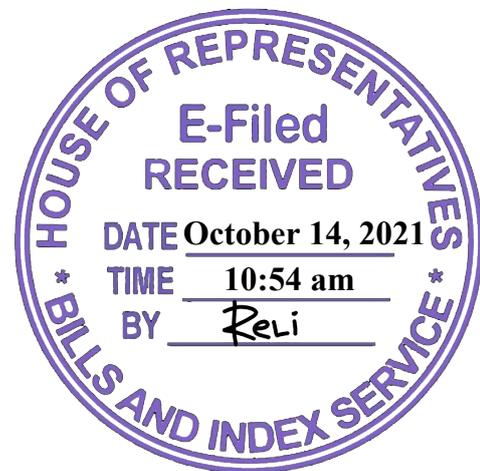


1 Republic of the Philippines
2 **HOUSE OF REPRESENTATIVES**
3 Quezon City

4
5 **EIGHTEENTH CONGRESS**
6 Third Regular Session

7
8 **HOUSE BILL No. 10386**
9



10 **Introduced by**
11 **BAYAN MUNA Reps. CARLOS ISAGANI T. ZARATE,**
12 **FERDINAND R. GAITE and EUFEMIA C. CULLAMAT**
13

14
15 **AN ACT**
16 **INSTITUTING THE UNBUNDLING OF PRICES IN THE SALE OF**
17 **PETROLEUM PRODUCTS BY THE DOWNSTREAM**
18 **OIL INDUSTRY IN THE PHILIPPINES**
19

20
21 **EXPLANATORY NOTE**
22

23 Republic Act No. 8479 or the Downstream Oil Industry Deregulation Act of 1998 is a failure.

24
25 For more than 20 years since its enactment, R.A. 8479 failed to fulfill its promise to “ensure a truly
26 competitive market under a regime of fair prices” through the liberalization and the deregulation
27 of the local downstream oil industry. Not even the pandemic crisis can stop oil price hikes. This
28 year alone, from January to August 3, 2021, gasoline price increases have totaled to P12.90 per
29 liter; diesel, P10.95; kerosene, P9.51; and LPG, at around P10.70.

30
31 To begin with, R.A. 8479 had the wrong premise that the world pricing of petroleum and
32 petroleum products is fair and justifiable. Coupled with a lack of knowledge on all data like the
33 actual cost of fuel, the Philippine government became incapable of determining predatory pricing
34 and overpricing. This is the tragic folly of deregulation.

35
36 From the very beginning, R.A. 8479 was bound to fail in implementing fair prices since it ignored
37 monopoly-pricing practices and cartel behavior by the giant transnational oil corporations. Worse,
38 deregulation had given transnational oil corporations even more room to manipulate prices
39 through automatic oil price hikes (OPH); less transparency in pricing, profits, and operations; and
40 virtually no accountability to the consuming public.

41
42 Petroleum is a sensitive commodity, since its price directly affects the cost of almost all other
43 commodities and services, including essentials such as food, housing, social services, as well as
44 transportation. Deregulation has allowed oil price increases to go unchecked. Deregulation has
45 given transnational oil corporations even more leeway to influence the country’s cost of living,
46 livelihood, business and commerce, employment, and the National Budget.

47
48 There is a pressing need to interdict the hidden and unchecked transfer-pricing between oil
49 company subsidiaries, including probable price-padding in the sale of petroleum and petroleum
50 products between refiners and local subsidiaries, to protect the majority of Filipinos from current

1 runaway increases in oil prices.

2

3 Since 2017, Bayan Muna, along with other progressive groups and organizations had been
4 demanding for the oil pricing data from oil companies in numerous hearings in Congress but to
5 no avail. They argue that there is nothing confidential about the actual cost of producing oil. But
6 these data would have capacitated the government in protecting the consuming public from the
7 abuses of the oil companies. Furthermore, deregulation has been here for 20 years and the
8 consumers could have overpaid billions of pesos in overpriced fuel.

9

10 This Bill institutionalizes the unbundling of oil prices in the downstream oil industry in the
11 Philippines. It is merely pursuant to the powers of the Department of Energy (DOE) and the
12 DOE Secretary¹ which among others, are to monitor both the international and domestic price
13 movements of petroleum products and require persons or entities engaged in a particular activity
14 of the industry to file an annual or special report, or both in such form as the Congress and or the
15 Secretary may prescribe.

