

Republic of the Philippines  
House of Representatives  
Quezon City

**EIGHTEENTH  
CONGRESS  
FIRST REGULAR SESSION**

House Bill No. 4316



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**INTRODUCED BY REPRESENTATIVE BERNADETTE HERRERA-DY**

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**EXPLANATORY NOTE**

Excessive and unnecessary fees, charges and surcharges imposed as origin and destination charges as well as unconscionable fees imposed on the management of empty containers by international shipping lines which undermines the country's competitiveness. These charges being imposed and collected at will by international shipping lines have enormous impact on the economy as it (a) increases the cost of importing raw materials and intermediate goods; (b) escalates the prices paid by the domestic consumer; (c) impairs the government's collection of correct taxes; and, (d) undermines the privity of obligations and contracts principle.

Through this Act, the Philippine Government asserts its inherent right to implement and enforce compliance with existing local and international consumer trade laws; to protect the interests of the consumer, promote general welfare and to establish standards of conduct for business and industry as well as enforce the compliance with International Commercial Terms (INCOTERMS) for the protection and fair treatment of Philippine domestic manufacturers, exporters and importers.

In view of the foregoing, the passage of the bill is earnestly sought.

  
**BERNADETTE HERERRA-DY**

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20 AN ACT REGULATING THE APPLICATION OF LOCAL CHARGES (AT ORIGIN AND  
21 DESTINATION) IMPOSED BY INTERNATIONAL SHIPPING LINES TO COMPLY WITH  
22 EXISTING LAWS ON OBLIGATIONS AND CONTRACTS AND INTERNATIONAL  
23 COMMERCIAL TERMINOLOGY (INCOTERMS) ESTABLISHING GUIDELINES THEREFOR.  
24

25 *Be it enacted by the Senate and the House of Representatives in Congress assembled:*  
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27  
28 SECTION 1. *Title* – This Act shall be known as the Standardization of International Shipping Local  
29 Charges Act.  
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31 SECTION 2. *Declaration of Policies and Objectives* – It is hereby the policy of the State to promote  
32 the competitiveness of the Philippine economy and protect the domestic and export-import  
33 sectors from excessive and unnecessary fees, charges and surcharges imposed as origin and  
34 destination charges as well as unconscionable fees imposed on the management of empty  
35 containers by international shipping lines.  
36

37 Currently, these charges being imposed and collected at will by international shipping lines have  
38 enormous impact on the economy as it (a) increases the cost of importing raw materials and  
39 intermediate goods; (b) escalates the prices paid by the domestic consumer; (c) impairs the  
40 government's collection of correct taxes; and, (d) undermines the privity of obligations and  
41 contracts principle.  
42

43 The Philippine Government asserts its inherent right to implement and enforce compliance with  
44 existing local and international consumer trade laws; to protect the interests of the consumer,  
45 promote general welfare and to establish standards of conduct for business and industry as well  
46 as enforce the compliance with International Commercial Terms (INCOTERMS) for the protection  
47 and fair treatment of Philippine Importers.  
48



SECTION 3. *Local charges (destination and origin) of international shipping lines doing business in the Philippines* – No origin and destination charges shall be billed and/or charged by international shipping lines to Philippine consignees in the absence of a contractual relationship with the carriers, and/or if they are not obligated to pay them under INCOTERMS. For this purpose, all international shipping lines doing business in the Philippines shall ensure that:

- (a) The quoted freight rates shall be inclusive of all charges, such as but not limited to terminal handling cost(THC), container imbalance cost(CIC), Emergency Cost Recovery Charge (ECRC), Bunker Price Adjustments (BPA), Bunker adjustment Factor (BAF), Bill of Lading fee (BL), Import Release Fee(IRF), Container Cleaning (CC), Online Release Fee (ORF), Emergency Bunker Surcharge (EBS), Seal Fee (SF), Operation Recovery Cost (OCR), Rate Restoration (RR).
- (b) As a general rule, if the INCOTERMS used in the suppliers contract is in the nature of "Freight Prepaid" then all charges due under INCOTERMS shall be collected and paid by the shipper at origin. If the INCOTERM used in the suppliers contract is on basis "Freight Collect" then all charges due under INCOTERM shall be borne and paid by the consignee at destination;
- (c) Other local charges of international shipping lines that do business in Philippine ports on import and export cargoes must be transparently clarified and justified – explaining therefore the nature of such charge/s and the corresponding local services rendered in exchange for such charges;
- (d) This will likewise serve the purpose of correctly calculating the correct duties and taxes imposable on importations in accordance with Section 701 of Republic Act No. 10863 otherwise known as the Customs Modernization and Tariff Act (CMTA) clarifying that duties and taxes are to be paid on the total cost of transport as part of the dutiable value.

