



The Gujarat Prohibition (Amendment) Act, 2017

Act 9 of 2017

Keyword(s):

Punishment for Possession, Prohibition Act

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PART IV

Acts of Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 15th March, 2017 is hereby published for general information.

K. M. LALA,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 9 OF 2017.

(First published, after having received the assent of the Governor, in the "Gujarat Government Gazette", on the 16th March, 2017).

AN ACT

further to amend the Gujarat Prohibition Act, 1949.

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

1. (1) This Act may be called the Gujarat Prohibition (Amendment) Act, 2017. Short title and commencement.
- (2) It shall be deemed to have come into force on the 19th December, 2016.

Amendment of
section 2 of
Bom. XXV of
1949.

2. In the Gujarat Prohibition Act, 1949 (hereinafter referred to as "the principal Act"), in section 2,-

(i) in clause (23), for sub-clause (a), the following sub-clause shall be substituted, namely:-

"(a) Ganja, that is, the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by whatever name they may be called;";

(ii) in clauses (29), (33) and (52), for the words and figures "the Code of Criminal Procedure, 1898", the words and figures "the Code of Criminal Procedure, 1973" shall be substituted. V of 1898.
2 of 1974.

Amendment of
section 65 of
Bom. XXV of
1949.

3. In the principal Act, in section 65,-

(i) in clause (e), for the words "sells or buys", the words "possesses, transports, sells or buys" shall be substituted;

(ii) for the portion beginning with the words "shall, on conviction" and ending with the words "also with fine", the following portion and the proviso thereunder shall be substituted, namely:-

"shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to ten years and with fine which may extend to five lakh rupees:

Provided that, in absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court-

(i) for a first offence, such imprisonment shall not be less than two years and fine shall not be less than one lakh rupees;

(ii) for a second offence, such imprisonment shall not be less than three years and fine shall not be less than two lakh rupees;

(iii) for a third or subsequent offences, such imprisonment shall not be less than seven years and fine shall not be less than five lakh rupees."

4. In the principal Act, after section 65, the following new section shall be inserted, namely:-

Punishment for possession, etc., of lesser quantity of intoxicant.

“65AA. Notwithstanding anything contained in section 65, whoever sells, buys, possesses or transports any intoxicant which is less than the quantity as specified by the State Government by notification in the *Official Gazette*, shall, on conviction, be punished, for each such offence with imprisonment for a term which may extend to three years and also with fine.”

Insertion of a new section 65AA in Bom. XXV of 1949.

5. In the principal Act, in section 66, in sub-section (1),-

(i) in clause (b), for the words “consumes, uses, possesses or transports”, the words “consumes or uses” shall be substituted;

(ii) for paras (ii) and (iii), the following para shall be substituted, namely:-

“(ii) for a second or subsequent offences, with imprisonment for a term which may extend to two years but which shall not be less than six months and with fine which may extend to two thousand rupees.”

Amendment of section 66 of Bom. XXV of 1949.

6. In the principal Act, in section 67,-

(i) in sub-section (1), for the words “one year” and “one thousand rupees”, the words “three years” and “one lakh rupees” shall be substituted, respectively;

(ii) in the proviso to sub-section (1), for the words “three months” and “five hundred rupees”, the words “one year” and “fifty thousand rupees” shall be substituted, respectively.

Amendment of section 67 of Bom. XXV of 1949.

7. In the principal Act, in section 67-1A,-

(i) in sub-section (1), for the words “one year” and “one thousand rupees”, the words “three years” and “one lakh rupees” shall be substituted, respectively;

(ii) in the proviso to sub-section (1), for the words “three months” and “five hundred rupees”, the words “one year” and “fifty thousand rupees” shall be substituted, respectively.

Amendment of section 67-1A of Bom. XXV of 1949.

- Amendment of section 68 of Bom. XXV of 1949.** 8. In the principal Act, in section 68, for the portion beginning with the words “shall, on conviction” and ending with the words “one thousand rupees” as appearing in clause (iii), the following portion shall be substituted, namely:-
 “shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to ten years but which shall not be less than seven years and with fine which may extend to rupees one lakh rupees.”.
- Amendment of section 85 of Bom. XXV of 1949.** 9. In the principal Act, in section 85, for sub-section (1), the following sub-section shall be substituted, namely:-
 “(1) Whoever, in any street, thoroughfare, public place, in any place to which the public have or are permitted to have access, is drunk and creates nuisance, takes up a quarrel with any person, uses foul or abusive language, indulges in fight with others, misbehaves with any woman or behaves obscenely, shall, on conviction, be punished with imprisonment for a term which may extend to three years but which shall not be less than one year and with fine.”.
- Amendment of section 91 of Bom. XXV of 1949.** 10. In the principal Act, in section 91, in sub-section (2), for the words and figures “the Code of Criminal Procedure, 1898”, the words and figures “the Code of Criminal Procedure, 1973” shall be substituted. V of 1898.
2 of 1974.
- Deletion of section 92 of Bom. XXV of 1949.** 11. In the principal Act, section 92 shall be deleted.
- Amendment of section 93 of Bom. XXV of 1949.** 12. In the principal Act, in section 93, in sub-section (2), for the words and figures “the Code of Criminal Procedure, 1898”, the words and figures “the Code of Criminal Procedure, 1973” shall be substituted. V of 1898.
2 of 1974.

