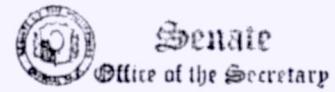


EIGHTEENTH CONGRESS OF THE  
REPUBLIC OF THE PHILIPPINES  
*First Regular Session* )

SENATE



S. No. 868

'19 AUG -6 A10 :12

Introduced by Senator Ralph G. Recto

RECEIVED BY: S. G.

**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"**

**EXPLANATORY NOTE**

Republic Act (R.A.) No. 8479, otherwise known as the "Downstream Oil Industry Deregulation Act of 1998" was enacted to liberalize and deregulate the downstream oil industry to ensure a truly competitive market under a regime of fair prices, adequate and continuous supply of environmentally-clean and high-quality petroleum products. Under the law, the government can no longer interfere with the pricing of oil products except to monitor which also means that it is freed from providing costly subsidies.

However, R.A. No. 8479 failed to mitigate the effects of a global oil crisis. Worse, it appeared that the deregulation policy even strengthened the cartelization of oil industry players since automatic oil price hikes are allowed without control from the government.

Frequent oil price hikes aggravated the hardships of the public especially the consumer, agriculture, manufacturing and service sectors. Thus, people's organizations have been demanding for a review of R.A. No. 8479. These groups have consistently raised concerns on whether international price movements were accurately considered in the pricing of petroleum products. It is, therefore, incumbent upon the government to ensure transparency in the pricing of petroleum products by the local oil industry players and to determine the computations or

assumptions employed in their price adjustments to prevent oil companies from engaging in unwarranted profiteering.

To achieve this purpose, 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 declares unlawful for oil companies to engage in unwarranted oil price increases or unreasonable amounts of price increase as may be determined by the Department of Energy (DOE) and provides for the imposition of heavier penalties against erring oil companies and officials.

To strengthen the Task Force created under Section 14 of the law, which is tasked to investigate and file complaints against unreasonable rise in the prices of petroleum products, this bill seeks the inclusion of representatives from consumer and public transport groups in the Task Force, together with the Departments of Energy, Justice and Trade and Industry.

Finally, to provide Filipinos the best energy choices and to ensure transparency in the pricing of oil products, the Task Force is mandated to post twice a month on the DOE's official website and publish in at least two (2) national newspapers the prevailing price of petroleum products in the retail market.

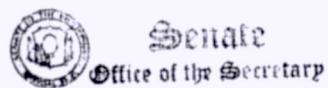
With the foregoing considered, the approval of this bill is earnestly sought.



A handwritten signature in black ink, appearing to read "Ralph G. Recto".

*mjma*

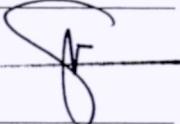
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**SENATE**

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Introduced by Senator Ralph G. Recto *RECEIVED BY:* 

**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"**

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

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

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

5           "xxx

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

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

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

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

1                   **¶(q) (S) Wholesale Posted Price (WPP)** – shall refer to the ceiling  
2                   price of petroleum products set by the Board based on its duly approved  
3                   automatic pricing formula.”

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

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

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

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

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

- 23                 a) To establish stricter and more industry-specific reporting guidelines;
- 24                 b) To conduct periodic and unannounced inspections of oil depots and  
25                 facilities;
- 26                 c) To inspect the books of accounts of companies engaged in the oil  
27                 industry;
- 28                 d) To request all records that are deemed necessary to ensure  
29                 transparency and compliance of all oil industry participants with the provisions  
30                 of this Act; and

1                   e) To conduct an annual analysis of oil industry performance, including  
2 findings and issues encountered by the Task Force to be posted in the DOE  
3 website.

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

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

18                   "To achieve the social and policy objective of fair prices, facilitate the  
19 attainment of a truly competitive product market in the retail level, the DOE  
20 shall promote and encourage by way of information dissemination, networking,  
21 and management/skills training, the active and direct participation of the  
22 private sector and cooperatives in the retailing of petroleum products through  
23 joint venture/supply agreements with new industry participants for the  
24 establishment and operation of gasoline stations: *Provided*, That the training  
25 herein shall include LPG retailing.

26                   "xxx

27                   "xxx

28                   "xxx

29                   "xxx."

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

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

4            "(a) xxx

5            "(b) xxx

6            "Any person, including but not limited to the chief operating officer, chief  
7 executive officer or chief finance officer of the partnership, corporation or any  
8 entity involved, who is found guilty of any of the said prohibited acts shall  
9 suffer the penalty of three (3) to seven (7) years imprisonment, and a fine  
10 ranging from ~~{One million pesos (P 1,000,000.00) to}~~ Two million pesos (P  
11 2,000,000.00) **TO THREE MILLION PESOS (P 3,000,000.00).**"

12 Sec. 6. Section 12 of Republic Act No. 8479 is hereby amended to read as  
13 follows:

14            "Sec. 12. *Other Prohibited Acts.* – To ensure compliance with the  
15 provisions of this Act, the refusal to comply with any of the following shall  
16 likewise be prohibited:

