

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)

Second Regular Session)



HOUSE BILL NO. **5222**

Introduced by ANGKLA Party-list Representative JESULTO A. MANALO

**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**

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

EXPLANATORY NOTE

A perusal of the World Trade Organization records yield that the dollar value of the world's merchandise exports is equivalent to US\$18.3 Trillion. Presently, 90% of world trade is still reliant on the use of maritime transport. Clearly, it cannot be denied that the maritime sector plays an enormous role in facilitating commerce in all parts of the world and of course, in connecting people.

Given that we are an archipelagic nation, transportation of goods between our islands is all the more inevitable. Truly, shipping is already an intrinsic mode of trade and commerce in the country. Notably, aside from our domestic fleets, on numerous occasions, other foreign vessels likewise engaged in commerce, necessarily find it more expedient and even practical for them to trade, if they can be allowed to pass through our internal waters.

Currently however, inter-island shipping is exclusively reserved for ships bearing the Philippine flag. While this boosts the domestic shipping industry, the unfortunate consequence is that the costs of shipping adversely affects trading, particularly for the micro, small and medium enterprises (MSMEs). Further, the present restriction somehow slows down movement of the goods and inflates the

costs of shipping, and eventually the prices of the merchandise shipped carried by these MSMEs.

This measure is thus intended to initiate reforms in the shipping industry, particularly to address specifically the concerns of MSMEs relative to the inter-island trading system within the Philippines. This bill proposes to permit foreign ships to call in multiple ports, subject to the clear condition that their cargoes are not to be traded or sold for business within the Philippines and are stringently for import or export. Hence, this would allow importers and exporters merely to co-load in foreign ships going in or out of the Philippine jurisdiction. This measure likewise provides the parameters in the implementation of its provisions, including the authority of the Bureau of Customs (BOC) in the monitoring and regulation of the passage of foreign vessels carrying foreign cargoes within our islands and to our ports, and the treatment accorded to them under this Act.

It must be stressed that the present proposed bill is primarily geared towards extending assistance to the MSMEs through less expensive modes and routes of shipment. In doing so, we shall not, in any manner, abandon the protection that our country accords to our domestic vessels, since they shall continuously enjoy the exclusive right and privilege to ply and trade within our archipelagic waters and islands.

Thus, the swift passage of the bill is earnestly sought.



JESULITO A. MANALO
Party-list Representative
ANGKLA

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

- a. Support trade and commerce through implementation of a more practical and expeditious system of shipping within the nation's internal waters, without causing any threat to the domestic fleets.
- b. Assist importers and exporters in enhancing their competitiveness in the light of intensifying international trade; and
- c. 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;
- 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;
- i. "*Import cargo*" shall refer to goods, articles, commodities or merchandise of foreign origin carried in a container van of a foreign vessel which are intended to be cleared by the Bureau of Customs for delivery to the port of final destination within the jurisdiction of the Philippines; and
- j. "*Transshipment*" refers to the transfer of cargo from one vessel or conveyance to another vessel for further transit to complete the voyage and carry the cargo to its final destination.

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

SECTION 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.

SECTION 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. Impose penalties to foreign ship operators violating any provisions of this Act; and
- e. Take measures to address illegal activities, including smuggling.

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

SECTION 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.

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

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

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

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

SECTION 11. *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.

SECTION 12. *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.

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

Approved,