The Andhra Pradesh Prohibition Act, 1995

Act 17 of 1995

Keyword(s):
Buy or Buying, Foreign Liquor, Indian Liquor, Liquor, Local Body, Police Station, Sale or Selling, Spirit

ACT NO. 17 OF 1995.

[20th Feb., 1995]

AN ACT TO INTRODUCE PROHIBITION OF THE
SALE AND CONSUMPTION OF INTOXICATING
LIQUORS IN THE STATE OF ANDHRA PRADESH
AND FOR MATTERS CONNECTED THERewith OR
INCIDENTAL THERETO.

WHEREAS article 47 of the Constitution of India enjoins that the
State shall endeavour to bring about prohibition of the consump-
tion, except for medicinal purposes, of intoxicating drinks
which are injurious to health;

AND WHEREAS there is urgent need in public interest to bring
about the prohibition of the sale and consumption of intoxica-
ting liquors, except for medicinal, scientific, industrial or such-
like purposes, in the State of Andhra Pradesh;

BE IT ENACTED by the Legislative Assembly of the State of
Andhra Pradesh in the Forty-sixth Year of the Republic of India
as follows:

CHAPTER - I
PRELIMINARY

1. (1) This Act may be called the Andhra Pradesh Prohibition

(2) It extends to the whole of the State of Andhra Pradesh.

* Received the assent of the President on the 17th February, 1995. For
statement of Object & Reasons, please see the Andhra Pradesh Gazette, Part
(3). It shall come into force on such date as the Government may, by notification, appoint.

2. In this Act, unless the context otherwise requires—

(1) 'buy' or 'buying' includes any receipt including gift;

(2) 'Collector' means the Collector of a district and includes the Joint Collector or any person appointed by the Government to exercise the powers and perform the functions of a Collector under this Act;

(3) 'Commissioner' means the Commissioner of Prohibition Act 17 of 1958 and Excise appointed under section 3 of the Andhra Pradesh Excise Act, 1968;

(4) 'foreign liquor' includes every liquor imported into India, other than Indian liquor;

(5) 'Government' means the State Government;

(6) 'Indian liquor' means liquor produced, manufactured or compounded in India after the manner of gin, brandy, whisky or rum imported from foreign countries and includes 'milk punch' and other liquors consisting of or containing any such spirit, but does not include foreign liquor;

(7) 'liquor' includes—

(a) spirits of wine, denatured spirits, methylated spirits, rectified spirits, wine, beer and every liquid consisting of or containing alcohol; and

(b) any other intoxicating substance which the Government may, by notification, declare to be liquor for the purposes of this Act,

but does not include toddy;

(8) 'local body' means any Municipal Corporation, Municipality, Notified Area, Gram Panchayat, Mandal Parishad, Zilla Parishad, Township or a Cantoment constituted under the relevant law for the time being in force;
(9) ‘notification’ means a notification published in the Andhra Pradesh Gazette and the term ‘notified’ shall be construed accordingly;

(10) ‘place’ includes an open place, a house, club, shed, enclosure, building, shop, tent, vessel, raft and vehicle.

(11) ‘police station’ includes any place which the Government may, by notification, declare to be a police station for the purpose of this Act;

(12) ‘prescribed’ means prescribed by rules made under this Act;

(13) ‘Prohibition Officer’ means the Commissioner, a Collector or any Officer or other person to whom the Commissioner or the Collector delegates his powers or functions under section 6;

(14) ‘sale’ or ‘selling’ includes any transfer including gift;

(15) ‘spirit’ means any liquor containing alcohol and obtained by distillation whether it is denatured or not;

(16) words and expressions used in this Act but not defined shall have the meanings assigned to them in the Andhra Pradesh Excise Act, 1968.

CHAPTER – II

ESTABLISHMENT AND CONTROL

3. The Commissioner of Prohibition and Excise for the State appointed under section 3 of the Andhra Pradesh Excise Act, 1968 shall, subject to the general or special orders of the Government in that behalf, be the Chief controlling authority in all matters connected with the administration of this Act.

4. The Collector shall exercise the powers and perform the functions assigned by or under this Act subject to the general control of the Commissioner.
5. The officers and staff referred to in section 5 of the Andhra Pradesh Excise Act, 1968 shall be deemed to be officers of the Act, and for this purpose it shall be competent for the Government to give such directions and to make such rules as they may deem fit with regard to their powers and functions.

6. For purposes of giving effect to this Act, the Commissioner, the Collector or the Prohibition and Excise Superintendent may, by order, delegate to any officer subordinate to him any of the powers conferred on or functions entrusted to the Commissioner, the Collector or the Prohibition and Excise Superintendent by or under this Act, subject to such limitations and conditions, if any, as may be specified in the order of delegation.

CHAPTER III
PROHIBITION AND PENALTIES

7. The selling, buying, being in possession and consumption of liquor, otherwise than in accordance with the provisions of this Act, or as the case may be, the Andhra Pradesh Excise Act, 1968 is hereby prohibited.

8. Whoever,—

(a) buys, or consumes any liquor except in accordance with the provisions of this Act, or the terms of any notification order, licence or permit issued thereunder shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both;

(b) possesses or sells any liquor without any licence granted under the Andhra Pradesh Excise Act, 1968 shall be punished—

(i) where the liquor involved in the offence is less than one quantity as may be notified in this behalf with imprisonment.
(ii) where the liquor involved in the offence is not less than the quantity notified as aforesaid with imprisonment for a term which shall not be less than one year but which may extend up to five years and with fine which shall not be less than rupees ten thousand but which may extend up to rupees one lakh;

(c) having obtained a licence or permit granted under The Andhra Pradesh Excise Act, 1968, sells any liquor other than in accordance with the provisions of this Act or terms, any rule, notification, order, licence or permit issued thereunder shall be punished with imprisonment for a term which may extend up to six months or with fine which may extend up to rupees one thousand or with both;

(d) allows consumption of liquor upon premises in his immediate possession shall be punished with imprisonment for a term which may extend up to six months or with fine which may extend up to one thousand rupees or with both.

