

## **Bihar Excise (Amending And Validating) Act, 1995**

### **9 of 1995**

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## **Bihar Excise (Amending And Validating) Act, 1995**

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An Act to amend the Bihar Excise Act, 1915. WHEREAS, it is necessary in public interest that out of the cost price of Country Spirit the amount of money earmarked for the maintenance of warehouse be regulated; AND, WHEREAS, the price of country spirit to be supplied to the retailer by the Contractor (Wholesale supplier) from the Warehouse belonging to the Contractor or the State or another person, is fixed by the Government of Bihar, on the basis of negotiations between the contractor and the government and such price being known as the cost price of Country spirit payable by the retailers at the time of taking or issue of Country liquor from the warehouse concerned; AND, WHEREAS, as a regulatory measure the maintenance of warehouse is the responsibility of the contractor; AND, WHEREAS, in the year 1989 in C.W.J.C. No. 4722 of 1989 and other similar cases a situation arose whereby and where under the Patna High Court ordered that till contract is settled and till further order from the Court, the supply of country liquor shall be made to the retailers directly by the State through its Officers; AND, WHEREAS, in pursuance to the said direction the Country liquor had to be supplied from different warehouses situated in the State, by the State Government through its Officers; AND, WHEREAS, after the Final Order of the High Court in the above writs in the year 1996 the situation emerged that in certain areas of the State the supply of Country liquor to the retailers continued to be made by State Government through its Officers due to non functioning of the concerned Contractors; AND, WHEREAS, during this period the warehouses were required to be maintained by the State; AND, WHEREAS, in

fixing the price of Country liquor to be supplied by the Contractor holding exclusive privilege licence the State Government had taken into account the cost of spirit, the cost of transportation of such spirit, the cost of maintenance of warehouses, sales tax and dividend; AND, WHEREAS, while fixing the price of Country liquor to be supplied to the retailer, the following components of cost were included in the cost price:- AND, WHEREAS, in February, 1990 the Government had decided that country spirit would be supplied at the rate of Rs. 3.42 per L.R Litre which includes Rs. 0.70 per L.P. Litre as maintenance charge of warehouses; AND, WHEREAS, the amount deposited by the retailers as price of Country spirit was to be deposited in Treasury through Bank draft and thereafter the Distillers (suppliers) were to be paid the amount after deduction of the component of price meant for maintenance of warehouse, that is Rs. 3.42-0.70 = Rs. 2.72; AND, WHEREAS, in some cases by mistake the entire amount of Rs. 3.42 was paid to the distillers (suppliers); AND, WHEREAS, some of the distillers (suppliers) challenged the authority of the State regarding deduction of warehouse maintenance charges from the cost price fixed for supply of country spirit to warehouse; AND, WHEREAS, in CW.J.C. No. 6868/90 and in other similar writ petitions the Court held that in the absence of Rules the State Government is not authorised to fix the price of country spirit and to make deductions of maintenance of warehouse charges therefrom; AND, WHEREAS, it has become necessary to levy and validate the deduction/realisation of warehouse maintenance charges from the cost price of Country spirit fixed by the State in the year 1990; Be it enacted by the Legislature of the State of Bihar in the forty sixth year of the Republic of India as follows:- 1. Published in Bihar Gazette (ex.ord) dated 19.7.1995.

### **1. Short Title, Extent And Commencement :-**

- (1) This Act may, be called the Bihar Excise (Amending and Validating) Act, 1995.
- (2) It shall extend to the whole of the State of Bihar.
- (3) It shall be deemed to have come into force with effect from the 20th February, 1990.

### **2. Insertion Of New Sections After Section 22 Of Bihar Act II, 1915 :-**

In the Bihar Excise Act, 1915 (Bihar Act II, 1915)(hereinafter

referred to as the said Act) after Section 22, the following new Sections shall be Inserted, namely:-22(A), 22(B) and 22(C). Incorporated in the main Act.

(1) The Bihar Excise (Amending and Validation) Second Ordinance, 1995 (Bihar Ordinance No. 10,1995) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing was done or action taken.