

# Republic Act No. 9367

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## REPUBLIC ACT NO. 9367

AN ACT TO DIRECT THE USE OF BIOFUELS, ESTABLISHING FOR THIS PURPOSE THE BIOFUEL PROGRAM, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

SECTION 1. *Short Title.* – This Act shall be known as the “Biofuels Act of 2006”.

SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to reduce dependence on imported fuels with due regard to the protection of public health, the environment, and natural ecosystems consistent with the country’s sustainable economic growth that would expand opportunities for livelihood by mandating the use of biofuels as a measure to:

- a) develop and utilize indigenous renewable and sustainably-sourced clean energy sources to reduce dependence on imported oil;
- b) mitigate toxic and greenhouse gas (GHG) emissions;
- c) increase rural employment and income; and
- d) ensure the availability of alternative and renewable clean energy without any detriment to the natural ecosystem, biodiversity and food reserves of the country.

SEC. 3. *Definition of Terms.* – As used in this Act, the following terms shall be taken to mean as follows:

- a) *AFTA* – shall refer to the ASEAN Free Trade Agreement initiated by the Association of Southeast Asian Nations;

- b) *Alternative Fuel Vehicles/Engines* – shall refer to vehicles/engines that use alternative fuels such as biodiesel, bioethanol, natural gas, electricity, hydrogen and automotive LPG, instead of gasoline and diesel;
- c) *Bioethanol* – shall refer to ethanol (C<sub>2</sub>H<sub>5</sub>OH) produced from feedstock and other biomass;
- d) *Biodiesel* – shall refer to Fatty Acid Methyl Ester (FAME) or mono-alkyl esters derived from vegetable oils or animal fats and other biomass-derived oils that shall be technically proven and approved by the DOE for use in diesel engines, with quality specifications in accordance with the Philippine National Standards (PNS);
- e) *Bioethanol Fuel* – shall refer to hydrous or anhydrous bioethanol suitably denatured for use as motor fuel, with quality specifications in accordance with the PNS;
- f) *Biofuel* – shall refer to bioethanol and biodiesel and other fuels made from biomass and primarily used for motive, thermal and power generation, with quality specifications in accordance with the PNS;
- g) *Biomass* – shall refer to any organic matter, particularly cellulosic or ligno-cellulosic matter, which is available on a renewable or recurring basis, including trees, crops and associated residues, plant fiber, poultry litter and other animal wastes, industrial wastes, and the biodegradable component of solid waste;
- h) *DA* – shall refer to the Department of Agriculture created under Executive Order No. 116, as amended;
- i) *Diesel* – shall refer to refined petroleum distillate, which may contain small amounts of hydrocarbon or nonhydrocarbon additives to improve ignition quality or other characteristics, suitable for compression ignition engine and other suitable types of engines with quality specifications in accordance with the PNS;
- j) *DENR* – shall refer to the Department of Environment and Natural Resources created under Executive Order No. 192, as amended;
- k) *DOE* – shall refer to the Department of Energy created under Republic Act No. 7638, as amended;
- l) *DOLE* – shall refer to the Department of Labor and Employment created under Executive Order No. 126, as amended;
- m) *DOF* – shall refer to the Department of Finance created under Administrative Order Nos. 127 and 127-A;

- n) *DOST* – shall refer to the Department of Science and Technology created under Republic Act No. 2067;
- o) *DOTC* – shall refer to the Department of Transportation and Communications created under Executive Order No. 125-A, as amended;
- p) *DTI* – shall refer to the Department of Trade and Industry created under Executive Order No. 133;
- q) *Feedstock* – shall refer to organic sources such as molasses, sugarcane, cassava, coconut, jatropha, sweet sorghum or other biomass used in the production of biofuels;
- r) *Gasoline* – shall refer to volatile mixture of liquid hydrocarbon, generally containing small amounts of additives, suitable for use as a fuel in spark-ignition internal combustion engines with quality specifications in accordance with the PNS;
- s) *Motor fuel* – shall refer to all volatile and inflammable liquids and gas produced, blended or compounded for the purpose of, or which are suitable or practicable for, operating motor vehicles;
- t) *MTBE* – shall refer to Methyl Tertiary Butyl Ether;
- u) *NBB or Board* – shall refer to the National Biofuel Board created under Section 8 of this Act;
- v) *Oil Company* – shall refer to any entity that distributes and sells petroleum fuel products;
- w) *Oxygenate* – shall refer to substances, which, when added to gasoline, increase the amount of oxygen in that gasoline blend;
- x) *PNS* – shall refer to the Philippine National Standards; consistent with Section 26 of R.A. No. 8749, otherwise known as the “Philippine Clean Air Act of 1999”;
- y) *Renewable Energy Sources* – shall refer to energy sources that do not have an upper limit on the total quantity to be used. Such resources are renewable on a regular basis; and
- z) *WTO* – shall refer to the World Trade Organization.

