

**KARNATAKA OPEN PLACES (PREVENTION OF
DISFIGUREMENT) ACT, 1981**

35 of 1982

[24 June, 1981]

CONTENTS

1. Short title and commencement
2. Definitions
3. Penalty for unauthorised disfigurement by advertisements
4. Burden of proof in certain cases
5. Punishment for abettors
6. Offences by companies
7. Indemnity
8. Cognizance of offences
9. Other laws not affected
10. Power to make rules
11. Repeal and savings

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STATEMENT OF OBJECTS AND REASONS KARNATAKA ACT No. 35 OF 1982 Karnataka Gazette, Extraordinary, dated 24-6-1981 Public and private buildings and other open places disfigured by slogans written and posters pasted indiscriminately on their walls are a common spectacle in the cities and towns of the State. Indulgence in these activities, apart from spoiling the beauty of the buildings and other space obliges the owners to incur avoidable expenditure to undo the mischief. As these activities have been on the increase it has become necessary to prevent them immediately. The existing provisions under the Karnataka Police Act, 1963 and the municipal laws are not found to be sufficient to check this menace effectively. In these circumstances it is intended to have a separate stringent law which provides inter alia for deterrent punishment and for making the offences recognizable. Hence the Bill.

1. Short title and commencement :-

(1) This Act may be called the Karnataka Open Places (Prevention of Disfigurement) Act, 1981.

(2) It shall.

(i) be deemed to have come into force in the cities of Bangalore, Mysore, Hubli-Dharwar, Mangalore and Belgaum constituted or continued under the Karnataka Municipal Corporation Act, 1976 or under any other law, on the fifth day of May, 1981; and

(ii) come into force in the municipalities, notified areas, sanitary boards, constituted or continued under the Karnataka Municipalities Act, 1964 or under any other law, or in any other local area, on such date, as the State Government may by notification appoint and different dates may be appointed in respect of different areas.

2. Definitions :-

In this Act, unless the context otherwise requires.

(a) "Advertisement" means any printed, cyclostyled, typed or written, notice, document, paper or any other thing containing any letter, word, picture, sign or visible representation;

(b) "Place open to public view" includes any private place or building, monument, statue, post, wall, fence, tree or contrivance visible to a person being in, or passing along any public place;

(c) "Public place" means any place (including a road, street or way, whether a thoroughfare or not and a landing place) to which the public or granted access or have a right to resort or over which they have a right to pass.

3. Penalty for unauthorised disfigurement by advertisements :-

Whoever by himself or through another person affixes to, or erects, inscribes or exhibits on, any place open to public view any advertisement without the written permission of the local authority having jurisdiction over such area, shall be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to one thousand rupees or with both:

Provided that nothing in this section shall apply to any advertisement which.

(i) is exhibited within the window of any building if the advertisement relates to the trade, profession or business carried on in that building; or

(ii) relates to the trade, profession or business carried on within the land or building upon or over which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein or to any sale, entertainment or meeting to be held on or upon or in the same; or

(iii) relates to the name of the land or building, upon or over which the advertisement is exhibited, or to name of the owner or occupier of such land or building; or

(iv) relates to the business of a railway administration and is exhibited within any railway station or upon any wall or other property of a railway administration.

1 [(v) is affixed to or exhibited on any ancient and historical monument declared to be of national importance under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (Central Act XXIV of 1958).]

1. Item (v) inserted by Act No. 15 of 1984 and shall be and shall be deemed always to have been inserted.

4. Burden of proof in certain cases :-

Where a person is prosecuted for committing an offence under Section 3 , the burden of proving that he has the written permission referred to in that section shall be on him.

5. Punishment for abettors :-

Whoever in any manner whatsoever auses, procures, counsels, aids, abets or is accessory to, the commission to any offence under Section 3 shall on conviction be punished with the punishment provided for the offence.

6. Offences by companies :-

(1) If the person committing any offence punishable under this Act is a company, every person who, at the time when the offence was committed, was in charge of and responsible to the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence;

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of any director, manager, secretary or other officer of the company, he shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation. For the purpose of this section.

(a) "Company" means any body corporate and includes a firm or other association of individuals; and

(b) "Director" in relation to a firm, means a partner in the firm.

7. Indemnity :-

No suit, prosecution or other legal proceeding shall lie against the State Government, any local authority or person for anything which is in good faith done or intended to be done under this Act.

8. Cognizance of offences :-

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) any offence punishable under this Act shall be deemed to be a cognizable offence within the meaning of that code.

9. Other laws not affected :-

The provisions of this Act are in addition to, and not in derogation of, the provisions of any other law for the time being in force,

10. Power to make rules :-

(1) The State Government may make rules for the purpose of carrying out the provisions of this Act.

(2) Every rule made by the State Government under this Act shall be laid as soon as may be after it is made, before each House of the State Legislature, while it is in session for a total period of 30 days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session

immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no 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.

11. Repeal and savings :-

(1) The Karnataka Open Places (Prevention of Disfigurement) Ordinance, 1981 (Karnataka Ordinance 10 of 1981) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.