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PART V

Bills introduced in the Gujarat Legislative Assembly

The following Bill Which was introduced on the 18th March, 2010 by Shri RAKESH SHAH M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO. 13 OF 2010

THE GUJARAT NON-BIODEGRADABLE GARBAGE (CONTROL) BILL, 2010

A BILL

to prevent throwing or depositing of non-biodegradable Garbage in public drains, roads and place open to public view in the State of Gujarat and for matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the Gujarat Non-biodegradable Garbage (Control) Act, 2010 Short title, extent and commencement.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force at once.
2. In this Act, unless the context otherwise requires : - Definition.
- (a) "bio-degradable garbage" means the garbage or waste material capable of being destroyed by the action of living beings;
- (a) "building" means any shop, out-house, hut, house, shed or stable whether used for the purpose of human habitation or otherwise and whether of masonry, bricks, wood, mud, thatch, metal or any other material whatever, and includes a wall and a well;

(c) "house gulley" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as or carrying a drain or affording access to the latrine, urinal, cesspoll or other receptacle for fifth or other polluted matter, by person employed in the cleaning thereof or in the removal or such matter therefrom,

(d) "local authority" means a Municipal Corporation, a Municipality, a Cantonment Board, a Housing Board, a Slum Clearance Board, an Urban Development Authority, a Notified Area Committee, a District Panchayat, a Taluka Panchayat or a Gram Panchayat constituted, under any law for the time being in force;

(e) "market" includes any place where person assemble for sale or purchase of meat, fish, fruits, vegetables, food or any other articles for use or consumption with or without the consent of the owner of such places notwithstanding that there may be no common regulation for the concourse of the buyer and the sellers and whether or not any control is exercised over the business of or the persons frequenting the market by the owner of the place or by any other person;

(f) "no-biodegradable garbage" means the waste garbage of material which is non-bio-degradable and includes plastic poly thene, nylone and other plastic goods such as P.V.C.propylene and polystyrene which are not capable of being destroyed by an action of living being and are more specifically included in the Scheduled to this act;

(g) "occupier" includes any person for the time being paying or liable to payment or any portion of rent of the building in respect of which the word is used, or compensation or premium on account of the occupation of such building and also a rent free tenant, but does not include a lodger, and the words occupy and occupation do not refer to the lodger;

(h) "owner" means the person who receives the rent for the use of the land or building or would be entitled to do so if they were let. it also includes-

- (i) an agent or trustee who receives such rent on behalf of the owner;
- (ii) a receiver, executor or administrator of or a manager appointed by any court of competent jurisdiction to have the charge, of or to exercise the right of the owner;
- (iii) an agent or trustee who receives the rent of or is entrusted with or is concerned with any building devoted to religious or charitable purpose; and
- (iv) a mortgage in possession;

(i) "place" means any land or building or part of building and includes the garden, ground and out-houses, if any, pertaining to a building or part of a building;

(j) "place open to public view" includes any private place or building, monument, fence or balcony visible to a person being in, or passing along, any public place;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "Public Analyst" means the person appointed or recognised to be the Government Analyst, in relation to any environmental laboratory established or recognised in the State, under the provisions of the Environment (Protection) Act, 1986;

(m) "Public place" means any place which is open to use and enjoyment of the public whether it is actually used or enjoyed by the public or not and includes a road, street, Market, house-gully or way, whether a thoroughfare or not, and landing place to which public are granted access or have a right to resort or over which they have a right to pass; and

(n) "State Government" means the Government of the State of Gujarat.

3. (1) No person, by himself or through another shall, knowingly or otherwise throw or cause to be thrown in any drain, ventilation shaft, pipe and fitting, connected with the private or public drainage works any non-biodegradable garbage or any biodegradable garbage in non-biodegradable bag or container likely to-

- (i) injure the drainage and sewage system;
- (ii) interfere with the free flow of effect the treatment and disposal of drain and sewage contents; and
- (iii) be dangerous or cause a nuisance or be prejudicial to public health.

(2) No person, shall, knowingly or otherwise, place or permit to be placed, except in accordance with such procedure and after complying with such safeguards as may be prescribed, any bio-degradable or non-biodegradable garbage in any public place or in a place open to public view, unless-

- (a) the garbage is placed in garbage receivable; or
- (b) the garbage is deposited in a location designated by a local authority having jurisdiction on an area for the disposal of the garbage.

