

State Legislative Brief

HARYANA

Amendments to Haryana Municipal Laws, 2022

Key Features

- The Haryana Municipal Act, 1973 and the Haryana Municipal Corporation Act, 1994 mandate licences for undertaking certain activities (establishing factories or eateries) in municipal areas. These activities and their licence fee are determined by the municipal bodies. The 2022 Bills remove licensing requirements for activities that are under the purview of other regulatory authorities. They also empower the state government to prescribe the licence fee for certain activities across municipal bodies, and licensing requirements for dangerous activities.

Key Issues and Analysis

- Taking away the power to prescribe the trade licence fee from municipal bodies may go against the idea of devolving more powers to local bodies, as intended by the 74th amendment to the Constitution.
- The 2022 Bills amend the Acts to license the same set of activities. However, the penalties for violating the licensing provisions under the Acts remain unchanged. Hence, for the same offence, in a municipal committee or council, one may be imprisoned, while only being subject to a fine in a municipal corporation.

PART A: HIGHLIGHTS OF THE BILL

Context

The Constitution empowers state legislatures to devolve powers and functions related to various aspects of urban governance (such as urban planning and public health) to municipal bodies.¹ In Haryana, municipal bodies were constituted under the Haryana Municipal Act, 1973 and the Haryana Municipal Corporation Act, 1994. The 1973 Act is applicable to municipal committees (population below 50,000) and municipal councils (population above 50,000 and below three lakh). The 1994 Act is applicable to municipal corporations (population above three lakh). Both Acts provide for the constitution of respective municipal bodies, their powers and functions, including their powers to decide and levy fee and taxes (including licence fee for certain trade activities).

The Haryana Municipal (Amendment) Bill, 2022 (2022 Municipal Bill), and the Haryana Municipal Corporation (Amendment) Bill, 2022 (2022 Municipal Corporation Bill) were introduced in the Haryana Legislative Assembly on March 14, 2022. According to the Statement of Objects and Reasons of the Bills, these municipal bodies have been imposing licensing fee on trade activities where such licence is not required. Further, different fee is being charged across different municipal areas. These Bills seek to create uniformity in the licence fee structure. They also seek to omit obsolete trade activities and remove activities from the purview of the municipal bodies that are being regulated by other statutory authorities. For example, the establishment of factories or industrial plants is regulated by the State Pollution Control Board, and food businesses are regulated by the Food Safety Standards Authority of India.

Key Features

- **Licensing of activities in municipal areas:** The 1973 Act mandates a licence for carrying out certain activities (such as boiling bones, dying, tanning). The 2022 Municipal Bill amends this to prescribe licensing for: (i) keeping horses, cattle, birds, or other four-footed animals for transportation, sale, hire, or for sale of their produce, and (ii) any activity prescribed by the state government as dangerous to life, health or property, or which may cause nuisance. The 1973 Act also regulates the: (i) establishment of new factories or workshops, and (ii) exhibition of pictures and dramatic performances. The 2022 Municipal Bill removes these provisions.
- The 1994 Act mandates a licence for: (i) any activity which is dangerous (to life, health, or property) or may cause nuisance in the opinion of the Commissioner, and (ii) other purposes (such as dyeing, glass cutting), as mentioned in the Second Schedule to the Act. The 2022 Municipal Corporation Bill removes the licensing requirement for purposes specified in the Second Schedule and deletes the Second Schedule. Further, it empowers the state government (instead of the Commissioner) to specify activities that may be dangerous.
- The 1994 Act provides that it will be mandatory to obtain licences from the Commissioner for: (i) the establishment and modification of factories or workshops, (ii) any place where the public consumes food or drinks, and (iii) theatres and places of public amusement. The 2022 Municipal Corporation Bill deletes these provisions.

- **Licence fee:** For any licence to be given by the municipal committee and municipal council under the 1973 Act, the licence fee will be as per a scale approved by the Deputy Commissioner. For any licence to be given by the Commissioner under the 1994 Act, the licence fee will be fixed by the Commissioner, with the sanction of the municipal corporation. The 2022 Bills amend the 1973 and 1994 Acts to empower the state government to prescribe the licence fee.

PART B: KEY ISSUES AND ANALYSIS

Taking away powers from municipal bodies goes against idea of devolution

1973 Act: Section 128,
1994 Act: Section 352,
Municipal Bill, 2022: Clause 2,
Municipal Corporation Bill, 2022: Clause 6

According to the Statements of Objects and Reasons, the 2022 Bills seek to bring uniformity with regard to trade licensing. Activities that will be considered harmful to health, life or property will be prescribed by the state government, instead of the municipal bodies. The licence fee will be fixed by the state government instead of the municipal bodies. As per the Constitution, the state government is empowered to decide the powers that should be devolved to local bodies.¹ However, the proposed amendments may be going against the idea of devolving more power to the local governments, which the 74th Amendment to the Constitution sought to achieve.² The Bills take away the autonomy of the municipal bodies by not allowing them to fix fee for trade licences (which is a source of revenue for them). Experts have noted that the lack of independence and autonomy for municipal bodies hampers service delivery in urban areas, and affects their ability to govern effectively.^{3,4}

Further, different municipal areas may want to charge different licence fee based on their local conditions. For example, a licence fee to open a restaurant in Gurgaon could be different from the licence fee for a restaurant in Rohtak. Thus, if the state government fixes a uniform licence fee for opening restaurants across all municipal committees (and councils), and corporations in Haryana, municipal bodies may further lose their autonomy to decide their sources of revenue, as per their requirement.

In some states such as Kerala, Maharashtra, Uttar Pradesh, and Rajasthan, the municipal body decides the licence fee for activities such as keeping four-footed animals for hire, sale, or transportation, in municipal areas.^{5,6,7,8} In the case of municipalities in Karnataka, and municipal corporations in Punjab, the respective laws prescribe an upper limit for the licence fee that may be levied by the municipal body.^{9,10}

Different penalties for same offence

1973 Act: Section 128,
1994 Act: Section 331,
Section 380
read with
Third
Schedule

The 2022 Bills amend both Acts to bring the same set of activities under licensing. However, the penalties for violating the licensing provisions under the Acts, remain unchanged. The Acts (as amended by the Bills) provide that for the same offence, one may be subject to imprisonment in a municipal committee or council, while only being subject to a fine in a municipal corporation.

For example, if a person keeps birds for commercial sale in a premises in a municipal committee without a licence, the person may be imprisoned. However, if the same violation were to take place in a municipal corporation, the person may only be subject to fine. Similarly, if a person were to undertake a dangerous activity (as specified by the state government) in a municipal corporation, a person may be subject to only a fine, and not imprisonment.

Municipal Bill, 2022: Clause 2,
Municipal Corporation Bill, 2022: Clause 3

1. Article 243W, [The Constitution of India](#).
2. [The Constitution \(74th Amendment\) Act, 1992](#).
3. Chapter 14: “From Competitive Federalism to Competitive Sub-Federalism: Cities as Dynamios”, [Economic Survey \(2016-17\)](#).
4. Report on Indian Urban Infrastructure and Services, [High Powered Expert Committee for Estimating the Investment Requirement for Urban Infrastructure Services](#), March 2011.
5. Section 492, [Kerala Municipality Act, 1994](#).
6. Section 386 (2), [Maharashtra Municipal Corporations Act, 1949](#).
7. Section 247, [Rajasthan Municipalities Act, 2009](#).
8. Section 294, [Uttar Pradesh Municipalities Act, 1916](#).
9. Section 256 (4), [The Karnataka Municipalities Act, 1964](#).
10. Section 343, [Punjab Municipal Corporation Act, 1976](#).

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