16

17 Thus, immediate passage of this bill is earnestly sought.

18

19 *Approved,*


REP. CARLOS ISAGANI T. ZARATE
Bayan Muna Partylist


REP. FERDINAND R. GAITE
Bayan Muna Partylist


REP. EUFEMIA C. CULLAMAT
Bayan Muna Partylist

20

¹ Section 14 (a) and Section 15 (b) (i), Chapter IV of Republic Act (R.A.) No. 8479 or the “Downstream Oil Industry Deregulation Act of 1998”

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20
21 *Be it enacted by the Senate and House of Representatives of the Republic of the Philippines in Congress assembled:*
22

23 **ARTICLE I**
24 **GENERAL PROVISIONS**
25

26 **SECTION 1. *Short Title.*** – This Act shall be known as the “**Unbundling of Oil Prices Act of**
27 **2021.**”
28

29 **SECTION 2. *Declaration of Policy.*** – It is enshrined in the 1987 Philippine Constitution that
30 “the State shall promote social justice in all phases of national development” (Article II, Section
31 X) and “shall pursue a trade policy that serves the general welfare and utilizes all forms and
32 arrangements of exchange on the basis of equality and reciprocity” (Article XII, Section XIII).
33

34 Moreover, the Constitution also mandates that, “the State shall regulate or prohibit monopolies
35 when the public interest so requires. No combinations in restraint of trade or unfair competition
36 shall be allowed” (Article XII, Section XIV).
37

38 Consistent with the foregoing, crude oil and socially and economically sensitive refined petroleum
39 or petroleum products, being vital to national security and their supply at reasonable prices being
40 essential to the general welfare, it is hereby declared to be the policy of the State to ensure
41 transparency in every aspect of the oil trade to come up with reasonable prices in such products.
42 Moreover, it is hereby declared a policy of the State to protect the public interest against monopoly
43 and unscrupulous practices that affect the rates and services in the oil industry.
44

45 **SECTION 3. *Scope and Coverage.*** – The provisions of this Act shall apply to any person or
46 entity in any or all of the activities covered under Section 5, Chapter 2 of R.A. 8479, specifically
47 on the sale of the following petroleum products: gasoline, automotive and industrial diesel,

1 kerosene, jet fuel and aviation gas, and household and automotive Liquefied Petroleum Gas (LPG).
2

3 **ARTICLE II**
4 **PRIOR NOTICE ON PRICE ADJUSTMENT AND IMPLEMENTATION**
5

6 **SECTION 4. *Prior Notice Requirements.*** – For liquid fuels, Oil Companies shall notify the
7 Department of Energy (DOE) not later than three o'clock in the afternoon (3:00 PM) of the day
8 before the Implementation Day for any price adjustment (either increase or decrease) or no
9 adjustment, and prior to any public announcement thereof.
10

11 For LPG, Oil Companies shall notify the DOE not later than the end of every month for any price
12 adjustment (either increase or decrease) or no adjustment, and prior to any public announcement
13 thereof.
14

15 **SECTION 5. *Implementation Day.*** – For the purpose of effective monitoring thereby avoiding
16 possible confusion among stakeholders and consumers, the price adjustment for liquid fuel may
17 preferably be implemented beginning every Tuesday of the week and applicable for the next seven
18 days (Tuesday to the next Monday) and for LPG, beginning every first day of the month and
19 applicable for the whole month.
20

21
22 **ARTICLE III**
23 **FORM AND CONTENT OF PRICE ADJUSTMENT PRIOR NOTICE**
24

25 **SECTION 6. *Short Message Service (SMS).*** – Oil Companies shall strictly comply with a notice
26 sent via SMS message with the following conditions:
27

- 28 a) the SMS is sent by the authorized representative of the Oil Company;
- 29 b) the message is sent to the Director, Assistant Director, and the Division Chief of the Oil
30 Industry Competition and Monitoring Division of the Oil Industry Management Bureau
31 (OIMB) and duly acknowledged by any of them;
- 32 c) the Committee Secretary of the Congress Energy Committee
- 33 d) the message is sent strictly within the timeframe specified in Section 4, Article II of this
34 Act; and
- 35 e) the message shall include the list of products and their corresponding price adjustments
36 (increase or decrease) or no adjustment and the summary of reasons explaining the same.
37