SEC. 4. *Phasing Out of the Use of Harmful Gasoline Additives and/or Oxygenates.*— Within six months from the effectivity of this Act, the DOE, according to duly accepted international standards, shall gradually phase out the use of harmful gasoline additives such as, but not limited to, MTBE.

SEC. 5. *Mandatory Use of Biofuels.* – Pursuant to the above policy, it is hereby mandated that all liquid fuels for motors and engines sold in the Philippines shall contain locally-sourced biofuels components as follows:

5.1 Within two years from the effectivity of this Act, at least five percent (5%) bioethanol shall comprise the annual total volume of gasoline fuel actually sold and distributed by each and every oil company in the country, subject to the requirement that all bioethanol blended gasoline shall contain a minimum of five percent (5%) bioethanol fuel by volume: *Provided*, That the ethanol blend conforms to PNS.

5.2 Within four years from the effectivity of this Act, the NBB created under this Act is empowered to determine the feasibility and thereafter recommend to DOE to mandate a minimum of ten percent (10%) blend of bioethanol by volume into all gasoline fuel distributed and sold by each and every oil company in the country.

In the event of supply shortage of locally-produced bioethanol during the four-year period, oil companies shall be allowed to import bioethanol but only to the extent of the shortage as may be determined by the NBB.

5.3 Within three months from the effectivity of this Act, a minimum of one percent (1%) biodiesel by volume shall be blended into all diesel engine fuels sold in the country: *Provided*, That the biodiesel blend conforms to PNS for biodiesel.

Within two years from the effectivity of this Act, the NBB created under this Act is empowered to determine the feasibility and thereafter recommend to DOE to mandate a minimum of two percent (2%) blend of biodiesel by volume which may be increased taking into account considerations including but not limited to domestic supply and availability of locally-sourced biodiesel component.

SEC. 6. *Incentive Scheme*. – To encourage investments in the production, distribution and use of locally-produced biofuels at and above the minimum mandated blends, and without prejudice to enjoying applicable incentives and benefits under existing laws, rules and regulations, the following additional incentives are hereby provided under this Act.

a) Specific tax

The specific tax on local or imported biofuels component, per liter of volume shall be zero (0). The gasoline and diesel fuel component shall remain subject to the prevailing specific tax rates.

b) Value Added Tax

The sale of raw material used in the production of biofuels such as, but not limited to, coconut, jatropha, sugarcane, cassava, corn, and sweet sorghum shall be exempt from the value added tax.

c) Water Effluents

All water effluents, such as but not limited to distillery slops from the production of biofuels used as liquid fertilizer and for other agricultural purposes are considered “reuse”, and are therefore, exempt from wastewater charges under the system provided under Section 13 of R.A. No. 9275, also known as the Philippine Clean Water Act: *Provided, however,* That such application shall be in accordance with the guidelines issued pursuant to R.A. No. 9275, subject to the monitoring and evaluation by DENR and approved by DA.

d) Financial Assistance

Government financial institutions, such as the Development Bank of the Philippines, Land Bank of the Philippines, Quedancor and other government institutions providing financial services shall, in accordance with and to the extent allowed by the enabling provisions of their respective charters or applicable laws, accord high priority to extend financing to Filipino citizens or entities, at least sixty percent (60%) of the capital stock of which belongs to citizens of the Philippines that shall engage in activities involving production, storage, handling and transport of biofuel and biofuel feedstock, including the blending of biofuels with petroleum, as certified by the DOE.

*SEC. 7. Powers and Functions of the DOE.* – In addition to its existing powers and functions, the DOE is hereby mandated to take appropriate and necessary actions to implement the provisions of this Act. In pursuance thereof, it shall within three months from the effectivity of this Act:

- a) Formulate the implementing rules and regulations under Section 15 of this Act;
- b) Prepare the Philippine Biofuel Program consistent with the Philippine Energy Plan and taking into consideration the DOE’s existing biofuels program;
- c) Establish technical fuel quality standards for biofuels and biofuel-blended gasoline and diesel which comply with the PNS;
- d) Establish guidelines for the transport, storage and handling of biofuels;
- e) Impose fines and penalties against persons or entities found to have committed any of the prohibited acts under Section 12 (b) to (e) of this Act;
- f) Stop the sale of biofuels and biofuel-blended gasoline and diesel that are not in conformity with the specifications provided for under Section 5 of this Act, the PNS and corresponding issuances of the Department; and
- g) Conduct an information campaign to promote the use of biofuels.

