent with the regime of deregulation, “the Oil Deregulation Law did not prescribe a specific formula. The market is expected to set the prices. Notwithstanding deregulation, however, players in the industry must adhere to the fundamental principle of fair prices as provided under the law.”

However, the absence of a clear definition of “fair prices” under RA 8479 has given rise to confusion and oppression. This has likewise justified the wide gap in prices of gasoline and its products between and among provinces of the same or neighboring regions as well as between and among contiguous cities and municipalities within a province separated only by a few kilometers as is our case in the Province of Bohol.

The capital city of Tagbilaran registers the highest prices of oil in the province despite carrying the biggest oil depot in the island. The municipality of Ubay which gets oil from the Tagbilaran City depot and is 97 kilometers away from the capital is Php 4.40 cheaper in terms of diesel prices and Php 9.07 cheaper in premium gasoline prices. While in the neighboring municipality of Dausi, separated from the capital city by a mere 12-kilometer distance, diesel is Php 8.31 cheaper and premium gasoline by Php 10.12. Finally, 4 kilometers away from Dausi is Panglao. This tourism hotspot registers fuel prices that is cheaper than in Tagbilaran City by as much as Php 5.00 per liter for unleaded gasoline.

¹ Section 2 of RA 8479

² under Section 14 of RA 8479

³ Fifteen Years Since Oil Deregulation: Assessment of the Department of Energy’s Role in the Implementation of Republic Act 8479 by Emir-Deogene Mendoza, Ron Ponce Dangcalan and Albertine June Din, Philippine Journal of Public Administration, Vol. LVIII No. 1 (January-June 2014)

Outside the province but within the same Region VII, the situation of Tagbilaran City is no different. In Cebu City, there is a difference of Php 5.16 for diesel and Php 7.64 for premium gasoline. Even as compared a city outside the region, diesel in Tagbilaran City is Php 3.31 more expensive and premium gasoline by Php 5.59 in Cagayan de Oro City in Region X.

The disparity of average fuel prices in different places within the province of Bohol and in neighboring cities is unreasonable. It does not promote sound economy and stability in the cost of commodities which necessarily hinge upon the price of fuel within a specific jurisdiction.

Last May 2019, the DOE issued Department Order Circular No. DC2019-05-0008 or the “Revised Guidelines for the Monitoring of Prices in the Sale of Petroleum Products by the Downstream Oil Industry in the Philippines”. The circular aims to make oil price rollbacks or hikes more transparent as the detailed breakdown of the changes is shown. The circular requires oil companies to unbundle their price adjustments and submit a report to the DOE with a detailed breakdown of their import costs, tariffs, biofuel costs, oil company take components, and other essential cost components that contribute to the changes in retail prices in the hope of gathering data necessary to formulate proactive and appropriate policy initiatives for the benefit of consumers and the downstream oil industry as well as provide data that will support investigations on reported incidents of anti-competitive behavior.

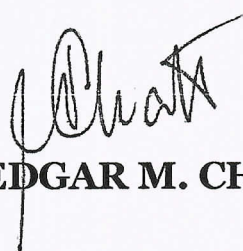
To date, three regional trial courts – Taguig, Makati and Mandaluyong, have issued temporary restraining orders (TROs) against the implementation of the DOE Circular, arguing that it is against fostering market driven competition.

As to the second objective of RA 8479 referring to the quality of the petroleum products which should be “environmentally-clean and high-quality”, the law delegates the definition to government agencies, thereby not explicitly specifying the benchmark for identifying what exactly the law considers as the objective in terms of quality.

To date, fossil fuel combustion – for electricity, heat production and transportation – is the principal greenhouse gas contributing to global warming. The use of sustainable technology and practices should not only be encouraged but be made a priority.

The proposed amendments under this legislative measure, hence, seeks to give to the DOE, in consultation with stakeholders, the power to determine the formula to set the “fair price” of petroleum products. Additional mandates, under the monitoring powers of the DOE, were also given. Finally, a premium on compliance with environmental laws is ensured.

In view of the foregoing considerations, the passage of this law is earnestly sought.



REP. EDGAR M. CHATTO

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First District, Bohol

**“AN ACT
AMENDING REPUBLIC ACT NO. 8469 OR 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 Republic Act No. 8479 is 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 BE THE POLICY OF THE STATE TO ENSURE FAIR, 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.

IT SHALL ALSO BE THE POLICY OF THE STATE TO ENSURE THE WELFARE AND SAFETY OF THE CONSUMERS AND THE GENERAL PUBLIC AS WELL AS THE ENVIRONMENT THROUGH THE STRICT OBSERVANCE OF RELEVANT ENVIRONMENTAL LAWS AND INTERNATIONAL AGREEMENTS ON THE HANDLING OF HAZARDOUS CHEMICALS.”