Punishment for being found in a state of intoxication

9. Whoever is found in a state of intoxication in any public place and whoever, not having been permitted to consume liquor in pursuance of this Act, is found in a state of intoxication in any private place, shall be punishable with imprisonment which may extend up to six months, or with fine which may extend up to one thousand rupees, or with both.

Punishment for abetment of escape of persons arrested

10. Any officer or person exercising powers under this Act, who,—

(a) unlawfully releases or abets the escape of any person arrested under this Act, or abets the commission of any offence against this Act, or
(b) acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or taken and any other officer of the Government or of a local body who abets the commission of any offence against this Act shall be punished with imprisonment which may extend up to six months, or with fine which may extend up to five hundred rupees, or with both.

If whoever is guilty of any wilful act or intentional omission in contravention of any of the provisions of this Act or any rule, notification or order made thereunder and not otherwise provided for in this Act, shall be punishable with fine which extend up to five hundred rupees.

2. Without prejudice to the powers of the Excise Officers under section 46 of the Andhra Pradesh Excise Act, 1968, in case in which an offence has been committed against this Act, the liquor by means of which the offence has been committed Act 17 of 1968 shall be liable to confiscation along with the receptacles, covers, animals, vessels, carts or other vehicles held or carry the same.

3. (1) When the offender is convicted or when the person confiscated is charged with an offence against this Act is acquitted, but the Court decides that anything is liable to confiscation, such confiscation may be ordered by the Court.

(2) When an offence against this Act has been committed the offender is not known, or cannot be found, or when the thing liable to confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for, such shall be inquired into and determined by the Collector or Prohibition Officer in charge of the district or by any officer authorised by the State Government in that behalf may order such confiscation.
Provided that no such order shall be made until the expiration of fifteen days from the date of seizing the things intended to be confiscated or without hearing the persons, if any, claiming any right thereto, and evidence, if any, which they produce in support of their claims.

14. All officers in charge of police stations shall take charge of and keep in safe custody pending the orders of a Magistrate or of a Prohibition Officer. All articles seized under this Act which may be delivered to them; and shall allow any Prohibition Officer who may accompany such articles to the Police station, or who may be deputed for the purpose by his superior officer, to affix his seal to such articles and to take samples from them. All samples so taken shall also be sealed with the seal of the officer in charge of the police station.

CHAPTER - IV

EXEMPTIONS

15. (1) Subject to such rules as may be made in this behalf the prescribed authority may issue—

(i) permits to persons who are foreigners under the Foreigners Act, 1939 and to persons who are non-resident Indians to consume liquor;

(ii) licences to hotels and restaurants recognised as three star and above in accordance with such rules as may be made and to such categories of institutions as may be specified by notification subject to such criteria as may be prescribed to sell foreign liquor or Indian liquor to the holders of permits granted under this Act;

(iii) permits to those who are medically certified by any notified medical authority as requiring to consume liquor an account of any diagnosed health condition or problems to such liquor.
(iv) permits to persons who are tourists from outside the State and to persons who are not ordinarily residents of the State to consume liquor;

(v) permits to members serving or retired belonging to the armed forces to consume liquor;

(vi) permits to companies, corporations, institutions, industrialists, exporters, importers and similar such functionaries as may be notified, who normally entertain foreigners, non-resident Indians and guests coming from outside the in pursuance of their business activity or the activity connected with their institutions to buy and serve liquor;

(vii) permits to consume liquor in cases of medical emergency; and

(viii) permits for sacramental wine used in masses conducted in Churches.

(2) Permits for possession and consumption of liquor shall be given at the entry points subject to such rules as may be made in this behalf to,

(i) foreign and non-resident Indian tourists who bring foreign liquor with them from abroad to the extent of eligibility under the Baggage Rules, 1978 made under Central Act, 1962 for their own consumption subject to proof of entry into India from abroad;

(ii) Indians returning from abroad who are medically certified to be in need of consumption of liquor to the extent of their eligibility under the above said baggage Rules, 1978 subject to proof of entry into India from abroad.

(3) Whoever is in possession of liquor at the commencement of this Act of a quantity not exceeding one quart bottle and who are medically certified to be in need of periodic consumption of liquor may retain and use such liquor and the liquor in excess of the said quantity shall be surrendered for with to the notified authority.

J. No.—1854—14
(4.) Whoever, at the commencement of this Act is in possession of any liquor, without any medical certification as to the need for the consumption of liquor in the case of an individual, and in other cases for any purpose, shall surrender such liquor, subject to such rules as may be made in this behalf.

(5) A permit or licence granted under this section shall be in such form and for such period and subject to such conditions including conditions relating to the for payable and as to its non-transferability, openion, cancellation and attachment for violations, as may be prescribed.

(6.) Without prejudice to the action to be taken under subsection (5) any person who is guilty of any violation of the conditions of the licence or permit granted under this section shall be liable to fine which may extend up to one thousand rupees.

(16) until the Government by notification otherwise direct and subject to such conditions as may be prescribed, the provisions of this Act shall not be deemed to apply.—

(a) to liquor in the possession of bona fide travellers for their own personal use while passing through any local area in which this Act is in force; or

(b) to lawful consignments of liquor carried through or into any such local area.

