



Republic of the Philippines
City of Bago
OFFICE OF THE SANGGUNIANG PANLUNGSOD

ORDINANCE NO: 18-05

AN ORDINANCE PROVIDING THE RULES AND REGULATIONS GOVERNING THE BUSINESS OF RETAILING LIQUID PETROLEUM PRODUCTS (LPP) IN THE CITY OF BAGO, NEGROS OCCIDENTAL, PURSUANT TO PD 1865 AND ITS IMPLEMENTING RULES AND REGULATIONS, RA 8479 AND DEPARTMENT OF ENERGY DEPARTMENT CIRCULAR NO. 2003-11-010.

Whereas, R.A. 8479, otherwise known as the “Downstream Oil Industry Deregulations Act of 1998”, applies to all persons or entities engaged in any and all activities of the domestic downstream oil industry and mandates the DOE to promote the entry of new industry participants;

Whereas, Batas Pambansa Blg. 33, as amended by Presidential Decree No. 1865, and the Implementing Rules and Regulations therefore, define and penalize certain prohibited acts considered inimical to the public interest and the national security, including illegal trading in petroleum and/or petroleum products, hoarding, adulteration and underdelivery, among others;

Whereas, the retailing of liquid Petroleum Products is subject to pertinent permits and licenses issued by government authorities including the DOE, DENR, Bureau of Fire Protection, BIR and Local Government Units;

Whereas, all matters affecting the safe and proper handling, transport, storage, installation and use of equipment and facilities in the downstream oil industry shall be governed by the pertinent provisions of the different national and international safety codes observed and adopted by the industry;

Whereas, there is also an increasing proliferation of unsafe practices in Liquid Petroleum Product Retailing particularly with the use of inappropriate containers (e.g. “bote-bote”), storage tanks and tank vehicles;

Whereas, the continued operation of unsafe and sub-standard Retail Outlets may (i) expose the consuming public to fire, security, health and environmental risks; (ii) deny the public the proper quality and quantity of the liquid petroleum products they purchase, (iii) deprive legitimate Retail Outlets of additional sales volume; (iv) deprive the government of revenue derived from licensing fees, local business taxes and pump calibration charges, among others; and (v) encourage the marketing of liquid petroleum products sourced from illegal activities such as smuggling, pilferage, theft and the like;

Whereas, under Section 20, DOE DC No. 003-11-010, issued on November 14, 2003 the DOE recognizes and respects the rights of the LGU to refuse issuing the necessary business permits and/or impose fines and/or penalties in case of violations enumerated hereon, and may recommend to the concerned LGU the suspension, revocation or termination of the business permit of persons violating the said DOE Department Circular No. 003-11-010.

Whereas, in order to implement the purpose and intent of the aforementioned laws and Implementing Rules and Regulations pertaining to Downstream Oil Industry Business in its jurisdiction, the City Government of Bago, Negros Occidental, has to enact an ordinance adopting provisions pertinent thereto;

Now therefore, on motion of SP Member Allan C. Galunan, duly seconded by SP Member Jorge Agustin A. Araneta, the Sanggunian, **be it ordained**, as it is hereby ordained, by the Sangguniang Panlungsod of the City of Bago, Negros Occidental in session assembled, that:

Section 1. Title. - This Ordinance shall be known as “An Ordinance Regulating the Business of Retailing Petroleum Products in the City of Bago”.

Section 2. Coverage. - The regulatory activities provided herein shall be collaborative, supplementary & coordinative functions mandated to the pertinent National Government Agencies such as the DOE, DENR, Bureau of Fire and others;

Section 3. Minimum Standards and Requirements.- Any person engaged or intending to engage in retailing of LPP shall comply with the following minimum standards:

- a. The Retailing of LPP shall be conducted in duly approved premises with an initial minimum lot area of 100 square meters and where vehicles being serviced shall at all times be inside the duly approved business premises.
- b. The Retailing of LPP shall only be carried out through fixed and permanent dispensing pumps duly approved by the DOE and further subject to the following:
 - (i) The dispensing pump clearly indicates on its face the type of LPP being dispensed and its brand name, if any;
 - (ii) The dispensing pump accurately displays both the volume of LPP dispensed (in liters) and the corresponding amount (in pesos) up to the 1/100th part;
 - (iii) The dispensing pump for gasoline displays the Octane Rating of the product as required under Department Circular no. 2001-09-003;
 - (iv) All dispensing pumps and storage tanks of LPP are distinct and labeled to ensure that there shall be no product contamination or inadvertent mixing or misfueling of the different Petroleum Products; and
 - (v) Dispensing pumps are properly calibrated and sealed in accordance with Retail Rules.
- c. The owner and/or operator of the Retail Outlet must possess valid permits, licenses and certifications for the Retailing, storage, handling, transfer and/or dispensing of LPP from this LGU, the BFP, the DENR, DOE and other relevant government authorities.
- d. The construction and operation of the Retail Outlet must comply with all applicable laws, rules regulations and LGU ordinances.
- e. The operation of service bays shall be subject to and fully comply with the criteria and/or guidelines set by the DENR-EMB for such facilities and/or operations. Generated waste oil or petroleum from Retail Outlets shall be properly collected, stored and disposed of in accordance with the requirement of DENR DAO 92-29, as amended.

