

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

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 494



Introduced by **Representative Stella Luz A. Quimbo**

AN ACT
AMENDING REPUBLIC ACT NO. 8479, OTHERWISE KNOWN AS THE
"DOWNSTREAM OIL DEREGULATION ACT OF 1998"

EXPLANATORY NOTE

In 1998, after decades of state control of the downstream oil industry, Republic Act No. 8479 was enacted in order to deregulate the sector. In essence, the industry was liberalized so that market forces, independent of government interventions, can determine prices of petroleum products. It was also deemed to bolster fair trade practices within the industry and to smoothen the entry of new participants therein. The end goal of the legislation is to promote and maintain healthy competition in the market that will ensure quality of the goods and reasonability of the prices.

More than 20 years after the enactment of the Downstream Oil Deregulation Act, the landscape of the market has evolved. In response to the changing times, the government needs to update its policies so that it is sufficiently capacitated in preventing and prosecuting criminal practices that hamper competition and promote unfair trade. It must also be able to allow government means to intervene for the sake of the welfare of the people in the face of extreme shocks to the oil market.

The ongoing crisis on fuel spurred by the conflict of Ukraine and Russia emphasizes the need to amend the Oil Deregulation Law. Even before the conflict, the global price of oil has already been rising from USD64.41 per barrel in March 2021 to USD73.19 per barrel in January 2022. This has only worsened due to the Ukraine-Russia situation, which has led to a price of USD115.71 per barrel as of June 14, 2022. The impact has been widely felt in the domestic market, with the price of gasoline and diesel rising from P51.60 and P43.20 to P85.00 and P87.30 in the span of a year, respectively.

According to the BSP, the further rise of fuel prices will bring upon economic uncertainty, and inflation may reach 5.0 percent. In a hearing of the Fuel Crisis Ad

Hoc Committee last March 7, 2022, NEDA stated that the increase in fuel prices will cause a 0.3 to 0.9 percentage point decrease in GDP, which was estimated to be about P330 billion pesos. This would translate to additional burden to transport workers, farmers and fisherfolk, as well as consumers.

Thus, Republic Act No. 8479 has to be amended in order to accommodate such instances and promote the welfare of the people by ensuring that there are measures to ensure transparent pricing of oil products, as well as means for government to step in when the price of oil becomes too high.

This bill, cognizant of the current lapses in the regulatory regime in the oil industry, seeks to institutionalize the practice of price unbundling when oil companies report price increases for greater transparency. It also seeks to empower and strengthen the current capacities of the Philippine Competition Commission in preventing, investigating, and prosecuting cases of unfair trade practices in the sector. Finally, it gives the President the authority to reduce or suspend fuel excise tax rates when fuel prices breach a threshold to safeguard the welfare of the Filipino people.

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


STELLA LUZ A. QUIMBO, PhD
Representative
Second District, Marikina City

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

3
4 **SECTION. 1. Reorganizing the DOE-DOJ Task Force.** – Section 14 (d) of Republic
5 Act No. 8479 is hereby amended to read as follows:

6
7 “(d) Any report from any person of an unreasonable rise in the prices of
8 petroleum products shall be immediately acted upon. For this purpose, the
9 creation of [~~the DOE-DOJ~~] A Task Force **COMPOSED OF THE**
10 **DEPARTMENT OF ENERGY, DEPARTMENT OF JUSTICE, AND**
11 **PHILIPPINE COMPETITION COMMISSION** is hereby mandated to
12 determine within thirty (30) days the merits of the report and initiate the
13 necessary actions warranted under the circumstance: Provided, That nothing
14 herein shall prevent the said task force from investigating and/or filing the
15 necessary complaint with the proper court or agency *motu proprio*.”

16 **SEC. 2. Rationalizing the Roles of Agencies in the Promotion of Fair Trade Practices.**
17 – Section 7 of Republic Act No. 8479 is hereby amended to read as follows:

18
19 “Section 7. Promotion of Fair Trade Practices. – **THE PHILIPPINE**
20 **COMPETITION COMMISSION (PCC), IN COORDINATION WITH**
21 **T[~~F~~]he Department of Trade and Industry (DTI) and DOE, SHALL ENSURE**
22 **THAT THE PRINCIPLES AND POLICIES ON FAIR MARKET**
23 **COMPETITION ENSHRINED UNDER REPUBLIC ACT NO. 10667,**
24 **OTHERWISE KNOWN AS THE PHILIPPINE COMPETITION ACT, ARE**
25 **STRICTLY ADHERED TO IN THE DOWNSTREAM OIL INDUSTRY. [~~shall~~**
26 **take all measures to promote fair trade and prevent cartelization, monopolies,**
27 **combinations in restraint of trade, and any unfair competition in the Industry**
28 **as defined in Article 186 of the Revised Penal Code, and Articles 168 and 169 of**
29 **Republic Act No. 8293, otherwise known as the "Intellectual Property Law".]**

The DOE shall continue to encourage certain practices in the industry which serve the public interest and are intended to achieve efficiency and cost reduction, ensure continuous supply of petroleum products, and enhance environmental protection. These practices may include borrow-and-loan agreements, rationalized depot and manufacturing operations, hospitality agreements, joint tanker and pipeline utilization, and joint actions on spill control and fire prevention.

xxx"

