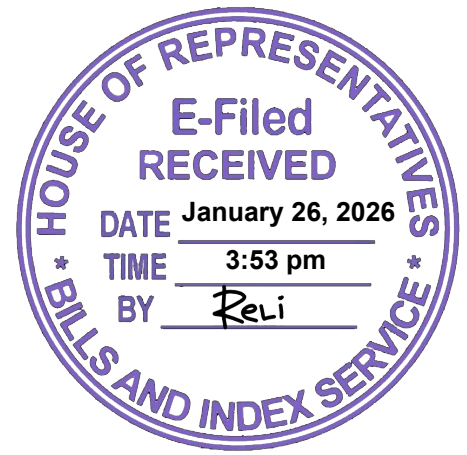


Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Constitution Hills, Quezon City

**TWENTIETH CONGRESS**  
First Regular Session

House Bill No. **7328**



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Introduced by: **REPRESENTATIVE ERIC L. OLIVAREZ**

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**AN ACT**  
**REPEALING R.A. NO. 8479, OTHERWISE KNOWN AS THE**  
**“DOWNSTREAM OIL INDUSTRY DEREGULATION ACT OF 1998”,**  
**CREATING AN OIL INDUSTRY REGULATORY BOARD,**  
**APPROPRIATING FUNDS THEREFOR, AND FOR OTHER**  
**PURPOSES”**

**EXPLANATORY NOTE**

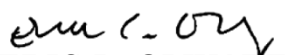
The 1987 Constitution mandates the State to actively intervene when the common good so requires. Article II, Section 9 provides that “(t)he State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty.” Likewise, Article XII, Section 6 provides that: “(i)ndividuals and private groups, including corporations, cooperatives, and similar collective organizations, shall have the right to own, establish, and operate economic enterprises, subject to the duty of the State to promote distributive justice and **to intervene when the common good so demands**”, while Article XII, Section 19 expressly declares that: “(t)he State shall **regulate or prohibit monopolies** when the public interest so requires. No combinations in restraint of trade or unfair competition shall be allowed.”

Republic Act No. 8479, otherwise known as the *Downstream Oil Industry Deregulation Act of 1998*, was enacted to promote competition and allow market forces to determine oil prices. Experience, however, has shown that full deregulation has not resulted in fair, transparent, and reasonable pricing of petroleum products. Instead, fuel prices have remained volatile and persistently high, adversely affecting consumers and the broader economy, and raising serious concerns over price collusion, profiteering, and the lack of effective State intervention in an industry imbued with public interest.

Oil and petroleum products are vital to national security, economic stability, and the daily subsistence of the people. As such, their pricing and supply cannot be left entirely to market forces when these fail to protect the general welfare. Consistent with the State’s police power and constitutional duty to protect consumers and the public interest, there is a clear necessity to restore effective government regulation over the downstream oil industry.

This bill seeks to repeal Republic Act No. 8479 and establish an Oil Industry Regulatory Board under the Department of Energy, vested with authority to ensure transparency, prevent cartelization and monopolistic practices, require cost unbundling, and regulate prices when warranted, while allowing fair and reasonable returns to industry participants.

The immediate passage of this measure is earnestly requested in faithful adherence to the Constitution's mandates on social justice, consumer protection, and the regulation of industries affected with public interest.

  
**ERIC L. OLIVAREZ**

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**REPEALING R.A. NO. 8479, OTHERWISE KNOWN AS THE**  
**“DOWNSTREAM OIL INDUSTRY DEREGULATION ACT OF 1998”,**  
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**APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES**

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

**SECTION 1.** *Declaration of Policy and Objective.* - Oil and other petroleum products being vital to national security and the continued supply thereof at reasonable prices being essential to the general welfare, it shall be the policy of the State to promote a truly competitive market in the oil or petroleum industry to ensure that the business of importing, shipping, transporting, processing, refining, storing, distributing, marketing, and selling crude oil, gasoline, kerosene, gas and other refined petroleum products as well as the operations and activities of those engaged in the oil or petroleum industry shall be carried out in a manner consistent with the public interest, under the most economic and competitive terms possible considering all available sources of supply at reasonable prices after considering proper and reasonable cost of importing, shipping, transporting, processing, refining, storing, distributing, marketing and selling, and for a fair and reasonable return, and to prevent collusive practices in the industry particularly as to prices.

**SECTION. 2.** *Oil Industry Regulatory Board.* - To implement the national policy and attain the objectives and purposes of this Act, an Oil Industry Regulatory Board (BOARD) is hereby created. The Board shall be under the administrative supervision and control of the Department of Energy (DOE).

