

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Third Regular Session

HOUSE BILL NO. 10732



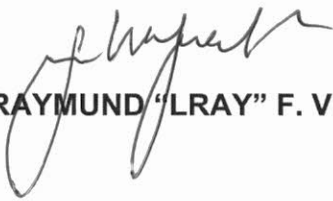
Introduced by **HON. LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.**

AN ACT
TO PROMOTE FAIR TRADE IN THE OIL INDUSTRY AND FOR OTHER PURPOSES,
AMENDING REPUBLIC ACT NO. 8479, OTHERWISE KNOWN AS THE
"DOWNSTREAM OIL DEREGULATION ACT OF 1998"

This proposed measure seeks to amend Republic Act (R.A.) No. 8479, otherwise known as the "Downstream Oil Industry Deregulation Act of 1998" in an effort to accurately consider international price movements in the pricing of petroleum products.

Among others, this measure shall require the submission of financial documents by local oil companies, that are pertinent in the determination of price adjustments of petroleum products. Submission of these documents is mandatory and penalties for non-compliance are increased. This bill also deems it unlawful for oil companies to engage in unwarranted or unreasonable amounts of price increase as may be determined by the Department of Energy (DOE).

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


LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.

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

Section 1. Section 4 of Republic Act No. 8479 is hereby amended to read as follows:

"Sec. 4. Definition of Terms. – For purposes of this Act, the following terms are herein below defined:

"xxx

"(O) **PREVAILING RETAIL PRICE - SHALL REFER TO THE CURRENT PUMP PRICE OF ALL PETROLEUM PRODUCTS IN THE COUNTRY;**

"~~[(e)]~~ (P) *Singapore Import Parity (SIP)* – shall refer to the deemed landed cost of a petroleum product imported from Singapore at a free-on board price equal to the average Singapore Posting for that product at the time of loading;

"~~[(p)]~~ (Q) *Singapore Posting* – shall refer to the price of petroleum products periodically posted by oil refineries in Singapore and reported by independent international publications; ~~[and]~~

"(R) **TASK FORCE – SHALL REFER TO THE OIL MONITORING TASK FORCE CREATED UNDER SECTION 2 OF THIS ACT; AND**

"~~[(q)]~~ (S) *Wholesale Posted Price (WPP)* – shall refer to the ceiling price of petroleum products set by the Board based on its duly approved automatic pricing formula."

Sec. 2. *Creation of the Oil Monitoring Task Force.* – The Oil Monitoring Task Force shall be organized within one (1) month from the effectivity of this Act to implement the Anti-Trust safeguards under Section 11 of Republic Act No. 8479 and ensure fair competition in the oil industry.

1) Creation and Composition. – The Secretaries of the Departments of Energy (DOE), Justice (DOJ) and Trade and Industry (DTI) shall jointly appoint the members of the Task Force which shall be composed of an Undersecretary from Energy and Justice, as Co-Chair with the following members:

- a) One (1) member from the DOE;
- b) One (1) member from the DOJ;
- c) One (1) member from the DTI;
- d) Two (2) members from the consumer and public transport groups which have been in existence and active for the last five (5) years prior to this Act; and
- e) One (1) industry financial expert.

2) The members of the Task Force shall adopt its rules and guidelines in the performance of its functions. These guidelines shall ensure the efficiency, promptness, and effectiveness in the handling of its cases.

Sec. 3. Powers and Functions of the Oil Monitoring Task Force. –

- a) To establish stricter and more industry-specific reporting guidelines;
- b) To conduct periodic and unannounced inspections of oil depots and facilities;
- c) To inspect the books of accounts of companies engaged in the oil industry;
- d) To request all records that are deemed necessary to ensure transparency and compliance of all oil industry participants with the provisions of this Act; and
- e) To conduct an annual analysis of oil industry performance, including findings and issues encountered by the Task Force to be posted in the DOE website.

Sec. 4. Section 10 of Republic Act No. 8479 is hereby amended to read as follows:

"Sec. 10. *Promotion of Retail Competition.* - THE TASK FORCE SHALL ADOPT ALL MEASURES TO PROMOTE FAIR TRADE IN THE RETAIL MARKET AND THE CONSUMERS' RIGHT OF ACCESS TO ANY AND ALL INFORMATION REGARDING THE PRICES OF ALL PETROLEUM PRODUCTS IN THE RETAIL MARKET. THE TASK FORCE SHALL CONTINUE TO MONITOR THE MOVEMENT OF OIL PRICES IN THE RETAIL MARKET AND POST THE PREVAILING RETAIL PRICES ON THE DOE'S OFFICIAL WEBSITE AND PUBLISH THE SAME IN AT LEAST TWO (2) NATIONAL NEWSPAPERS OF GENERAL CIRCULATION ON A BIWEEKLY BASIS. THESE PRACTICES ARE INTENDED TO PROVIDE THE CONSUMERS WIDER ACCESS TO PETROLEUM PRODUCTS THAT GIVE BEST VALUE FOR MONEY."

