

Himachal Pradesh Taxation (On Certain Goods Carried By Road) Act, 1976

[Act No. 34 Of 1976]

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THE SCHEDULE

An Act to provide for the levy of a tax on certain goods carried by road in the State of Himachal Pradesh and for certain other connected matters.

Himachal Pradesh Taxation (On Certain Goods Carried By Road) Act, 1976

[Act No. 34 Of 1976]

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-seventh Year of the Republic of India as follows:--

1 - Short title, extent and commencement.

(1) This Act may be called the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Act, 1976.

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

(3) It shall come into force at once.

## **2 - Definitions.**

In this Act, unless there is anything repugnant in the subject or context,--

- (a) 'barrier' means a barrier established under section 6 of this Act;
- (b) 'Commissioner' means the Commissioner appointed under section 7 of this Act;
- (c) 'goods' means the goods specified in column (2) of the schedule appended to this Act;
- (d) 'Government' or 'State Government' means the Government of Himachal Pradesh;
- (e) 'Inspector' means the person authorised by the State Government to collect tax in respect of any goods crossing a barrier and includes every Government servant posted at a barrier in connection with, the collection of tax;
- (f) 'kilogram' means kilogram as defined in the Standard of Weights and Measures Act, 1956 (89 of 1956);
- (g) 'mechanical vehicle' means any mechanically propelled vehicle adopted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer;
- (h) 'notification' means a notification published in the Official Gazette;
- (i) 'Official Gazette' means the Rajpatra, Himachal Pradesh;
- (j) 'prescribed' means prescribed by rules made under this Act;
- (k) 'tax' means the tax levied under this Act;
- (l) 'taxing authority' means any person or authority appointed by the State Government, by notification, to exercise the powers and perform the duties conferred or imposed upon a taxing authority by or under this Act.

## **3 - Levy and rate of tax.**

(1) There shall be levied and paid to the State Government on every kind of goods specified in column (2) of the Schedule to this Act carried by mechanical vehicle, cart, animal and human agency or any other means, except railways and airways, a tax at the rate specified against such goods in column (3) thereof. The net weight 1[, value, volume and species of goods] for the purposes of assessment of the tax shall be determined in the manner prescribed.

Explanation.--The tax levied under this Act shall be in addition to any tax levied or leviable under the Himachal Pradesh Passengers and Goods Taxation Act, 1955 (15 of 1955).

(2) The Government shall have the power to amend, by notification, column (3) of the Schedule, provided that the rates of tax specified in column (3) of the Schedule shall not be enhanced or reduced by more than 50 per cent of the rates given therein on the commencement of the Act.

#### **4 - Mode of payment of tax.**

Every person-in-charge of the mechanical vehicle, cart or animal in or on which the goods are carried or the person-in-charge of the goods, at the time of crossing a barrier, shall pay to the Inspector-in-charge of the barrier the tax and shall obtain a receipt from him in token of having paid the amount specified therein.

#### **5 - Exhibition of table of tax and statement of penalties.**

A table of the tax authorised to be taken at any barrier shall be put in a conspicuous place near such barrier legibly written or printed in Hindi and English words and figures, to which shall be annexed, written or printed in like manner, a statement of penalties for evading or refusing to pay the tax.

#### **6 - Establishment of barriers.**

The State Government may, from time to time, by notification in the Official Gazette, establish or remove barriers on any road.

#### **7 - Taxing authorities.**

(1) The Government may, for carrying out the purposes of this Act, appoint a Commissioner and such other officer or officers to assist him as it thinks fit.

(2) The officer or officers appointed under sub-section (1) shall exercise such powers, have jurisdiction over such area or areas and have such relation with one another as may be prescribed.

(3) The Government may, instead of appointing any person under sub-section (1), invest, by notification, any officer to exercise any power under this Act, and also specify therein the area in which power is to be exercised and there-upon such officer or officers shall be deemed to have been appointed under sub-section (1).

"(3) Notwithstanding anything contained in sub-section (2), the Government may, in public interest by notification, exempt any of the goods or class of goods specified in the schedule from the payment of tax under the Act subject to such conditions as it may deem fit."

(4) All persons appointed under this Act, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

#### **8 - Powers of Inspectors and other taxing authorities.**

The driver of a mechanical vehicle, cart or an animal carrying the goods shall cause to stop the vehicle, cart or animal, as the case may be, when required so to do by the Inspector or any taxing authority to enable him to carry out any of the duties imposed on him under this Act, or the rules made thereunder.