**SECTION. 3.** *Composition and Qualification of the Board.* - The Board shall be composed of a Chairperson and four (4) Members to be appointed by the President, with the consent of the Commission on Appointments. The Chairperson and the Members of the Board shall be natural-born citizens and residents of the Philippines. In addition, the Chairperson and Members of the Board shall be persons of good moral character, at least thirty-five (35) years of age, and of recognized competence in the field of law, economics, finance, banking, commerce and industry, management, or labor. No Chairperson or Member of the Board who has an interest in, or is related within the fourth

civil degree of consanguinity or affinity with an officer of, an oil company shall be appointed as such. The Chairperson and Members of the Board shall, upon assumption of office and within the month of January of every other year thereafter, and upon the expiration of their respective terms of office, or upon their resignation or separation from the service, prepare and file with the offices of the President, the President of the Senate and the Speaker of the House of Representatives a true, accurate, complete, detailed and sworn statement of assets and liabilities, including a statement of amounts and sources of income, amounts of personal and family expenses, and amounts of income taxes paid for the next preceding calendar year: *Provided*, That the first statement may be filed within the month of January next following if the Chairperson or Member of the Board concerned assumes office less than two months before the end of the calendar year. The Chairperson and the Members of the Board shall devote their full time to the Board and shall not accept any other employment.

**SECTION. 4.** *Term of Office of the Board.* - The term of office of the Chairperson and the Members of the Board shall be three (3) years. No person may be appointed to serve on the Board for more than two (2) consecutive terms.

**SECTION. 5.** *Quorum.* - Three (3) members of the Board shall constitute a quorum, and the vote of at least three (3) members shall be necessary for the adoption of any rule, ruling, order, resolution, decision, or other act of the Board in the discharge of its functions. The Board shall have its office in Metro Manila or such other place as may be designated, and may hold hearings or any proceedings at such times and places within the Philippines as it may provide by an order in writing.

**SECTION. 6.** *Compensation.* - The Chairperson of the Board shall receive compensation equal to that of a Department Undersecretary, while the Members shall each receive compensation equal to that of an official next in rank to a Department Undersecretary. They, upon completion of their terms or upon becoming eligible for retirement under existing laws, shall be entitled to the corresponding retirement benefits and privileges provided for by law.

**SECTION. 7.** *Staffing.* The Board shall appoint and maintain an adequate staff, which shall include a Secretary who shall be a member of the Integrated Bar of the Philippines with at least five (5) years experience in the active practice of law in the Philippines or in the discharge of an office requiring as an indispensable requisite admission to the practice of law in the Philippines. He shall be the recorder and official reporter of the proceedings of the Board and shall have the authority to administer oaths in all matters falling within the jurisdiction of the Board. He shall be the custodian of the records, profiles, reports, and other documents and papers filed in connection with any case or proceedings before the Board. He shall likewise be responsible for the effective implementation of the policies, rules, and directives promulgated by the Board, shall coordinate and supervise the activities of the different operating units of the Board, and shall perform such functions as may be assigned to him by the Chairperson and/or by the Board. The Members of the technical staff, except those performing purely clerical functions, shall possess at least

a bachelor's degree in the line of specialization required by their respective positions: *Provided*, that except as to positions which are policy-determining, highly technical or primarily confidential, all positions in the Board are subject to the provisions of the Civil Service Law and Rules.

**SECTION. 8.** *Jurisdiction, General Powers and Functions of the Board.* – When warranted and when public interest and necessity requires as it may determine, the Board shall have jurisdiction and supervision over all persons, natural or juridical, firms or entities engaged in the business of importing, exporting, shipping, transporting, processing, refining crude oil or other petroleum products, storing, marketing, distributing, or selling, both at wholesale and retail, gasoline, gas, oil, kerosene, and other crude or refined petroleum products, and shall have the power to supervise and regulate their operations and activities including the following:

- a. To set conditions for the accomplishment of the purposes of this Act under which persons, natural or juridical, and business entities can engage or continue engaging in the business of importing, exporting, shipping, transporting, processing, refining, storing, distributing, marketing or selling crude oil, gasoline, kerosene, gas, and other refined petroleum products or by-products;
- b. To study the importation of crude oil into the Philippines and to determine its most economical sources, transportation routes, and freight rates;
- c. To look into all available sources of supply of crude oil, draw up plans to cope with such contingencies as may arise should prevailing sources of supply become closed, insufficient or inaccessible, and enter into such preliminary negotiations or arrangements with possible alternative sources as may be necessary to assure a stable, adequate and continuous supply of crude oil and refined petroleum products under the most economic and competitive terms possible;
- d. To recommend to the President that the State, through such agency or agencies as the President may designate, acquire equity in any oil company or refinery now existing or that may be organized hereafter: *Provided, however*, that equity so acquired shall be made available to the general public;
- e. To do and perform any and all such acts as may be necessary and proper to carry out the purpose of this Act.