17            "(a) Submission of any reportorial requirements **SUCH AS BUT**  
18 **NOT LIMITED TO BOOKS OF ACCOUNTS, AUDITED FINANCIAL**  
19 **STATEMENTS, VERIFIED REPORTS OF THE COMPANY'S**  
20 **ASSUMPTIONS AND COMPUTATIONS IN THE PRICING OF THEIR**  
21 **PETROLEUM PRODUCTS, WHETHER IN THE PROCESSING,**  
22 **REFINING, DISTRIBUTING OR SELLING OF SAID PRODUCTS, TO**  
23 **ENSURE THAT OIL COMPANIES ARE NOT INVOLVED IN**  
24 **PROFITEERING;**

25            "(b) xxx

26            "(c) xxx

27            "(d) xxx.

28            "Any person, including but not limited to the chief operating officer or  
29 chief executive officer of the partnership, corporation or any entity involved,  
30 who is found guilty of any of the said prohibited acts shall suffer the penalty of  
31 imprisonment for two (2) years and a fine ranging from ~~{Two hundred fifty~~  
32 thousand pesos (P 250,000.00) to} Five hundred thousand pesos (P

1           500,000.00) TO SEVEN HUNDRED FIFTY THOUSAND PESOS (P  
2           **750,000.00).**

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

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

9           "Sec. 14. **MONITORING.** – (a) The DOE shall monitor **ACTIVELY** and  
10          publish daily international crude oil prices, as well as follow the movements of  
11          domestic oil prices. **IT SHALL DETERMINE THE FACTORS WHICH CAUSE  
12          THE CHANGE IN THE PRICES OF PETROLEUM PRODUCTS, EVALUATE  
13          THE NECESSITY OF THE CHANGE IN THE PRICES AND THE  
14          REASONABILITY OF THE AMOUNTS OF INCREASE OR DECREASE  
15          BASED ON THE ACTUAL CONDITIONS OF THE MARKET AND OTHER  
16          CAUSATIVE AND CONTRIBUTORY FACTORS AS IT MAY DETERMINE.** It  
17          shall likewise monitor the quality of petroleum products and stop the operation  
18          of businesses involved in the sale of petroleum products which do not comply  
19          with the national standards of quality that are aligned with the national  
20          standards/protocols of quality. The Bureau of Product Standards of the DTI,  
21          together with the Department of Environment and Natural Resources (DENR),  
22          the DOE, the Department of Science and Technology (DOST), representatives  
23          of the fuel and automotive industries and the consumers, shall set the  
24          specifications for all types of fuel and fuel-related products to improve fuel  
25          composition for increased efficiency and reduced emissions. The BPS shall also  
26          specify the allowable content of additives in all types of fuels and fuel-related  
27          products.

28           "(b) xxx

29           "(c) The DOE shall maintain a periodic schedule of present and  
30          future total industry inventory of petroleum products for the purpose of  
31          determining the level of supply **FOR THE SUCCEEDING MONTH.** To  
32          implement this, the importers, refiners, and marketers are hereby

1 required to submit {monthly} **EVERY THIRD WEDNESDAY OF THE**  
2 **MONTH to the DOE their FORTY FIVE (45)-DAY INVENTORY** of  
3 actual importations, local purchases, sales and/or consumption~~E~~, and  
4 ~~inventory}~~ on a per crude/product basis.

5 "(d) Any report from any person of an unreasonable ~~rise~~ **CHANGE**  
6 in the prices of petroleum products shall be immediately acted upon. For  
7 this purpose, the ~~[creation of the DOE-DOJ]~~ Task Force is hereby  
8 mandated to determine within thirty (30) days the merits of the report  
9 and initiate the necessary actions warranted under the circumstance:  
10 *Provided*, That nothing herein shall prevent the said Task Force from  
11 investigating and/or filing the necessary complaint with the proper court  
12 or agency *motu proprio*.

13 ~~[Upon the effectivity of this Act, the Secretaries of Energy and  
14 Justice shall jointly appoint the members of a committee who shall be  
15 tasked with the drafting of the rules and guidelines to be adopted by the  
16 Task Force in the performance of its duty. These guidelines shall ensure  
17 the efficiency, promptness, and effectiveness in the handling of its cases.  
18 The Task Force shall be organized and its members appointed within one  
19 (1) month from the effectivity of this Act.]~~

20 "(e) In times of national emergency, when the public interest so  
21 requires, the DOE may, during the emergency and under reasonable  
22 terms prescribed by it, temporarily take over or direct the operation of  
23 any person or entity engaged in the Industry."

24 Sec. 8. *Implementing Rules and Regulations.* – The Department of Energy, in  
25 coordination with the Department of Justice, Department of Trade and Industry, and  
26 representatives from the consumer and transport groups, shall within sixty (60) days  
27 from the effectivity of this Act, promulgate the rules and regulations to effectively  
28 implement the provisions of this Act.

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

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

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

Approved,