

Assam Amusement And Betting Tax Act, 1939

6 of 1939

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Assam Amusement And Betting Tax Act, 1939

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An Act to make an addition to the public revenue of Assam and for that purpose to impose a tax on entertainments and other amusements and on certain forms of betting. Preamble - Whereas it

is necessary to make an addition to the public revenue of Assam and for that purpose to impose tax on entertainments and other amusements and on certain forms of betting; It is hereby enacted as follows:

CHAPTER 1

ENTERTAINMENT TAX

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Assam Amusements and Betting Tax Act, 1939

(2) It extends to the whole of Mizoram.

(3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint in this behalf.

2. Definitions :-

In this Chapter, unless there is anything repugnant in the subject or context-

(1) "Admission" includes admission as a spectator or as one of an audience, and admission for the purpose of amusement by taking part in an entertainment.

(2) "Admission to entertainment" includes admission to any place in which the entertainment is being held or is to be 1. Substituted by the Slate of Mizoram Adaptation of Laws order (No. 2) 1987 2. Substituted by the Mizoram Act No. 9 of 1995, w.e.f 1.4.1996 held and where television exhibition is being provided with the aid of any type of antenna with a cable network attached to it or cable television in residential or nonresidential areas for which persons are required to make payment by way of contribution or subscription or installation and connection charges or any other charges collected in any manner, whatsoever.

(2A) "Antenna" means an apparatus which receives television signals which enable viewers to tune into transmissions including national or international satellite transmissions and which is erected or installed for exhibition of films or moving pictures or series of pictures by means of transmission of television signals by wire where subscribers television sets at the residential or non-residential place are linked by metallic coaxial cable or optic fiber to a central system called the headend, on payment by the connection holder of any contribution or subscription or installation and connection charges or any other charges collected in any manner, whatsoever; ,

(2B) "Cable Television" means a system organized on payment by

connection holder of any contribution or subscription or installation and connection charges or any other charges collected in any manner whatsoever, for exhibition of films or moving pictures or series of pictures by means of transmission of television signals by wire where subscribers television set is linked by metallic coaxial cable or optic fiber cable to a central system called the head-end, by using a video cassette or disc or both, recorder or player or similar such apparatus on which prerecorded video cassette or disc or both are played or re-played and the films or moving pictures or series of pictures which are viewed and heard on the television receiving set at a residential or non-residential place of a connection holder. 3. Inserted by the Mizoram Act No. 9 of 1995 w.e.f. 1. 4. 1996. 4. Inserted by the Mizoram Act No. 9 of 1995 w.e.f. 1.4. 1996. 5. Substituted by the Mizoram Act No. 9 of 1995 w.e.f. 1.4. 1996.

(3) "Agriculture" includes horticulture and livestock breeding;

(3A) "Commissioner" means the Commissioner of Taxes appointed under Section 2-A or the officer empowered there under to discharge the functions of such authority.

(4) "Entertainment" includes any exhibition, performance, amusement, games, sport, cinematograph show or video show to which persons are ordinarily admitted on payment or moving pictures or series of pictures which are viewed and heard on the television receiving set, with the aid of any type of antenna with a cable network attached to it or cable network. for which persons are required to make payment by way of contribution or subscription or installation and connection charges or any other charges collected in any manner whatsoever.

(5) "Live stock" includes animals of every description

(6) "Prescribed" means prescribed by rules made under the Act;

(7) "Payment for admission" includes-

(a) any payment made by a person who having been admitted to one part of a place of entertainment is subsequently admitted to another part thereof, for admission to which a payment involving a tax or a higher rate of tax is required.

(b) any payment for seats or other accommodation in a place of entertainment. Substituted by the Mizoram Act No. 9 of 1995 w.e.f. 1.4. 1996.

(c) any payment made for the loan or used of any instrument or contrivance which enables a person to get a normal or bitter view or hearing of the entertainment which, without the aid of such instrument or contrivance, such person would not get;

(d) any payment for any purpose whatsoever connected with and entertainment which a person is required to make as a condition of attending or continuing to attend the entertainment in addition to the payment, if any, for admission to the entertainment;

(e) any payment made by a person by way of contribution or subscription or installation and connection charges or any other charges collected in any manner whatsoever for television exhibition with the aid of any type of antenna with a cable network attached to it or cable television.