**SECTION. 9.** *Powers of the Board Upon Notice and Hearing.* —The Board shall have power, upon proper notice and hearing, in accordance with the provisions of this Act:

- a. To determine whether current market prices of petroleum products are reasonable, providing for a fair and reasonable return;
- b. To regulate and fix the prices of oil and other petroleum products. No changes in prices may thereafter be made by the Board without prior public notice and hearing at which parties who may be affected may appear and participate. In setting prices or making changes thereof, the Board shall be guided by the following considerations:
  1. Whether claimed increases or decreases in costs, sales, or profits are real or simulated;
  2. Whether expenses and costs that are claimed to have been incurred, are being incurred, or are to be incurred are necessary and reasonable;
  3. 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, and
  4. The cost-profit levels of the industry.
- c. To regulate the capacities of new refineries or additional capacities of existing refineries so as to accomplish the purposes and objectives of this Act;
- d. To regulate the operations and trade practices of the oil industry in order to encourage orderly competition, prevent monopolies and collusive practices within the industry, giving due regard to the ecological and environmental needs of the country;
- e. To review the cost at which crude oil had been imported into the Philippines within the preceding year and to look for an alternative source for a lower cost;
- f. To take adequate steps to prevent monopolies and combinations in restraint of trade within the petroleum industry, or involving enterprises engaged in the oil industry; and
- g. To recommend to the President that the government, through such agency as the President may designate, take over the operation of any refinery or other firm, corporation or entity engaged in the oil industry whenever the public welfare or national interest so requires or when (1) such refinery, firm, corporation or entity ceases or threatens to cease or substantially reduces or threatens to reduce substantially its operations; and

(2) its cessation or threatened cessation or reduction or threatened reduction of operations threatens the continued supply of petroleum products at reasonable prices to the general public or to industries dependent on petroleum products for sources of energy, or otherwise creates a clear and present danger to the national welfare or national security: *Provided, however*, that the operation by the government shall continue only for such period of time as the threat or danger persists: *Provided, further*, that just compensation shall be paid for the use of the property: and *Provided, finally*, that any unrecovered investment made by the government during the take-over shall be reimbursed by the refinery, firm, corporation or entity.

**SECTION. 10.** *Powers of the Board Without Hearing.* — The Board shall have the power to do the following without hearing:

- a. Require importers of crude oil and petroleum products to file with the Board data on their import and the landed costs thereof at the time of purchase, including port and brokerage charges, bank charges, wharfage, and other material information relative thereto;
- b. Require oil refineries to file with the Board their refining costs, storage costs, marketing and transportation or shipping costs, among many others.
- c. Require all dealership agreements to be filed and registered with the Board as public documents;
- d. Issue subpoena *ad testificandum* and subpoena *duces tecum* in any inquiry, study, hearing, investigation, or proceedings which it may decide to undertake in the exercise of its functions, powers, and duties under this Act; and
- e. Perform such other acts as may be necessary or conducive to the effective and efficient exercise of its functions and powers and the discharge of its duties under this Act.

**SECTION. 11.** *Other Powers and Duties of the Board.* — The Board shall undertake a continuing study of the oil or petroleum industry in its domestic and international aspects, gather and collate information and statistics bearing on the industry, submit an annual report to Congress and to the President of the Philippines on its activities and the results of its studies, including such matters as it may deem appropriate subjects of legislation or executive action. The Board shall keep itself regularly and thoroughly informed of conditions in the industry in order to enable it to perform its functions, exercise its powers, and discharge its duties efficiently and effectively. In furtherance of the objective of this Act, the Board shall regularly conduct unannounced inspections of the premises and facilities owned, leased, or operated by persons and corporations engaged in the oil or petroleum industry in the conduct of their business. The Board shall have the authority to spot-audit and inspect the books of accounts and other corporate records of these persons and

corporations.

**SECTION. 12. *Procedure.*** - The Board shall have the power to promulgate rules and regulations that shall govern the conduct of inquiries, studies, hearings, investigations, and proceedings before it as well as the enforcement of its orders, rules, and decisions. The Board shall not be bound by the technical rules of evidence but the Rules of Court shall apply in a suppletory character; *Provided*, that said rules and regulations promulgated shall take effect fifteen (15) days after publication thereof in the Official Gazette: *Provided further*, that the Board may summarily punish for contempt by a fine not exceeding Five Thousand Pesos (Php5,000.00) or by imprisonment not exceeding Thirty (30) Days or both, any person found guilty of misconduct in the presence of the Board in any hearing or session or any proceedings before it, or who willfully fails or refuses without just cause to comply with a summons or subpoena legally issued by the Board 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 Board under this Act.

