



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

SIXTEENTH CONGRESS
Second Regular Session



HOUSE BILL NO. **5109**

Introduced by Honorable MARK A. VILLAR

AN ACT
EXEMPTING THE CARRIAGE OF CONTAINER VANS FROM THE
PROVISIONS OF SECTION 1009 OF PRESIDENTIAL DECREE NO.
1464, OTHERWISE KNOWN AS THE TARIFF AND CUSTOMS
CODE OF 1978, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Heeding the call of the President in his State of the Nation Address, and of various stakeholders, and backed by studies, "to foster greater competition and to lower the cost of transportation for our agricultural sector and other industries," this proposed bill seeks to exempt the carriage of container vans from the provisions of Section 1009 of Presidential Decree 1474 otherwise known as the Tariff and Customs Code of 1978, and for Other Purposes". In other words, the measure aims to liberalize the entry of foreign vessels to assist the importers and exporters in enhancing their competitiveness in light of intensifying international trade and to lower the cost of shipping export cargoes from Philippine ports to international ports and import cargoes from international ports.

Under the bill, liberalization means that the right to engage in carriage of cargoes shall not be limited to vessels carrying a Certificate of Philippine Registry, provided that said cargoes fall within the purview of import and export cargoes.

Various studies showed that the high cost of domestic shipping services is attributed to the lack of meaningful competition in the industry. In fact, recent data from the Maritime Transport Authority (MARINA) provide evidence of concentration of domestic operation in the hands of few players, and this lack of competition is

exacerbated by a restrictive cabotage policy as foreign vessels are not allowed to engage in inter-island shipping.

Thus, by liberalizing the carriage of cargoes by foreign vessels within Philippine waters, it will ultimately benefit the Filipino people.

In view of the foregoing, the enactment of this bill is earnestly sought.



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

SECTION 1. Declaration of Policy. - It is the policy of the State to:

- a. To assist importers and exporters in enhancing their competitiveness in the light of intensifying international trade; and;
- b. To lower the cost of shipping containerized export cargoes from Philippine ports to international ports and containerized import cargoes from international ports.

SEC. 2. Definition of Terms. - For the purposes of this bill, these terms are defined as follows:

- a. "*Container Van*" shall refer to a standardized reusable steel box used for the safe, efficient and secure storage and movement of materials and products within an intermodal freight transport system where the

cargo carried in the container van can be moved from one mode of transport to another without having to unload or reload the contents of such container van;

- b. *"Domestic port"* shall refer to any Philippine seaport;
- c. *"Domestic cargo"* shall refer to goods, articles, commodities or merchandise which are intended to be shipped from one domestic port to another domestic port, even if in the carriage of such cargo, there may be an intervening foreign port;
- d. *"Export cargo"* shall refer to goods, articles, commodities or merchandise carried in container vans of foreign vessels and duly declared by the Bureau of Customs at the port of origin as cargoes for shipment to a port outside the jurisdiction of the Philippines;
- e. *"Foreign cargo"* shall refer to import or export cargo carried in a container van of a foreign vessel;
- f. *"Foreign container van"* shall refer to container van whether empty or loaded with import or export cargo which belongs to a foreign vessel;
- g. *"Foreign port"* shall refer to any seaport outside the jurisdiction of the Philippines;
- h. *"Foreign vessel"* shall refer to a ship registered or documented in a flag registry other than that of a Philippines; and
- i. *"Import cargo"* shall refer to goods, articles, commodities or merchandise of foreign origin carried in a container van of a foreign vessel which is intended to be cleared by the Bureau of Customs for delivery to the port of final destination within the jurisdiction of the Philippines.

SEC. 3. Scope. - This Act shall be apply exclusively to a foreign container van and to import and export articles or cargoes carried in such foreign container van by a foreign vessel

SEC. 4. Carriage of a foreign container van or foreign cargo by a foreign vessel. - This Act shall allow the following circumstances:

- a. A foreign container van carrying foreign cargo arriving from a foreign port on a foreign vessel, such foreign vessel, after being cleared at its port of entry, shall be allowed to carry the foreign container van to its domestic port of final destination;

- b. A foreign container van carrying foreign cargo arriving from a foreign port on a foreign vessel may be carried by another foreign vessel calling at the same port of entry to the domestic port of final destination of such foreign cargo;
- c. A foreign container van carrying foreign cargo intended for export may be carried on a foreign vessel from its domestic port of origin through another Philippine port to its foreign port of final destination;
- d. A foreign container van carrying foreign cargo intended for export may be, transshipped in any foreign vessel from its domestic port of origin through a domestic transshipment port and transferred at such domestic transshipment port to another foreign vessel which shall carry it to its foreign port of final destination;
- e. An empty foreign container van going to or coming from any domestic port or going to or coming from a foreign port; and
- f. An empty foreign container van being transshipped between two Philippine domestic ports.
- g. A foreign vessel engaged in any of the foregoing instances shall also be allowed to carry such other cargo to and from any of the domestic ports where the foreign vessel loads or unloads its foreign cargo: Provided, that one of the domestic ports where such foreign vessel is coming to or going from is either Port of Subic or Port of Batangas.

SEC. 5. Authority of the Commissioner of Customs. - The Commissioner of Customs, upon such reasonable conditions as he may impose, may do the following acts:

- a. Clear any foreign vessel for any domestic port and authorize the conveyance therein of a foreign container van containing foreign cargo bought from abroad upon such foreign vessel;
- b. Allow a foreign vessel to take a foreign container van containing import or export articles or cargo at any Philippine port and convey the same upon such foreign vessel to a foreign port;
- c. Authorize the transshipment of such foreign cargo intended for export through another Philippine port of its conveyance by another foreign vessel to the cargo's foreign port of final destination;
- d. Take measures to ensure that no foreign vessel carries any domestic cargo; and
- e. Take measures to address illegal activities, including smuggling.

SEC. 6. Application of the Carriage of Goods by Sea Act. - Carriage conducted in accordance with this law shall be governed by Commonwealth Act No. 65, otherwise known as the Carriage of Goods by Sea Act with respect to the liability of the carrier for the loss of, or damage to, goods carried.

SEC. 7. Carriage by foreign vessels neither a public service nor common carriage. - Foreign vessels engaging in carriage conducted in accordance with this law shall not be considered common carriers as provided in the Civil Code (Republic Act No. 386). Neither shall such foreign vessels be considered as offering a public service and thus shall fall outside the coverage of the Domestic Shipping Development Act (Republic Act No. 9295).

SEC. 8. Implementing Rules and Regulations. - Within sixty (60) days from the approval of this Act, the Bureau of Custom with the supervision of the Department of Finance, and in coordination with the Department of Transportation and Communications shall promulgate such rules and regulations necessary for the effective implementation of this Act.

SEC. 9. Separability Clause. - If any provision of this Act is subsequently declared invalid or unconstitutional, other provisions hereof which are not affected thereby shall remain in full force and effect.

SEC. 10. Repealing Clause. - All laws, decrees, orders, rules and regulations, and other issuances, or parts thereof, inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 11. Effectivity Clause. -This Act shall take fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation

Approved,