SECTION 4. *Taxation* – All revenues generated by international shipping lines from approved "local charges" for local services within the Philippines shall be imposed with the appropriate taxes (income tax and VAT) in accordance with the applicable provisions of the National Internal Revenue Code of the Philippines. BIR shall issue the necessary guidelines for this purpose.

SECTION 5. *Container deposits, demurrage and detention charges* –

- (a) Container Deposits<sup>1</sup> – All international shipping lines including, shipping agents and general agents shall implement an expeditious procedure in refunding container deposits upon the return of empty containers by consignees. For this purpose all container deposits, posted with the shipping lines including their shipping agents and general agents, shall be refunded within a period of fifteen (15) days following the receipt of the empty containers in the yard or container terminal of the shipping line.
- (b) Demurrage and Detention Charges – The cost of recovery of all international shipping line for detention and demurrage charges shall be limited to the actual lease cost rate per day beyond the allowable free time granted by the shipping line to the consignee but under no circumstances to exceed the depreciated market value of the container.

SECTION 6. *Prohibited Acts* – All international shipping lines are prohibited from doing directly or indirectly any of the following acts that are contrary to laws governing obligations and contracts:

<sup>1</sup> Container deposits are not payments for services of shipping lines, they are funds posted and entrusted to shipping lines for safekeeping to be refunded to the consignee upon the return of the empty container to their possession.

- 99 (a) Impose an indirect lien and hold the release of the shipment of a consignee for the reason  
 100 that the consignee has an outstanding demurrage and detention collectibles from the  
 101 consignee corresponding to a previous and different transaction with the shipping line;  
 102
- 103 (b) Withhold and hold the refund of container deposits posted by the consignee for returned  
 104 empty containers for the reason that the consignee has outstanding demurrage and detention  
 105 collectibles from the consignee corresponding to a previous and different transaction with the  
 106 shipping line.  
 107

108 **SECTION 7. *Role of Agencies*** – The following Agencies of the Executive Branch are directed to  
 109 carry out the following functions to best achieve the purposes of this law:  
 110

- 111 (a) **Department of Trade and Industry** – As lead agency to protect the interests of the consumer  
 112 and implement to the full extent existing consumer trade laws to curb unconscionable  
 113 business practices; excessive and unnecessary fees, charges and surcharges imposed as  
 114 origin and destination charges as well as unconscionable fees imposed on the management  
 115 of empty containers by international shipping lines.  
 116
- 117 (b) **Bureau of Customs** - Formulate and adopt policies and regulations regarding charges that  
 118 may be imposed by international shipping lines, regulate the imposition of destination charges  
 119 in the Philippines and require all shipping lines to include all charges in their freight and other  
 120 origin charges for the proper calculation and collection the correct duties and taxes imposable  
 121 on importations.  
 122
- 123 (c) **Bureau of Internal Revenue** – Investigate and identify the different destination charges or  
 124 local charges being collected international shipping lines that are considered local services  
 125 activities within the Philippines and impose the corresponding taxes on all revenues  
 126 generated for local services within the Philippines in accordance with the applicable  
 127 provisions of the National Internal Revenue Code of the Philippines and issue the necessary  
 128 guidelines for these transaction/s.  
 129
- 130 (d) **Department of Justice - Philippine Competition Commission** – Conduct investigation and  
 131 report on the purpose and activities of the international shipping lines primarily determining  
 132 whether the imposition of these excessive destination charges are manipulated, dictated and  
 133 controlled by the international shipping lines in concert with each other and thus, creating an  
 134 anti-competitive industry and recommend sanctions therefor.  
 135

136 **SECTION 8. *Oversight Committee*** – An oversight committee composed of representatives from  
 137 the following agencies is hereby created to ensure and monitor the implementation of this Act:  
 138

- 139 1. Department of Trade and Industry as Co-Chairperson;
- 140 2. Department of Transportation as Co-Chairperson;
- 141 3. Department of Finance as Member;
- 142 4. Bureau of Customs as Member;
- 143 5. Bureau of Internal Revenue as Member;
- 144 6. Philippine Ports Authority as Member;
- 145 7. Department of Justice as Member;
- 146 8. Philippine Competition Commission as Member;
- 147 9. House Committee on Trade and Industry as Member; and
- 148 10. House Committee on Transportation as Member
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SECTION 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.

SECTION 10. *Repealing Clause* – All other laws, executive orders, issuances, rules and regulations or parts thereof inconsistent with the foregoing rules and regulations are repealed, amended, or modified accordingly.

SECTION 11. *Effectivity* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

***Approved,***