38 **SECTION 7. *Formal Notice.*** – A formal notice to the OIMB sent through electronic mail
39 (oimbpricing@doe.gov.ph and oimbpricing@gmail.com) and the Congress Energy Committee
40 through (cttee_energy@yahoo.com) of any price adjustment (increase or decrease) or no adjustment
41 shall be required with the following conditions:
42

- 43 a) the formal notice is sent by the authorized representative of the Oil Company;
- 44 b) the formal notice is sent to the OIMB addressed to OIMB Director with attention to
45 the Division Chief of the Oil Industry Competition and Monitoring Division and duly
46 acknowledged by any of them;
- 47 c) the formal notice is sent to the Congress Energy Committee addressed to the
48 Committee Chairman with attention to the Committee Secretary and duly
49 acknowledged by any of them;
- 50 d) the formal notice is sent strictly within the timeframe specified in Section 3, Article II;

- 1 and
2 e) the formal notice shall be compliant to the contents provided for in Article IV below.
3
4

5 **ARTICLE IV**
6 **UNBUNDLED PRICE ADJUSTMENT**
7

8 **SECTION 8. *Unbundled Price Adjustment.*** – The Oil Companies shall strictly comply with
9 the submission of the formal notice within the timeframe as specified under Section 4, Article II
10 of this Act to OIMB and Congress for any price adjustment or no adjustment of petroleum
11 products subject of sale on a *per liter* and *per product basis* for liquid fuel and automotive LPG and
12 on a *per kilogram* basis for household LPG. *Provided, That*, the formal notice shall contain the detailed
13 computation with corresponding explanation and supporting documents on the cause/s or
14 reason/s of the movement of the individual unbundled price adjustment item as provided for in
15 the format below:
16

- 17 a) International Content
18 i. Import Cost (crude or finished product);
19 ii. Freight Cost;
20 iii. Insurance; and
21 iv. Foreign Exchange Rate
22
23 b) Taxes and Duties
24 i. Duties;
25 ii. Excise Tax;
26 iii. Value Added Tax; and
27 iv. Other Imposts
28
29 c) Biofuel Cost
30
31 d) Oil Company Take Components
32 i. Port Charges;
33 ii. Refining Cost (for crude);
34 iii. Storage Cost;
35 iv. Handling Cost;
36 v. Marketing Cost;
37 vi. Transshipment Cost;
38 vii. Other Cost; and
39 viii. Oil Company Profit Margin
40
41

42 **ARTICLE V**
43 **UNBUNDLED OIL COMPANY PRICE AND LIQUID FUEL RETAILER'S PUMP**
44 **PRICE / HOUSEHOLD LPG DEALER'S PICK-UP PRICE**
45

46 **SECTION 8. *Report. a) Oil Company.*** – Within two (2) months after the effectivity of this
47 Act, oil companies shall be required to submit a report to the OIMB, *on a per liter* and *per product*
48 *basis* for liquid fuel and automotive LPG and on a *per kilogram basis* for household LPG, containing
49 the detailed computation with corresponding explanation and supporting documents on the

1 unbundled items comprising the Oil Company Price as provided for in the format below:

2
3 A. Oil Company Price

4 1. International Content

- 5 a) Import Cost (crude or finished product);
6 b) Freight Cost;
7 c) Insurance; and
8 d) Foreign Exchange Rate
9

10 2. Taxes and Duties

- 11 a) Duties;
12 b) Excise Tax;
13 c) Value Added Tax; and
14 d) Other Imposts
15

16 3. Biofuel Cost
17

18 4. Oil Company Take Components

- 19 a) Port Charges;
20 b) Other Imposts;
21 c) Refining Cost (for crude);
22 d) Storage Cost;
23 e) Handling Cost;
24 f) Marketing Cost;
25 g) Transshipment Cost;
26 h) Other Cost;
27 i) Oil Company Profit Margin; a
28 j) Total Oil Company Price
29

30 The above report shall remain as a continuing requirement of the downstream oil industry and
31 strict compliance shall be required using the price as of December 31 of every year thereafter, and
32 shall be submitted to the OIMB and Congress on or before February 28 of the succeeding year.
33

34 The same report for a specified period and in the format provided above shall be submitted
35 whenever required by the DOE or by the DOE-Department of Justice (DOJ) Task Force for
36 purposes of investigation. Nothing in this Act however prevents the DOE-DOJ task force to
37 enforce the submission of other reports which it may deem necessary for the performance of its
38 mandate.
39