"To achieve the social and policy objective of fair prices, facilitate the attainment of a truly competitive product market in the retail level, the DOE shall promote and encourage by way of information dissemination, networking, and management/skills training, the active and direct

participation of the private sector and cooperatives in the retailing of petroleum products through joint venture/supply agreements with new industry participants for the establishment and operation of gasoline stations: Provided, That the training herein shall include LPG retailing.

"xxx

"xxx

"xxx

"xxx".

Sec. 5. Section 11 of Republic Act No. 8479 is hereby amended to read as follows:

"Sec. 11. *Anti-Trust Safeguards*. – To ensure fair competition and prevent cartels and monopolies in the Industry, the following acts are hereby prohibited:

"(a) xxx

"(b) xxx

"Any person, including but not limited to the chief operating officer, chief executive officer or chief finance 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 three (3) to seven (7) years imprisonment, and a fine ranging from [~~One million pesos (P 1,000,000.00) to~~] Two million pesos (P 2,000,000.00) **TO THREE MILLION PESOS (P 3,000,000.00).**"

Sec. 6. Section 12 of Republic Act 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 **SUCH AS BUT NOT LIMITED TO BOOKS OF ACCOUNTS, AUDITED FINANCIAL STATEMENTS, VERIFIED REPORTS OF THE COMPANY'S ASSUMPTIONS AND COMPUTATIONS IN THE PRICING OF THEIR PETROLEUM PRODUCTS, WHETHER IN THE PROCESSING, REFINING, DISTRIBUTING OR SELLING OF SAID PRODUCTS, TO ENSURE THAT OIL COMPANIES ARE NOT INVOLVED IN PROFITEERING;**

"(b) xxx

"(c) xxx

"(d) xxx.

"Any person, including but not limited to the chief operating officer 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 a fine ranging from [~~Two hundred fifty thousand pesos (P 250,000.00) to~~] Five hundred thousand pesos (P 500,000.00) **TO SEVEN HUNDRED FIFTY THOUSAND PESOS (P 750,000.00).**

"IT SHALL LIKEWISE BE UNLAWFUL TO CAUSE THE UNNECESSARY INCREASE OR CAUSE AN UNREASONABLE AMOUNT OF INCREASE IN THE PRICES OF PETROLEUM PRODUCTS UNDER SECTION 7 OF THIS ACT."

Sec. 7. Section 14 of Republic Act No. 8479 is hereby amended to read as follows:

"Sec. 14. **MONITORING.** – (a) The DOE shall monitor **ACTIVELY** and publish daily international crude oil prices, as well as follow the movements of domestic oil prices. **IT SHALL DETERMINE THE FACTORS WHICH CAUSE THE CHANGE IN THE PRICES OF PETROLEUM PRODUCTS, EVALUATE THE NECESSITY OF THE CHANGE IN THE PRICES AND THE REASONABILITY OF THE AMOUNTS OF INCREASE OR DECREASE BASED ON THE ACTUAL CONDITIONS OF THE MARKET AND OTHER CAUSATIVE AND CONTRIBUTORY FACTORS AS IT MAY DETERMINE.** It shall likewise monitor the quality of petroleum products and stop the operation of businesses involved in the sale of petroleum products which do not comply with the national standards of quality that are aligned with the national standards/protocols of quality. The Bureau of Product Standards 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) xxx

"(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 **FOR THE SUCCEEDING MONTH.** To implement this, the importers, refiners, and marketers are hereby required to submit ~~[monthly]~~ **EVERY THIRD WEDNESDAY OF THE MONTH to the DOE their FORTY FIVE (45) - DAY INVENTORY** of actual importations, local purchases, sales and/or consumption ~~[and inventory]~~ on a per crude/product basis.

"(d) Any report from any person of an unreasonable ~~[rise]~~ **CHANGE** in the prices of petroleum products shall be immediately acted upon. For this purpose, the ~~[creation of the 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 circumstance: *Provided*, That nothing herein shall prevent the said Task Force from investigating and/or filing the necessary complaint with the proper court or agency *motu proprio*.

~~[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 the rules and guidelines to be adopted by the Task force in the performance of its duty. These guidelines shall ensure the 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.]~~

"(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. 8. *Implementing Rules and Regulations.* – The Department of Energy, in

coordination with the Department of Justice, Department of Trade and Industry, and representatives from the consumer and transport groups, shall within sixty (60) days from the effectivity of this Act, promulgate the rules and regulations to effectively implement the provisions of this Act.

Sec. 9. *Separability Clause.* – If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provisions not affected thereby shall remain in force and effect.

Sec. 10. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, rule or regulation inconsistent with the provisions of this Act is hereby repealed or modified accordingly.

Sec. 11. *Effectivity.* – This Act shall take effect after fifteen (15) days following its complete publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,