

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)

HOUSE OF REPRESENTATIVES
HOUSE BILL NO. 5126



Introduced by: CONGRESSMAN TEODORO BRAWNER BAGUILAT, JR.

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

As a response to the call of the President and the stakeholders, this measure seeks to amend Section 1009 of the Presidential Decree No. 1464, otherwise known as the Tariff and Customs code of 1978 to introduce reform in the shipping industry.

For an archipelago, shipping is an integral part of trade and commerce in the country. It is the means of transporting goods between islands and even in and out of the country. Shipping cost impacts the movement of traded goods, and more importantly, the price.

Facilitating inter-island trade in the country has become costly and cumbersome for micro, small and medium enterprises. Currently, inter-island shipping is exclusively reserved for ships bearing the Philippine flag. While this helps the domestic shipping industry, the cost of shipping is hampering trade especially for the MSMEs.

This measure seeks to allow foreign ships to call in multiple ports as long as their cargoes are intended for import or export and duly cleared by the Commissioner of Customs. This would allow importers and exporters to co-load in foreign ships going in or out of the Philippine jurisdiction.

Moreover, this bills gives a clarification on the definition of common carriers and public service in the shipping industry. Foreign cargoes should not be subjected to the law concerning common carrier and public services as defined in the Civil Code and the Domestic Shipping Development Act, respectively.

In the end, this measure balances the interests of the domestic shippers and MSMEs. The domestic shippers can still have the exclusive right to service domestic shipments and the MSMEs who are importing or exporting goods will be able to access a cheaper alternative through co-loading in foreign ships.

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


Congressman Teodoro Brawner Baguilat, Jr.

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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.

SECTION 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;

- 1 e. *"Foreign cargo"* shall refer to import or export cargo carried in a container van of
2 a foreign vessel;
3 f. *"Foreign container van"* shall refer to container van whether empty or loaded
4 with import or export cargo which belongs to a foreign vessel;
5 g. *"Foreign port"* shall refer to any seaport outside the jurisdiction of the
6 Philippines;
7 h. *"Foreign vessel"* shall refer to a ship registered or documented in a flag registry
8 other than that of a Philippines;
9 i. *"Import cargo"* shall refer to goods, articles, commodities or merchandise of
10 foreign origin carried in a container van of a foreign vessel which are intended to
11 be cleared by the Bureau of Customs for delivery to the port of final destination
12 within the jurisdiction of the Philippines; and
13 j. *"Transshipment"* refers to the transfer of cargo from one vessel or conveyance
14 to another vessel for further transit to complete the voyage and carry the cargo
15 to its final destination.

16 **SECTION 3. Scope.** – This Act shall apply exclusively to foreign container vans and to
17 import and export articles or cargoes carried in such foreign container van by a foreign vessel.

18 **SECTION 4. Carriage of a foreign container van or foreign cargo by a foreign vessel.** –
19 This Act shall allow the following circumstances:
20

- 21 a. A foreign container van carrying foreign cargo arriving from a foreign port on a
22 foreign vessel, such foreign vessel, after being cleared at its port of entry, shall
23 be allowed to carry the foreign container van to its domestic port of final
24 destination;
25 b. A foreign container van carrying foreign cargo arriving from a foreign port on a
26 foreign vessel may be carried by another foreign vessel calling at the same port
27 of entry to the domestic port of final destination of such foreign cargo;
28 c. A foreign container van carrying foreign cargo intended for export may be
29 carried on a foreign vessel from its domestic port of origin through another
30 Philippine port to its foreign port of final destination;
31 d. A foreign container van carrying foreign cargo intended for export may be
32 transshipped in any foreign vessel from its domestic port of origin through a
33 domestic transshipment port and transferred at such domestic transshipment

- 1 port to another foreign vessel which shall carry it to its foreign port of final
2 destination;
- 3 e. An empty foreign container van going to or coming from any domestic port or
4 going to or coming from a foreign port; and
- 5 f. An empty foreign container van being transshipped between two Philippine
6 domestic ports.
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8 **SECTION 5. *Authority of the Commissioner of Customs.*** – The Commissioner of
9 Customs, upon such reasonable conditions as he may impose, may do the following acts:

- 10 a. Clear any foreign vessel for any domestic port and authorize the conveyance
11 therein of a foreign container van containing foreign cargo bought from abroad
12 upon such foreign vessel;
- 13 b. Allow a foreign vessel to take a foreign container van containing import or export
14 articles or cargo at any Philippine port and convey the same upon such foreign
15 vessel to a foreign port;
- 16 c. Authorize the transshipment of such foreign cargo intended for export through
17 another Philippine port of its conveyance by another foreign vessel to the cargo's
18 foreign port of final destination;
- 19 d. Impose penalties to foreign ship operators violating this Act; and
- 20 e. Take measures to address illegal activities, including smuggling.
- 21

22 Provided, that the Commissioner of Customs may delegate the powers vested in him under this
23 Act to any or such subordinate officials with the rank equivalent to a division chief or higher
24 subject to such limitations and restrictions as may be imposed under the rules and regulations
25 to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner.

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

30 **SECTION 7. *Carriage by foreign vessels not a public service, foreign vessels not common***
31 ***carriers.*** – Foreign vessels engaging in carriage conducted in accordance with this law shall not
32 be considered common carriers as provided in Republic Act No. 386, otherwise known as the
33 Civil Code; neither shall such foreign vessels be considered as offering a public service and thus
34 shall fall outside the coverage of Republic Act No. 9295, otherwise known as the Domestic
35 Shipping Development Act.

1 **SECTION 8. *Prohibitions.*** – Foreign ship operators shall submit their cargo manifest to
2 the Philippine Ports Authority to ensure that no domestic cargoes are carried by the foreign
3 ship. No foreign vessel shall be allowed to carry any domestic cargo or domestic container van,
4 whether loaded or empty, even if such domestic container van may contain foreign cargo.

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6 **Section 9. *Penalties.*** The Bureau of Customs, upon due notice, hearing and
7 determination of the existence of any breach or violation of the provisions of this Act or any
8 rules and regulations issued pursuant to thereto, shall have the power and authority to impose
9 penalty on any foreign ship operator in an amount to be determined in the implementing rules
10 and regulations.

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12 **SECTION 10. *Implementing Rules and Regulations.*** – Within sixty (60) days from the
13 approval of this Act, the Department of Finance, the Bureau of Customs and the Philippine
14 Ports Authority, shall promulgate such rules and regulations necessary for the effective
15 implementation of this Act.

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17 **SECTION 11. *Separability Clause.*** – If any provision of this Act is subsequently declared
18 invalid or unconstitutional, other provisions hereof which are not affected thereby shall remain
19 in full force and effect.

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21 **SECTION 12. *Repealing Clause.*** – All laws, decrees, orders, rules and regulations, and
22 other issuances, or parts thereof, inconsistent with the provisions of this Act are hereby
23 repealed or modified accordingly.

24 **SECTION 13. *Effectivity Clause.*** – This Act shall take fifteen (15) days after its publication
25 in the *Official Gazette* or in a newspaper of general circulation

26 Approved,