

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 4997

Introduced by:

Gabriela Women's Partylist Reps. **LUZVIMINDA C. ILAGAN** and **EMMI A. DE JESUS**

EXPLANATORY NOTE

This bill seeks to address the innumerable complaints of overseas Filipino workers (OFWs) regarding the loss, destruction or damage to goods due to negligence committed by common carriers but which the liability is limited to the amount stipulated in the contract of carriage.

There are now more or less 10 million Filipinos working abroad. As breadwinners, they would send home every month their remittances and every now and then, they would ship various goods to their families and relatives. This has immensely increased the traffic and volume of goods and services transported through common carriers, spawning a highly profitable common carriage and forwarding industry, here and abroad.

Unfortunately, the increase in the traffic and volume of goods transported through common carriers has also led to rising complaints against lost, destroyed or damaged goods. The complaints mainly revolve around the shippers' difficulties in recovering just compensation to actual damages even where the carrier had committed negligence because of the liability limits stipulated in the contract of carriage. Be it noted though that the complaints come not only from OFWs but even from the public at large.

To recover actual damages, the shippers have to assert their claims in court, going through the inconvenience of rigid court litigation where they have to cough up additional expenses, not to mention time and effort. When such a situation arises, either the shipper is discouraged from pursuing his/her case in court or that a simple case that could have been promptly resolved with a universal sense of equity drags on to the disadvantage of the shipper and detriment to the courts and the society at large. In both instances, justice and fairness are not served. In the first, the shipper does not get what is due him or her; in the second, delay in the recovery recalls to

mind something like "justice delayed is justice denied" in criminal law while contributing a large part to the case overload of our regular courts

The Civil Code, particularly Arts. 1749 and 1750, and the Philippine government's adherence to the 1929 Warsaw Convention sanction stipulations in the bill of lading or contract of carriage limiting the liability of common carriers for loss, destruction, or damages of consigned goods to a certain sum, stamping a seal of approval on a trade practice that has mainly treated the carriage contract as a contract of adhesion. In such contract, it is the carrier which fixes the amount of its liability due to negligence. In the general run of contracts of common carriage, the fixed liability of the common carrier is so low that it could not even reimburse the transportation expenses of aggrieved parties in making representation to make good their claims for recovery. While the fees and charges for the transport of goods by common carriers have increased in as many times in accordance with the increases in the inflation rate and other factors (such as oil price hikes), the fixed liability was mostly made unilaterally by common carriers decades or years back, moving little if not none at all through the years. Resultantly, it is no longer reflective of present economic conditions as the value of fixed liability had long gone down along with the devaluation of the Philippine peso. Moreover, the liability clause is most often found in the fine prints of the contract that are not even explained to the shippers or owners.

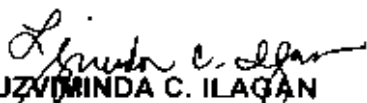
All these circumstances add up to a contract that in reality has not been fairly and freely agreed upon by the contracting parties. The unfairness of the situation cannot be missed: it short-changes the paying customers.

Given the increasing complaints of the general public and given that such contracts of adhesion have given rise to litigations clogging our courts, public welfare demands that corrective legislation should be made to address the situation.

Under this bill, in case of loss, destruction or damage of goods due to negligence in connection with their transportation in common carriage, the carrier shall be liable in the amount of Forty Thousand Pesos (P40,000.00) or its equivalent in other currency per package, or in case of goods not shipped in packages, per customary freight unit, unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading. This declaration, if embodied in the bill of lading, shall be prima facie evidence, but shall not be conclusive on the carrier.

This bill will liberate the shipper or owner from the restricted terms of the bill of lading, particularly with regard to common limited liability. It will compensate the shippers for value commensurate to the loss or damage suffered due to the negligence of common carriers

In view of the foregoing, approval of this bill is highly recommended.


LUZVIMINDA C. ILAGAN
Gabriela Women's Partylist


EMMI A. DE JESUS
Gabriela Women's Partylist

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Gabriela Women's Partylist Reps **LUZVIMINDA C. ILAGAN** and **EMIE A. DE JESUS**

**AN ACT FIXING THE AMOUNT OF LIABILITY
OF COMMON CARRIERS FOR THE LOSS, DESTRUCTION OR DAMAGE TO GOODS
IN THE ABSENCE OF A DECLARATION OF A HIGHER VALUE
BY THE OWNER OR SHIPPER IN THE BILL OF LADING**

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

Section 1. In case of loss or damage due to negligence on the part of the common carrier in connection with the transportation of goods, he/she shall be liable in the amount of Forty Thousand Pesos (P40,000.00) or its equivalent in other currency per package, or in case of goods not in package, per customary freight unit, unless the owner or shipper declares a higher value in the bill of lading

Section 2. All laws, decrees, orders, issuances, rules and regulations which are inconsistent with this Act are hereby repealed or modified accordingly.

Section 3 This Act shall take effect fifteen (15) days after publication in the official Gazette or in two (2) national newspapers of general circulation

Approved,