#### **9 - Assistance to Inspectors and other taxing authorities.**

All police officers shall be bound to assist the Inspectors and taxing authorities, when required, in performance of their duties under this Act, and, for that purpose, shall have the same powers which they have in the discharge of their ordinary police duties.

#### **10 - Recovery of tax in case of refusal to pay or evasion.**

(1) If the Inspector-in-charge of the barrier is satisfied that any person carrying the goods has evaded payment of tax due under this Act, or such person has not made the payment of tax on demand he may, for reasons to be recorded in writing and after hearing the said person, order detention of the goods as also the vehicle carrying such goods for such period as may reasonably be necessary and shall allow the same to proceed only on the owner of goods or his representative or the driver or other person-in-charge of the goods, vehicle, cart or animal on behalf of the owner of the goods making payment of the tax or furnishing to his satisfaction a security or executing a bond with or without sureties for securing the amount of tax, in the prescribed form.

(2) In case the person-in-charge of goods or the vehicle detained under sub-section (1) fails to pay the tax due or furnish a bond referred to in sub-section (1) within 24 hours of the detention of such goods, the Inspector may cause the goods to be sold in the prescribed manner.

(3) The sale proceeds of such goods after defraying the expenses of sale and after deducting the tax shall be paid to the person-in-charge of the goods in the prescribed manner.

## **11 - Penalties.**

(1) Whosoever--

(a) contravenes or abets the contravention of any of the provisions of this Act or the rules made thereunder or any order or direction made under any such provision or rule, or

(b) has concealed the particulars of the goods carried or deliberately furnished inaccurate particulars of such goods, shall on conviction be liable to imprisonment of either description which may extend to six months or to a fine which may extend to one thousand rupees or to both.

(2) No Magistrate shall take cognizance of any offence under this Act, or the rules made thereunder except on a complaint in writing made by an officer or authority authorised by the State Government or the Commissioner in this behalf.

## **12 - Revision.**

The Commissioner may, of his own motion or on an application made to him in the prescribed manner, call for and examine the records of any proceedings which have been taken under this Act, by any officer subordinate to him and may subject to the provisions of this Act and the rules made thereunder, and after such enquiry as may be deemed necessary, revise any order passed in such proceedings:

Provided that no order to the prejudice of any person shall be passed under this section without giving him a reasonable opportunity of being heard.

## **13 - Bar of proceedings.**

No suit, prosecution or other legal proceedings shall lie against any person authorised to act by or under this Act or the rules made thereunder, for anything done, or purporting to have been done, in good faith, under this Act or the rules made thereunder.

#### **14 - Power to make rules.**

(1) The State Government may, by notification in the Official Gazette, make rules consistent with this Act, for securing the levy and collection of tax and generally for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly of Himachal Pradesh while it is in session for a total period of not less than 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 sessions aforesaid, the Assembly makes any modification in the rule or decides 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.

#### **15 - Repeal and savings.**

The Himachal Pradesh Taxation (On Certain Goods Carried by Road) Ordinance, 1976 (5 of 1976) is hereby repealed:

Provided that anything done, any rule made or any action taken under the said Ordinance shall be deemed to have been done, made or taken under this Act, as if this Act had come into force with effect from the 17th July, 1976.

#### **THE SCHEDULE**

(See section 3)

<b>Sl. No.</b>	<b>Particulars of the goods on which tax is leviable</b>	<b>Rate of tax</b>
1.	Apples contained in boxes upto 10 kg capacity.	50 paise per box.
2.	Apples contained in boxes of more than 10 kg and upto 20 kg capacity.	Re. 1.00 per box.
3.	Apples contained in any other packing or loose.	50 paise per 10 kg or part thereof.
4.	Mangoes	25 paise per 10 kg or part thereof.
5.	Mandrine, Sweet Oranges including Kinnu.	25 paise per 10 kg or part thereof.
6.	Appricots, Peaches, Plums	25 paise per 10 kg or part thereof.
7.	Grapes	50 paise per 10 kg or part thereof
8.	Bananas	25 paise per 10 kg or part

		thereof.
9.	Pears	25 paise per 10 kg or part thereof.