

Gujarat Spirituous Preparation Rules, 2005

CONTENTS

1. .
2. .
3. Definitions

PART 1 :- License for sale of spirituous preparations

4. Application for licence to sell spirituous preparation
5. Grant of licence
6. Duration of licence
- 7 . Sale of spirituous preparations on production of medical prescription
8. Sale of spirituous preparations to certain persons
9. Kinds of spirituous preparations which cannot be kept or sold
10. Sale how to be made
11. Preservation of prescription
12. Transport of spirituous preparation
13. Regulation of business of licensee
14. Licensee to abide the provisions of the Act.

PART 2 :-

15. Application for Licence for dispensing spirituous preparations
16. Grant of licence
17. Duration of licence
18. Inspection of licensed premises etc
19. Transport of spirituous preparation
20. Licensee to abide by the provisions of the Act

PART 3 :- Procedure for the import of spirituous preparations

21. Importer to apply for import pass
22. Issue of Pass
22. Procedure to be followed at the exporting place
24. Procedure in transit
25. Timely intimation of arrival of consignment to be given to inspecting and examining officers
26. Inspection of consignment in-route.
27. Examination of consignment at place of import
28. Drawing of samples and their disposal
29. Release of consignment after examination
30. Importer to bear all costs and risks of conveyance
31. Exporter to obtain a permit from the Excise Officer at the

importing place

32. Application for Export Pass

33. Issue of Export Pass

34. Removal of spirituous preparation under excise escort

35. Exporter to obtain certificate-2 and deliver it to the Superintendent or Officer issuing pass

Gujarat Spirituous Preparation Rules, 2005

Whereas certain draft rules were published as required by sub-sec. (3) of Sec. 143 of the Bombay Prohibition Act, 1949 (Bom. XXV of 1949) at pages 149-1 to 149-31 of the Government of Gujarat Gazette Extra Ordinary Part IV-B dt. 31.5.2005 under Government Notification Home Department No. GG/51/MTP/1097/1848/E1 dt. 31.5.2005 inviting objections and suggestions, from all persons likely to be affected thereby the Government of Gujarat after the expiry of thirty days from the date of publication of the said notification in this Official Gazette. 2. And whereas, no objection and suggestions have been received by the Government from any person with respect to the aforesaid draft notification; Now, therefore, in exercise of the powers conferred by sub-sec. (2) of Sec. 3 of the Spirituous Preparations (Inter-State Trade and Commerce) Control Act, 1955 (XXXIX of 1955) read with Sec. 21 of the General Clauses Act, 1897 (Act 10 of 1897) the Government of Gujarat has superseded the Bombay Spirituous Preparations (Inter-State Trade and Commerce Control) Rules, 1957 vide Government Notification No. GG/75/MTP/1097/1848(1) E1, dt. 6.10.2005, Now, therefore, in exercise of the powers conferred by clause (b) of sub-sec. (2) of Sec. 143 of the Bombay Prohibition Act, 1949 (Bom. XXV of 1949) and Sec. 21 of the General Clauses Act, 1897 the Government of Gujarat in supersession of (1) The Spirituous Preparation (Transport and Export under Bond) Rules, 1953 (2). The Bombay Spirituous Medical Preparation (Sale) Rules, 1954 (3) The Bombay Toilet Preparation (Sale) Rules, 1954 (4) The Bombay Spirituous Preparation (Manufacturing) Rules, 1955 and (5) The Bombay Spirituous Preparation (Inter-State Trade and Commerce) Control Rules, 1957 hereby makes the following rules, namely:

1. . :-

These rules may be called the Gujarat Spirituous Preparation Rules, 2005.

2. . :-

They shall extend to the whole of the State of Gujarat.

