

**NINETEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES**
First Regular Session

)
)
)



Senate
Office of the Secretary

23 APR 19 P3:16

SENATE
S.B. No. 2081

RECEIVED BY:

Introduced by Senator WIN GATCHALIAN

AN ACT
INSTITUTIONALIZING TRANSPARENCY IN THE PHILIPPINE
DOWNSTREAM OIL INDUSTRY AND AMENDING FOR THE PURPOSE
REPUBLIC ACT NO. 8479 OTHERWISE KNOWN AS THE DOWNSTREAM OIL
INDUSTRY DEREGULATION ACT

EXPLANATORY NOTE

In 1998, Congress enacted Republic Act No. (RA) 8479 or the Downstream Oil Industry Deregulation Act of 1998 which liberalized and deregulated the downstream oil industry in order to ensure a truly competitive market under a regime of fair prices, adequate and continuous supply of environmentally-clean and high-quality petroleum products.”¹

Since the enactment of the law, there are recurring allegations that oil companies take advantage of supply issues and price shocks by imposing large profit margins leading to even higher prices of petroleum products to the detriment of the consumers. For example, in 2006 there were calls to check the profit margins of oil companies after an oil company allegedly earned large net income belying its claims that it has been experiencing losses.² These are however only mere allegations as the public, as well as the government through the Department of Energy (DOE), is not aware of the profit margins oil companies make because the information is not

¹ Sec. 2 of Republic Act. No. 8479.

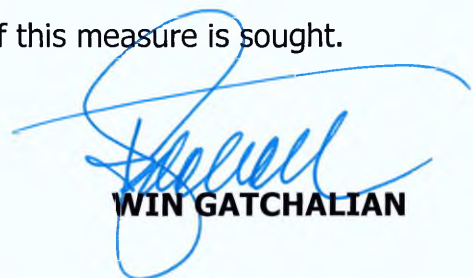
² Oil firms roll back LPG prices by P1 more per kilo. Philstar. Available at <https://www.philstar.com/headlines/2006/03/22/327511/oil-firms-roll-back-lpg-prices-p1-more-kilo/amp/>. Accessed on April 16, 2023.

available. As an industry imbued with public interest, it is important that the public is confident that petroleum prices imposed on consumers are fair pursuant to the objective of RA 8479.

To promote transparency in petroleum product pricing, the DOE issued Department Circular No. DC 2019-05-008 or the Revised Guidelines for the Monitoring of Prices on the Sale of Petroleum Products by the Downstream Oil Industry in the Philippines which mandates oil companies to report their respective unbundled price adjustments which includes costs that contribute to changes in retail prices of the petroleum products.³ The circular however was not implemented after a temporary restraining order (TRO) and afterwards a writ of preliminary injunction was issued by the Regional Trial Court (RTC) pending the main petition for declaratory relief against the policy.⁴ This was after oil companies argued that the DOE does not have this power under RA 8479.⁵

This measure seeks to address this legislative gap by providing DOE the explicit power to require downstream oil industry participants engaged in the retail of petroleum products to submit information on the cost components of the pump price in cases where the average price of Dubai crude oil for three consecutive months is equal to or greater than eighty dollars per barrel. In requiring such information, the bill also provides limitations to the power of DOE to protect the proprietary information of the company. First, it explicitly enumerates information that the DOE cannot require. Second, it prohibits DOE from disclosing any proprietary and confidential information to the public and other oil industry participants without the consent of the oil company except in cases where a government agency requests the same in the performance of its functions.

Given the foregoing, the immediate passage of this measure is sought.



WIN GATCHALIAN

³ DOE appeals TRO on oil unbundling policy. Philstar. Available at <https://www.philstar.com/business/2019/08/21/1945046/doe-appeals-tro-oil-unbundling-policy>. Accessed on April 16, 2023.