CHAPTER V

DETECTION, INVESTIGATION AND TRIAL OF OFFENCES

17. (1) If any Collector, Prohibition Officer or Magistrate upon information obtained after such inquiry as he thinks necessary, has reason to believe that an offence under section 8 has been committed, he may issue a warrant for a search for any liquor, materials, still, utensil, implement or apparatus in respect
of which the alleged offence has been committed. Any person has been entrusted with the execution of such a warrant may detain and search, and if he thinks proper, arrest any person found in the place searched, if he has reason to believe such person to be guilty of any offence under this Act and also seize and detain any excisable or other articles which he has reason to believe to be liable to confiscation under this Act:

Provided that every person arrested under this section shall be admitted to bail by the person arresting, if sufficient bail be tendered for his appearance either before a Magistrate or before a Police or Prohibition Officer, as the case may be.

(2) Before issuing such warrant, the Collector, Prohibition Officer or Magistrate shall examine the informant on oath and the examination shall be reduced into writing in a summary manner and be signed by the informant, and also by the Collector, Prohibition Officer or Magistrate.

18. Whenever a Collector, any Prohibition Officer or any Powers of Police Officer, not below the rank of Inspector, any officer in entry without charge of a Police Station, has reason to believe that an offence under section 8 has been committed and that the delay occasioned by obtaining search warrant under section 17 will prevent the execution thereof, he may, after recording the reasons and the grounds of his belief, at any time by day or night enter and search any place and may seize anything found therein which he has reason to believe to be liable to confiscation under this Act; and he shall detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of any offence under this Act and also seize and detain any excisable or other articles which he has reason to believe to be liable to confiscation under this Act:

Provided that every person arrested under this section shall be admitted to bail by such officer as aforesaid if sufficient bail be tendered for his appearance either before a Magistrate or before a Police or Prohibition Officer, as the case may be,
19. The Collector, or any Prohibition Officer or any Police Officer, not below the rank of an Inspector may enter and inspect at any time by day or by night, any place in which it is reasonably suspected:

(a) that any liquor is kept for sale or stored; or

(b) that an offence under section 8 is being committed;

and may examine, test, measure or weigh any material, still, utensil, implement, apparatus or liquor found in such place.

20. If any officer empowered to make an entry under sections 17, 18 and 19 cannot otherwise make such entry, it shall be lawful for him to break open any outer or inner door or window and to remove any other obstacles to his entry into any such place.

21. Any Prohibition Officer or any Police Officer, not below the rank of an Inspector:

(a) may arrest without warrant any person found committing an offence punishable under section 8 or section 9;

(b) may seize and detain any liquor or other article which he has reason to believe to be liable to confiscation under this Act; and

(c) may search any person’s vessel, vehicle, animal, package, receptacle or covering, upon whom or in which, he may have reasonable cause to suspect any such liquor or other article or to be concealed.

22. Any person, who may be accused or reasonably suspected of committing an offence under this Act, and who on demand made by any Prohibition Officer or any Police Officer not below the rank of an Inspector refuses to give his name and residence or who gives a name or residence which such officer has reason to believe to be false, may be arrested by such Officer in order that his name and residence may be ascertained.
23. Any person arrested under this Act, shall be informed of the grounds for such arrest as soon as may be of the grounds for such arrest and save as otherwise expressly provided in this Act, the provisions of the Code of Criminal Procedure, 1973, relating to arrests, detention in custody, searches, summonses, warrants of arrests, search warrants, the production of persons arrested and the disposal of things seized shall apply, as far as may be, to all actions taken in these respects under this Act.

24. (1) Any Prohibition and Excise Officer not below the rank of an Inspector may, as regards offences under this Act exercise within such area as may be notified in this behalf, powers conferred on an Officer-in-charge of a police station by the provision of Code of Criminal Procedure, 1973:

Provided that any such power shall be subject to such restrictions and modifications, as may be prescribed.

(2) For the purposes of section 156 of the said Code, the area in regard to which a Prohibition and Excise Officer is empowered under sub-section (1) shall be deemed to be a police station and such officer shall be deemed to be the officer-in-charge of such station.

25. Notwithstanding anything contained in the Code of Criminal Procedure 1973, all offences under this Act, shall be cognizable and provisions of the said code with respect to cognizable offences shall apply to them.

26. Any officer or person exercising powers under this Act who,—

(a) without reasonable ground of suspicion enters or searches or causes to be searched any closed place; or

(b) unnecessarily and unnecessarily seizes the property of any person on the pretense of seizing or searching for anything liable to confiscation under this Act; or
(c) vexatiously and unnecessarily detains, searches or arrests any person; or

(d) maliciously and falsely lays information leading to a search, seizure, detention or arrest; or

(e) in any other way maliciously exceeds his lawful powers,

shall be punished with imprisonment which may extend up to six months, or with fine which may extend up to five hundred rupees or with both.

CHAPTER - VI
MISCELLANEOUS

Prohibition Committees

27. There shall be constituted Prohibition Committees by the Collector at the Mandal level and by the Government at the District and State levels. The composition and powers and functions of such Committees shall be such as may be prescribed.

Duty of officials of all departments and local bodies to assist

28. Officials of all departments of the Government and of all local bodies shall be legally bound to assist any Prohibition Officer in carrying out the provisions of this Act.

Offences to be reported, etc.

29. Every Official employed by the Government or by any local body other than a Police or any Prohibition Officer shall be bound to give immediate information at the nearest police station or to a Prohibition Officer of all breaches of any of the provisions of this Act which may come to his knowledge; and all such officials shall be bound to take all reasonable measures in their power to prevent the commission of any such breaches which they may know or have reason to believe are about or likely to be committed.