SECTION 2. Section 12 of R.A. No. 8479 is hereby amended to read as follows:

SEC.12. Other Prohibited Acts. – To ensure compliance with the provisions of this Act, the refusal to comply with any of the following shall likewise be prohibited:

- a) submission of any reportorial requirements;
- b) use of clean and safe (environment and worker-benign) technologies;
- C) ENTRANCE OF REPRESENTATIVES FROM DOE AND/OR THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND THE DEPARTMENT OF JUSTICE EXERCISING VISITORIAL POWERS UNDER SECTION 14 OF THIS ACT;
- D) [c)] any order or instruction of the DOE Secretary issued in the exercise of his enforcement powers under Section 15 of this Act; and
- E) [d)] registration of any fuel additive with the DOE prior to its use as an additive.

Any person, including but not limited to the chief operating or chief executive officer of the partnership, corporation or any entity involved, who is found guilty of any of the said prohibited acts shall suffer the penalty of imprisonment for two (2) years and fine ranging from ~~Two hundred fifty thousand pesos (P250,000.00)~~ to Five hundred thousand pesos (P500,000.00) TO ONE MILLION PESOS (P1,000,000.00).

SEC. 3. 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 ENSURE TRANSPARENCY, ANY PERSON OR ENTITY ENGAGED IN THE BUSINESS OF PETROLEUM SHALL SUBMIT A VERIFIED MONTHLY REPORT OF THEIR PRICES TO THE DOE, WHICH SHALL INCLUDE A

BREAKDOWN OF 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) THE DOE SHALL HAVE THE AUTHORITY, BY ITSELF OR TOGETHER WITH THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND THE DEPARTMENT OF JUSTICE TO INSPECT THE PREMISES OF THE ENTITY, AS PART OF THE MONITORING POWERS OF THE AGENCY, TO ENSURE STRICT COMPLIANCE WITH ENVIRONMENTAL LAWS.
- F) [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.
- G) [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 UNANNOUNCED, UNRESTRICTED AND UNHAMPERED VISITORIAL INSPECTION OF PREMISES, LEASED AND OPERATED BY THE COMPANIES ENGAGED IN THE BUSINESS OF PETROLEUM.

THE DOE WILL INFORM THE ENTITY OF VIOLATION/S OF THIS SECTION IN WRITING AND GIVE REASONABLE TIME FOR COMPLIANCE.

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.

- H) [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. 4. 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) IN CONSULTATION WITH THE OIL INDUSTRY SECTOR, THE DEPARTMENT OF TRADE AND INDUSTRY, THE DEPARTMENT OF JUSTICE, THE NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY AND THE CONSUMERS SECTOR, FACILITATE THE DETERMINATION OF THE FORMULA, IN CONSULTATION WITH THE STAKEHOLDERS, THAT WILL GOVERN THE COMPUTATION OF THE FAIR PRICE TO BE USED BY THE OIL INDUSTRY SECTOR IN THE INCREASE OR DECREASE OF THE PRICES OF GASOLINE AND ITS PRODUCTS.
- B) CONDUCT A PERIODIC EVALUATION OF THE EFFECTIVENESS AND EFFICIENCY OF THE FORMULA AND RECOMMEND ITS REVIEW AND ADJUSTMENT SHOULD THE CIRCUMSTANCES SO WARRANT AND IN CONSULTATION WITH STAKEHOLDERS.
- C) TO FIX THE MAXIMUM RATE OF INCREASE IN THE PRICES OF FUEL AND OTHER PETROLEUM PRODUCTS, TAKING INTO CONSIDERATION INTERNATIONAL AND LOCAL MARKET PRICES, TO SAFEGUARD AGAINST DISPARITY BETWEEN LOCATIONS, AREAS AND COMMUNITIES.
- D) [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;
- E) [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;

- F) [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;
- G) [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;
- H) [e)] To recommend to the proper government agency the suspension or revocation and termination of the business permit of an offender;
- I) [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;
- J) [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;
- K) 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. 5. Implementing Rules and Regulations. – The DOE shall issue the necessary rules and regulations necessary for the implementation of the provisions of this Act.

SEC. 6. Repealing Clause. – All acts, presidential decrees, executive orders and issuances inconsistent with this Act are hereby repealed or amended accordingly.

SEC. 7. Separability Clause. – If any provision of this Act is declared unconstitutional or inoperative, the other provisions not so declared shall remain in force and effect.

SEC. 8. Effectivity. – This Act shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Approved,