3. Definitions :-

In these Rules, unless the context otherwise requires

1. "Act" means the Bombay Prohibition Act, 1949.
2. "Exporting place" means a place outside the State of Gujarat from which a spirituous preparation is exported.
3. "Form" means a form appended to these Rules.
4. "Importing place" means the place outside the State of Gujarat to which a spirituous preparation is exported.
5. "licence" means a licence granted under these Rules.
6. "Licensing Authority" means the Superintendent of Prohibition and excise or any officer declared to be the "Licensing Authority" by the State Government.
7. "Licensied Premises" means the premises in respect of which a licence has been granted under these rules and in rules a warehouse of a licensee approved by the Licensing Authority.
8. "Medical Prescription" means a prescription in writing issued by a Registered Medical Practitioner.
9. "Place of export" means the place in the State of Gujarat from which a spirituous preparation is exported.
10. "Place of import" means the place in the State of Gujarat in which a spirituous preparation is imported.
11. "Spirituous Preparation" means
 - (i) any medical preparation, containing alcohol, whether self generated or otherwise; or
 - (ii) any mixture or compound of wine with medicinal substances, whether the wine is to rectify with spirit or not; or
 - (iii) any medicinal or toilet preparation containing alcohol which is determined by the State Government under Sec. 6-A of the Act to be fit for use as an intoxicating liquor.
12. Words and expressions used but not defined in these rules shall have the meaning, respectively assigned to them, in the Act.

PART 1

License for sale of spirituous preparations

4. Application for licence to sell spirituous preparation :-

Any person desiring to sell spirituous preparations shall apply to the Licensing Authority for a license. The application shall contain the following particulars, namely:

- (i) Name and address of the applicant;
- (ii) Location of the shop or premises where spirituous preparations will be sold with the name of the building and the name of the street, city, town or village, as the case may be;
- (iii) Whether the applicant held any licence in the past to sell any kind of spirituous preparations, if so, the year and period during which such licence was held.

5. Grant of licence :-

On receipt of the application under Rule 4, the Licencing Authority shall make inquiries for verification of the details stated in the application, and also such other inquiries as he deems necessary. If he is satisfied that there is no objection to grant the licence applied for, he may grant the applicant a licence in Form "S.P.I." on payment of a fee of Rs. 500/-.

6. Duration of licence :-

A licence under Rule 5 shall not be granted for a period beyond 31st March next following the date from which it commences.

7. Sale of spirituous preparations on production of medical prescription :-

The licensee shall not sell any spirituous preparation to any person unless he produces a medical prescription in that behalf.

8. Sale of spirituous preparations to certain persons :-

(1) Notwithstanding anything contained in Rule 7, the licensee may sell any preparation without the production of any medical prescription to:

- (i) A person holding licences under Rule 5;
- (ii) A person in charge of a hospital or dispensary;
- (iii) A registered medical practitioner;
- (iv) Inspector appointed under Sec. 21 of the Drugs Act, 1949.

(2) All sales made under sub-rule (1) shall be subject

(a) To the issue of cash memos or invoices the originals of which shall be sent alongwith the consignments and the duplicates shall be preserved by the licensee for a period of one year from the date of sale; and

(b) Except as otherwise provided by these rules, to the production by the purchaser of a valid transport pass.

(3) The cash memo or invoice shall show the name and address of the purchaser and the particulars of the medicinal preparations sold.

9. Kinds of spirituous preparations which cannot be kept or sold :-

The licensee shall not keep in his licensed premises any spirituous preparations which have not been lawfully obtained, transported or imported.

10. Sale how to be made :-

All sales of spirituous preparations shall be made subject to the issue of a cash memo or an invoice. The original copy of such cash memo or invoice shall be sent alongwith the consignment and the duplicate shall be preserved by the licensee for the period of one year from the date of the sale. The cash memo or invoice shall show the name and address of the purchaser and the quantity of spirituous preparations sold by the licensee.

11. Preservation of prescription :-

The licensee shall preserve all medical prescriptions presented to him for the purchase of the spirituous preparations or true copies thereof for a period of one year from the date of the sale.

12. Transport of spirituous preparation :-

(1) Any licensee desiring to transport any spirituous preparation shall make an application for the grant of a transport pass to the licensing authority within whose jurisdiction the licensed premises of the licensee selling such preparation is situated. The applications shall be submitted to the licensing authority and shall contain the following particulars, namely.