4. It shall be the duty of the local authority or any officer authorised by it, to-

(a) place or provide place in proper and convenient situation public receivable, depots of places for temporary deposit or collection of Non-biodegradable garbage;

(b) provide separate dustbins for temporary deposit of non-biodegradable garbage other than those kept and maintained for deposit of biodegradable garbage;

(c) provide for the removal of contents of receptables, deposit and of the accumulation at all places provided or appointed by it under clause (a) of this section; and

(d) arrange for the recycling disposal of the non-biodegradable garbage collected under this Act.

5. It shall be the duty of the owners and occupiers of all lands and buildings-

(a) to collect or to cause to be collected from their respective land and buildings, the non-biodegradable garbage and to deposit, or cause it to be deposited, in public receptables, deposite or places provided for temporary deposit or collection of the non-biodegadable garbage by the local authority in the area;

(b) To provide separate receptables or dustbins, other than those kept and maintained for deposit of biodegradable garbage, of the type and in the manner prescribed by the local authority of its officers for collection therein of all the non-biodegradable waste from such land and building and to keep such receptables dustbins in good condition and repair.

6. The local atherity may, by notice in writing, require the owner or occupier or part-owner, or person, claiming to be the owner, or part owner of may land or building, which has become a place or unauthorised stocking or deposit of non-biodegradable, garbage and is likely to cause a nuisance remove or clause it to be

Prohibition to throw garbage in public drains and sewage.

Provision for Placement of receivable and places for deposit of non biodegradable garbage.

Duty of owners and occupiers to collect and deposit non biodegradable garbage etc.

removed the said garbage so stocked or collected; and if in its opinion, such stocking or collection of non-biodegradable waste is likely to injure the drainage or sewage system or is likely to be dangerous to life and health, it shall forthwith take such steps at the cost of such persons as it may think necessary.

Studies
research and
support
programme.

7. The State Government may :-

- (a) undertake studies to determine the composition of biodegradable or non-biodegradable garbage;
- (b) establish measures to conduct or support research or programme to encourage source reduction, re-use and recycling of waste;
- (c) conduct or support studies to determine the social and economic feasibility of household and other solid waste separation schemes, including studies of the type and amount of recyclable materials in solid wastes;
- (d) encourage local authorities in the State of Gujarat to provide readily accessible solid waste collection depots for residents who are not provided with regular garbage pick up;
- (e) undertake and encourage local authorities and other persons to implement policies to recycle waste materials; to promote energy conservation and to purchase products made from recyclable materials;
- (f) conduct and support research on waste management and recycling including information on recyclables;
- (g) conduct or support research on waste management and recycling, for use in educating the public, local authorities, institutions and industry; and
- (h) impose requirements on manufacturers, distributors and other person who produce or handle commodities with respect to the type, size, packaging, labelling and composition of packing that may or must be used and with respect to the disposal of packaging including standards for material degradability and recyclability.

Penalties.

8. (1) Whoever is guilty of any act or omission in contravention of any of the provisions of this Act, or of any rules, notification or order made, issued or given under this Act, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to rupees five thousand, or with both.

(2) Whoever having been convicted of any offence under this Act is again convicted of an offence under this Act shall be punishable with double the penalty provided for the latter offence

(3) Whoever in any manner aids, abets or is accessory to the commission of an offence under this Act shall on conviction be punished with imprisonment prescribed for the offence.

9. (1) If The person committing any offence punishable under this Act is a company, every person, at the time of the commission of the offence, was incharge of and responsible to the company for the conduct of the business or

guilty of the offence 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 the 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 of the part of any Director, Manager, Secretary, or other officer of the Company, such Direction 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 purposes of this Section—

(a) "Company" means any body corporate and includes a firm or other association of individuals; and

(b) "Director" in relation to a firm means a partner in the firm.

10. All offences under this Act shall be tried in a Summary way by a Judicial Magistrate of the First Class and the provisions of Section 262 to 265 (both inclusive) of the Code of Criminal Procedure 1973, shall as far as may be, apply to such trials.

11. (1) Any offences punishable under this Act may, before the institution of the prosecution, be compounded by such officer as may be authorised by the State Government in this behalf on payment for credit to the State Government of such sum as such officer may specify.