SEC. 8. *Creation of the National Biofuel Board (NBB).* – The National Biofuel Board is hereby created. It shall be composed of the Secretary of the DOE as Chairman and the Secretaries of the DTI, DOST, DA, DOF, DOLE, and the Administrators of the PCA, and the SRA, as members.

The DOE Secretary, in his capacity as Chairperson, shall, within one month from the effectivity of this Act, convene the NBB.

The Board shall be assisted by a Technical Secretariat attached to the Office of the Secretary of the DOE. It shall be headed by a Director to be appointed by the Board. The number of staff of the Technical Secretariat and the corresponding positions shall be determined by the Board, subject to approval by the Department of Budget and Management (DBM) and existing civil service rules and regulations.

SEC. 9. *Powers and Functions of the NBB.* – The NBB shall have the following powers and functions:

a) Monitor the implementation of, and evaluate for further expansion, the National Biofuel Program (NBP) prepared by the DOE pursuant to Section 7 (b) of this Act;

b) Monitor the supply and utilization of biofuels and biofuel-blends and recommend appropriate measures in cases of shortage of feedstock supply for approval of the Secretary of DOE. For this purpose:

1. The NBB is empowered to require all entities engaged in the production, blending and distribution of biofuels to submit reports of their actual and projected sales and inventory of biofuels, in a format to be prescribed for this purpose; and

2. The NBB shall determine availability of locally-sourced biofuels and recommend to DOE the appropriate level or percentage of locally-sourced biofuels to the total annual volume of gasoline and diesel sold and distributed in the country.

c) Review and recommend to DOE the adjustment in the minimum mandated biofuel blends subject to the availability of locally-sourced biofuels: *Provided*, That the minimum blend may be decreased only within the first four years from the effectivity of this Act. Thereafter, the minimum blends of five percent (5%) and two percent (2%) for bioethanol and biodiesel, respectively, shall not be decreased;

d) Recommend to DOE a program that will ensure the availability of alternative fuel technology for vehicles, engines and parts in consonance with the mandated minimum biofuel-blends, and to maximize the utilization of biofuels, including other biofuels;

e) Recommend to DOE the use of biofuel-blends in air transport taking into account safety and technical viability; and

f) Recommend specific actions to be executed by the DOE and other appropriate government agencies concerning the implementation of the NBP, including its economic, technical, environment and social impact.

SEC. 10. *Security of Domestic Sugar Supply.* – Any provision of this Act to the contrary notwithstanding, the SRA, pursuant to its mandate, shall, at all times, ensure that the supply of sugar is sufficient to meet the domestic demand and that the price of sugar is stable.

To this end, the SRA shall recommend and the proper agencies shall undertake the importation of sugar whenever necessary and shall make appropriate adjustments to the minimum access volume parameters for sugar in the Tariff and Customs Code.

SEC. 11. *Role of Government Agencies.* – To ensure the effective implementation of the NBP, concerned agencies shall perform the following functions:

a) The DOF shall monitor the production and importation of biofuels through the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC);

b) The DOST and the DA shall coordinate in identifying and developing viable feedstock for the production of biofuels;

c) The DOST, through the Philippine Council for Industry and Energy Research and Development (PCIERD), shall develop and implement a research and development program supporting a sustainable improvement in biofuel production and utilization technology. It shall also publish and promote related technologies developed locally and abroad;

d) The DA through its relevant agencies shall:

(1) Within three months from the effectivity of this Act, develop a national program for the production of crops for use as feedstock supply. For this purpose, the Administrators of the SRA and the PCA, and other DA-attached agencies shall, within their authority, develop and implement policies supporting the Philippine Biofuel Program and submit the same to the Secretary of the DA for consideration;

(2) Ensure increased productivity and sustainable supply of biofuel feedstocks. It shall institute a program that would guarantee that a sufficient and reliable supply of feedstocks is allocated for biofuel production; and

(3) Publish information on available and suitable areas for cultivation and production of such crops.

e) The DOLE shall:

(1) Promote gainful livelihood opportunities and facilitate productive employment through effective employment services and regulation;

(2) Ensure the access of workers to productive resources and social protection coverage; and

(3) Recommend plans, policies and programs that will enhance the social impact of the NBP.

f) The Tariff Commission, in coordination with the appropriate government agencies, shall create and classify a tariff line for biofuels and biofuel-blends in consideration of WTO and AFTA agreements; and

g) The local government units (LGUs) shall assist the DOE in monitoring the distribution, sale and use of biofuels and biofuel-blends.

