

**ASSAM PROHIBITION OF SMOKING AND NON-SMOKERS
HEALTH PROTECTION ACT, 1999**

17 of 1999

[29th May, 1999]

CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Declaration of no smoking places of public work or use
4. Power of Government to authorise officers to act under this Act
5. Prohibition of smoking in places of public work or use
6. Prohibition of smoking in public service vehicles
7. Prohibition of advertisement of cigarettes, etc.
8. Prohibition of sale of cigarettes, etc. to minors
9. Prohibition of storage, sale and distribution of cigarettes etc. in the vicinity of educational institutions
10. Display and exhibition of board
11. Penalties
12. Ejection of violators of this Act from the place of Public work or use
13. Court competent to try offences under this Act and to take cognizance of offence
14. Certain offences to be cognizable and bailable
15. Offence under the Act to be tried summarily
16. Power to delegate
17. Compounding of offences
18. Power to make rules
19. Repeal and savings

**ASSAM PROHIBITION OF SMOKING AND NON-SMOKERS
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An act to provide for prohibiting of smoking in places of public works or use and \in public service vehicles in the State of Assam and to make provision for other matters \connected therewith. It is hereby enacted in the Fifth year of the Republic of India as follows :-

1. Short title, extent and commencement :-

(1) This Act may be called the Assam Prohibition of Smoking and Non-Smokers' Health \Protection Act, 1999.

(2) It extends to the whole of the State of Assam.

(3) It shall come into force on such date as the Government may, by notification in the \ Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and \any reference in any such provision to the commencement of this Act shall be construed, as a reference to the coming into force of that provision.

2. Definitions :-

In this Act, unless the context otherwise require,

(a) "advertisement" means and includes any notice, circular, wall paper, pamphlet, \display on hoarding, or any visible representation made by means of any other means of any \light, sound, smoke, gas or any other means which has the affect of promoting smoking \the expression 'advertise' shall be construed accordingly;

(b) "authorised officer" means a person authorised under Section 4 ;

(c) "Assam" means the State of Assam;

(d) "Government" means the Government of Assam;

(e) "place of public work or use" means a place declared as such under Section 3 and includes \auditoria, hospital buildings, health institutions, amusement centres, theatres, restaurants, \public offices, court buildings educational institutions, libraries and the like which are \visited by general public but does not include any open place ;

(f) "Official Gazette" means the Assam Gazettes.

(g) "public service vehicle" means a vehicle as defined under clause (35) of S.2 of the Motor Vehicles Act, 1988 (Act No. 59 of 1988);

(h) "rule" means the rule made under this Act;

(i) "smoking" means smoking of tobacco in any form whether in the form of cigarette, cigar, \ beedis or otherwise with the aid of a

pipe, wrapper or any other instruments.

3. Declaration of no smoking places of public work or use :-

As soon as may be after the \ commencement of this Act and thereafter from time to time, the Government may, by \ notification in the official Gazette, declare any place of public work or use in Assam to be \ non-smoking place for the purpose of this Act.

4. Power of Government to authorise officers to act under this Act :-

(1) The Government may, by notification in the official Gazette, authorise one or more persons who shall be competent to act under this Act.

(2) Every person authorised under sub-section (1) shall be deemed to be a public servant within the meaning of S.21 of the Indian Penal Code, 1860 (Act No. 45 of 1860).

5. Prohibition of smoking in places of public work or use :-

No person shall smoke in any place of public work or use .

6. Prohibition of smoking in public service vehicles :-

Without prejudice to the provisions of the Motor Vehicles Act 1988 (Act No. 59 of 1988), no person shall smoke in a public service vehicle.

7. Prohibition of advertisement of cigarettes, etc. :-

Notwithstanding anything contained in any other law for the time being in force, no person shall advertise in any place of public work or use and any public service vehicle which may promote smoking, or the sale of cigarettes and beedies. etc.

8. Prohibition of sale of cigarettes, etc. to minors :-

No person shall sell cigarettes, beedis or any other such smoking substance to any who is below the age of eighteen years.

9. Prohibition of storage, sale and distribution of cigarettes etc. in the vicinity of educational institutions :-

No person shall himself or by any person in his behalf, store, sell or distribute cigarettes or beedies or any other such smoking substance within an area of one hundred metres around any college, school or educational institution.

10. Display and exhibition of board :-

The owner or manager or incharge of affairs of every place of public

work or use and any public service vehicle shall display and exhibit a board at a conspicuous place or places in and outside the premises visited or used by general public prominently stating that place is a "No Smoking Zone" and that "Smoking is an offence."

11. Penalties :-

Any person, who contravenes the provisions of-

(i) Section 5 , Section 6 or Section 10 shall be punishable with fine which may extend to one hundred rupees and in case of second or subsequent offence shall be punishable with a minimum fine of two hundred rupees, which may extend to five hundred rupees;

(ii) Section 7 , Section 8 or Section 9 shall be punishable with fine which may extend to five hundred rupees and in case of second or subsequent offence, shall be punishable with imprisonment which may extend to three months or with a minimum fine of five hundred rupees, which may extend to one thousand rupees, or with both.

12. Ejection of violators of this Act from the place of Public work or use :-

Any person or officer authorised in this behalf under Section 4 or any police officer, not below the rank of Sub-Inspector, may eject any person from the place of public work or use who contravenes the provisions of this Act.

13. Court competent to try offences under this Act and to take cognizance of offence :-

(1) No court, other than the court of a Judicial Magistrate, shall take cognizance of and an offence under this Act.

(2) No court shall take cognizance or any offence under this Act except on a complaint in writing of an authorised officer with respect to offence under Section 5 , Section 6 and Section 10 and on a report in writing of a police officer, not below the rank of Sub-Inspector with respect to the offences under Section 7 , Section 8 and Section 9 .

14. Certain offences to be cognizable and bailable :-

Notwithstanding anything contained in the Code of Criminal Procedure, 1973(Act No. 2 of 1974) offences under Section 7 , Section 8 and Section 9 shall be cognizable and bailable.

15. Offence under the Act to be tried summarily :-

All offences under this Act shall be tried summarily in the manner provided for summary trial under the Code of Criminal Procedure, 1973 (Act No. 2 of 1974).

16. Power to delegate :-

The Government may by notification in the Official Gazette, direct that any power exercisable by it, under this Act, may also be exercised by such officer as may be mentioned therein, subject to such conditions, if any, as may be specified therein.

17. Compounding of offences :-

The Government or any person authorised by it by general or special order in this behalf, may either before or after the institution of the proceedings, compound any offences made punishable by or under this Act.

18. Power to make rules :-

(1) The Government may make rule to provide for or regulate any matter in respect of which this Act makes no provision or makes insufficient provision and provision is, in its opinion, necessary.

(2) Any rule made by the Government shall be subject to previous publication thereof in the official Gazette.

(3) Every rule made by the Government under this Act shall be laid, as soon as may be, after it is made, before the Assam Legislative Assembly while it is in session for a total period of thirty days which may be comprised in one session or more successive sessions. The State Legislature may agree that there should be modification in the rule or that the rule should not be made. In that case the rules shall have effect only in such modified form or be of no effect, as the case may be. Any such modification or annulment shall, however, be without prejudice to the validity of anything previously done under that rule.

19. Repeal and savings :-

(1) The Assam Prohibition of Smoking in Passenger Vehicles Act, 1954 (Assam Act No. XVII of 1954), and the Assam Prohibition of Smoking in Show Houses Act, 1951 (Assam Act No. IX of 1951), respectively, are hereby repealed.

(2) Notwithstanding such repeals anything done or any action taken under the Acts so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