- i. The name and address of the applicant;
- ii. The kind of the licence held by him and its number and date.....
- iii. The name and quantity of spirituous preparation required to be

transported;

iv. The purpose for which spirituous preparation (s) is to be transported;

v. The place from which spirituous preparation (s) is to be transported;

vi. The place to which spirituous preparation is to be transported;

vii. The name of the person authorized to transport;

viii. The route (state also the places from and to which transport of spirituous preparation will be by road) by which spirituous preparation is proposed to be routed.

ix. The period for which the pass is required;

(2) On receipt of the application under sub-rule (1) the licensing authority shall make such inquiries as he may deem necessary and if he is satisfied that there is no objection to grant the transport pass to the applicant, he may grant him a pass in Form "S.P. III" on payment of a fee of Rs. 50/-.

(3) The transport pass shall be in four parts and each part shall be dealt with as under: Part I shall be kept on the record of the licensing authority granting the pass

.

Part II shall be forwarded to the licensee from the spirituous preparation is to be obtained for transport. Part III shall be handed over to the applicant for sending it with the consignment of spirituous preparation and for record thereafter by him. Part IV shall be forwarded to the Superintendent of Prohibition and Excise of the place to which the spirituous preparation is to be transported.

13. Regulation of business of licensee :-

(1) A licensee holding a licence under Rule 5 may carry on his business under the licence either personally or by an agent or servant duly authorized by him in that behalf.

(2) The licensee shall maintain accounts of spirituous preparation received and sold by him in Form S.P. VIII. The accounts shall be legibly and correctly written daily in a bound book, paged and stamped with the seal of the Superintendent of Prohibition and

Excise. He shall by the 7th day of the every month, furnish to the licensing authority a monthly return in Form S.P. IX in respect of the quantities of spirituous preparations received and sold by him during the previous month.

(3) The licensed premises and all spirituous preparations therein contained shall at all times be opened inspection by any officer empowered under Sec. 122 of the Act.

(4) The licensee shall, when so required by any officer not below the rank of a Sub-Inspector of Prohibition and Excise, give an explanation and furnish any information regarding the management of the said premises. He shall answer all question put to him to the best of his knowledge and belief. He shall also, if so required, allow any officer empowered under Sec. 122 of the Act to take samples of spirituous preparations free of cost for analysis.

(5) The licensee shall provide a visit book paged and stamped with the seal of the Superintendent of the Prohibition and Excise in which visiting officers may recorded any remarks when inspecting the licensed premises. The licensee shall, on the termination of the period of his licence deliver the visit book, the accounts and the licence to the Local Prohibition and Excise Officer.

(6) No person shall be recognized at the partner of the licensee for the purpose of this licence, unless the partnership has been declared to the Licensing Authority before the licence is granted and the names of partners have been entered jointly in the licence, or if the partnership is entered into after the granting of the licence unless the Licensing Authority agrees, on application made to him, in that behalf to alter the licence and add the name of the partner(s) in the licence.

14. Licensee to abide the provisions of the Act. :-

(1) A licensee holding a license under Rule 5 shall comply with all orders and directions issued from time to time by the Director, Superintendent of Prohibition and Excise.

(2) The licensee shall abide by the provisions of the Act and the rules, regulations and orders made thereunder and the conditions of the licence and shall give an undertaking to that effect.

PART 2

15. Application for Licence for dispensing spirituous

preparations :-

Any registered medical practitioner or any person-in-charge of a hospital or dispensary desiring to dispense spirituous preparations shall apply to the Licensing Authority for a licence for dispensing such preparations. The application shall contain the following particulars:

(i) Name and address of the applicant.

(ii) Where the applicant is a registered medical practitioner, his registration number and the name of the authority by which he has been registered,

(iii) Where the applicant is a person in charge of a hospital or dispensary, his designation and the name of the hospital or dispensary of which he is in-charge.