SEC. 12. *Prohibited Acts.* – The following acts shall be prohibited:

a) Diversion of biofuels, whether locally produced or imported, to purposes other than those envisioned in this Act;

b) Sale of biofuel-blended gasoline or diesel that fails to comply with the minimum biofuel-blend by volume in violation of the requirement under Section 5 of this Act;

c) Distribution, sale and use of automotive fuel containing harmful additives such as, but not limited to, MTBE at such concentration exceeding the limits to be determined by the NBB;

d) Noncompliance with the established guidelines of the PNS and DOE adopted for the implementation of this Act; and

e) False labeling of gasoline, diesel, biofuels and biofuel-blended gasoline and diesel.

SEC. 13. *Penal Provisions.* – Any person, who willfully aids or abets in the commission of a crime prohibited herein or who causes the commission of any such act by another shall be liable in the same manner as the principal.

In the case of association, partnership or corporations, the penalty shall be imposed on the partner, president, chief operating officer, chief executive officer, directors or officers, responsible for the violation.



The commission of an act enumerated in Section 12, upon conviction thereof, shall suffer the penalty of one year to five years imprisonment and a fine ranging from a minimum of One million pesos (P1,000,000.00) to Five million pesos (P5,000,000.00).

In addition, the DOE shall confiscate any amount of such products that fail to comply with the requirements of Sections 4 and 5 of this Act, and implementing issuances of the DOE. The DOE shall determine the appropriate process and the manner of disposal and utilization of the confiscated products. The DOE is also empowered to stop and suspend the operation of businesses for refusal to comply with any order or instruction of the DOE Secretary in the exercise of his functions under this Act.

Further, the DOE is empowered to impose administrative fines and penalties for any violation of the provisions of this Act, implementing rules and regulations and other issuances relative to this Act.

SEC. 14. *Appropriations.* – Such sums as may be necessary for the initial implementation of this Act shall be taken from the current appropriations of the DOE. Thereafter, the fund necessary to carry out the provisions of this Act shall be included in the annual General Appropriations Act.

SEC. 15. *Implementing Rules and Regulations (IRR).* – The DOE, in consultation with the NBB, the stakeholders and other agencies concerned, shall within three months from the effectivity of this Act, promulgate the IRR of this Act: *Provided*, That prior to its effectivity, the draft of the IRR shall be posted at the DOE website for at least one month, and shall be published in at least two newspapers of general circulation.

SEC. 16. *Congressional Oversight Committee.* – Upon the effectivity of this Act, a Congressional Committee, hereinafter referred to as the Biofuels Oversight Committee, is hereby constituted. The Biofuels Oversight Committee shall be composed of fourteen (14) members, with the Chairmen of the Committees on Energy of both Houses of Congress as co-chairmen. The Chairmen of the Committees on Agriculture and Trade and Industry shall be ex officio members. An additional four members from each House, to be designated by the Senate President and the Speaker of the House of Representatives, respectively. The minority shall be entitled to pro-rata representation but shall have at least one representative in the Biofuels Oversight Committee.

SEC. 17. *Benefits of Biofuel Workers.* – This Act shall not in any way result in the forfeiture or diminution of the existing benefits enjoyed by the sugar workers as prescribed under R.A. No. 6982, or the Sugar Amelioration Act of 1991, in case sugarcane shall be used as feedstock.

The NBB shall establish a mechanism similar to that provided under the Sugar Amelioration Act of 1991 for the benefit of other biofuel workers.

SEC. 18. *Special Clause.* – This Act shall not be interpreted as prejudicial to clean development mechanism (CDM) projects that cause carbon dioxide (CO<sub>2</sub>) and greenhouse gases (GHG) emission reductions by means of biofuels use.

SEC. 19. *Repealing Clause.* – The provisions of Section 148 (d) of R.A. No. 8424, otherwise known as Tax Reform Act of 1997, and all other laws, presidential decrees or issuances, executive orders, presidential proclamations, rules and regulations or parts thereof inconsistent with the provisions of this Act, are hereby repealed, modified or amended accordingly.

SEC. 20. *Separability Clause.* – If any provision of this Act is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions hereof.

SEC. 21. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in at least two newspapers of general circulation.

Approved,

(Sgd.) JOSE DE VENECIA, JR. <i>Speaker of the House of Representative</i>	(Sgd.) MANNY VILLAR <i>President of the Senate</i>
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This Act, which is a consolidation of Senate Bill No. 2226 and House Bill No. 4629 was finally passed by the Senate and the House of Representatives on November 29, 2006.

(Sgd.) ROBERTO P. NAZARENO <i>Secretary General House of Representatives</i>	(Sgd.) OSCAR G. YABES <i>Secretary of the Senate</i>
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Approved: JAN 12 2007

(Sgd.) GLORIA MACAPAGAL-ARROYO  
*President of the Philippines*

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## RESOURCES

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