

MALACAÑANG
RESIDENCE OF PRESIDENT OF THE
PHILIPPINES
MANILA

PRESIDENTIAL DECREE NO. 1865

AMENDING BATAS PAMBANSA BILANG 33, ENTITLED "AN ACT DEFINING AND PENALIZING CERTAIN PROHIBITED ACTS INIMICAL TO THE PUBLIC INTERESTS AND NATIONAL SECURITY INVOLVING PETROLEUM AND/OR PETROLEUM PRODUCTS, PRESCRIBING PENALTIES THEREFOR AND FOR OTHER PURPOSES", BY INCLUDING SHORTSELLING AND ADULTERATION OF PETROLEUM AND PETROLEUM PRODUCTS AND OTHER ACTS IN THE DEFINITION OF PROHIBITED ACTS, INCREASING THE PENALTIES THEREIN, AND FOR OTHER PURPOSES".

WHEREAS, Batas Pambansa Bilang 33, defines and penalizes certain prohibited acts inimical to the public interest and national security involving petroleum and/or petroleum products;

WHEREAS, adulteration of finished petroleum products or possession of adulterated finished petroleum products for the purpose of sale, distribution, transportation, exchange or barter; and underdelivery or underfilling beyond authorized limits in the sale of petroleum products or liquefied petroleum gas cylinders are pernicious practices that are rampant and widespread;

WHEREAS, there is an urgent need to curb, if not totally eliminate, such nefarious practices in the industry in order to better protect the consuming public;

WHEREAS, it is necessary to provide the implementing government agencies with increased administrative and criminal penalties with which it can effectively curtail petroleum product adulteration and shortselling as well as other prohibited acts and activities involving petroleum and/or petroleum products which are inimical to public interest and national security;

WHEREAS, in view of the foregoing considerations, it has become necessary to amend certain provisions of Batas Pambansa Bilang 33, as well as to provide, new provisions in the law;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree as follows:

SECTION 1. Section two of Batas Pambansa Bilang 33, as amended, is further amended to read as follows:

"Sec. 2. *Prohibited Acts.* -The following acts are prohibited and penalized:

"(a) Illegal trading in petroleum and/or petroleum products :

"(b) Adulteration of finished petroleum products, or possession of adulterated finished petroleum products for the purpose of sale, distribution, transportation, exchange or barter;

"(c) Underdelivery or underfilling beyond authorized limits in the sale of petroleum products or possession of underfilled liquefied petroleum gas cylinder for the purpose of sale, distribution, transportation, exchange or barter;

"The oil company, petroleum refiller, marketer, dealer and retailer, as the case may be, and the hauler shall be responsible for the quantity and quality of the petroleum products delivered when the same is sold on delivered basis.

"For the purpose of this subparagraph, the existence of the facts hereunder shall give rise to the following presumptions:

"1) That cylinders containing less than the required quantity of liquefied petroleum gas which are not properly identified, tagged and set apart and removed or taken out from the display are and made accessible to the public by

marketers, dealers, sub-dealers or retail outlets are presumed to be for sale;

“(2) In the case of a dispensing pump in a petroleum product retail outlet selling such products to the public, the absence of an out-of-order sign, or padlock, attached or affixed to the pump to prevent delivery of petroleum products therefrom shall constitute a presumption of the actual use of the pump in the sale or delivery of such petroleum products; and

“(3) Where the seal, whether official or of the oil company, affixed to the dispensing pump, tank truck or liquefied petroleum gas cylinder, is broken, or is absent or removed, it shall give rise to the presumption that the dispensing pump is underdelivering, or that the liquefied petroleum gas cylinder is underfilled, or that the tank truck contains adulterated finished petroleum products or is underfilled;

“The use of such pumps, cylinders or containers referred to in sub-paragraph (1), (2), and (3) of this sub-paragraph, to deliver products for sale or distribution shall constitute prima facie evidence of intent of the hauler, marketer, refiller, dealer, retailer outlet operator to defraud;

“[(b)] (D) Hoarding of petroleum and/or petroleum products;

“[(c)] (E) Overpricing in the sale of petroleum products;

“[(d)] (F) Misuse of petroleum allocations;

“[(e)] (G) Speed contests and rallies involving mainly the use of motor vehicles, motor-driven watercraft or aircraft utilizing petroleum-derived fuels, including car and motorcycle rallies and drag racing, without the permit from the bureau of energy utilization; and

“[(f)] (H) Sky-diving, and water skiing except when methanol is used for the power-boat operation.”

SEC. 2. Section three of the same Act is hereby amended to read as follows:

“SEC.3. *Definition of terms.* - For the purpose of this Act, the following terms shall be construed to mean:

“Illegal trading in petroleum and/or petroleum products”--

“(A) the sale or distribution of petroleum products [for profit] without license or authority from the [Government] Bureau of Energy Utilization;

“(B) non issuance of receipts by licensed [traders] oil companies, marketers, distributors, dealers, sub-dealers and other retail outlets, to final consumers; provided: that such receipts, in the case of gas cylinders, shall indicate therein the brand name, tare weight, gross weight, and the price thereof;

“(C) Refilling of liquefied petroleum gas cylinders without authority from said bureau, or refilling of another company’s or firm’s cylinders without such company’s or firm’s written authorization;

“(D) Making or using in such cylinders a tare weight other than the actual or true tare weight thereof;

“(E) Violation of rules and regulations of said bureau regarding the implementation of this Act;

“(F) Removal or unloading of petroleum products from any lorry, tank truck or delivery vehicle by any person other than the contracted purchaser, or in premises of the purchaser’s retail outlet or business establishment;

