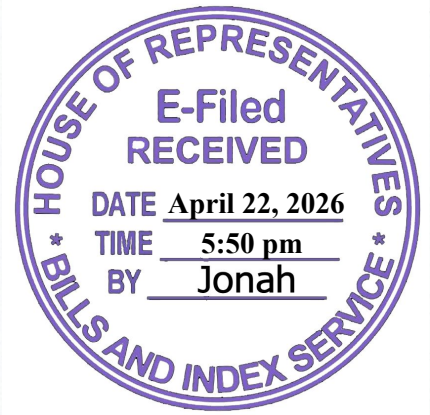


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

TWENTIETH CONGRESS
First Regular Session

House Bill No. **8945**



**INTRODUCED BY REPRESENTATIVES RALPH WENDEL P. TULFO
AND JOCELYN P. TULFO**

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 downstream oil industry plays a critical role in the national economy, as it directly affects the prices of fuel, transportation costs, and the prices of basic goods and services. For this purpose, Republic Act No. 8479, otherwise known as the "Downstream Oil Industry Deregulation Act of 1998", was enacted to promote free competition and market efficiency in the oil industry.

In light with the repeatedly fuel price spikes and concerns over transparency, market dominance, and consumer protection, there is a need to review and reform the existing policy framework governing the downstream oil industry. The absence of a strong regulatory body has constrained the government's ability to effectively monitor pricing, ensure fair competition, and protect public interest.

This bill intends to repeal Republic Act No. 8479 and establish an Oil Industry Regulatory Board that will oversee the downstream oil sector. Further, it aims to

promote a truly competitive market in the oil or petroleum industry and ensure the stable, transparent, and fair downstream oil industry that protects consumers and support economic growth.

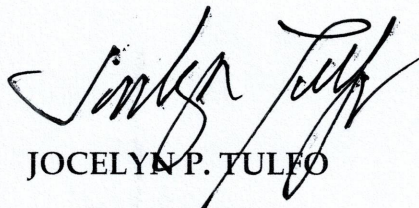
In view of the foregoing, the urgent passing of this bill is earnestly sought.



RALPH WENDEL P. TULFO

Representative

2nd District of Quezon City



JOCELYN P. TULFO

Representative

ACT-CIS Partylist

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

TWENTIETH CONGRESS
First Regular Session

House Bill No. **8945**

**INTRODUCED BY REPRESENTATIVES RALPH WENDEL P. TULFO
AND JOCELYN P. TULFO**

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**

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

3
4 **SECTION 1. Declaration of Policy and Objective.** - Oil and other petroleum
5 products being vital to national security and the continued supply thereof at
6 reasonable prices being essential to the general welfare, it shall be the policy of the
7 State to promote a truly competitive market in the oil or petroleum industry to ensure
8 that the business of importing, shipping, transporting, processing, refining, storing,
9 distributing, marketing, and selling crude oil, gasoline, kerosene, gas, and other
10 refined petroleum products as well as the operations and activities of those engaged
11 in the oil or petroleum industry shall be carried out in a manner consistent with the
12 public interest, under the most economic and competitive terms possible considering
13 all available sources of supply at reasonable prices after considering proper and
14 reasonable cost of importing, shipping, transporting, processing, refining, storing,

1 distributing, marketing and selling, and for a fair and reasonable return, and to
2 prevent collusive practices in the industry particularly as to prices.

3
4 **SEC. 2. *Oil Industry Regulatory Board.*** – To implement the national policy and
5 attain the objectives and purposes of this Act, an Oil Industry Regulatory Board
6 (BOARD) is hereby created. The Board shall be under the administrative supervision
7 and control of the Department of Energy (DOE).

8
9 **SEC. 3. *Composition and Qualifications of the Board.*** – The Board shall be
10 composed of a Chairperson and four (4) Members to be appointed by the President,
11 with the consent of the Commission on Appointments. The Chairperson and the
12 Members of the Board shall be natural-born citizens and residents of the Philippines.
13 In addition, the Chairperson and Members of the Board shall be persons of good moral
14 character, at least thirty-five (35) years of age, and of recognized competence in the
15 field of law, economics, finance, banking, commerce and industry, management, or
16 labor. No Chairperson or Member of the Board who has an interest in, or is related
17 within the fourth civil degree of consanguinity or affinity with an officer of, an oil
18 company shall be appointed as such. The Chairperson and Members of the Board
19 shall, upon assumption of office and within the month of January of every other year
20 thereafter, and upon the expiration of their respective terms of office, or upon their
21 resignation or separation from the service, prepare and file with the offices of the
22 President, the President of the Senate and the Speaker of the House of Representatives
23 a true, accurate, complete, detailed and sworn statement of assets and liabilities,
24 including a statement of amounts and sources of income, amounts of personal and
25 family expenses, and amounts of income taxes paid for the next preceding calendar
26 year: *Provided*, That the first statement may be filed within the month of January next
27 following if the Chairperson or Member of the Board concerned assumes office less
28 than two months before the end of the calendar year. The Chairperson and the
29 Members of the Board shall devote their full time to the Board and shall not accept
30 any other employment.