(2) Where any offence has been compounded under sub-section (1), no proceeding shall be taken against the offender, and the offender if in custody, shall be discharged.

12. The local authority shall carry out such directions as may be issued to it from time, by the State Government for the efficient administration of this Act.

13. (1) Where it is expedient to do so, the State Government may, in the public interest and in consultation with the public Analyst, by notification in the *Official Gazette*, add to or omit from the Schedule any item of non-biodegradable waste and thereafter the Schedule shall be deemed to have been amended accordingly.

(2) Every notification under Sub-section (1) shall be laid, as soon as may be, after it is made, before the State Legislature.

14. The State Government may, by notification published in the *Official Gazette*, direct that any power exercisable by it under Act (Not including the power to make rules under section 17) may also be exercised, in such cases as may be specified in the order, by such officer or authority as may be specified therein.

15. No suit, prosecution or other legal proceedings shall lie against the State Government or the local authority or any officers or other employees of the State Government or the local authority or any other person authorised by the State Government for anything which is in good faith done or intended to be done under this

Other laws
not affected.

Act or the rules made thereunder.

Compounding
of offences.

Direction by
State
Government.

Power to
amend
Schedule.

Power to
delegate.

Protection of
action taken
in good faith.

Power to make rules.

16. The provisions of this Act are in addition to, and not in derogation of the provisions of any other law for the time being in force.

17. (1) The State Government may subject to the condition of previous publication in the *Official Gazette* make rules for the purpose of carrying out the provisions of this Act.

(2) All rules made under this section shall be laid before the State Legislature for thirty days as soon as after they are made and shall be subject to such modifications or recessions as the State Government may make during the session in which they are so laid or the session immediately following.

(3) Any modifications or recession so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect accordingly.

Power to remove difficulties.

18. If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty.

SCHEDULE

See Section 2 (f)

NON BIODEGRADABLE GARBAGE

1. Polythylene
2. Nylone
3. P. V. C.
4. Poly-propylene
5. Poly-styrene.

STATEMENT OF OBJECTS AND REASONS

At present, the use of Plastic goods is pervading for the industrial and packaging purposes at large in the State. This results in huge waste garbage or material which is non-biodegradable which is not capable of being destroyed by an action of living being. The cows, cattle and other animals, in search of eatables such plastic bags and chemicalised waste, which is very injurious even to the health of these animals. The animals eating those non-biodegradable garbage suffer from various diseases and ultimately it results into death of these innocent animals. Such non-biodegradable garbage is injurious and harmful to the environment, human being and the animal being also. Therefore, it is necessary to have effective control for the disposal of the non-biodegradable garbage in the State by Act of the State Legislature.

Hence, this Bill.

Gandhinagar.

Dated : 10th March, 2010.

RAKESH SHAH

M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The bill involves delegations of legislative powers in the following respects, namely :-

Clause 12. — This clause empowers the State Government to issue the directions to the local authorities from time to time for the efficient administration of this Act.

Clause 13. — This clause empowers the State Government to amend the Schedule by publishing a notification in the *Official Gazette*.

Clause 14.— This clause empowers the State Government to specify such officer or authority to exercisable by it under this Act (excluding the power to make rules).

Clause 17. — This clause empowers the State Government to make rules for the purposes of carrying out provisions of this Act.

Clause 18. — This clause empowers the State Government to do anything by an order anything not inconsistent with such provisions which appears to it to be necessary for the purpose of removing the difficulty, if any difficulty arises in giving effect to the provision of the Act.

The delegation of the Legislative powers as aforesaid is necessary and is of normal character.

Gandhinagar.

Dated : 10th March, 2010.

RAKESH SHAH

M.L.A.

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for undertaking studies, research and support programme by the State Government in regard to the non-biodegradable garbages, This bill if enacted and brought into operation would not incur expenditure from the Consolidated Fund of the State, as it is presumed and expected that such studies, research and support programmes will be undertaken or conducted by the existing Government personnel and machineries and therefore no additional expenditure will be incurred from the Consolidated Fund of the State.

Gandhinagar.

Dated : 10th March, 2010.

RAKESH SHAH

M.L.A.

Gandhinagar.

Dated : 18th March, 2010.

D.M.PATEL,

Secretary,

Gujarat Legislative Assembly.