16. Grant of licence :-

On receipt of an application under Rule 15 of the Licensing Authority may make inquiries for verification of the details stated in the application and also such other inquiries as he deems necessary. If he is satisfied that there is no objection to grant the licence applied for, he may grant the applicant a licence in Form "S.P. II" for payment of a fee of Rs. 5007- per annum: Provided that for the purpose of charging the fee, the fraction of a year shall be reckoned as one complete year.

17. Duration of licence :-

No licence under Rule 16 shall be granted for a period beyond 31st March next following the date from which it commences: Provided that in the case of a registered medical practitioner, such licence may be granted or renewed for a period not exceeding three years at a time but not beyond 31st March of the third year from the date of the commencement of the licence.

18. Inspection of licensed premises etc :-

(1) The licensed premises and all spirituous preparations stocked therein shall at all times be open to inspection by any officer empowered under Sec. 122 of the Act.

(2) The Licensee shall, when so required by any Prohibition Officer not below the rank of a Sub-Inspector of Prohibition and Excise, give an explanation in writing regarding any irregularities detected at his licensed premises and shall furnish any information regarding

management of the said premises. He shall answer all questions put to him to the best of his knowledge and belief. He shall also, if so required, allow any officer empowered under Sec. 122 of the Act to take samples of preparations free of cost for analysis.

19. Transport of spirituous preparation :-

(1) No licensee shall transport any spirituous preparation exceeding 500 ml. in quantity except under a valid transport pass.

(2) Any licensee desiring to transport any spirituous preparation exceeding 500 ml. in quantity shall make an application for the grant of a transport pass to the Superintendent within whose jurisdiction the licensed premises of the licensee selling such preparation is situated. The application shall contain the following particulars, namely:

(I) The name and address of the applicant;

(II) The kind of the licence held by him and its number and date;

(III) The name and quantity of spirituous preparation required to be transported;

(IV) The purpose for which spirituous preparation (s) is/are to be transported;

(V) The place from which spirituous preparation(s) is to be transported;

(VI) The place to which spirituous preparation is to be transport;

(VII) The name of the person authorized to transport;

(VIII) The route (state also the places from and to which transport of spirituous preparation will be by road) by which spirituous preparation(s) is/are proposed to be removed;

(3) One receipt of the application under sub-rule (1), the licensing Authority shall make such inquiries as he may deem necessary and if satisfied that there is no objection to grant the transport pass to the applicant he may grant him a pass in Form "S.P. III" on payment of a fee of Rs. 50/-.

(4) The transport pass shall be in four parts and each part shall be dealt with as under: Part I shall be kept on the record of the Licensing Authority granting the pass. Part II shall be forwarded to the licensee from whom spirituous preparation(s) is/are to be

obtained for transport. Part III shall be handed over to the applicant for sending it with the consignment of spirituous preparation(s) and for record thereafter by him; and Part IV shall be forwarded to the Superintendent of Prohibition and Excise of the place to which the spirituous preparation(s) is/are to be transport.

20. Licensee to abide by the provisions of the Act :-

(1) The Licensee shall comply promptly with all orders and directions issued from time to time by the Director, or by the Superintendent of Prohibition and Excise.

(2) The licensee shall abide by the provisions of the Act the rules, regulations and orders made thereunder and also by all the conditions of the licence which may be imposed by the State Government at the time of granting the licence or at any time during the currency of the licence and shall give an undertaking to that effect.

PART 3

Procedure for the import of spirituous preparations

21. Importer to apply for import pass :-

Any person who holds a licence or permit under the Act for the sale or possession of any spirituous preparation or is permitted to possess or sell such preparation under the Act and who desires to import (hereinafter referred to as "importer") any spirituous preparation shall apply in Form S.P. IV for an import pass to the licensing authority.

22. Issue of Pass :-

(1) On receipt of the application made under Rule 21, the licensing authority or the officer authorized shall make such inquiries as he may deem necessary and if he finds no objection, he may grant the applicant an import pass in Form S.P. V on payment of a fee of Rs. 50/-.