40 ***b) Liquid Fuel (LF) Retail Outlet Price (Pump Price), LPG Refiller's Pick-Up Price, and***
41 ***LPG Dealer's Pick-Up Price.*** – Whenever required by the DOE or by the DOE-DOJ Task
42 Force, LF Retail Outlets, LPG Refillers and LPG Dealers shall submit to the OIMB and Congress
43 an unbundled computation with corresponding explanation of the price *per liter* of all liquid fuel
44 and automotive LPG and *price per kilogram* for household LPG sold for a specified period and in

1 the format provided below:
2

- 3 1. Oil Company Price;
- 4 2. Hauler's Fee
- 5 3. Taxes;
- 6 4. Fixed Cost;
- 7 5. Variable Cost;
- 8 6. Profit Margin; and
- 9 7. Total LF Retail Price or LPG Refiller's/Dealer's Pick-up Price

10
11 LPG Dealers shall use the same computation format above. However, the appropriate price for
12 item no. 1 shall be either the Oil Company Price or Refiller's Pick-Up Price depending on where
13 the LPG is sourced. Nothing in this Act however prevents the DOE-DOJ task force to enforce
14 the submission of other reports which it may deem necessary for the performance of its mandate.
15

16 **SECTION 9. *Price Display Board.*** – For the awareness and information of the public, all LF
17 retail outlets, LPG Refillers and Dealers shall display prominently and conspicuously updated
18 prices in their display boards as required by existing DOE Circulars.
19

20 21 **ARTICLE VI** 22 **FINAL PROVISIONS**

23
24 **SECTION 10. *Penalties.*** - (a) Any person who violates any of the provisions of this Act shall
25 suffer the penalty of three (3) months to one (1) year imprisonment and a fine ranging from Fifty
26 thousand pesos (P50,000.00) to Three hundred thousand pesos P300,000.00).
27

28 Whenever any of the violations described above is committed by a corporation or association, the
29 president and each one of its agents or representatives in the Philippines in case of a foreign
30 corporation or association, who shall have knowingly permitted or failed to prevent the
31 commission of such offense, shall be held liable as principals thereof.
32

33 (b) In addition to the preceding penal provision, the DOE and Congress shall have the power to
34 suspend or cancel the acknowledgement to engage in any activity in the Downstream Oil Industry,
35 the Certificate of Compliance or the Standard Compliance Certificate, respectively, of the non-
36 compliant Oil Company, LF Retail Outlet, LPG Refiller and Dealer thereby suspending or
37 cancelling the further processing of any application or request to the DOE in relation to its
38 downstream oil operations.
39

40 (c) The DOE may further recommend to the proper government agency the suspension or
41 revocation or termination of the business permit of the non-compliant oil company or LF Retail
42 Outlet, LPG Refiller and Dealer.
43

44 **SECTION 11. *Release of Data.*** – Release of data submitted by the Oil Companies to the DOE
45 and Congress pursuant to this Act shall be subject to and in accordance with the following:
46

- 47 1. Section 15 (g) of Republic Act (R.A.) No. 8479 or the “*Downstream Oil Deregulation Act of*
48 *1998;*”
- 49
50 2. Section 4 of Executive Order No. 2, Series of 2016 or the “*Operationalizing in the Executive*

1 *Branch the people’s constitutional right to information and the state policies to full public disclosure and*
2 *transparency in the public service and providing guidelines therefore;” and*
3

4 3. Section 1 (5) (c) of the “*DOE People’s Freedom of Information Manual.*”
5

6 **SECTION 12. *Implementing Rules and Regulation.*** – The DOE shall formulate and issue
7 the necessary implementing rules and regulations within thirty (30) days after the effectivity of this
8 Act.
9

10 **SECTION 13. *Amendatory and Repealing Clause.*** All laws, decrees, executive orders,
11 resolutions, revenue regulations, ordinances or circulars inconsistent with the provisions of this
12 Act are hereby repealed or modified accordingly or declared null and void and inoperative.
13

14 **SECTION 14. *Separability Clause.*** - If, for any reason, any section or provision of this Act is
15 declared unconstitutional or invalid, such other sections or provisions not affected thereby shall
16 remain in full force and effect.
17

18 **SECTION 15. *Effectivity.*** This Act shall take effect fifteen (15) days upon its publication in the
19 Official Gazette or in a newspaper of general circulation.
20

21 *Approved,*
22