(8) "Proprietor in relation to any entertainment means the owner and shall also include manager, organizer and any person responsible for, or, for the time being, in charge of the Management thereof; and

(9) "Society" includes a company, institution, club or other association or persons by whatever name called. 2-A. Taxing authorities: The State Government may for carrying out the purposes of this Act, appoint a person to be Commissioner of Taxes or empower, by notification in the official Gazette, any official to discharge the functions of such authority. 2-B. Delegation of Commissioners powers: Subject to such restrictions and conditions as may be prescribed, the Commissioner may, by notification in the official Gazette, delegate any of his powers under this Act to any official and any such official shall thereupon exercise the said powers.

3. Tax On Payments For Admission To Entertainments :-

(1) Except as otherwise expressly provided in this Act there all as from the date on which this Act comes in to force, be charged, levied, and paid to the Government of (Mizoram) as tax, hereinafter referred to entertainments tax, on all payments for admission to any theatre, cinematograph exhibition, or circus or any class of entertainment to which the State Government may apply this sub-section, at the rates specified below:

(a) in the case of games, sports, music or dramatic performances organized by a State Body (or any other body affiliated to it) which is either registered under the Societies Registration Act, 1860, or affiliated to an All India body constituted for similar purpose-twelve and a half per centum of such payment;

(b) in any other case, where the payment for admission is:

(i) Rupees two or less-fifty per centum of such payment.

(ii) More than rupees two and up to rupees three seventy five per

centum of such payment.

(iii) More than rupees three-cent per centum of such payment Provided that there shall not be charged, levied and paid to the State Government any tax where the highest payment for admission does not exceed 25 naye paise. 7. Substituted by the State of Mizoram Adaptation of laws order (No.2) 1987 8. Amended by Mizoram Act No. 1 of 1988. Explanation -The rate of tax shall be charged and levied on the payment for admission excluding the tax and if the amount of tax so arrived at is not a multiple of five naye paise, it shall be rounded to the next higher multiple of five naye paise.

(2) The rate of the entertainment tax in the case of all payments for admission to any race course shall be thirty seven and a half per centum.

(3) The State Government may, on the application of a proprietor of any entertainment in respect of which the entertainments tax is payable under sub-section

(1), allow the proprietor on such conditions as it may prescribed to pay the amount of the tax due by means of a consolidated payment of fifty per centum of the gross sum received by the proprietor on account of such payments for admission to the entertainment and on account of the tax.

(4) The entertainments tax, in the case of theatres, cinematograph exhibitions and circuses and any other class of entertainments which the State Government may direct, shall be charge, levied and paid with effect from the date on which this Act comes into force.

(5) Levy of entertainments tax on complimentary passes or tickets: Entertainments tax shall be charged, levied and paid on all free or complimentary passes or tickets by whatever name called, issued by the proprietor, exhibitor or organizer of the entertainments in respect of admission without payment to a seat or other accommodation therein.

(6) The liability to pay the entertainments tax shall be on the proprietor of the entertainment. 3.A. Additional tax on cinematograph exhibitions:

(1) In the case of cinematograph exhibitions, in addition to the entertainments tax under Section 3, there shall be levied and paid to the State Government of (Mizoram) for every show a tax at the rate of ten per centum of the total payment for admission received excluding the amount of tax payable under the Act or Rupees ten, whichever is less

(2) The tax levied under sub-section (1) shall be recoverable from the proprietor of the cinematograph exhibition.

(3) The provisions of this Act, other than Section 3 and 4 shall, so far as may be, apply in relation to the tax payable under sub-section (1) as they apply in relation to the tax payable under Section 3. 3 B. Surcharge on entertainments:

(1) There shall be charged, levied and paid to the Government of (Mizoram) , besides dues payable under any law for the time being in force including Section 3 and 3-A of this Act a surcharge, herein referred to as Entertainment Surcharge, on all entertainment payments for admission to which are subject to entertainments tax.

(2) The rate of Entertainments Surcharge on any entertainment shall be ten paise per individual admitted to the entertainment.

