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Tamil Nadu Prohibition Of Smoking And Spitting Act, 2003**04 of 2003**

An Act to provide for prohibition of smoking and spitting in the place of public work or use and in public service vehicle in the State of Tamil Nadu and for matters connected therewith. BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-third Year of the Republic of India as follows:-

Statement of Objects and Reasons² At present, there is no law to provide for prohibition of smoking in the places of public work or use and in public service vehicles in this State. It is an universally accepted fact that smoking affects the health of not only smokers, but also passive smokers (non-smokers) due to the smoke generated by the smokers. Due to smoking and inhaling of smoke generated on account of smoking, incidence of cancer, lung and heart diseases

have increased. Due to spitting, after chewing tobacco, pan masala, gutkha or any tobacco product or products containing tobacco the places of public work or use and public service vehicles become unhygienic and the environment gets polluted. It has therefore, become necessary to provide for prohibition of smoking and spitting in the places of public work or use and in public service vehicles in the interest of the general public. 2. The Government have therefore decided to undertake a legislation to provide for prohibition of smoking and spitting in places of public work or use and in public service vehicles in the State. 3. The Bill seeks to achieve the above decision. Memorandum Regarding Delegated Legislation² Clauses 1(3), 3, 10, 15, 16 and 18 of the Bill, authorise the Government to issue Notifications, Orders or to make Rules as the case may be, to carry out the purposes specified therein. 2. The powers delegated are normal and not of an exceptional character. 1. Received the assent of the President on the 28th February, 2003 - Published in Tamil Nadu Government Gazette, Extraordinary, Part IV, Section 2, Issue No.69, dated 6th March, 2003. 2. Vide T.N. Bill No.4 of 2003 - Published in Tamil Nadu Government Gazette, Issue No.215, dated 4th April 2003.

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Tamil Nadu Prohibition of Smoking and Spitting Act, 2002.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall come into force on such date, as the Government may, by notification, 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 reference to the coming into force of that provision.

2. Definitions :-

In this Act, unless the context otherwise requires,-

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

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

10;

(c) "Government" means the State Government;

(d) "Place of public work or use" means any place declared as such under Section 3 and includes auditoria, hospital buildings, health institutions, cinema, seminar or conference halls, amusement centres, restaurants, eating houses, commercial establishments, public offices, Court buildings, educational institutions, parks, libraries, sports complexes, bus stations, bus stops, beaches, bazaars, all the Government offices including local bodies, statutory bodies, cooperative institutions and religious places and the like which are visited by general public; but does not include any open place;

(e) "public service vehicle" means a vehicle as defined under clause (35) of Section 2 of the Motor Vehicles Act, 1988 (Central Act 59 of 1988);

(f) "religious place" means a temple, church, mosque, mutt or a place by whatever designation known, used as a place of public religious worship;

(g) "smoking " means smoking of tobacco in the form of cigarette, cigar, beedi or otherwise with the aid of pipe, wrapper or any other instrument;

(h) "spitting" means voluntary ejection of saliva from the mouth after chewing tobacco, pan-masala, gutka, betal leaf with arecanut in any form or any tobacco product or products containing tobacco or ejection of mucus from the nose after inhaling snuff.

3. Declaration Of Places Of Public Work Or Use :-

The Government may, by notification, declare any place of public work or use in the State of Tamil Nadu to be a place for the purpose of this Act.

4. Prohibition Of Smoking And Spitting In Place Of Public Work Or Use :-

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

5. Prohibition Of Smoking And Spitting In Public Service Vehicle :-

Subject to the provisions of the Motor Vehicles Act, 1988 (Central Act 59 of 1988), no person shall smoke or spit in any public service vehicle.

6. Prohibition Of Advertisement Of Smoking And Chewing :-

Notwithstanding anything contained in any other law for the time being in force, no person shall advertise or cause to advertise in any place of public work or use and on any public service vehicle any material which may directly or indirectly promote smoking or chewing of tobacco, pan masala or gutka or any tobacco product or products containing tobacco even if classified as by any other name.

7. Prohibition Of Storage, Sale And Distribution Of Cigarettes, Etc :-

No person shall himself or by any person on his behalf, store, sell or distribute cigarettes, beedies, cigar, supari with tobacco, zarda, snuff, or any other smoking or chewing substance or substances containing tobacco within an area of one hundred metres around any college, school or other educational institutions.

8. Display And Exhibition Of Board :-

Every person incharge of place of public work or use shall display and exhibit a board at conspicuous place in or outside the place prominently stating that the place is a "No Smoking and No Spitting place" and that "Smoking and Spitting is an Offence".

9. Penalties :-

Any person, who contravenes the provisions of,-

- (i) Sections 4, 5, or 8 shall be punishable with fine which may extend to one hundred rupees and in the case of second or subsequent offence, shall be punishable with a minimum fine of two hundred rupees, but which may extend to five hundred rupees;
- (ii) Section 6 or 7 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, but which may extend to one thousand rupees, or with both.

10. Power Of Government To Authorise Any Person To Act Under This Act :-

The Government may, by notification, authorise one or more persons who shall be competent to act under this Act.

11. Person Authorised Under Section 10 To Be A Public Servant :-

Every person authorised under Section 10 shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (Central Act XLV of 1860).

12. Power To Eject Violators :-

Any authorised officer or any police officer, not below the rank of a Sub-Inspector, may eject any person who contravenes any of the provisions of this Act, from the place of public work or use, and any driver or conductor of a public service vehicle may eject any person who contravenes any of the provisions of the Act in the public service vehicles, from the public service vehicle.

13. Cognizance Of Offences :-

No Court shall take cognizance of any offence under this Act except on a complaint in writing of an authorised officer with respect to offences under Sections 4, 5 and 8 and on a report in writing of a police officer, not below the rank of Sub-Inspector, with respect to the offences under Sections 6 and 7.

14. Offences Under This 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 (Central Act 2 of 1974).

15. Delegation Of Power :-

The Government may, by notification, direct that any power exercisable by them under this Act, except the power to make rule 5 under Section 18, may also be exercised by such officer as may be mentioned therein subject to such conditions, if any, as may be specified therein.

16. Compounding Of Offences :-

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

17. Offences By Companies :-

(1) Where an offence under the Act has been committed by a company, every person who at the time the offence was committed, was incharge of, and was 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, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

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

Explanation.- For the purposes 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.

18. Power To Make Rules :-

(1) The Government may, by notification, make rules for carrying out all or any of the purposes of this Act.

(2) (a) All rules made under this Act shall be published in the Tamil Nadu Government Gazette and unless they are expressed to come into force on a particular day, shall come into force on the date on which they are so published.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, shall come into force on the date on which they are published.

(3) Every rule made or notification issued under this Act shall, as soon as possible after it is made or issued, be placed on the table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or notification, or the Assembly decides that the rule or notification should not be made or issued, the rule or notification 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 or notification.