

**Assam Health (Prohibition Of Manufacturing,
Advertisement, Trade, Storage, Distribution, Sale And
Consumption Of Zarda, Gutkha, Panmasala Etc. Containing
Tobacco And/Or Nicotine) Act, 2013**

01 of 2014

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PREAMBLE

An Act to improve public health and prevent incidence of cancer and other health hazards and addictions among the people of the State and for matters connected therewith or incidental thereto.

Whereas it is considered expedient to enact a comprehensive law on smokeless and chewing tobacco and/or nicotine in the public interest and to protect public health;

And whereas it is expedient to prohibit manufacturing, advertisement, trade, storage, distribution, sale and consumption of Zarda, Gutkha, Panmasala containing tobacco and/or nicotine and various types of smokeless and chewing tobacco and/or

nicotine or any of its derivatives in any form, which are injurious to health with a view to achieve improvement of public health in general as enjoined by Article 47 of the Constitution, and to make any violation of such prohibition a penal offence, which is cognizable and non-bailable;

It is hereby enacted in the Sixty-fourth Year of the Republic as follows:-

1. Short title, extent and commencement :-

(1) This Act may be called the Assam Health (Prohibition of Manufacturing, Trade, Advertisement, Storage, Distribution, Sale And Consumption of Zarda, Gutkha, Panmasala etc. Containing Tobacco and/or nicotine) Act, 2013.

(2) It extends to the whole of Assam.

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

2. Definitions :-

In this Act, unless the context otherwise required,-

(a) "advertisement" means and includes any visible representation by way of notice, circular, label, pamphlet, display on hoardings, balloons, wrapper or other documents and also includes any announcements made orally or by any means of light, sound, smoke, gas which has the effect of promoting use and consumption of chewing and smokeless tobacco products;

(b) "authorized officer" means any person authorized under section 3;

(c) "distribution" includes distribution by way of samples, whether free or otherwise;

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

(e) "manufacture", with its grammatical variations and cognate expressions, includes the manufacturing of all forms of chewing and smokeless tobacco and/or nicotine products, zarda, gutkha pan masala or any chewing materials having tobacco and/or nicotine as one of its ingredients, by whatever name called;

(f) "rules" means the rules framed under this Act;

(g) "sale", with all its grammatical variations and cognate expressions, means any transfer of property in goods by one person to another, whether for cash or on-credit, or by way of exchange, and whether wholesale or retail includes an agreement for sale, and offer for sale and exposure for sale;

(h) "tobacco" means smokeless and chewing tobacco and tobacco products and includes leaves and other vegetative parts of Nicotina-Tabacum, commonly known as tambaku, dhapat, zarda or by any other name or names in all its variants in solid or any other form and all types of chewing and smokeless tobacco and tobacco products including gutkha, pan masala and other chewing material having tobacco as one of its ingredients, by whatever name called, tooth powder containing tobacco and any other product which may be notified by the Government, for the purpose of this Act.

3. Power of Government to authorize Officers :-

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

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

4. Prohibition of certain acts under the Act :-

(1) No person shall engage in or purported to be engaged in all or any one of the following acts within the State of Assam:-

(a) manufacturing of Zarda, Gutkha, Panmasala etc. containing tobacco and/or nicotine and various types of smokeless and chewing tobacco or any of its derivatives in any form;

(b) advertisement of Zarda, Gutkha, Panmasala etc. containing tobacco and/or nicotine and various types of smokeless and chewing tobacco or any of its derivatives in any form;

(c) storage of Zarda, Gutkha, Panmasala etc. containing tobacco and/or nicotine and various types of smokeless and chewing tobacco or any of its derivatives in any form;

(d) trade, distribution including unloading, and sale of Zarda, Gutkha, Panmasala etc. containing tobacco and/or nicotine and various types of smokeless and chewing tobacco or any of its derivatives in any form;

(e) consumption including possession of Zarda, Gutkha, Panmasala etc. containing tobacco and/or nicotine and various types of smokeless and chewing tobacco or any of its derivatives in any form;

(2) Notwithstanding anything contained in the foregoing provisions, the Government may, by notification, authorise, storage and sale of tobacco for the purpose of medicinal use for any period in any specific place.