Protection of action taken under this Act

30. No suit or other legal proceedings shall lie against the Government or any officer or any other person empowered to exercise powers or to perform the functions under this Act for anything in good faith done or intended to be done under this Act.
(31) Save as otherwise provided the provisions overriding of this Act shall have effect, not with standing anything inconsistent therewith contained in the provisions of the Andhra Act 17 of Prades Excise Act, 1968 and the rules made thereunder for the 1968 time being in force

(32) Nothing in this Act shall be deemed to preclude. **Savings.**

(a) the Andhra Pradesh Beverages Corporation Limited to carry on trade in liquor in accordance with rules made in this behalf;

(b) the buying and selling of liquor carried on by the military canteens in the state under any licence granted in accordance with the provisions of the Andhra Pradesh... Excise Act Act 17 of 1968 and the rules made thereunder; and

(c) the consumption of medicines containing alcohol

33 (f) The Government may, by notification, make rules **Power to make Rules.**

for carrying out all or any of the purposes of this Act.

(2) Every rule made under this Act shall, immediately after it is made, be laid before the Legislative Assembly of the State, if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiration of the session in which it is so laid or the session immediately following the Legislative Assembly agree in making any modification in the rule or in the annulment of the rule, the rule shall from the date on which the modification or annulment is notified have effect only in such modified form or shall stand annulled as the case may be, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

34. In the Andhra Pradesh Excise Act, 1968,

(1)—In section 1, for sub-section (2), the following shall be substituted, namely:
“(2) It extends to the whole of the State of Andhra Pradesh:
Provided that on and from the date of commencement of the
Andhra Pradesh Prohibition Act, 1995 the provisions of this
Act shall, in so far as they are inconsistent with the provi-
sions of the said Act cease to operate.”;

(3) In section 5, for sub-section (1), the following
shall be substituted, namely:—

“(1) The Government may appoint such number of
Additional Commissioners, Joint Commissioners, Deputy-
Commissioners and Assistant Commissioners of Prohibition
and Excise and District Prohibition and Excise Officers and
such other officers as they think fit for the purpose of per-
forming the functions respectively conferred on them by or
under this Act”;

(3) Throughout the Act for the words “Excise Officer”,
Commissioner of Excise”, “Additional Commissioners of Excise”,
“Deputy Commissioner of Excise”, “Assistant Commissioner
of Excise”, “Excise Superintendent”, Assistant Excise
Superintendent” and “Excise Department”, the words,
“Prohibition and Excise Officers; Commissioner of Prohibition”,
and Excise Additional Commissioner of Prohibition and Excise,
Deputy “Commissioner of Prohibition and Excise”, Assistant
Commissioner of Prohibition and Excise”, “Prohibition and
Excise, Superintendent” “Assistant Prohibition and Excise and
Superintendent and Prohibition and Excise Department” shall
respectively be substituted.

35. Andhra Pradesh (Andhra Area) Prohibition Act, 1937
and the Andhra Pradesh Prohibition Ordinance, 1994 are hereby
repealed.
ACT NO. 35 OF 1995

[12th October, 1995]

AN ACT TO AMEND THE ANDHRA PRADESH PROHIBITION ACT, 1955.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Forty-sixth Year of the Republic of India as follows:

1. (1) This Act may be called the Andhra Pradesh Prohibition (Amendment) Act, 1995.

(2) (i) section 2, 3 and 6 shall be deemed to have come into force on the 16th January, 1995;

(ii) section 4, sub-clause (iv) of section 7, section 13, section 14 section (ii) and section 16 (ii) shall be deemed to have come into force on the 18th July, 1995 and section 22 shall be deemed to have come into force on the 9th September, 1995 and

(iii) the remaining provisions shall come into force at once.

2. In the Andhra Pradesh Prohibition Act, 1955 (hereinafter referred to as the principal Act), in the long title, for the words "Prohibition of Sale", the words "Prohibition of the Manufacture, Sale", shall be substituted.

3. In the preamble of the principal Act, in paragraph 3 for the words "prohibition of the sale", the words "prohibition of the manufacture, sale" shall be substituted.

4. In section 2 of the principal Act,—

(i) for clause (7), the following shall be substituted,—

"(7) 'liquor' includes,—

(a) spirits of wine, wine, beer and every liquid consisting of or containing alcohol including Indian Liquor and Foreign Liquor;

(b) any other intoxicating substance which the Government may by notification, declare to be liquor for the purposes of this Act;

but does not include toddy denatured spirits, methylated spirits and rectified spirits;

(ii) clause (15) shall be omitted.

5. In section 6 of the principal Act, for the words "the Collector in the two places where they occur the words "the Assistant Commissioner of Prohibition and Excise", shall be substituted.

6. After section 7 of the principal Act the following section shall be inserted namely:—

7-A. Manufacturing of liquor is hereby prohibited.

7. In section 8 of the principal Act,—

(i) in clause (a) the words "buys, or", shall be omitted;

(ii) in clause (b),—

(a) for the words "possesses or sells", the words "possesses, collects, buys, sells or transports", shall be substituted;

J. No.—1854—34
3. In the preamble of the principal Act, in paragraph 2, the words "prohibition of the sale", the words "prohibition of the manufacture, sale" shall be substituted.

4. In section 2 of the principal Act,—

(i) for clause (7), the following shall be substituted,—

"(7) 'liquor' includes,—

(a) spirits of wine, wine, beer and every liquid consisting of or containing alcohol including Indian Liquor and Foreign Liquor;

(b) any other intoxicating substance which the Government may by notification declare to be liquor for the purposes of this Act;

but does not include toddy denatured spirits, methylated spirits and rectified spirits;

(ii) clause (15) shall be omitted.

5. In section 6 of the principal Act, for the words "the Collector" in the two places where they occur the words "the Assistant Commissioner of Prohibition and Excise" shall be substituted.

6. After section 7 of the principal Act the following section shall be inserted namely,—

"Prohibition of manufacturing or prohibited liquor:—"

7-A. Manufacturing of liquor is hereby prohibited.