SEC. 3. Strengthening of Government's Capability to Enforce Antitrust Safeguards.
- Section 11 of Republic Act No. 8479 is hereby amended to read as follows:

"Section 11. Anti-Trust Safeguards. - To ensure fair competition [and prevent cartels and monopolies in the Industry, the following acts are hereby prohibited:] **IN THE DOWNSTREAM OIL INDUSTRY, ANY FORM OF ANTICOMPETITIVE BEHAVIOR, INCLUDING ALL INSTANCES OF CARTEL AND MONOPOLISTIC CONDUCT, SHALL BE DEALT WITH IN ACCORDANCE WITH THE RELEVANT PROVISIONS OF REPUBLIC ACT NO. 10667, OTHERWISE KNOWN AS THE PHILIPPINE COMPETITION ACT.**

~~[(a)Cartelization which means any agreement, combination or concerted action by refiners, importers and/or dealers, or their representatives, to fix prices, restrict outputs or divide markets, either by products or by areas, or allocate markets, either by products or by areas, in restraint of trade or free competition, including any contractual stipulation which prescribes pricing levels and profit margins;]~~

~~[(b)]~~**FURTHER, IT IS HEREBY PROHIBITED TO ENGAGE IN THE ACT OF P**~~redatory pricing,~~ which means selling or offering to sell any oil product at a price below the seller's or offeror's average variable cost for the purpose of destroying competition, eliminating a competitor or discouraging a potential competitor from entering the market: *Provided, however,* That pricing below average variable cost in order to match the lower price of the competitor and not for the purpose of destroying competition shall not be deemed predatory pricing. For purposes of this provision, "variable cost" as distinguished from "fixed cost", refers to costs such as utilities or raw materials, which vary as the output increases or decreases and "average variable cost" refers to the sum of all variable costs divided by the number of units of outputs. **ANY VIOLATION OF THIS PROVISION SHALL BE REFERRED TO THE PHILIPPINE COMPETITION COMMISSION.**

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 **ENGAGING IN PREDATORY PRICING, AS DEFINED IN THIS ACT, SHALL SUFFER THE PENALTIES PROVIDED FOR UNDER THE PCA.** ~~[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).]~~"

SEC. 4. Rationalizing Remedies for Violation of Fair Trade Rules - Section 13 of Republic Act No. 8479 is hereby amended to read as follows:

"Section 13. Remedies. - (a) Government Action. - **WITHOUT PREJUDICE TO WHATEVER ACTION THAT THE PHILIPPINE COMPETITION COMMISSION MAY UNDERTAKE, IN ACCORDANCE WITH ITS POWER AND MANDATE UNDER THE PCA,** ~~W[hen]~~**enever** it is determined by the Joint Task Force created under Section 14 (d) of this Act, there is a threatened or imminent or actual violation of Section 11 of this Act, it shall direct the provincial or city prosecutors having jurisdiction to institute an action to prevent or restrain such violation with the Regional Trial Court of the place where the defendants reside or has his place of business. Pending hearing of the complaint and before final judgment, the court may at any time issue a temporary restraining order or an injunction as shall be deemed just within the premises, under the same conditions and principles as injunctive relief is granted under the Rules of Court.

Whenever it is determined by the Joint Task Force that the Government or any of its instrumentalities or agencies, including government-owned or -controlled corporations, shall suffer loss or damage in its business or property by reason of violation of Section 11 of this Act, such instrumentality, agency or corporation may file an action to recover damages and the costs of the suit with the Regional Trial Court which has jurisdiction as provided above.

(b) Private Complaint. - Any person or entity shall report any violation of Section 11 of this Act to the **PCC, FOR PURPOSES OF FACT FINDING AND PRELIMINARY INQUIRY. IF THE EVIDENCE SO WARRANTS, THE PCC MAY FILE BEFORE THE** Joint Task Force **CRIMINAL COMPLAINTS FOR PURPOSES OF PRELIMINARY INVESTIGATION AND PROSECUTION BEFORE THE PROPER COURT.** The Joint Task Force shall investigate such ~~[reports]~~ **REFERRAL**, in aid of which the DOE Secretary may exercise the powers under Section 15 of this Act. The Joint Task Force shall prepare a report embodying its findings and

recommendations as a result of any such investigation, and the report shall be made at the discretion of the Joint Task Force. In the event that the Joint Task Force determines that there has been a violation of Section 11 of this Act, the private person or entity shall be entitled to sue for and obtain injunctive relief, as well as damages, in the Regional Trial Court having jurisdiction over any of the parties, under the same conditions and principles as injunctive relief is granted under the Rules of Court.

SEC. 5. Authority of the President to Suspend or Reduce Excise Taxes on Fuel - A new section is hereby inserted under Republic Act No. 8479 to read as follows:

"THE PRESIDENT SHALL BE GRANTED THE AUTHORITY TO SUSPEND OR REDUCE EXCISE TAXES ON FUEL WHEN THE AVERAGE DUBAI CRUDE OIL PRICE BASED ON MEAN OF PLATTS SINGAPORE (MOPS) REACHES OR EXCEEDS EIGHT DOLLARS (USD 80) PER BARREL."

SEC. 6. Separability Clause. - If any provisions or part of this Act is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SEC. 7. Repealing Clause. - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified, or amended accordingly.

SEC. 8. Effectivity Clause. - This Act shall take effect fifteen (15) days after its publication in at least (2) newspapers of general circulation.

Approved,