5. Offence :-

Any person who contravenes any of the provisions of section 4 shall commit an offence punishable under this Act.

6. Penalty :-

(a) Whoever commits any offence as mentioned in section 4(1) (a) (b) (c) and (d) shall be punished with imprisonment for a term which may extend to 7 years and with fine not less than 1 lakh rupees and which may extend to 5 lakhs rupees.

(b) Whoever commits any offence as mentioned in Section 4(e) shall be punished with fine up to Rupees 1,000 for the first offence and Rs. 2000 for the second and any subsequent offence or offences.

(c) If any person after having been previously convicted of an offence under this Act, subsequently commits and convicted for the same offence, he shall be liable to twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence.

7. Power of search and seizure :-

(1) Any person or officer authorized in this behalf under section 3 or any Police officer, not below the rank of Sub-Inspector, shall have the power to enter, and search any place and seize of the entire quantity of tobacco, zarda, gutkha, panmasala etc. containing tobacco and/or nicotine that may be stored for manufacture, trade, distribution, sale, consumption or otherwise or in the possession of any person for manufacture, trade, distribution, sale, consumption or otherwise or any advertisement material stored in any place or premises, in contravention of the provisions of this Act.

(2) The provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall apply to every search and seizure made under this Act.

(3) Any quantity of tobacco, zarda, gutkha, panmasala etc. containing tobacco and/or nicotine or any advertisement material seized under this Act shall be produced before the Competent Court which shall be confiscated and disposed of with the order of the Court.

(4) No confiscation made under this section shall prevent the infliction of any punishment under this Act.

8. Offences by Company :-

(1) Where an offence under this Act which have been committed by a company, every person, who at the time the offence was committed, was in charge 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.

(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 and connivance of or is attributable to any neglect on the part of, any Director, Manager, Secretary, Store-keeper, Vendor or any other officer of the company, such Director, Manager, Secretary, Store-keeper Vendor or any other officer of the company, shall also be deemed to be liable to be proceeded against and punished accordingly.

Explanation:- For the purpose of this section,-

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

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

9. Cognizance of offence :-

(1) Any offence committed under section 4 (1) (a) (b) (c) (d) shall be cognizable and non-bailable and offence committed under section 4(1) (e) shall be cognizable and bailable.

(2) All offences under this Act shall be tried by a competent Court not below the 3 rank of a Judicial Magistrate of the 1st Class and shall be tried in the manner as provided in the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974).

10. Fund for awareness programme :-

(1) The amount of the fine ordered by the Court and any amount received on account of confiscation and disposal of any confiscated tobacco, zarda, gutkha, panmasala etc. containing tobacco and/or nicotine or advertisement material shall be deposited in a fund to be created by the Government for the purpose of awareness against use of tobacco among the public.

(2) Where the order of the Court relating to fine is not voluntarily complied with, the same shall be realized as an arrear of land revenue under the provisions of the Bengal Public Demands

Recovery Act, 1913 (Bengal Act No. 3 of 1913), from the Concerned person.

11. Power to Make rules :-

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

(2) All rules made by the State Government under this Act shall, as soon as may be after they are made, be laid before the State Legislative Assembly while it is in session, for a total period of not less than fourteen days which may be comprised in one session or two or more successive sessions, and shall, unless some later date is appointed, take effect from the date of their publication in the Official Gazette subject to such modification or annulments as the Legislative Assembly may, during the said period agree to make so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

12. Act-to have overriding effect :-

Notwithstanding anything contrary contained in any other law for the time being in force, the provisions of this Act shall have overriding effect.

13. Interpretation :-

If any difficulty arises in the interpretation of any provision of the Act, the interpretation of the Government shall be final.

14. Power to remove difficulty :-

If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, do anything not inconsistent with the provisions of this Act, which appears to him to be necessary or expedient for the purpose of removing the difficulty.