Section 4. Calibration and Sealing of Dispensing Pumps. - The City Treasurer or his duly authorized representative shall calibrate and seal all dispensing pumps of Retail Petroleum outlets/gasoline stations, once every sixty (60) days, pursuant to section 12, Rule III of DOE DC No. 2003-11-101.

Section 5. Fee for Calibration and Sealing of Dispensing Pump. - The City Treasurer or his duly authorized representative shall collect the fee thereof amounting to Php100.00/pump pursuant to the Revised Revenue Code of Bago City.

Section 6. Prohibited Acts. - The following acts or omissions shall constitute violation of this ordinance:

A. Hoarding.

- (i) The refusal of Retail Outlet to sell liquid petroleum products shortly before a price increase or in times of tight supply or in both instances if the buyer or consumer has the ability to pay in cash for the product .
- (ii) The undue accumulation by Retail Outlet of liquid petroleum products in times of tight supply or shortly before a price increase. Undue accumulation shall mean the keeping or stocking of quantities of LPP beyond the normal inventory level maintained by Retail Outlets for thirty (30) days preceding the period of tight supply or price

B. Illegal Trading.

(i) The Failure of Retail Outlet owner/operator to have his/her dispensing pumps calibrated and sealed by authorized calibrating entities: The City Treasurer or authorized representative; or in his absence or incapacity, duly authorized representatives of the DOST-ITDI, in their absence or incapacity, duly authorized representatives of any other government agency authorized therefore or, in their absence or incapacity, duly authorized representative of the oil company (sec. 12 Rule III DOE DC 2003-11-010).

(ii) The Possession of liquid petroleum products which do not meet the Philippine National Standard (PNS) and the prescribed color coding scheme shall constitute prima facie evidence of adulteration, and its sale, distribution exchange or barter shall constitute illegal trading. (Section 17 Rule IV of DOE DC 2003-11-010).

iii) Unsafe Practices in LPP Retailing particularly with the use of inappropriate containers (e.g: "bote-bote"), storage tanks and tank vehicles.

iv) LPP dispensed from above-ground tanks, portable tanks, tank vehicles, drums, drums or similar containers, e.g. bote-bote, into the fuel tanks of motor vehicles or containers.

C. Underdelivery.

(i) Failure of retail outlet to provide the written record or logbook of daily testing of dispensing pumps using a properly sealed calibrating bucket shall give rise to the presumption that the dispensing pump is underdelivering (Section 14 Rule III of DOE DC 2003-11-010);

(ii) A dispensing pump with a broken or no seal shall constitute a prima facie evidence of underdelivering (Section 16 Rule III of DOE DC 2003-11-010).

Section 7. Inspection, Monitoring and Implementation of the provisions of this Ordinance – The concerned chief of office or his/her authorized representative individually/in tandem/or group shall implement the provisions of the ordinance by regular or surprise inspection or monitoring of the conduct of business of liquid petroleum product (LPP) in accordance with their mandate and as provided by this ordinance to wit:

Prohibited Acts	Responsible Officer/Office
1. Hoarding	a.) BPLO (Business Permit and Licensing Office); and b.) PNP (Philippine National Police- Baler)
2. Illegal Trading	
a. Using uncalibrated, unsealed, or broken seal fuel dispensing pump	a.) CTO (City Treasurer's Office) b.) BPLO; and c.) PNP
b. Possession or sale/distribution, exchange, or barter of adulterated LPP	a.) BPLO; b.) PNP; and c.) Barangay Officials
c. Use of inappropriate containers (bote-bote), storage tanks and tank vehicles	a.) BPLO; b.) PNP; and c.) BFP (Bureau of Fire Protection) d.) Barangay Officials
d. LPP dispensed from above ground containers (bote-bote, portable tanks, tank vehicles, drums) into the fuel tanks of motor vehicles or containers	a.) BPLO; b.) PNP; c.) BFP; and d.) Barangay Officials