⁴ *Id.*

⁵ DOE asks Senate to revisit oil deregulation law. Philippine News Agency. Available at <https://www.pna.gov.ph/articles/1177189>. Accessed on April 16, 2023.

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



23 APR 19 P3:16

SENATE
S.B. No. 2081

RECEIVED BY: _____

Introduced by SEN. WIN GATCHALIAN

AN ACT
INSTITUTIONALIZING TRANSPARENCY IN THE PHILIPPINE
DOWNSTREAM OIL INDUSTRY AND AMENDING FOR THE PURPOSE
REPUBLIC ACT NO. 8479 OTHERWISE KNOWN AS THE DOWNSTREAM OIL
INDUSTRY DEREGULATION ACT

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

1 Section 1. Section 14 of Republic Act No. 8479 is hereby amended to read as
2 follows:

3

4 "Section 14. Monitoring –

5 (a) The DOE shall monitor and publish daily international crude
6 oil prices, as well as follow the movements of domestic oil prices.

7 **IN PURSUANCE OF THIS MANDATE, THE DOE SHALL**

8 **HAVE THE POWER TO REQUIRE DOWNSTREAM OIL**

9 **INDUSTRY PARTICIPANTS ENGAGED IN THE RETAIL OF**

10 **PETROLEUM PRODUCTS TO SUBMIT MONTHLY**

11 **INFORMATION PERTAINING TO THE COST**

12 **COMPONENTS OF THE PUMP PRICE OF THEIR**

13 **PETROLEUM PRODUCTS SOLD AT RETAIL FUEL OUTLETS:**

14 **PROVIDED, THAT THE AVERAGE PRICE OF DUBAI CRUDE**

1 OIL, BASED ON THE MEAN OF PLATTS SINGAPORE, FOR
2 THREE (3) CONSECUTIVE MONTHS IS EQUAL TO OR
3 GREATER THAN EIGHTY DOLLARS (USD 80) PER
4 BARREL: PROVIDED FURTHER, THAT THE COST
5 COMPONENTS SHALL INCLUDE THE FOLLOWING
6 ACTUAL COSTS:

7 1. INTERNATIONAL CONTENT SUCH AS IMPORT COSTS,
8 FREIGHT COSTS, INSURANCE, AND FOREIGN EXCHANGE
9 COSTS;

10 2. GOVERNMENT IMPOSITIONS SUCH IMPORT DUTIES,
11 EXCISE TAXES, VALUE ADDED TAXES, AND OTHER
12 TAXES;

13 3. BIOFUEL COST;

14 4. OTHER COSTS SUCH AS PORT CHARGES, REFINING
15 COSTS, STORAGE COSTS, HANDLING COSTS,
16 MARKETING COSTS, TRANSSHIPMENT COSTS, AND
17 OTHER COSTS; AND

18 5. THE OIL COMPANY'S PROFIT.

19 THE DOE SHALL HAVE NO POWER TO REQUIRE THE
20 SUBMISSION OF THE FOLLOWING FROM THE
21 DOWNSTREAM OIL INDUSTRY PARTICIPANTS ENGAGED
22 IN THE RETAIL OF PETROLEUM PRODUCTS:

23 1. PRICING FORMULA,

24 2. DETAILED COMPUTATION OF EACH OF THE ACTUAL
25 COST COMPONENTS,

26 3. EXPLANATION AND SUPPORTING DOCUMENTS OF
27 CAUSES OR REASONS OF THE MOVEMENTS OF EACH
28 OF THE COST COMPONENTS, AND

29 4. OTHER TRADE SECRETS OR PROPRIETARY
30 INFORMATION NOT REQUIRED TO BE DISCLOSED
31 PURSUANT TO THIS SECTION.