1
2 **SEC. 4. *Term of Office of the Board.*** - The term of office of the Chairperson and
3 the Members of the Board shall be three (3) years. No person may be appointed to
4 serve on the Board for more than two (2) consecutive terms.
5

6 **SEC. 5. *Quorum.*** - Three (3) members of the Board shall constitute a quorum,
7 and the vote of at least three (3) members shall be necessary for the adoption of any
8 rule, ruling, order, resolution, decision, or other act of the Board in the discharge of its
9 functions. The Board shall have its office in Metro Manila or such other place as may
10 be designated, and may hold hearings or any proceedings at such times and places
11 within the Philippines as it may provide by an order in writing.
12

13 **SEC. 6. *Compensation.*** - The Chairperson of the Board shall receive
14 compensation equal to that of a Department Undersecretary, while the Members shall
15 each receive compensation equal to that of an official next in rank to a Department
16 Undersecretary. They, upon completion of their terms or upon becoming eligible for
17 retirement under existing laws, shall be entitled to the corresponding retirement
18 benefits and privileges provided for by law.
19

20 **SEC. 7. *Staffing.*** The Board shall appoint and maintain an adequate staff, which
21 shall include a Secretary who shall be a member of the Integrated Bar of the
22 Philippines with at least five (5) years experience in the active practice of law in the
23 Philippines or in the discharge of an office requiring as an indispensable requisite
24 admission to the practice of law in the Philippines. He shall be the recorder and official
25 reporter of the proceedings of the Board and shall have the authority to administer
26 oaths in all matters falling within the jurisdiction of the Board. He shall be the
27 custodian of the records, profiles, reports, and other documents and papers filed in
28 connection with any case or proceedings before the Board. He shall likewise be
29 responsible for the effective implementation of the policies, rules, and directives
30 promulgated by the Board, shall coordinate and supervise the activities of the

1 different operating units of the Board, and shall perform such functions as may be
2 assigned to him by the Chairperson and/or by the Board. The Members of the
3 technical staff, except those performing purely clerical functions, shall possess at least
4 a bachelor's degree in the line of specialization required by their respective positions:
5 *Provided, That except as to positions which are policy-determining, highly technical,*
6 *or primarily confidential, all positions in the Board are subject to the provisions of the*
7 *Civil Service Law and Rules.*

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

- 17
18 a. To set conditions for the accomplishment of the purposes of this Act
19 under which persons, natural or juridical, and business entities can
20 engage or continue engaging in the business of importing, exporting,
21 shipping, transporting, processing, refining, storing, distributing,
22 marketing or selling crude oil, gasoline, kerosene, gas, and other refined
23 petroleum products or by-products;
24 b. To study the importation of crude oil into the Philippines and to
25 determine its most economical sources, transportation routes, and
26 freight rates;
27 c. To look into all available sources of supply of crude oil, draw up plans
28 to cope with such contingencies as may arise should prevailing sources
29 of supply become closed, insufficient or inaccessible, and enter into such
30 preliminary negotiations or arrangements with possible alternative

1 sources as may be necessary to assure a stable, adequate and continuous
2 supply of crude oil and refined petroleum products under the most
3 economic and competitive terms possible;

4 d. To recommend to the President that the State, through such agency or
5 agencies as the President may designate, acquire equity in any oil
6 company or refinery now existing or that may be organized hereafter:
7 *Provided, however,* that equity so acquired shall be made available to the
8 general public; and

9 e. To do and perform any and all such acts as may be necessary and proper
10 to carry out the purpose of this Act.