<p>3. Underdelivery</p> <p>a. Failure to provide written record of daily testing of dispensing pumps</p> <p>b. A dispensing pump with a broken or no seal.</p>	<p>a.) BPLO; b.) PNP; and c.) CTO</p> <p>a.) BPLO; b.) PNP; c.) CTO</p>
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Section 8. Role of Barangays. Barangay Officials shall take the lead in the enforcement of this Ordinance in their respective barangay, specifically on the prohibition of "bote-bote" LPP retail. Should fire broke out as a result of the proliferation thereof and the negligence or failure of the concerned barangay officials to perform their tasks mandated by this Ordinance is duly established, the same shall be a ground for administrative action against the erring officials, which penalty ranges from suspension to dismissal from service.

Liquefied Petroleum Products (LPP) subject of illegal trading shall be confiscated in favor of the local government and shall be supervised by the Bureau of Fire Protection as to its proper handling and disposal, subject to existing laws, rules and regulations.

Section 9. Institution of Administrative Proceedings. Any person or concerned government officer may initiate administrative proceedings against person/s committing any of the prohibited acts enumerated in this ordinance as follows:

1. The complainant shall submit to BPLO a notarized affidavit-complaint against person/s citing the incidence and commission of prohibited act/s.
2. The chief of BPLO with the technical assistance of concerned office/s, evaluates the complaint to determine if prima facie case exists. If yes, the complaint is furnished the concerned person/s for personal appearance and hearing in BPLO and/or submission of counter-affidavit, for evaluation.
3. The BPLO recommends to the City Mayor either conviction or acquittal of the person/s charged based on evaluation conducted.
4. The decision of the City Mayor shall be furnished the person/s concerned.
5. The order of conviction carrying administrative fine may be appealed to the City Mayor through the BPLO within seven (7) working days. The decision becomes final after the lapse of 7 days without appeal. The City Mayor shall decide on the appeal within seven (7) working days after receipt thereof.
6. The decision of the City Mayor on the appeal which shall be final and executory, shall be furnished the person concerned immediately for appropriate compliance or payment of fine, and the CTO for guidance/reference.
7. A decision of conviction carrying a penalty of revocation of permit shall be in force & effect until such permit is restored through an Ordinance by the Sangguniang Panlungsod. The aggrieved party may resort to applicable remedies under existing pertinent laws.

Section 10. Penalties, Sanctions and Incentives. – Any violation of pertinent provisions hereof shall be sanctioned/fined as follows:

First Offense - Administrative Fine of Php 3,000.00 or imprisonment of 15 days

- Second Offense - Administrative Fine of 5,000.00 or imprisonment of 30 days in case of non-payment
- Third Offense - Administrative Fine of 5,000.00 plus suspension of Business Permit or Closure of business establishment or imprisonment of 90 days in case of non-payment

Provided that 20% of the collected fine shall accrue to the barangay official/s who actually participated in the apprehension.

Section 11. Applicability Clause. - All other matters relating to downstream retailing business of LPP which are not specifically provided herein shall be governed by pertinent provisions of existing ordinances, laws, rules and regulations, and circulars of the DOE and other national government agencies.


Section 12. Repealing Clause. - All ordinances, rules and regulations, or parts thereof in conflict, or inconsistent herewith, are hereby repealed, amended or modified accordingly.

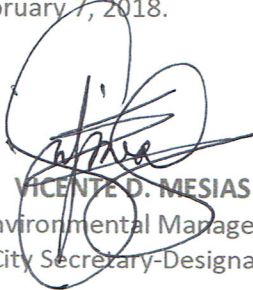
Section 13. Effectivity. - This Ordinance shall take effect after fifteen (15) days from the date a copy hereof is posted in a bulletin board at the entrance of the City Hall Building of Bago City, Negros Occidental and in at least two (2) conspicuous places in the City.

Enacted, February 7, 2018.

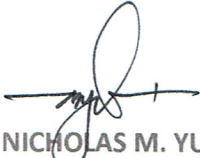
I hereby certify to the correctness of the foregoing Ordinance which was duly enacted by the Sangguniang Panlungsod during its regular session held on February 7, 2018.

ATTESTED:


RAMON D. TORRES
City Vice Mayor-Presiding Officer


VICENTE D. MESIAS
Supervising Environmental Management Specialist/
City Secretary-Designate

Approved this 8th day of February, 2018.


NICHOLAS M. YULO
City Mayor