8. In section 8 of the principal Act,—

(i) in clause (a), the words "buys, or", shall be omitted;

(ii) in clause (b),

(a) for the words "possesses or sells", the words "possesses, collects, buys, sells or transports" shall be substituted;

J. No.—1854—34
(b) after sub-clause (ii), the following shall be inserted namely:

"(iii) where the commission of any offence either under
sub-clause (i) or sub-clause (ii) is abetted, the abettor shall be
liable for punishment with imprisonment and with fine of either
discretion as provided therein;";

(iii) in clause (d) for the words "six months or with fine
which may extend up to one thousand rupees", the words "three
years or with fine which may extend up to ten thousand rupees",
shall be substituted;

(iv) after clause (d), the following clause shall be added,
namely:

"(e) contravenes the provisions of section 7A, shall on
conviction be punished with imprisonment for a term which shall
not be less than one year but which may extend up to five years
and with fine which shall not be less than rupees ten thousand
but which may extend up to rupees one lakh."

8. In section 9 of the principal Act;

(i) for the words "punishable with imprisonment which
may extend up to six months or with fine which may extend up to
one thousand rupees," the words "punishable with imprisonment
which shall not be less than two months but which may extend
up to one year and with fine which may extend up to two thousand
rupees" shall be substituted;

(ii) to section 9 as so amended, the following explanation
shall be added; namely;—

"Explanation:—For the purposes of this section "intoxication"
means a state of mind and behaviour in which a person is
incapable of knowing the nature of his actions or incapable of
judging the consequences thereof by reason of intoxication;".

9. In section 10 of the principal Act,

(i) in clause (a) the words "abet the commission of any
offence against this Act, or" shall be omitted;
(ii) in clause (b) the words "and any other officer of the Government or of a local body who abets the commission of any offence against this Act" shall be omitted.

10. After section 11 of the principal Act the following section shall be inserted, namely:

"11-A. Notwithstanding anything contained in the Code of Criminal Procedure 1973 no court shall grant any bail to any person accused of an offence under sub-clause (i) or sub-clause (ii) or sub-clause (iii) of clause (b) or under clause (c) of section 8 unless the prosecuting officer is given an opportunity to oppose the application and the Court shall record reasons while granting the bail."  

11. For section 13 of the principal Act, the following section shall be substituted, namely:

13. (1) Notwithstanding anything contained in this Act or any other law for the time being in force where anything liable for confiscation under section 12 is seized and detained under the provisions of this Act, the officer seizing and detaining such property shall without any unreasonable delay produce the said seized property before the Deputy Commissioner of Prohibition and Excise who has jurisdiction over the area.

(2) On production of the said seized property under sub-section (1), the Deputy Commissioner of Prohibition and Excise if satisfied that an offence under this Act has been committed may whether or not a prosecution is instituted for the commission of such an offence, order confiscation of such property.

(3) While making an order of confiscation under sub-section (2), the Deputy Commissioner of Prohibition and Excise may also order that such of the properties to which the order of confiscation relates which in his opinion need not be preserved; or are not fit for human consumption be destroyed.

(4) Where the Deputy Commissioner of Prohibition and Excise after passing an order of confiscation under sub-section (2) is of the opinion that it is expedient in public interest so to do,  

[Incorporation of various paragraphs and sections related to the above clauses and sections, possibly including provisions on evidence, procedures, and authority for actions related to the prohibition and excise of goods, with specific references to courts, officers, and powers of confiscation and destruction under certain conditions.]
he may order the confiscated property or any part thereof to be sold by public auction or dispose of departmentally.

(5) The Deputy Commissioner of Prohibition and Excise shall submit a full report of all particulars of confiscation to the Commissioner of Prohibition and Excise within twenty four hours of such confiscation.

(6) The Deputy Commissioner of Prohibition and Excise shall, for the purposes of this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 when making enquiries under this section in respect of the following matters, namely:

(a) receiving evidence on affidavits;
(b) summoning and enforcing the attendance of any person and examining him on oath; and
(c) compelling the production of documents.

Issue of show-cause notice:— 13A. No order of confiscation of any property shall be made under section 13 unless the person from whom the said property is seized:

(a) is given a notice in writing informing him of the grounds on which it is proposed to confiscate such property; and
(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice.

Order of confiscation in the absence of offender:— 13B. When an offence under this Act has been committed but the offender is not known or cannot be found, or when anything liable to confiscation under this Act, and not in the possession of any person, cannot be satisfactorily accounted for, the Assistant Commissioner of Prohibition and Excise or the Prohibition and Excise Superintendent may by order confiscate such property:
Provided that no such order shall be made until the expiration of one month, from the date of seizing the goods intended to be confiscated.

13C. Any person aggrieved by an order passed by the Deputy Commissioner of Prohibition and Excise under section 13 may, within sixty days from the date of passing such order, appeal to the Commission, of Prohibition and Excise, who may, after giving reasonable opportunity to the appellant pass such orders as he deems fit.

Order of confiscation not to interfere with other punishments:

13D. The order of confiscation under sub-section (2) of section 13 or section 13B shall not prevent from initiation of criminal proceedings against the accused under this Act. The result of criminal proceedings either acquittal or conviction or otherwise under the provisions of this Act, will have no bearing on the order of confiscation passed under this Act.

Bar of jurisdiction:

13E. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 when the Deputy Commissioner of Prohibition and Excise or the appellate authority is seized with the matter under this Act, no court shall entertain any application in respect of liquor, any receptacle, package, covering, any animal, cart, vehicle or other conveyance used in carrying such liquor as far as its release, or confiscation is concerned and the jurisdiction of the Deputy Commissioner of Prohibition and Excise or the appellate authority with regard to the disposal of the same shall be exclusive.

Property confiscated when to vest in Government:

13F. When an order for confiscation of any property has been passed under section 13 or section 13B and such order has become final in respect of the whole or any portion of such property, such property or portion thereof, as the case may be, shall vest in Government free from all encumbrances.

