



Republic of the Philippines  
**SANGGUNIANG PANLUNGSOD**  
City of Mandaluyong

**ORDINANCE NO. 311, S-2005**

AN ORDINANCE PROHIBITING THE UNDERDELIVERY AND/OR SHORT SELLING OF GAS, ILLEGAL TRADING OF GASOLINE RETAIL OUTLETS AND MANDATING THE QUARTERLY INSPECTION AND CALIBRATION OF DISPENSING PUMP METERS OF ALL GASOLINE RETAIL OUTLETS WITHIN THE TERRITORIAL JURISDICTION OF MANDALUYONG CITY BY THE CITY TREASURER'S OFFICE AND IMPOSING PENALTY FOR VIOLATION THEREOF

BE IT ORDAINED by the City Council of Mandaluyong, in session duly assembled:

SECTION 1. COVERAGE AND DEFINITION OF TERMS – This Ordinance shall apply to all persons, natural or juridical, engaged in the business of retailing gasoline within the territorial jurisdiction of Mandaluyong City.

For the purpose of this Ordinance, the following terms shall be defined as follows:

1. RETAIL OUTLET – shall refer to a gasoline station, facility or business establishment, which sells or dispense gasoline directly to individual end user/s or to the public;
2. CALIBRATION – shall herein refer to the act, method or process of
  - a. testing the accuracy of a dispensing pump meter used in delivering gasoline; or
  - b. measuring that the actual quantity of gas being dispensed is within the tolerable minimum quantity as determined under the Department of Energy (DOE) Rules and Circulars;
3. DELIVER/SELL – refers to the act of knowingly passing, giving or transferring possession of gas by the retail outlet to the end user whether for money or any consideration.
4. ADULTERATED – refers to an impure gasoline due to addition of a foreign substance or inferior ingredient, or the presence of water or other inferior ingredients co-mingled with gasoline debasing its quality.
5. DOST-ITDI – shall refer to the Department of Science and Technology-Industrial Technology Development Institute.
6. OIMB – shall refer to the Oil Industry Management Bureau
7. PNS – shall refer to the Philippine National Standard

The Office of the City Treasurer and/or its representatives from the Weights and Measures Section, is the authorized calibrating entity or the proper authority referred in this Ordinance.

SECTION 2. PROHIBITED ACTS – It shall be unlawful for a retail outlet to engage in the underdelivery and/or short-selling of gas, and illegal trading within the territorial jurisdiction of Mandaluyong City.

SECTION 3. UNDERDELIVERY AND/OR SHORT-SELLING – Underdelivery and/or short-selling of gas is deemed committed when a Retail Outlet is found to have delivered or dispensed less than the tolerable minimum quantity of minus fifty (50) milliliters for every ten (10) liters of gas as measured by a calibrating bucket certified and sealed by the DOST.

SECTION 4. ILLEGAL TRADING. Illegal Trading is deemed committed when a Retail Outlet has failed to have its dispensing pump meters calibrated and sealed by the proper authority.

Illegal trading is likewise committed when any person operates a retail outlet without first securing valid permits, licenses and certificates for the retailing, storage, handlings, transfer and/or dispensing of liquid petroleum products from the LGU concerned, the Bureau of Fire Protection (BFP), the Department of Environment & Natural Resources (DENR), Department of Energy (DOE) and other relevant government authorities.

Illegal trading is further committed when any person, owner or operator of retail outlet operates or sells liquid petroleum products without the Certificate of Compliance first secured from the Department of Energy (DOE) through the Oil Industry Management Bureau (OIMB).

The act of hoarding petroleum products shall also be considered as illegal trading. For purpose of this ordinance, the following shall constitute as prima facie evidences of hoarding:

- a. the refusal of retail outlets to sell liquid petroleum products shortly before a price increase or in times of tight supply, and in both instances if the buyer or consumer has the ability to pay in cash for the product; or
- b. the undue accumulation of retail outlets 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 liquid petroleum products beyond the normal inventory levels maintained by retail outlets for thirty (30) days immediately proceeding the period of tight supply or price increase.

Possession of liquid petroleum products which do not meet the Philippine National Standards (PNS) shall continue prima facie evidence of adulteration and the sale, distribution, transportation, exchange or barter of adulterated products shall constitute illegal trading. Only liquid petroleum products complying with the PNS, including the prescribed color coding scheme for the same shall be dispensed at retail outlets.

SECTION 5. PRESUMPTIONS. It shall be presumed that a Retail Outlet committed under delivery and/or short-selling when it is found using a dispensing pump that is not approved by the DOE or has tampered, destroyed or altered the government seal affixed or attached by the proper authority.

Under delivery and/or short-selling of gas shall be presumed committed when the seal affixed by the duly authorized representatives or service contractors of the oil company in cases contemplated under Section 7 of this Ordinance, has been tampered, destroyed or altered.

