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Himachal Pradesh Open Places (Prevention Of Disfigurement) Act, 1985

(Act No. 12 Of 1985)

Content

1. Short title, extent and commencement.-

2. Definitions.-

3. Penalty for unauthorised disfigurement by advertisement.-

4. Burden of proof in certain cases.-

5. Punishment for abettors.-

6. Offences by companies.-

7. Protection of action taken in good faith.-

8. Cognizance of offences.-

9. Other laws not affected.-

10. Power to make rules.-

Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 6th July, 1985, pp. 1018 and 1022.

Received the assent of the President on the 25th October, 1985 and was published in Hindi in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 28th November, 1985, pp. 2717-2721 and in English on 4th January, 1986, pp. 9-13).

An Act to prevent disfigurement by unauthorised advertisement, of places open to public view in the State of Himachal Pradesh, and for matters connected therewith or incidental thereto.

Himachal Pradesh Open Places (Prevention Of Disfigurement) Act, 1985

(Act No. 12 Of 1985)

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-sixth Year of the Republic of India, as follows:-

1. Short title, extent and commencement.-

(1) This Act may be called the Himachal Pradesh Open Places (Prevention of Disfigurement) Act, 1985.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force in the areas comprised in the Municipal Corporation of Shimla, constituted under the Himachal Pradesh Municipal Corporation Act, 1979 (Act No. 9 of 1980) at once and shall come into force

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 6th July, 1985, pp. 1018 and 1022. in the remaining part of the State on such date as the State Government may, by notification, appoint and different dates may be appointed for 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) "places open to public view" include 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 landing place) to which the public are granted access or have a right to resort or over which they have a right to pass.

## 3. Penalty for unauthorised disfigurement by advertisement. -

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 or the local authority having jurisdiction over such areas, shall be punished with imprisonment of either description for a term which may extend to three 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 with 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 exhibited within any railway station or upon any wall or other property of a railway administration.

## 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 causes, procures, counsels, aids, abets or is accessory to, the commission of 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 of the commission of the offence 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, such director, manager, secretary or other officer shall also be deemed to be guilty of that 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 be firm means a partner in the firm.

#### 7. Protection of action taken in good faith.-

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 any offence punishable under this Act shall be deemed to be cognizable offence within the meaning of that Code.

#### 9. Other laws not affected.-

The provisions of this Act are in addition to, and not 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 the State Legislative Assembly, while it is in session for a total period of fourteen days which may comprise in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, the House agrees in making any modification in the rule or House agrees 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 or committed to be done under that rule.