(3) The Entertainments Surcharge shall be payable as if it were a tax under Section 3 and the provisions of this Act including the rules made thereunder shall accordingly apply; and the authorities for the time being empowered to collect and enforce payment of entertainments tax shall, unless otherwise provided for by or under this Act, within their respective jurisdiction for purposes of entertainments tax accordingly collect and enforce payment of Entertainments Surcharge: 9. Substituted by the State of Mizoram Adaptation of Laws Order (No. 2) 1937. Provided that the Government of (Mizoram), may for facilitating implementation, by notification in the official Gazette, direct that in any case or class of cases the provisions of this Act including the rules thereunder shall apply subject to such indication not inconsistent with the provisions of this section and as may be specified in such Notification.

(4) Notwithstanding anything contained in sub section (3), the Government of (Mizoram) may make rules generally for securing the payment of the Entertainment Surcharge and carrying into effect the provision of sub-section (1) and (2) and in particular for ensuring the proper maintenance and rendering of accounts of the Entertainments Surcharge. 3-C. Levy of entertainment tax on cable television: Notwithstanding anything contained in section 3, 3A and 3B, in the case of entertainment provided with the aid of antenna or cable television to a connection holder, the proprietor of such entertainment shall pay entertainment tax at the rate of twenty per centum of the payment for admission received by the proprietor per connection per month. Provided that no tax shall be payable under this section the period of connection provided to a connection holder in any month is less than fifteen days.

4. Admission To Entertainments :-

No person shall be admitted to any entertainment where the payment for admission is subject to the entertainment tax, except- 10. Situated by the State of Mizoram Adaptation of Laws Order (No. 2) 1937. 11 - Ditto 12 - Ditto 13. Inserted by the Mizoram Act No. 9 of 1995 w.e.f. 1.4.1996

(a) with a ticket stamped with an impressed, embossed, engraved or adhesive stamp (not before used) issued by the State Government for the purpose of revenue and denoting that the proper entertainments tax has been paid.

(aa) in case of cable television where the entertainment tax shall be due and recoverable from the proprietor.

(b) in special cases with the approval of the State Government through a barrier which, or by means of a mechanical contrivance which, automatically registers the number of persons admitted; unless the proprietor of the entertainment has made arrangements approved by the State Government for furnishing returns of the payments for admission to the entertainment and has given security up to an amount and in a manner approved by the State Government for the payment of the entertainment tax; Provided that the provisions of this section shall be apply to the proprietors and the officer of the Government on duty. 4. -A Security: Any officer authorized by the State Government for the purpose may for good and sufficient reasons, demand from a proprietor of an entertainment of a temporary nature, a reasonable security before the entertainment is held and on such demand being made the proprietor concerned shall furnish the security.

5. Penalty For Non-Payment Of Tax :-

If any person is admitted for payment to any place of entertainment and the provisions of section 4 are not implied with, the proprietor of the entertainment to which such person is admitted shall, on conviction before a Magistrate, be liable in respect of each such. 14. Inserted by the Mizoram Act No. 9 of 1995 w.e.f 1.4. 1996. offence to a fine not exceeding five hundred rupees and shall in addition be liable to pay any tax which should have been paid.

6. Section 4 And 5 Not To Apply In Certain Cases :-

The provisions of sections 4 and 5 shall not apply to any entertainment in respect of which a consolidation payment is made under section 3, sub-section (3).

7. Manner Of Payment :-

(1) The entertainments tax shall be charged in respect of each person admitted for payment, and, in the case of admission by stamped ticket, shall be paid by means of the stamp on the ticket and in the case of admission otherwise than by a stamped ticket, shall be calculated and paid on the number of admissions.

(2) The entertainments tax, in the case of admission otherwise than by stamped ticket, shall be recoverable from the proprietor.

(3) Where the payment for admission to an entertainment is made by means of a lump sum paid as a subscription or contribution to any society, or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during ascertain period of time, or for any privilege, right, facility or anything combined with the right of admission to any entertainment, or involving such right of admission without further payment or at a reduced charge the entertainment tax shall be paid on the amount of the lump sum, but where the State Government is of opinion that the payment of a lump sum or any payment for ticket represented payment for other privileges, rights or purposes besides the admission to an entertainment, or covers admission to an entertainment during any period for which the tax has not been in operation, the tax shall be charged on such an amount as appears to the State Government to represent the right of admission to the entertainments in respect of which the entertainment tax is payable.