**SECTION. 13. *Review of Board's Orders and Decisions.*** — A party adversely affected by any order, ruling or decision of the Board in the exercise of its powers under this Act may, within a period of fifteen (15) days from receipt of said order, ruling or decision, or from receipt of the denial of a motion for reconsideration filed, file an appeal to the Supreme Court by Certiorari. The order, ruling, or decision of the Board shall become final and executory unless an appeal is seasonably filed. The appeal or the pendency thereof shall not bar execution or implementation of such order, ruling, or decision in the absence of a Temporary Restraining Order issued by the Court.

**SECTION. 14. *Requirements to Oil Companies.*** - Every oil company shall-

- a. Maintain a minimum inventory requirement of thirty (30) days' supply of crude and refined oil as buffer stock to ensure the security of oil supply; and
- b. Submit regularly to the Board an indicative retail price which shall be unbundled as follows:
  - i. landed cost of crude oil at the time of purchase; and
  - ii. additional costs to include port charges, brokerage and bank fees, wharfage, documentary stamp taxes, refining costs, storage costs, and marketing and transportation costs.

**SECTION. 15. *Prohibited Acts and Penalties.*** — To ensure fair competition and prevent cartels and monopolies in the oil industry, and to effectively attain the policy and purposes of the State through this Act, the following acts are hereby declared prohibited and illegal:

- a. Giving false or misleading data or information or willfully or through gross negligence, concealing or falsifying a material fact, in any investigation, inquiry, study or other proceedings held by the Board pursuant to this Act, which shall be punishable by imprisonment of not less than Six (6) Years and One (1) Day nor more than Seven (7) Years and fine of not less than One Million Pesos (Php1,000,000.00) nor more than Two Million Pesos (Php2,000,000);
- b. Violation of any provision of this Act or any order, ruling, decision, or rule or regulation issued by the Board, which shall be punishable by imprisonment of not less than Seven (7) Years nor more than Eight (8) Years and a fine of not less than Two Million Pesos (Php2,000,000.00) nor more than Three Million Pesos (Php3,000,000.00);
- c. Predatory pricing, which means selling or offering to sell any petroleum product at a price unreasonably below the industry average cost as to attract customers to the detriment of competitors, which shall be punishable by imprisonment of not less than Seven (7) Years nor more than Eight (8) Years and a fine of not less than Two Million Pesos (Php2,000,000.00) nor more than Three Million Pesos (Php3,000,000.00); and
- d. Cartelization, which means any agreement, combination or concerted action by oil refiners, importers, dealers or distributors or their representatives to fix prices, restrict outputs or divide markets, either by products or by areas, or allocating markets, either by products or by areas, in restraint of trade or free competition, which shall be punishable by imprisonment of not less than Ten (10) Years nor more than Twelve (12) Years and a fine of not less than Five Million Pesos (Php5,000,000.00) nor more than Eight Million Pesos (Php8,000,000.00).
  - i. If the offender is a juridical person, the penalty shall be imposed on the officer or officers responsible for or permitting, or causing the violation;
  - ii. If the offender is a Member of the Board or any government official or employee, the maximum penalty prescribed shall be imposed, and the offender shall suffer the additional penalty of perpetual disqualification from holding any public office, without prejudice to any administrative action or criminal prosecution under other pertinent laws; and

- iii. If the offender is an alien, in addition to the penalty herein provided, he shall be deported after service of sentence and shall not be permitted reentry into the Philippines.

**SECTION. 16. Appropriations.** — The sum of One Hundred Fifty Million Pesos (Php150,000,000.00) or so much thereof as may be necessary for the proper implementation of this Act for the current year is hereby appropriated out of any funds in the National Treasury not otherwise appropriated. Thereafter, the operational expenses of the Board shall be included in the General Appropriations Act for the succeeding year.

**SECTION. 17. Applicability Clause.** – The applicable provisions of all laws, decrees, executive orders, administrative orders, and rules and regulations pertaining to the oil or petroleum industry not inconsistent with this Act shall continue to have full force and effect.

**SECTION. 18. Separability Clause.** – If, for any reason, any section or provision of this Act is declared unconstitutional or invalid, such parts not affected thereby shall remain in full force and effect.

**SECTION. 19. Repealing Clause.** – R.A. No. 8479, otherwise known as the “Downstream Oil Industry Act of 1998,” is hereby repealed. All laws, decrees, executive orders, administrative orders, rules, and regulations inconsistent herewith are hereby repealed, amended, or modified accordingly.

**SECTION. 20. Effectivity.** - This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

*Approved,*