11
12 **SEC. 9. Powers of the Board Upon Notice and Hearing.** — The Board shall have
13 power, upon proper notice and hearing, in accordance with the provisions of this Act:

14
15 a. To determine whether current market prices of petroleum products
16 are reasonable, providing for a fair and reasonable return;

17 b. To regulate and fix the prices of oil and other petroleum products.
18 No changes in prices may thereafter be made by the Board without
19 prior public notice and hearing at which parties who may be affected
20 may appear and participate. In setting prices or making changes
21 thereof, the Board shall be guided by the following considerations:

22
23 1. Whether claimed increases or decreases in costs, sales, or
24 profits are real or simulated;

25 2. Whether expenses and costs that are claimed to have been
26 incurred, are being incurred, or are to be incurred are
27 necessary and reasonable;

28 3. The impact of the proposed prices or change therein on the
29 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, and 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 (i) such refinery, firm, corporation, or entity ceases or threatens to cease or substantially reduces or threatens to reduce substantially its operations; and (ii) 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

1 such period of time as the threat or danger persists: *Provided, Further,*
2 that just compensation shall be paid for the use of the property: and
3 *Provided, Finally,* that any unrecovered investment made by the
4 government during the take-over shall be reimbursed by the
5 refinery, firm, corporation, or entity.
6

7 **SEC. 10. Powers of the Board Without Hearing.** — The Board shall have the
8 power to do the following without hearing:
9

- 10 a. Require importers of crude oil and petroleum products to file with the
11 Board data on their import and the landed costs thereof at the time of
12 purchase, including port and brokerage charges, bank charges, wharfage,
13 and other material information relative thereto;
14 b. Require oil refineries to file with the Board their refining costs, storage costs,
15 marketing and transportation or shipping costs, among many others;
16 c. Require all dealership agreements to be filed and registered with the Board
17 as public documents;
18 d. Issue subpoena *ad testificandum* and subpoena *duces tecum* in any inquiry,
19 study, hearing, investigation, or proceedings which it may decide to
20 undertake in the exercise of its functions, powers, and duties under this Act;
21 and
22 e. Perform such other acts as may be necessary or conducive to the effective
23 and efficient exercise of its functions and powers and the discharge of its
24 duties under this Act.
25

26 **SEC. 11. Other Powers and Duties of the Board.** — The Board shall undertake
27 a continuing study of the oil or petroleum industry in its domestic and international
28 aspects, gather and collate information and statistics bearing on the industry, submit
29 an annual report to Congress and to the President of the Philippines on its activities
30 and the results of its studies, including such matters as it may deem appropriate

1 subjects of legislation or executive action. The Board shall keep itself regularly and
2 thoroughly informed of conditions in the industry in order to enable it to perform its
3 functions, exercise its powers, and discharge its duties efficiently and effectively. In
4 furtherance of the objective of this Act, the Board shall regularly conduct
5 unannounced inspections of the premises and facilities owned, leased, or operated by
6 persons and corporations engaged in the oil or petroleum industry in the conduct of
7 their business. The Board shall have the authority to spot-audit and inspect the books
8 of accounts and other corporate records of these persons and corporations.

9
10 **SEC. 12. Procedure.** - The Board shall have the power to promulgate rules and
11 regulations that shall govern the conduct of inquiries, studies, hearings,
12 investigations, and proceedings before it as well as the enforcement of its orders, rules,
13 and decisions. The Board shall not be bound by the technical rules of evidence but the
14 Rules of Court shall apply in a suppletory character; *Provided*, That said rules and
15 regulations promulgated shall take effect fifteen (15) days after publication thereof in
16 the Official Gazette: *Provided, Further*, that the Board may summarily punish for
17 contempt by a fine not exceeding Five Thousand Pesos (Php5,000.00) or by
18 imprisonment not exceeding Thirty (30) Days or both, any person found guilty of
19 misconduct in the presence of the Board in any hearing or session or any proceedings
20 before it, or who willfully fails or refuses without just cause to comply with a summon
21 or subpoena legally issued by the Board or, being present at a hearing, session or
22 investigation, refuses to be sworn as a witness or to answer questions when lawfully
23 required to do so, or to furnish information required by the Board under this Act.

24
25 **SEC. 13. Review of Board's Orders and Decisions.** - A party adversely
26 affected by any order, ruling, or decision of the Board in the exercise of its powers
27 under this Act may, within a period of fifteen (15) days from receipt of said order,
28 ruling or decision, or from receipt of the denial of a motion for reconsideration filed,
29 file an appeal to the Supreme Court by Certiorari. The order, ruling, or decision of the
30 Board shall become final and executory unless an appeal is seasonably filed. The

1 appeal or the pendency thereof shall not bar execution or implementation of such
2 order, ruling, or decision in the absence of a Temporary Restraining Order issued by
3 the Court.