(4) The tax referred to in sub-section (1) of section 3-A shall be paid in such manner and by such time as may be prescribed.

8. Exemption :-

(1) The entertainments tax shall not be charged on payments for admission to any entertainment where the State Government is satisfied

(a) that the whole of the takings there, after deducting the actual expenses of the entertainment to a maximum of twenty five per centum of the total receipt are devoted to philanthropic, religious or charitable purposes; or

(b) that the entertainment is of a wholly educational character (any question on that point to be determined in the case of difference by the State Government in Department of Education) ; or

(c) that the entertainment is provided for partly educational or

partly scientific purposes by a society, not conducted or established for profit ; or

(d) that the entertainment is provided by a society which is established solely for the purpose of promoting the interest of the industry or agriculture, or the manufacturing industry, or some branch thereof, or the public health, and which is not conducted for profit, and consists solely of an exhibition of the products of the industry, or branch thereof. for promoting the interests of which the society exist or of materials, machinery, appliances, or foodstuffs, used in the production of those products, ; or of articles which are of material interest in connection with the questions relating to the public health, as the case may be, or

(e) that the entertainment is provided by the management a tea estate for the benefit of estates labor force for which no charge for admission is made.

(2) The State Government may by general or special order exempt any entertainment or class of entertainments from liability to the entertainments tax,

(3) Notwithstanding anything contained in the Act, the State Government may, by general or special order and subject to such conditions as may be specified in the order, exempt any class of persons from the liability to the entertainment tax under the Act for admission to any entertainment or class of entertainments.

9. Refunds In Certain Circumstances :-

Where the State Government is satisfied that the whole of the net proceeds of an entertainment are devoted to philanthropic, religious or charitable purposes, and that in calculating the net proceeds not more than twenty-five per cent of the gross proceeds have been deducted on account of the expenses of the entertainment, they shall repay to the proprietor the amount of the entertainments tax paid in respect of the entertainment.

10. Recoveries :-

(1) Any sum due on account of the entertainments tax or tax due under section 3-A shall be recoverable by the State Government as an arrear of land revenue.

(2) Any fine imposed under this Chapter shall be recovered in the manner provided in the Code of Criminal procedure, 1898, for the recovery of fines.

10A. Composition Of Offences :-

(1) Subject to such conditions as may be prescribed, an officer authorized by the State Government in this behalf may, either before or after institution of Criminal proceeding accept from the person charged with an offence under this Chapter or the rule made thereunder, by way of composition of the offence, a sum not exceeding one thousand rupees or in the case of contravention of the provisions of section 4 of the Act double the amount of tax which would have been payable had these provisions been complied with, whichever is greater.

(2) On payment of such sum as may be determined under sub-section (1), no further proceedings shall be taken against the person concerned in respect of the same offence.

11. Inspections :-

(1) any officer authorized by the State Government for the purpose may enter any place of entertainment while the entertainment is proceeding, and any place ordinarily used as a place of entertainment at any reasonable times, with a view to seeing whether the provisions of this Chapter or any rules made thereunder are being complied with.

(2) If any person prevents or obstructs the entry of any officer so authorized, he shall, in addition to any other punishment to which he is liable under any law for the time being in force, be liable on conviction before a magistrate to a fine not exceeding two hundred rupees.

(3) Every officer authorized under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code,

11A. Seizure Of Books Of Accounts Etc :-

An officer authorized by the State Government in his behalf may seize any books of accounts, registers, admission tickets; counterfoil of tickets or any other document from any place of entertainment where the entertainment is proceeding or from any place ordinarily used as a place for entertainment if the officer has reasons to suspect that the provisions of this Chapter or any rules made thereunder are not complied with and retain the same for so long as may be necessary for the purposes of this Act and shall grant receipt to the proprietor of the same.

