



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

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 7331



Introduced by Representative Lex Anthony Cris A. Colada

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 or the Downstream Oil Deregulation Act 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. 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 Downstream Oil Deregulation Act, the landscape of the market has evolved. The ongoing crisis on fuel spurred by the conflict between Ukraine and Russia also emphasizes the need to amend the Downstream Oil Deregulation Act. The economic impact of the Ukraine-Russia situation and the steady rise of international prices of oil for the past decade 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. Further, the government needs to update and harmonize its policies to streamline the prosecution of criminal practices that hamper competition and promote unfair trade. The law must also grant the government a means to intervene for the sake of the welfare of the people in the face of extreme shocks to the oil market.

This bill, cognizant of the current lapses in the regulatory regime in the oil industry, seeks to empower and strengthen the current capacities of the Philippine Competition Commission (PCC) in preventing, investigating, and prosecuting cases of unfair trade

practices in the industry. To this end, the DOE-DOJ Task Force, which has been previously vested with the authority to prosecute anti-competitive behavior in the oil industry, should be abolished to prevent overlapping of functions. 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.



LEX ANTHONY CRIS A. COLADA
AAMBIS-Over Party-list

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

CHAPTER I

TITLE AND DECLARATION OF POLICY

SEC. 1. Abolishing the DOE-DOJ Task Force. - Section 14 of Republic Act No. 8479 is hereby amended as follows:

"Section 14. Monitoring. –

- (a) XXX
- (b) XXX
- (c) XXX

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

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

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

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

"Section 7. Promotion of Fair Trade Practices. THE PHILIPPINE COMPETITION COMMISSION (PCC), IN COORDINATION WITH THE [T]he Department of Trade and Industry (DTI) and DOE, **SHALL ENSURE THAT THE PRINCIPLES AND POLICIES ON FAIR MARKET COMPETITION ENshrined UNDER REPUBLIC ACT NO. 10667, OTHERWISE KNOWN AS THE PHILIPPINE COMPETITION ACT, ARE STRICTLY ADHERED TO IN THE DOWNSTREAM OIL INDUSTRY.** [~~shall take all measures to promote fair trade and prevent cartelization, monopolies, combinations in restraint of trade, and any unfair competition in the Industry as defined in Article 186 of the Revised Penal Code, and Articles 168 and 169 of 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 PPredatory 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. ~~W[hen]~~ Whenever it is determined by the **PHILIPPINE COMPETITION COMMISSION** [~~Joint Task Force created under Section 14 (d) of this Act,~~] **THAT** 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 **PHILIPPINE COMPETITION COMMISSION** [~~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 CRIMINAL COMPLAINTS FOR PURPOSES OF PRELIMINARY INVESTIGATION AND PROSECUTION BEFORE THE PROPER COURT.** [~~The Joint Task Force shall investigate such reports, 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, UPON THE RECOMMENDATION OF THE DEVELOPMENT BUDGET COORDINATION COMMITTEE, MAY SUSPEND OR REDUCE EXCISE TAXES ON FUEL THROUGH AN EXECUTIVE ORDER PROVIDED THAT THE AVERAGE DUBAI CRUDE OIL PRICE BASED ON MEAN OF PLATTS SINGAPORE (MOPS) FOR THREE (3) CONSECUTIVE MONTHS REACHES OR EXCEEDS EIGHTY DOLLARS (USD 80) PER BARREL; PROVIDED FURTHER, THAT THE SAID SUSPENSION OR REDUCTION OF EXCISE TAXES SHALL BE AUTOMATICALLY LIFTED WHEN THE ABOVE CONDITION IS NO LONGER PRESENT OR AFTER A PERIOD OF ONE (1) YEAR."

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,