4
5 **SEC. 14. *Requirements to Oil Companies.*** - Every oil company shall-

- 6
7 a. Maintain a minimum inventory requirement of thirty (30) days' supply
8 of crude and refined oil as buffer stock to ensure the security of oil
9 supply; and
10 b. Submit regularly to the Board an indicative retail price which shall be
11 unbundled as follows:
12
13 i. landed cost of crude oil at the time of purchase; and
14 ii. additional costs to include port charges, brokerage and bank fees,
15 wharfage, documentary stamp taxes, refining costs, storage costs, and
16 marketing and transportation costs.
17

18 **SEC. 15. *Prohibited Acts and Penalties.*** — To ensure fair competition and
19 prevent cartels and monopolies in the oil industry, and to effectively attain the policy
20 and purposes of the State through this Act, the following acts are hereby declared
21 prohibited and illegal:
22

- 23 a. Giving false or misleading data or information or willfully or through gross
24 negligence, concealing or falsifying a material fact, in any investigation,
25 inquiry, study or other proceedings held by the Board pursuant to this Act,
26 which shall be punishable by imprisonment of not less than Six (6) Years
27 and One (1) Day nor more than Seven (7) Years and fine of not less than One
28 Million Pesos (Php1,000,000.00) nor more than Two Million Pesos
29 (Php2,000,000);

- 1 b. Violation of any provision of this Act or any order, ruling, decision, or rule
2 or regulation issued by the Board, which shall be punishable by
3 imprisonment of not less than Seven (7) Years nor more than Eight (8) Years
4 and a fine of not less than Two Million Pesos (Php2,000,000.00) nor more
5 than Three Million Pesos (Php3,000,000.00);
- 6 c. Predatory pricing, which means selling or offering to sell any petroleum
7 product at a price unreasonably below the industry average cost as to attract
8 customers to the detriment of competitors, which shall be punishable by
9 imprisonment of not less than Seven (7) Years nor more than Eight (8) Years
10 and a fine of not less than Two Million Pesos (Php2,000,000.00) nor more
11 than Three Million Pesos (Php3,000,000.00); and
- 12 d. Cartelization, which means any agreement, combination or concerted
13 action by oil refiners, importers, dealers or distributors, or their
14 representatives to fix prices, restrict outputs or divide markets, either by
15 products or by areas, or allocating markets, either by products or by areas,
16 in restraint of trade or free competition, which shall be punishable by
17 imprisonment of not less than Ten (10) Years nor more than Twelve (12)
18 Years and a fine of not less than Five Million Pesos (Php5,000,000.00) nor
19 more than Eight Million Pesos (Php8,000,000.00):
- 20
- 21 i. If the offender is a juridical person, the penalty shall be imposed on
22 the officer or officers responsible for or permitting, or causing the
23 violation;
- 24 ii. If the offender is a Member of the Board or any government official
25 or employee, the maximum penalty prescribed shall be imposed, and
26 the offender shall suffer the additional penalty of perpetual
27 disqualification from holding any public office, without prejudice to
28 any administrative action or criminal prosecution under other
29 pertinent laws; and

1 iii. If the offender is an alien, in addition to the penalty herein
2 provided, he shall be deported after service of sentence and shall not
3 be permitted reentry into the Philippines.
4

5 **SEC. 16. Appropriations.** – The sum of One Hundred Fifty Million Pesos
6 (Php150,000,000.00) or so much thereof as may be necessary for the proper
7 implementation of this Act for the current year is hereby appropriated out of any
8 funds in the National Treasury not otherwise appropriated. Thereafter, the
9 operational expenses of the Board shall be included in the General Appropriations Act
10 for the succeeding year.
11

12 **SEC. 17. Applicability Clause.** – The applicable provisions of all laws, decrees,
13 executive orders, administrative orders, and rules and regulations pertaining to the
14 oil or petroleum industry not inconsistent with this Act shall continue to have full
15 force and effect.
16

17 **SEC. 18. Separability Clause.** – If, for any reason, any section or provision of
18 this Act is declared unconstitutional or invalid, such parts not affected thereby shall
19 remain in full force and effect.
20

21 **SEC. 19. Repealing Clause.** – Republic Act No. 8479, otherwise known as the
22 “Downstream Oil Industry Act of 1998,” is hereby repealed. All laws, decrees,
23 executive orders, administrative orders, rules, and regulations inconsistent herewith
24 are hereby repealed, amended, or modified accordingly.
25

26 **SEC. 20. Effectivity.** - This Act shall take effect fifteen (15) days after its
27 complete publication in at least two (2) newspapers of general circulation.
28

29 *Approved,*