(2) Every pass granted under sub-rule (1) shall show the designations of the officers by whom, and the places at which, the consignment of spirituous preparations to be imported, is to be inspected on route under Rule 26 and examined on arrival at the place of import under Rule 27. In case of import by road, one of the inspecting officers shall be the Prohibition and Excise Officer in charge of the place where the consignment enters the limits of the State is situated, or an officer deputed by him in his behalf. In case

of import by rail direct to the place of import, one of the inspecting officers shall be the Prohibition and Excise Officer in charge of the place where the railway station to which the consignment is to be booked is situated or an officer deputed by him in this behalf.

(3) Every pass granted under sub-rule (1) shall be in four parts which shall be dealt with as under: Part I shall be retained on the records of the officer issuing the pass; Part II shall be sent by post to the Excise Officer at the exporting place; Part III shall be sent to the Superintendent of Prohibition and Excise at the place of import; and Part IV shall be handed over to the importer or his agent together with the Form "Certificate-1" annexed thereto.

22. Procedure to be followed at the exporting place :-

(1) On receipt of the application made under Rule 21, the licensing authority or the officer authorized shall make such inquiries as he may deem necessary and if he finds no objection, he may grant the applicant an import pass in Form S.P. V on payment of a fee of Rs. 50/-.

(2) Every pass granted under sub-rule (1) shall show the designations of the officers by whom, and the places at which, the consignment of spirituous preparations to be imported, is to be inspected on route under Rule 26 and examined on arrival at the place of import under Rule 27. In case of import by road, one of the inspecting officers shall be the Prohibition and Excise Officer in charge of the place where the consignment enters the limits of the State is situated, or an officer deputed by him in his behalf. In case of import by rail direct to the place of import, one of the inspecting officers shall be the Prohibition and Excise Officer in charge of the place where the railway station to which the consignment is to be booked is situated or an officer deputed by him in this behalf.

(3) Every pass granted under sub-rule (1) shall be in four parts which shall be dealt with as under: Part I shall be retained on the records of the officer issuing the pass; Part II shall be sent by post to the Excise Officer at the exporting place; Part III shall be sent to the Superintendent of Prohibition and Excise at the place of import; and Part IV shall be handed over to the importer or his agent together with the Form "Certificate-1" annexed thereto.

24. Procedure in transit :-

Part IV of the pass and the certificate shall be sent alongwith the consignment while in transit and shall be produced for inspection

on demand made by any Prohibition and Excise Officer or Police Officer not below the rank of a Sub Inspector

25. Timely intimation of arrival of consignment to be given to inspecting and examining officers :-

The importer or his agent shall give to the inspecting and examining officers named in the pass at least three day's previous intimation of the date and hour when the consignment will be ready for inspection or examination, as the case may be at the place appointed for the purpose and shown in the pass. On receipt of such intimation, the officer concerned shall proceed himself or depute another officer to proceed to the place appointed for inspection or examination, as the case may be, to inspect or examine the consignment. The inspection and examination shall be made in accordance with the procedure prescribed in Rules 26 and 27 respectively.

26. Inspection of consignment in-route. :-

On arrival of the consignment at the appointed place of inspection, the importer shall produce Part IV of the pass and the certificate before the inspecting officer named in the pass. The inspecting officer shall compare the number, marks and other particulars on each receptacle or package forming part of the consignment with those shown in the certificate issued by the Excise Officer at the exporting place, and in the railway receipt in the case of consignment sent by rail, and satisfy himself that the seals on such receptacles or packages are intact and that they have not been tampered with in transit. If, on inspection, any receptacle or package is found to have been tampered with, or otherwise damaged, the inspecting officer shall ask the importer to get it securely packed in his presence and after this has been done, the inspecting officer shall re-seal such receptacle or package with his own seal and allow the consignment to proceed, after making necessary remarks on the pass and the certificate and noting thereon the impression of the seal with which such receptacle or package has been re-sealed by him. He shall then handover to the importer Part IV of the pass and the certificate

27. Examination of consignment at place of import :-

(1) The importer shall on arrival of the consignment at the place appointed for its examination and shown in the pass, produce Part IV of the pass and the certificate before the examining officer named in the pass. The examining officer shall examine the

consignment and satisfy himself that

(a) the numbers, marks and other particulars shown on each receptacle or package forming part of the consignment tally with those shown in the certificate issued by the Excise Officer at the exporting place and the note made by the inspecting officer.