13. In the principal Act, in section 97,-
- (i) for the words "one year" and "one thousand rupees", the words "three years" and "fifty thousand rupees" shall be substituted, respectively;
- (ii) the following proviso shall be added, namely:-
- "Provided that any officer who abets the offence punishable under section 65A shall, on conviction, be punished with imprisonment which may extend to seven years and with fine which may extend to one lakh rupees."
- Amendment of section 97 of Bom. XXV of 1949.
14. In the principal Act, in section 102, in sub-section (1), for the words and figures "the Code of Criminal Procedure, 1898", the words and figures "the Code of Criminal Procedure, 1973" shall be substituted.
- V of 1898.
2 of 1974.
- Amendment of section 102 of Bom. XXV of 1949.
15. In the principal Act, in section 104, in the first proviso to sub-section (1), for the words "not exceed five hundred rupees", the words "be such as the State Government may by notification in the *Official Gazette*, specify" shall be substituted.
- Amendment of section 104 of Bom. XXV of 1949.
16. In the principal Act, in section 104A, for the words and figures "section 562 of the Code of Criminal Procedure, 1898", the words and figures "section 360 of the Code of Criminal Procedure, 1973" shall be substituted.
- V of 1898.
2 of 1974.
- Amendment of section 104A of Bom. XXV of 1949.
17. In the principal Act, section 115 shall be deleted.
- Deletion of section 115 of Bom. XXV of 1949.
18. In the principal Act, in section 115A, for the words and figures "the Code of Criminal Procedure, 1898", the words and figures "the Code of Criminal Procedure, 1973" shall be substituted.
- V of 1898.
2 of 1974.
- Amendment of section 115A of Bom. XXV of 1949.

<p>Deletion of sections 116 and 116A of Bom. XXV of 1949.</p>	<p>19. In the principal Act, sections 116 and 116A shall be deleted.</p>	
<p>Amendment of section 117 of Bom. XXV of 1949.</p>	<p>20. In the principal Act, in section 117, for the portion beginning with the words "Save as otherwise" and ending with the words and figures "Code of Criminal Procedure, 1898", the following portion shall be substituted, namely:-</p> <p>"All investigations, arrests, detention in custody and searches shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973."</p>	<p>V of 1898.</p> <p>2 of 1974.</p>
<p>Deletion of section 118 of Bom. XXV</p>	<p>21. In the principal Act, section 118 shall be deleted.</p>	
<p>Amendment of section 120 of Bom. XXV of 1949.</p>	<p>22. In the principal Act, the existing section 120 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be added, namely:-</p> <p>"(2) Whoever assaults or obstructs any officer or person with a view to preventing him from discharging his duties or exercising his powers under this Act, shall on conviction, be punished with imprisonment which may extend to five years and with fine which shall not be less than five lakh rupees."</p>	
<p>Amendment of section 128 of Bom. XXV of 1949.</p>	<p>23. In the principal Act, in section 128, in sub-section (2), for the words and figures "the Code of Criminal Procedure, 1898", the words and figures "the Code of Criminal Procedure, 1973" shall be substituted.</p>	<p>V of 1898.</p> <p>2 of 1974.</p>
<p>Amendment of section 129 of Bom. XXV of 1949.</p>	<p>24. In the principal Act, in section 129, in sub-section (2), for the words and figures "the Code of Criminal Procedure, 1898", the words and figures "the Code of Criminal Procedure, 1973" shall be substituted.</p>	<p>V of 1898.</p> <p>2 of 1974.</p>
<p>Amendment of section 131 of Bom. XXV of 1949.</p>	<p>25. In the principal Act, in section 131, for the words and figures "the Code of Criminal Procedure, 1898" occurring at two places, the words and figures "the Code of Criminal Procedure, 1973" shall be substituted.</p>	<p>V of 1898.</p> <p>2 of 1974.</p>

	<p>26. In the principal Act, in section 141, in sub-section (1), for the words and figures “under sections 65”, the words, figures and letter “under sections 65, 65A, 65AA,” shall be substituted.</p>	<p>Amendment of section 141 of Bom. XXV of 1949.</p>
<p>V of 1898. 2 of 1974.</p>	<p>27. In the principal Act, in section 146A, in sub-section (2), for the words and figures “the Code of Criminal Procedure, 1898”, the words and figures “the Code of Criminal Procedure, 1973” shall be substituted.</p>	<p>Amendment of section 146A of Bom. XXV of 1949.</p>
<p>Guj. Ord. 7 of 2016.</p>	<p>28.(1) The Gujarat Prohibition (Amendment) Ordinance, 2016 is hereby repealed.</p> <p>(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.</p>	<p>Repeal and savings.</p>