12. For section 14 of the principal Act, the following section shall be substituted, namely:
14. All officers in charge of police stations shall take charge of and keep in safe custody under seal all articles seized under this Act along with samples which shall also be sealed with the seal of the officer in charge of the police station. The seized property including vehicles involved shall be produced before the Deputy Commissioner of Prohibition and Excise having jurisdiction to take action in accordance with the procedure specified in section 13."

Amendment of Section 15.

15. In section 15 of the Principal Act, in sub-section (i), clause (iii) shall be omitted.

Amendment of Section 17.

14. For section 17 of the principal Act, the following shall be substituted, namely:

"Issue of search warrants:

17. If any Collector, Prohibition Officer or Magistrate upon information obtained after such inquiry as he thinks necessary, has reason to believe that an offence under section 7, section 7A or section 8 has been committed he may issue a warrant for a search for any liquor, materials, still, utensil, implement or apparatus in respect of which the alleged offence has been committed. Any person who has been entrusted with the execution of such a warrant may detain and search, and if he thinks proper, arrest any person found in the place searched, if he has reason to believe such person to be guilty of any offence under this Act and also seize and detain any excisable or other articles which he has reason to believe to be liable to confiscation under this Act."

Amendment of Section 18

15. In section 18 of the principal Act—

(i) for the words "not below the rank of Inspector", the words "not below the rank of a Sub-Inspector" shall be substituted;

(ii) for the expression "section 8", the expression "section 7, section 7A or section 8", shall be substituted; and

(iii) the proviso shall be omitted.
16. In section 19 of the principal Act,

(i) in the opening portion for the words “not below the rank of Inspector” the words “not below the rank of a Sub-Inspector”, shall be substituted; and

(ii) in clause (b) for the expression “section 2”, the expression “section 1, section 7A or section 8”, shall be substituted.

17. In section 21 of the principal Act,

(i) in the opening portion for the words “not below the rank of an Inspector”, the words “not below the rank of Sub-Inspector”, shall be substituted; and

(ii) in clause (a) for the expression “section 8 or section of Section 9”, the expression “section 7, section 7A, section 8 or section 9” shall be substituted.

18. In section 22 of the principal Act, for the words “not below the rank of an Inspector”, the words “not below the rank of a Sub-Inspector”, shall be substituted.

19. In section 24 of the principal Act, for the words “not below the rank of an Inspector”, the words “not below the rank of a Sub-Inspector”, shall be substituted.

20. After section 31 of the principal Act, the following insertion of section shall be inserted, namely:

new Section 31A.

31A. “Power to remove difficulties. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may make such orders not inconsistent with the provisions of this Act, as appear to them to be necessary or expedient for the purpose of removing the difficulty;

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.”
(2) Every order made under this section shall, as soon as may be after it is made, be laid down before the Legislative Assembly of the State.

21. In section 33 of the principal Act, for clause (e), the following shall be substituted, namely:

"(e) the consumption and utilisation of medicines, toilet preparations and other food material containing alcohol."

22. After Section 32 of the Principal Act, the following section shall be added, namely:

32A. (1) Notwithstanding anything contained in the Andhra Pradesh Prohibition Act, 1995, the Andhra Pradesh Liquor (Issue of Permit and Licence) Rules, 1995, the Indian Contract Act, 1872 or the terms and conditions of any agreement entered into with the licensing authority under this Act or under the said rules, for the grant of all such permits and licenses on the recommendation of the notified medical authorities specified under the said rules shall stand cancelled in public interest; and accordingly no suit or other proceeding shall be entertained or continued in any court against such permitting or licensing authority or any person or authority whatsoever for the enforcement of any terms and conditions of such permit or license so terminated or for any damages or compensation on the ground that any loss is sustained by the termination thereof before its expiry.

(2) within a period of seven days from the date of commencement of this Act, every licensee shall surrender to the permitting or licensing authority, the entire stock of liquor on the date of such commencement, is in the possession of any holder of any permit or licence which stood terminated under sub-section (1) on such terms and conditions, as may be prescribed.
(3) All applications made for grant of permit or licence pending before the permitting or licensing authority on the appointed date and every action taken, or enquiry made in respect of such application, shall abate and all fees paid in connection therewith (including the application fee and licence fee, if any) already paid shall be refunded.

23. The Andhra Pradesh Prohibition (Amendment) Ordinance, 1995 is hereby repealed.

THE ANDHRA PRADESH PROHIBITION (AMENDMENT) ACT, 1996.

ACT No. 10 OF 1996.

[26th August, 1996.]

AN ACT FURTHER TO AMEND THE ANDHRA PRADESH PROHIBITION ACT, 1995.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF ANDHRA PRADESH IN THE FORTY-SEVENTH YEAR OF THE REPUBLIC OF INDIA AS FOLLOWS:

1. (1) This Act may be called the Andhra Pradesh Prohibition (Amendment) and Commencement Act, 1996.

Received the assent of the Governor on the 24th August, 1996. For Statement of objects and reasons, please see Andhra Pradesh Gazette, Part IV-A, Extraordinary, dated the 21st May, 1996 at Page 5.
(2) It shall be deemed to have come into force on the 7th February, 1996.

Amendment of section 8, Act 17 of 1995.

