


THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session

5 JUN -2 11:38

SENATE
S. B. No. 2036

RECEIVED BY: 

Introduced by Senators Pimentel, Lacson and Magsaysay, Jr.

EXPLANATORY NOTE

International trade and commerce are vital to the economic development of any country specially with the current trend towards globalization. Every country has to keep its pace with rapid modern trading and commercial trends. The flow of goods into and outside the country are governed partly by customs laws and regulations. In 2004, Congress enacted into law Republic Act 9280 which regulated the practice of the Customs Broker Profession.

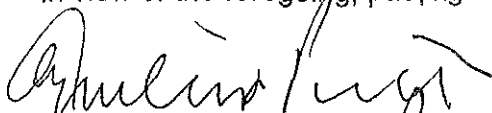
The present definition of customs brokerage as contained in Section 6 Republic Act No. 9280, otherwise known as the Customs Broker Act of 2004, not only expands the field of customs brokering contrary to the traditional role of customs brokers, but it also encroaches upon other professions, most especially the practice of law when it includes "consultation" and "representing importers and exporters before any government agency and private entities in cases related to valuation and classification of imported articles and rendering of other professional services in matter relating to customs and tariff laws, its procedures and practices". The present state of the law, if not corrected, will actually serve to be in restraint of trade and violative of the constitution.

The Export Development Act and previous procedures and practices allow exporters to process their exports shipments with minimal need for customs brokers. For imports, it is to the interest of government to require the owner of the goods to sign the import entry to establish responsibility and/or liability of the importer for the goods. Thus, it is more reasonable and time-saving if importers (or duly authorized representative) sign the import entry and exporters (or duly authorized representatives) sign the export declaration, which were the practices prior to RA 9280.

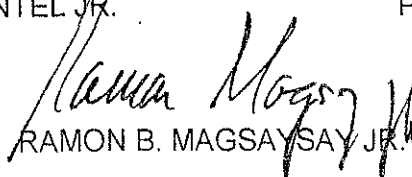
These are the reasons why, since its enactment in 2004, numerous stakeholders in the importation and exportation sectors have raised apprehensions in that RA 9280 tends to impede, rather than facilitate, the smooth and rapid flow of commerce into the country. Particular among their numerous concerns is the prohibition against corporate practice of the activities of customs brokerage, and the ban against the unauthorized practice of activities related to the facilitation and release of goods even by their owners, which results in slowing down the process of commerce.

This bill therefore seeks to address the apprehensions by eliminating barriers which impede rapid commercial facility of goods into and outside the country by allowing exceptions to the regulations laid down in RA 9280.

In view of the foregoing, passage of this measure is earnestly sought.


AQUILINO Q. PIMENTEL JR.


PANFILO LACSON


RAMON B. MAGSAYSAY JR.

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AN ACT
AMENDING SEC. 6, 27, 28 AND 29 OF REPUBLIC ACT NO. 9280 OTHERWISE
KNOWN AS THE CUSTOMS BROKERS ACT OF 2004, AND FOR OTHER PURPOSES

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

SECTION 1. Section 6 of Republic Act No. 9280 is hereby amended to read as
follows:

"Sec. 6. Scope of the Practice of Customs Brokers - Customs
Brokers Profession involves services consisting of [consultation]
preparation of customs requisite documents for imports and exports,
declaration of customs duties and taxes, preparation, signing, filing,
lodging and processing of import and export entries: [representing
importers and exporters before any government agency and private
entities in cases representing importers related to valuation and
classification of imported articles] rendering of other professional
services in matters relating to customs and tariff laws, its procedures and
practices. HOWEVER, THESE FUNCTIONS MAY ALSO BE CARRIED
OUT BY EXPORTERS AND IMPORTERS OR BY THEIR DULY
AUTHORIZED REPRESENTATIVES TO FACILITATE THEIR
TRANSACTIONS."

Section 2. Section 27 of Republic Act 9280 is hereby amended to read as
follows:

"Sec. 27. Acts Constituting the practice of customs broker
profession - Any single act or transaction embraced within the provision
of Section 6 hereof shall constitute an act of engaging in the practice of
customs broker profession. Import and export entry declarations shall be
signed only by a customs broker under oath based on the covering
documents submitted by the importers, PROVIDED HOWEVER, THAT
IN CASE OF ISOLATED TRANSACTIONS, OWNERS OF IMPORTED
OR EXPORTED GOODS MAY ENGAGE IN THE PREPARATION OF
CUSTOMS REQUISITE DOCUMENTS FOR IMPORTS AND EXPORTS,
DECLARATION OF CUSTOMS DUTIES AND TAXES, PREPARATION,
SIGNING, FILING, LODGING AND PROCESSING OF IMPORT AND
EXPORT ENTRIES, FOR THE PURPOSE OF FACILITATING THE
RELEASE OF THE SAME GOODS FROM THE BUREAU OF
CUSTOMS".

Section 3. Section 28 of Republic Act 9280 is hereby amended to read as
follows:

"Sec. 28. Prohibition against the unauthorized practice of Customs Broker Profession. - No person shall practice or offer to practice the customs broker profession in the Philippines or offer himself/herself as customs broker, or use the title, word, letter, figure or any sign tending to convey the impression that one is a customs broker or advertise or indicate in any manner whatsoever that one is qualified to practice the profession unless he/she has satisfactorily passed the licensure examination given by the Board, except as otherwise provided in SECTION 27 OF this act, and is a holder of a valid certificate of registration and professional identification card or a valid special/temporary permit duly issued to him/her by the Board and the Commission".

Section 4. Section 29 of Republic Act 9280 is hereby amended to read as follows:

"Sec. 29. Prohibition against corporate practice. - the practice of customs broker is a professional service, admission to which shall be determined upon the basis of individual and personal qualifications. No firm, company or association may be registered or licensed as such for the practice of customs broker profession.

NOTHING IN THIS ACT SHALL PROHIBIT A CORPORATION FROM EMPLOYING THE SERVICES OF AN IN-HOUSE CUSTOMS BROKER FOR PURPOSES OF ACCREDITATION BY THE BUREAU OF CUSTOMS AND FACILITATION OF THE ACTIVITIES MENTIONED IN SEC. 6."

Section 5. This Act shall take effect after fifteen (15) days following its publication in a newspaper of general circulation.

Approved