(b) the seals on each such receptacle or package are intact and that they have not been tampered with in transit; and

(c) the number of bottles contained in the receptacles or packages is correct and that they are intact.

(2) If the examining officer finds on examination of the consignment under sub-rule (1) that the consignment does not tally with the details of the spirituous preparation given in Part IV of the pass and the certificate, the examining officer shall not release the consignment but report the facts to his immediate superior and act according to his orders.

28. Drawing of samples and their disposal :-

The following procedure shall be observed in drawing samples and sending them either to the Director, Forensic Science Laboratory and Chemical analyzer to Government for the purpose of analysis, as the Superintendent of Prohibition and Excise may direct, that is to say:

(a) Two samples shall be drawn from each spirituous preparation, free of cost;

(b) a sample shall not be less than 120 ml.

(c) Each bottle of sample shall be properly corked and sealed with the Examining Officer's seal and labeled as shown below: Number of Import Pass Date of Import Pass The name of the spirituous preparation Number and date of forwarding letter

(d) The sample shall be drawn and sealed in the presence of the importer or his agent;

(e) The duplicate samples shall be kept under lock until such time as the result of analysis has been received provided that they may be forwarded to the Director, Forensic Science Laboratory and Chemical Analyzer to Government as the case may be, if he requires them for replacing the samples sent to him or for further analysis. The duplicate samples, when no longer required, shall be

returned to the importer or his agent

29. Release of consignment after examination :-

The examining officer shall note the result of his examination under Rule 27 of the reverse of Part IV of the pass and on the certificate. He shall then allow the consignment to be removed if he is satisfied that the consignment tallies in all respects with the details of the spirituous preparation given in Part IV of pass and the certificate

30. Importer to bear all costs and risks of conveyance :-

The costs of conveying the consignment of the spirituous preparation to the place of import and all risks incidental to such conveyance shall be borne by the importer

31. Exporter to obtain a permit from the Excise Officer at the importing place :-

Any person who holds a licence or permit under the Act for the sale or possession of spirituous preparation or is permitted to possess or sell spirituous preparation under the Act and who desires to export any spirituous preparation (hereinafter referred to as 'exporter') to any other part of India shall first obtain a permit or No Objection Certificate from the Excise Authority at the importing place authorizing him to export such spirituous preparation to that place

32. Application for Export Pass :-

On receipt of such permit the exporter shall apply in Form S.P: VI for an export pass, to the Licensing Authority along with the said permit.

33. Issue of Export Pass :-

(1) On receipt of the application under Rule 32, the Licensing Authority shall make such inquiries as he may deem necessary, and if he finds no objection to grant him an export pass in Form S.P. VII on payment of a fee of Rs. 50/-

(2) Every pass granted under this rule shall be four parts which shall be dealt with as

under Part I shall be retained on the records of the office of the Licensing Authority granting the pass;

34. Removal of spirituous preparation under excise escort :-

Where the spirituous preparation which is to be exported is removed whether wholly or partly by road through to the limits of the State of Gujarat, the holder of the pass shall, on being required

by the Superintendent of Prohibition and Excise or the aforesaid officer to do so, remove such spirituous preparation through such limits under excise escort and shall pay in advance the cost of the escort fixed by the Director in this behalf

35. Exporter to obtain certificate-2 and deliver it to the Superintendent or Officer issuing pass :-

The exporter shall, on the consignment of the spirituous preparation reaching its destination, obtain a certificate in Form "Certificate-2" annexed to Part II of the pass from the Excise Officer at the importing place and deliver it immediately to the Licensing Authority or officer who issued the pass.