2. In the Andhra Pradesh Prohibition Act, 1995 (hereinafter referred to as the principal Act), in section 8, in clause (b),-

(a) in item (i) for the words "with fine which shall not be less than rupees five thousand but which may extend upto rupees twenty thousands;", the words "with fine which shall not be less than rupees ten thousand or shall not be less than thrice the value of the liquor involved in the offence whichever is higher but which may extend upto six times the value of such liquor, such value being arrived at in the manner prescribed;", shall be substituted;

(b) in item (ii) for the words "with fine which shall not be less than rupees ten thousand but which may extend upto rupees one lakh;", the words "with fine which shall not be less than rupees twenty thousand or shall not be less than thrice the value of the liquor involved in the offence whichever is higher but which may extend upto six times the value of such liquor, such value being arrived at in the manner prescribed;", shall be substituted;

(c) after item (ii), the following proviso shall be added, namely:-

"Provided that any person in possession of any liquor of a quantity of or less than .375ml, and who is a first offender under this Act shall be punished with imprisonment for a term
which may extend up to three months and
with fine which may extend up to five
thousand rupees;";

(d) in item (iii), for the words
"with imprisonment and with fine of
either description as provided therein",
the words "with imprisonment of either
description and with fine as provided
therein", shall be substituted.

3. In section 25 of the principal Amendment of
Act,-

(a) in the marginal heading, for the
words "Offences under the Act to be
cognizable", the words "Congnizance and
trial of offences", shall be
substituted; and

(b) the following proviso shall be
added, namely:-

"Provided that the offences under
clause (a) and proviso to clause (b) of
section 8 and sections 10 and 11 shall be
tried in accordance with the
procedure prescribed by Chapter XXI of
the Code of Criminal Procedure, 1973."

4. After section 25 of the principal Insertion of
Act, the following shall be inserted, new section
25A.

"Enhanced Punishment after
previous conviction.

25A. If any person after
having been previously
convicted of an offence
punishable under this Act,
subsequently commits and is
convicted of an offence
punishable under this Act, he shall be liable up to twice the punishment which might be imposed on the first conviction under this Act."

Repeal of 5. The Andhra Pradesh Prohibition Ordinance (Second Amendment) Ordinance, 1996 is 15 of 1996, hereby repealed.

G. BHAVANI PRASAD,
Secretary to Government,
Legislative Affairs & Justice,
Law Department.
THE ANDHRA PRADESH PROHIBITIONS (AMENDMENT) ACT, 1997.

ACT NO. 5 OF 1997.*

[28th March, 1997.]

AN ACT FURTHER TO AMEND THE ANDHRA PRADESH PROHIBITION ACT, 1995.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Forty-eighth Year of the Republic of India as follows:-

1. (1) This Act may be called the Andhra Pradesh Prohibition (Amendment) Act, 1997.

* Received the assent of the Governor on 28th March 1997. For Statement of the Objects and Reasons, please see the A.P. Gazette Part IV-A Extraordinary dated 26th March, 1997 at P-7.
(2) It shall come into force on such date as the Government may, by notification, appoint.

2. In the Andhra Pradesh Prohibition Act, 1995 (hereinafter referred to as the principal Act), for the long title, the following shall be substituted, namely:

"An Act to introduce Prohibition of the manufacture, sale and consumption of arrack and regulation of the manufacture, sale and consumption of other intoxicating liquors in the State of Andhra Pradesh and for matters connected therewith or incidental thereto".

3. In the Preamble to the principal Act, for para 2, the following shall be substituted, namely:

"AND WHEREAS, there is urgent need in public interest to bring about the prohibition of the manufacture, sale and consumption of arrack and regulation of the manufacture, sale and consumption of other intoxicating liquors in the State of Andhra Pradesh."

4. In section 2 of the principal Act,—

(i) before the existing clause (1), the following shall be inserted,—

"(1) 'arrack' means country liquor including arrack brewed, coloured, flavoured or spiced."

(ii) the existing clause (1) shall be renumbered as clause "(1A)".
(iii) for clause (7), the following shall be substituted, namely:

"(7) 'liquor' includes,

(a) spirits of wine, denatured spirits, rectified spirits, wine, beer, toddy and every liquid consisting of or containing alcohol; and

(b) any other intoxicating substance which the Government may, by notification, declare to be liquor for the purposes of this Act, ".

5. For section 7A of the principal Substitution Act, the following section shall be of section 7A substituted, namely:

Prohibition of production, manufacture, storage, possession, collection, purchase, sale and transport of arrack is hereby prohibited.

6. In section 8 of the principal Amendment of Act,--

(i) in clause (a), for the words "in accordance with the provisions of this Act," the words "in accordance with the provisions of this Act or the Andhra Pradesh Excise Act, 1968," shall be substituted;

(ii) in clause (b),--
(a) in the opening portion, for the words "sells or transports any liquor without any licence or permit granted under the Andhra Pradesh Excise Act, 1968", the words "sells, transports, produces or manufactures any liquor other than arrack except in accordance with the provisions of the Andhra Pradesh Excise Act, 1968, or the terms of any rule, notification, order, licence or permit issued thereunder" shall be substituted;

(b) in the proviso to item (ii), for the words "of any liquor of a quantity of", the words "of any liquor other than arrack of a quantity of" shall be substituted;

(iii) in clause (c), for the words "sells any liquor", the words "sells any liquor other than arrack" shall be substituted;

(iv) in clause (d), for the word 'liquor', the word "arrack" shall be substituted.

7. In section 9 of the principal Act, for the words "and whoever, not having been permitted to consume any liquor in pursuance of this Act, is found in a state of intoxication at any private place," the words "otherwise than as permitted under any law" shall be substituted.

Substitution of new Chapter for Chapter IV

8. For Chapter IV of the principal Act, the following Chapter shall be substituted, namely:
Regulation of manufacture, trade etc. of liquor.

15. The production, manufacture, storage, possession, collection, purchase, sale and transport of liquor other than arrack and all other matters connected therewith shall be regulated in accordance with the provisions of the Andhra Pradesh Excise Act, 1968 or the Andhra Pradesh (Regulation of Wholesale Trade and Distribution and Retail Trade in Indian Liquor, Foreign Liquor, Wine and Beer) Act, 1993, as the case may be and Act 15 of the rules and notifications and orders issued thereunder.