“(G) Use of a pump metering unit which has not been properly calibrated and sealed by the office of the city or municipal treasurer where the station or outlet is located, or by the national science and technology authority (NSTA), or by any other government agency authorized therefor, or in the absence thereof by the oil company; and

“(H) Use of a tank truck, lorry, hauling vehicle, or other conveyor other than vessels or barges for the delivery of petroleum products which has not been registered with the bureau of energy utilization and the tanks, containers, or compartment thereof are not properly calibrated and sealed by the national science and technology authority or any other government agency authorized therefor [misrepresentation as to quality and/or quantity; and sale by oil companies, distributors and/or dealers violative of government rules and regulations]

“Petroleum fuel product adulteration” - the mixing of any petroleum product with another finished or unfinished petroleum product or stock or with any non-petroleum substance or material that will result in product quality change, or resulting in the failure of such finished petroleum product to meet the required product specifications as prescribed by the products standards agency of the Ministry of Trade and Industry, for the purpose of this definition, finished petroleum products refers to any of the following: Premium gasoline, regular gasoline, aviation gasoline, aviation turbo fuel, kerosene, diesel fuel, industrial fuel or package lube oils. This definition shall not apply to alcogas mixture and oil emulsions.

“Underfilling or underdelivery” Refers to a sale, transfer, delivery or filling of petroleum products of a quantity that is actually beyond authorized limits than the quantity indicated or registered on the metering device of container. This refers, among others, to the quantity of petroleum products delivered by metered dispensing pumps in petroleum retail outlets or to liquefied petroleum gas in cylinder or to lube oils in packages.

“Hoarding” - the undue accumulation of a trader of petroleum and/or petroleum products beyond his or its normal inventory levels, and/or unjustified refusal to dispose of, sell or distribute the same to consumers; or the unreasonable accumulation by a person other than a trader of petroleum and/or petroleum products.

“Overpricing “ - the sale of petroleum and/or petroleum products at prices in excess of those duly authorized by the [Government] Board of Energy.

“Misuse of allocation” - the sale, transfer or diversion of mandated petroleum fuel allocation by oil companies, distributors, dealers or consumers contrary to the declared intent of the Government in making such allocation.”

SEC. 3. The same Act is further amended by inserting between Sections three and four thereof, a new Section which shall read as follows:

“Sec. 3-A. *Rules and Regulations; Administrative Sanctions for violation thereof.* The Bureau of Energy utilization shall issue such rules and regulations as are necessary to carry into effect the provisions of this act, subject to the approval of the Minister of Energy , after consultation with the affected industry sectors. Said rules and regulations shall take effect fifteen (15) days from the date of its publication in two (2) newspapers of general circulation.

“The Bureau of Energy utilization is empowered to impose in an administrative proceeding, after due notice and hearing, upon any person who violates any provision of such rules and regulations , a fine of not more than ten thousand pesos (P10,000.00) or to suspend or remove the license or permit of a hauler, marketer, refiller, dealer, sub-dealer or retail outlet: provided, that hearing in any administrative proceedings may be waived by respondent. Provided, further, that during the pendency of such administrative proceeding, the bureau may suspend the business operations of such hauler, marketer, refiller, dealer, sub-dealer or retailer or retail outlet operator when the suspension is consistent with the public interest. Administrative proceedings shall be decided within thirty (30) days after filing of the last responsive pleading by the respondent, or termination and completion of the administrative proceeding.

“All law enforcement and other concerned agencies of the government shall assist the Bureau of Energy utilization in the implementation of this section.

“The administrative sanction that may be imposed shall be without prejudice to the filing of a criminal action as the case may warrant.”

SEC. 4. Section four of the same Act is amended to read as follows:

“Sec. 4. *Penalties.*- Any person who commits any act herein prohibited shall, upon conviction, be punished with a fine of not less than (two) TWENTY thousand pesos (P2,000.00) (P20,000.00) but not more than (Ten) FIFTY thousand pesos (P10,000.00) (P50,000.00), or imprisonment of at least two (2) [months] YEARS but not more than [one (1)] FIVE (5) years, or both, in the discretion of the court. In cases of second and subsequent conviction under this act, the penalty shall be both fine and imprisonment as provided herein. Furthermore, the petroleum and/or petroleum products subject matter of the illegal trading, adulteration, shortselling, hoarding, overpricing [and] OR misuse, shall be forfeited in favor of the Government: Provided, That if the petroleum and/or petroleum products have already been delivered and paid for, the offended party [the payment made] shall be indemnified twice the amount paid [the subject of forfeiture] and if the seller who has not yet delivered has been fully paid, the price received shall be returned to the buyer with an additional amount equivalent to such price; and in addition, if the offender is [a trader] an oil company, marketer, distributor, refiller, dealer, sub-dealer and other retail outlets, or hauler, the cancellation of his license.

“Trials of cases arising under this Act shall be terminated within the thirty (30) days after arraignment.

“When the offender is a corporation, partnership, or other juridical person, the president, general manager, managing partner, or such other officer charged with the management of the business affairs thereof, or employee responsible for the violation, shall be criminally liable, in case the offender is an alien, he shall be subject to deportation after serving the sentence.

“If the offender is a government official or employee, he shall be perpetually disqualified from office.”

Sec. 5. All laws, decrees, orders, instructions, rules and regulations which are inconsistent with, or contrary to, the provisions of this Act are hereby repealed or modified accordingly.

Sec. 6. This decree shall take effect upon its approval.

Done in the City of Manila, this 25th day of May in the year of Our Lord, nineteen hundred and eighty -three.

(Sgd.) **FERDINAND E. MARCOS**
President
Republic of the Philippines

By the President:

(Sgd.) **JUAN C. TUVERA**
Presidential Executive Assistant

