

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

8 FEB 13 P4:20

SENATE

RECEIVED BY: 

S. B. No. 2078

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Introduced by Senator **JUAN PONCE ENRILE**

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EXPLANATORY NOTE

Ship agents play a vital role in making the navigation business, particularly the transport of passengers and goods, more convenient. They contribute to competitiveness and efficiency by facilitating a more expedient entry and departure of ships in their port of origin and destination.

Under the present law, as contained in Articles 586 and 587 of the Code of Commerce, "the ship owner and ship agents shall be civilly liable for the acts of the captain" and "for the indemnities in favor of third persons which may arise from the conduct of the captain in the care of the goods which he loaded on the vessel". As interpreted by the Supreme Court in a long line of decisions, it means that the ship agent is solely liable with the ship owner for cargo loss or damage, regardless whether the ship agent is responsible for the care of the cargo.

However, there are other kinds of ship agents known as "tramp agents" or "port agents", who are appointed by tramp operators for a particular voyage only and whose responsibility is limited merely to providing assistance in the usual procedures required for the facilitation of the vessel's entry into, stay and departure from the port.

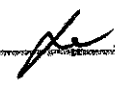
It is therefore necessary to update the archaic provisions of the Code of Commerce and qualify the definition of a ship agent to exclude or exempt tramp agents from being liable for cargo loss or damage since the law already provides that the ship owner shall be responsible for this

In view thereof, the early passage of this bill is earnestly sought.

  
JUAN PONCE ENRILE  
Senator

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**AN ACT  
DEFINING THE LIABILITY OF SHIP AGENTS IN THE TRAMP SERVICE AND FOR  
OTHER PURPOSES**

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

SECTION 1. *Definition of terms.* - As used in this Act:

- (a) "Ship Agent" shall mean the person entrusted with the provisioning or representing the vessel in the port in which it may be found;
- (b) "General Agent" shall mean a ship agent appointed by the ship owner or carrier in the liner service for all voyages and covered by a General Agency Agreement whereby the agent assumes the role and responsibility of its principal within the Philippine territory including but not limited to solicitation of cargo and freight, payment of discharging or loading expenses, collection of shipping charges and issuing/releasing bills of lading and cargo manifest;
- (c) "Tramp Agent" shall mean a ship agent appointed by the ship owner, charterer or carrier in the tramp service for one particular voyage whose authority is limited to the customary and usual procedures and formalities required for the facilitation of the vessel's entry, stay and departure in the port and does not include the assumption of the ship owner's, charterer's, or carrier's obligations with the shipper or receiver for the goods carried by the ship;

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1 (d) "Tramp Service" shall mean the operation of a contract carrier which has no  
2 regular and fixed routes and schedules but accepts cargo wherever and  
3 whenever the shipper desires, is hired on a contractual basis, or chartered by  
4 any one or few shippers under mutually agreed terms and usually carries bulk  
5 or break bulk cargoes; and

6 (e) "Liner Service" shall mean the operation of a common carrier which publicly  
7 offers its services without discrimination to any user, has regular ports of  
8 call/destination, fixed sailing schedules and frequencies and published freight  
9 rates and attendant charges and usually carries multiple consignments.

10 SECTION 2. *Liability of the ship agent, general agent and tramp agent.* – The  
11 responsibility or liability, if any, of the ship agent, general agent and tramp agent shall continue  
12 to be governed by the pertinent provisions of the Code of Commerce: *Provided*, that in the case  
13 of the tramp agent, his liability shall not extend to the obligations assumed by the ship owner,  
14 charterer or carrier with the shipper or receiver for the goods carried by the ship: *Provided*,  
15 *further*, That it is the duty of the tramp agent, however, to assist the shipper or receiver in  
16 making cargo liability claims against the ship owner, charterer or carrier: *Provided, finally*, That  
17 failure or inaction to perform the aforesaid duty shall subject the tramp agent to applicable  
18 administrative sanctions based on the Implementing Rules and Regulations (IRR) to be  
19 formulated thereon by the Maritime Industry Authority (MARINA) under the Department of  
20 Transportation and Communication (DOTC) and by the Philippine Shippers Bureau (PSB) under  
21 the Department of Trade and Industry (DTI).

22 SECTION 3. *Repealing Clause.* – All applicable laws, decrees, executive orders, rules  
23 and regulations which are inconsistent with this Act are hereby amended or modified  
24 accordingly.

25 SECTION 4. *Effectivity.* – This Act shall take effect fifteen (15) days following the  
26 completion of its publication in two (2) national newspaper of general circulation.

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28 *Approved,*