12. Rules :-

(1) The State Government may make rules, subject to the condition of previous publication, for securing the payment of the entertainments tax and generally for carrying into effect the provisions of this Chapter, and in particular

(a) for the supply and use of stamps or stamped tickets, or for the stamping of tickets sent to be stamped and for securing the defacement or stamps when used;

(b) for the use of tickets covering the admission of more than one

person and the calculation of the tax thereon; and for the payment of the tax on the transfer from one part of a place of entertainment to another and on payments for seats or other accommodation;

(c) for controlling the use of barriers or mechanical contrivances (including the prevention of the use of the same harrier or mechanical contrivance for payment of a different amount), and for securing proper records of admission by means of barriers or mechanical contrivances;

(d) for the checking of admission, the keeping of accounts and the furnishing of returns by the proprietors of the entertainments to which the provisions of section 3, sub-section (3), are applied or in respect of which the arrangements approved by the State Government for furnishing returns are made under section 4;

(e) for the renewal of damaged or spoiled stamps and for the procedure to be followed on applications for refund under this chapter or under the rules made thereunder;

(f) for the keeping of accounts of all stamp used under this chapter;

(g) for the presentation and disposal of applications for exemption from payment of the entertainments tax or for the refund thereof, made under the provisions of this chapter; (and)

(h) for the rates of fees, for petitions, certificates and other matters.

2. If any person acts in contravention of, or fails to comply with, any such rules, he shall, on conviction before a Magistrate, be liable in respect of each offence to a fine not exceeding five hundred rupees.

12.-A Penalty:

(l) If the Commissioner, in the course of any proceeding under this Act is satisfied that any proprietor or any other person liable to pay tax under this Act, has in any way evaded the liability to pay tax and/or has in any manner acted in contravention of or failed to comply with any of the rules framed under the Act, he may direct that such proprietor/person shall pay by way of penalty as indicated below:

(a) in case of evation of tax a sum not exceeding twice the tax evaded or rupees one thousand whichever is greater in addition to the tax payable.

(b) in other cases a sum not exceeding rupees one thousand.

2. No order under sub-section (1) shall be made unless the reasonable opportunity person has been heard or has been given a reasonable opportunity of being heard.

3. No penalty under this section shall be imposed by an officer to assist the Commissioner without the previous sanction of the Commissioner.

4. On payment of such sum

as may determined under sub-section (1), no further proceedings shall be taken against the person concerned in respect of the same offence.

13. Cognizance Of Offence :-

No court shall take cognizance of any offence under this Act, or under the rules made thereunder except with the previous sanction of the Commissioner and, no court inferior to a first class Magistrate shall try such offence.

13A. Power To State Government To Delegate Certain Powers :-

The State Government may, by notification in the Official Gazette, delegate all or any of its powers under this chapter, except those conferred upon it by section 12, and by this section, to any person or to any authority subordinate to the State Government.

CHAPTER 2

TAXES ON CERTAIN FORMS OF BETTING

14. Definition :-

In this chapter -

- (1) "baker" includes any person with whom a licensed bookmaker bets;
- (2) "bet" includes "saver" and "beating" includes wage
- (3) "Licensed bookmaker for horse race" means any person who carries on the business or vocation of or acts as a bookmaker or turf commission agent under a license or permit issued by any racing club or by the stewards thereof to enable him to carry on his business or vocation as specified .in the license or permit;
- (4) "prescribed" means prescribed by this chapter or by the rules made thereunder;
- (5) "racing club" includes a club, association, Society or body of persons corporate or incorporate-
 - (a) formed for the purpose of promoting horse racing or pony-racing or for holding race-meetings, or
 - (b) conducting or controlling such meetings;
- (6) "totalisator" means a totalisator, in an enclosure which the stewards controlling a race-meeting have set apart and includes any instrument, machine or, contrivance, known as the totalisator, or any other instrument, machine, or contrivance of a like nature or any scheme for enabling any number of person to make bets with one another on the like principles.

15. Tax On Totalisators And Payment Thereof :-

There shall as from the date on v hich this Act comes into force, be charged, levied and paid to the Government (Mizoram) out of all monies paid into any totalisator by way of stakes or bets, a tax on backers hereinafter referred to as the totalisator tax, amounting to five per cent of every sum so paid; and five per cent of every sum so paid into a totalisator shall be deemed to have been paid by the backer on account of the totalisator tax and shall be received by the stewards of the race-meeting on behalf of Government.