1 **THE DOE SHALL NOT DISCLOSE ANY PROPRIETARY AND**
2 **CONFIDENTIAL INFORMATION TO THE PUBLIC AND TO**
3 **OTHER OIL INDUSTRY PARTICIPANTS UNLESS PRIOR**
4 **CONSENT OF THE SOURCE OR OWNER OF SUCH**
5 **INFORMATION HAS BEEN OBTAINED BY THE**
6 **REQUESTING PARTY: PROVIDED, THAT PRIOR CONSENT**
7 **SHALL NOT BE REQUIRED IF THE PROPRIETARY AND**
8 **CONFIDENTIAL INFORMATION IS REQUESTED BY A**
9 **GOVERNMENT AGENCY IN THE PERFORMANCE OF ITS**
10 **FUNCTIONS: PROVIDED, FINALLY, THAT THE**
11 **REQUESTING GOVERNMENT AGENCY SHALL NOT**
12 **DISCLOSE THE PROPRIETARY AND CONFIDENTIAL**
13 **INFORMATION TO THE PUBLIC AND TO OTHER OIL**
14 **INDUSTRY PARTICIPANTS.**

15 It shall likewise monitor the quality of petroleum products and
16 stop the operation of businesses involved in the sale of
17 petroleum products which do not comply with the national
18 standards of quality that are aligned with the national
19 standards/protocols of quality. The Bureau of Product Standards
20 of the DTI, together with the Department of Environment and
21 Natural Resources (DENR), the DOE, the Department of Science
22 and Technology (DOST), representatives of the fuel and
23 automotive industries and the consumers, shall set the
24 specifications for all types of fuel and fuel-related products to
25 improve fuel composition for increased efficiency and reduced
26 emissions. The BPS shall also specify the allowable content of
27 additives in all types of fuels and fuel-related products.

28
29 XXX"

30
31 Section 2. Section 24 of Republic Act No. 8479 is hereby amended to read as
32 follows:

1 "Section 24. Penal Sanction. – Any person who violates any of
2 the provisions of this Act shall suffer the penalty of three (3)
3 months to one (1) year imprisonment and a fine ranging from
4 Fifty thousand pesos (P 50,000.00) to Three hundred thousand
5 pesos (P 300,000.00): **PROVIDED, THAT, ANY**
6 **PARTICIPANT IN THE DOWNSTREAM OIL INDUSTRY**
7 **ENGAGED IN THE RETAIL OF PETROLEUM PRODUCTS**
8 **WHO SHALL FAIL TO COMPLY WITH THE REQUIREMENT**
9 **TO SUBMIT INFORMATION PURSUANT TO THE**
10 **PROVISIONS OF SECTION 14 (A) OF THIS ACT SHALL BE**
11 **SUBJECT TO AN ADMINISTRATIVE PENALTY**
12 **EQUIVALENT TO A FINE RANGING FROM A MINIMUM OF**
13 **FIVE MILLION PESOS (PHP 5,000,000.00) TO A**
14 **MAXIMUM OF FIFTY MILLION PESOS (PHP**
15 **50,000,000.00): PROVIDED, FURTHER, THAT ANY**
16 **GOVERNMENT OFFICIAL WHO SHALL DISCLOSE**
17 **PROPRIETARY AND CONFIDENTIAL INFORMATION**
18 **CONTRARY TO THE PROVISIONS OF SECTION 14 (A) OF**
19 **THIS ACT SHALL BE SUBJECT TO AN ADMINISTRATIVE**
20 **PENALTY EQUIVALENT TO A FINE NOT EXCEEDING THE**
21 **EQUIVALENT OF SIX (6) MONTHS' SALARY OR**
22 **SUSPENSION NOT EXCEEDING ONE (1) YEAR, OR**
23 **REMOVAL DEPENDING ON THE GRAVITY OF THE**
24 **OFFENSE."**

25
26 Section 3. Separability Clause. – Should any provision of this Act be held
27 unconstitutional, no other provision hereof shall be affected thereby.

28
29 Section 4. Effectivity. – This Act shall take effect fifteen (15) days after its
30 publication in at least two (2) newspapers of general circulation.

Approved,