9. In Section 19 of the principal Amendment of Act, in clause (a) after the words "for section 19. sale or stored", the following words shall be added, namely:

"otherwise than in accordance with the provisions of the Andhra Pradesh Excise Act, 1968, and the rules made Act 17 of thereunder".

10. In section 25 of the principal Amendment of Act, for the proviso, the following section 25. shall be substituted, namely:

"Provided that the offences punishable with imprisonment for a term not exceeding two years under this Act shall be tried in accordance with the Central procedure prescribed in Chapter XXI of Act 2 of the Code of Criminal Procedure, 1973.".
Omission of Section 27.

Section 27 of the principal Act shall be omitted.

Amendment of section 32.

In section 32 of the principal Act, after clause (c), the following explanation shall be added, namely:

"Explanation:— 'Liquor for the purposes of this section does not include arrack.'"
ANDHRA PRADESH ACTS, ORDINANCES AND REGULATIONS Etc.

The following Act of the Andhra Pradesh Legislative Assembly received the assent of the Governor on the 28th April, 2000 and the said assent is hereby first published on the 29th April, 2000 in the Andhra Pradesh Gazette for General information:

ACT No. 17 OF 2000.

AN ACT FURTHER TO AMEND THE ANDHRA PRADESH PROHIBITION ACT, 1995.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Fifty-first Year of the Republic of India as follows:

1. (1) This Act may be called the Andhra Pradesh Prohibition (Amendment) Act, 2000.
(2) It shall come into force on such date as the State Government may, by notification, appoint.

2. In the Andhra Pradesh Prohibition Act, 1995 (hereinafter referred to as the principal Act) in section 8, in clause (b),

(a) in sub-clause (i) for the words "three years and with fine", the words "three years or with fine" and for the words "in the manner prescribed", the words "in the manner prescribed, or with both", shall be substituted; and

(b) the proviso to sub-clause (ii) shall be omitted.

3. In section 9 of the principal Act, for the words "one year and with fine", the words "one year or with fine" shall be substituted.

4. In the principal Act, after section 31A, the following section shall be inserted, namely:

"Compounding of Offences; 31. B(1) The Collector or any Prohibition and Excise Officer specially empowered in that behalf may accept from any person who is reasonably suspected of having committed an offence falling under clause (a) or sub-clause (i) of clause (b) or the proviso to sub-clause (ii) of clause (b) as it was in force, of section 5 or section 9, a sum of money as may be prescribed but not exceeding the maximum fine which can be imposed for the offence"
under the provisions of the Act, by way of compensation for the offence which may have been committed and in all cases in which any property has been seized as liable for confiscation under this Act, 'may release the same on payment of the value thereof as estimated by such officer:

Provided that where the property so seized is a liquor produced or manufactured in contravention of this Act, such liquor shall not be released but shall be disposed of in such manner as may be prescribed:

Provided further that such sum of money shall not be accepted from any person who is reasonably suspected of having committed an offence under sub-clause(i) of clause(b) of section 8 without the prior approval of the Commissioner of Prohibition and Excise.

(2) On the payment by the person the sum of money or the value or both, as the case may be, such person, if in custody shall be set at liberty, and all the property seized may be released and no proceedings shall be instituted or continued against such person in any Criminal Court. The acceptance of compensation shall be deemed to amount to an acquittal and in no case any further proceedings be taken against such person or property with reference to the same Act."

5. In the principal Act, to sub-section (2) of section 13, the following proviso shall be added, namely:-

Amendment of section 13.
Provided that the Deputy Commissioner (Prohibition and Excise) specially empowered in that behalf may accept such sum of money as may be prescribed in lieu of confiscation and release the animals or vessels or carts or other vehicles reasonably suspected of involvement in any offence falling under sub-clause (i) of clause (b) of section 8 of this Act.

G. BHAVANT PRESHAD,
Secretary to Government,
Legislative Affairs & Justice.

In pursuance of the mandate of the Supreme Court, the Board, acting as a Court of Final Court and to determine such matters of law, in any case our final order as
During the period of total prohibition in the State a large number of cases were booked against the offenders who violated the provisions of A.P. Prohibition Act, 1995. In fact as many as 3,04,331 cases were booked during the period from 16-1-1995 to 31-3-1997 for various offences. Out of the above 70,500 cases are pending trial under sections 8 & 9 of the Act. These cases were registered against persons who committed offences of consumption of liquor, possession of liquor in very small quantities or being found in intoxicated condition etc. Such offences are categorised as minor offences as per section 8(b)(i) and proviso to sub-clause(ii) and section 9 of the A.P. Prohibition Act, 1995. Similarly large number of vehicles were also seized during the above period. Cases against many of those vehicles were booked for carrying very small quantities of liquor. Now it is proposed to reduce the pendency of cases by compounding minor offences so that the dual purpose of reducing the pendency and collecting revenues to State can be achieved and more attention could be paid for curbing the manufacture/sale of ID liquor and flow of non-duty paid liquor from across the borders. The courts can concentrate on the quick disposal of less number of cases which involve major offences.

To achieve the above objects, the offences under section 8(a) or (b) (i) or the proviso b(ii) and section 9 of Andhra Pradesh Prohibition Act, 1995 are proposed to be made compoundable. Similarly a new provision under section 11 B and amendments to sections 8, 9 and 13(2) are proposed to be made in respect of minor offences and for the release of those vehicles which were involved in minor offences by collecting suitable fine.

Whereas the Andhra Pradesh Prohibition (Amendment) Bill, 1998 has been introduced in the Legislative Assembly of the State on 26th November, 1998 as L.A.Bill No.37 of 1998 the same has lapsed due to dissolution of the Tenth Legislative Assembly.

The Bill seeks to give effect to the above decisions.

TUMMALA NAGESWARA RAO,
Minister for Prohibition & Excise.