16. Procedure For Making Over Totalisator Tax To Government :-

The stewards of a race-meeting shall, at such times and in such manner as may be prescribed, forward to the prescribed officer a return stating the total amount of the monies paid into the totalisator at the meeting, and shall at the prescribed time make over to the prescribed officer the amount of the tax for that meeting.

17. Accounts Of Totalisator Tax :-

(1) The stewards of a race-meeting shall keep accounts in the prescribed form of all monies paid into the totalisator at that meeting.

(2) Every person having the custody or control of any such accounts shall, when required in writing by an officer empowered in this behalf by the State Government permit such officer, or an officer authorized in writing by him in this behalf, to inspect and take copies of them.

18. Betting Tax :-

(1) There shall as from the date on which this Act comes into force, be charged, levied and paid to the Government of (Mizoram) out of all monies received by a licensed bookmaker for horse race for bets made in an enclosure set apart. 15. Substituted by the State of Mizoram Adaptation of Laws Order (No.2) 1987. 16. Substituted by the State of Mizoram Adaptation of Laws Order (No.2) 1987. on a race, a tax on backers, hereinafter referred to as the betting tax, on horse race amounting to ten per cent of all such monies.

(2) The betting tax shall be deducted or collected by the licensed bookmaker for horse race from such monies, or in the case of credit bets at such time as may be prescribed, and shall be deemed to have been paid by the backer on account of the tax, and shall be

retained by the licensed bookmaker on behalf of Government.

19. Procedure For Making Over Betting Tax To Government

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All sums retained on account of the betting tax shall be made over by the licensed bookmaker for horse race by whom they have been retained, to the prescribed officer at such times and in such manner as may be prescribed.

20. Account Of Betting Tax :-

(1) The stewards of a race-meeting shall, at such times and in such manner as may be prescribed, forward to the prescribed officer return setting out the names of the bookmakers licensed or permitted by them to carry on the business or vocation of bookmaker at that meeting.

(2) All licensed book makers for horse race shall keep accounts of all sums paid or agreed to be paid to them by hackers for bets, in such manner as may be prescribed, and shall, when required in writing by an officer empowered in this behalf by the State Government permit such officer, or an officer authorised in writing by him in this behalf, to inspect and take copies of such accounts.

21. Methods Of Recovery Of Totalisator Tax And Betting Tax

:-

(1) The totalisator tax payable under section 15 shall be recoverable as an arrear of land revenue from the racing club conducting the meeting, and any portion of such tax which is not so recovered shall also be recoverable as an arrear of land revenue from the stewards of the race-meeting jointly and severally.

(2) All monies which a licensed bookmaker for horse race is liable to make over to the prescribed officer under section 19 shall be recoverable from the licensed bookmaker for horse race as an arrear of land revenue.

21A. Penalty :-

Whoever:

- (i) Fails to comply with the provisions of this chapter or rules made thereunder, or
- (ii) Fraudulently or willfully evades the payment of any tax under this chapter or conceals his liability to such tax, shall in addition to his liability to pay the tax so concealed or evaded, on conviction by a Magistrate, be liable to a fine not exceeding two thousand rupees.

21B. Cognizance Of Offence :-

No court shall take cognizance of offence under this chapter or under the rules made thereunder except with the previous sanction of the State Government and no court inferior to the Magistrate of the First Class shall try any such offence.

22. Rules :-

(1) The State Government may make rules for securing the payment of the totalisator tax and the betting tax, the production and inspection of accounts kept under this chapter and generally for carrying into effect the provisions of this chapter, and for dealing with such matters as are therein directed to be prescribed.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before the (Mizoram) Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is to be laid or the session immediately following, the (Mizoram) Legislative Assembly agrees in making any modification in the rule or the (Mizoram) Legislative Assembly agrees that the rule should not be made, the rule shall thereafter have effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 17. Substituted by the State of Mizoram Adaptation of Laws Order (No. 2) 1987.

18. -- Ditto --

19. -- Ditto --