The absence of an "out-of-order" sign or padlock locking the dispensing pump that gone off-calibration shall be deemed an actual use of the pump for the conduct of retailing, and shall give rise to the presumption of underdelivery and/or short-selling.

A dispensing pump found with a broken or no seal shall constitute prima facie evidence of underdelivery and/or short-selling.

SECTION 6. CALIBRATION AND SEALING BY THE PROPER AUTHORITY. All Retail Outlets shall be responsible for the proper calibration and accuracy of their dispensing pumps. All dispensing pumps must be properly inspected and calibrated quarterly or every three (3) months and sealed by the proper authority subject to the imposition or collection of fees mentioned in the City Ordinance No. 186, S-1998.



SECTION 7. SERVICE/MAINTENANCE CONTRACTORS; EXCEPTION TO THE RULE. In the event that the proper authority is unable to calibrate and reseal a dispensing pump meter within two (2) business days from the date and time of reporting by the Retail Outlet, the duly authorized representatives or service contractors of the oil company may calibrate the dispensing pump provisionally, subject to the final calibration by the Office of the City Treasurer and/or its representatives from the Weights and Measurement Section who shall impose the corresponding fee in accordance with City Ordinance No. 186, S-1998.

The contractor performing the calibration provisionally shall install a seal to guard against the unauthorized adjustments of the dispensing pump, which seal should not be broken or removed until the final calibration of the proper authority.

For this purpose, Retail Outlets and oil companies shall be required to submit a list of its duly accredited service/maintenance contractors.

SECTION 8. FINES AND SANCTIONS. Any person, natural or juridical found violating and/ or abetting or aiding in the violation of any provision of this Ordinance shall be penalized by a fine of One Thousand Five Hundred Pesos (P1,500.00) and/or imprisonment of one (1) month for the first offense; Two Thousand Five Hundred Pesos (P2,500.00) and/or imprisonment of two (2) months for the second offense and the revocation of its business license plus imprisonment of three (3) months for the third and subsequent offense, at the discretion of the court. A fine of Four Thousand Pesos (P4,000.00) shall be imposed against the retail outlet operator, if seal is found to be broken intentionally or unintentionally. In case of a corporation, the penalty of imprisonment shall be suffered by the Chairman of the Board and/or its President.

The City Mayor may, upon the recommendation of the Office of the City Treasurer, Business Permits and Licensing Office and/or Department of Energy (DOE), order the suspension, revocation or termination of the business permits and closure of the Retail Outlets.

SECTION 9. NO CONTEST PROVISION. Any person, individual or entity who is apprehended or cited for violation and who does not wish to contest the violation and is willing to pay voluntarily the minimum fine imposed upon him/her prior to the filing of formal charges with the proper court shall be allowed to pay said fine with the City Treasurer to avoid being criminally prosecuted within six (6) hours from apprehension otherwise the case shall be prosecuted.

For second and subsequent offenders, the minimum fine will be the one to be charged.

SECTION 10. INITIATION OF CRIMINAL ACTION. Any person may initiate a criminal action against those committing any of the prohibited acts defined or provided in this Ordinance. However, the Mandaluyong City Government, through the Office of the City Treasurer may *motu proprio* file the case in court in violation of this Ordinance.

SECTION 11. INITIATION OF ADMINISTRATIVE PROCEEDINGS. The initiation of criminal action under this Ordinance shall be without prejudice to the filing of an administrative action against such person pursuant to DOE Department Circular No. DC2003-11-010, entitled "Providing the Rules and Regulations Governing the Business of Retailing of Liquid Petroleum Products."

SECTION 12. APPLICABILITY CLAUSE. DOE issuance and circulars as well as other existing laws, insofar as they are not inconsistent with the provisions of this Ordinance, shall be applied suppletorily.

SECTION 13. SEPARABILITY CLAUSE. If any provision of this Ordinance is declared unconstitutional or invalid, the provisions that are not affected thereby shall continue to be in force and effect.

SECTION 14. EFFECTIVITY CLAUSE. This Ordinance shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation in Mandaluyong City.

ENACTED on this 5<sup>th</sup> day of September 2005, in the City of Mandaluyong.


I HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS ADOPTED AND APPROVED BY THE SANGGUNIANG PANLUNGSOD OF MANDALUYONG IN REGULAR SESSION HELD ON THE DATE AND PLACE FIRST ABOVE GIVEN.

  
JIMMY D. LACEBA  
Sanggunian Secretary

ATTESTED:

  
DANILO L. DE GUZMAN  
City Councilor &  
Acting Presiding Officer

APPROVED:

  
NEPTALI M. GONZALES II  
City Mayor  
Date: SEP 06 2005