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PART V

Bills introduced in the Gujarat Legislative Assembly

The following Bill Which was introduced on the 25th February, 2016 by

GUJARAT BILL NO. 11 OF 2016

THE GUJARAT PROHIBITION OF SMOKING AND SPITTING BILL, 2016.

A BILL

to provide for prohibiting use of tobacco and spitting in places of public work or use in public service vehicles in the State of Gujarat and to make provisions for other matters connected therewith.

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

1. (1) This Act may be called the Gujarat Prohibition of Smoking and Spitting *Short title, extent and commencement.*
Bill, 2016.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

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

- (a) “Advertisement” means and includes any notice, circular, wall-paper, pamphlets, display on hoardings or any visible representation made by means of any light, sound, smoke gas, writing instruments, stickers, symbol, colours, logo, trade mark/symbol, display on articles like T-shirts, shoes, sports wear, sports, gears caps, carry bags, telephone-booths, etc., or any other means which has direct or indirect effect of promoting smoking or tobacco chewing and the expression “advertise” shall be construed accordingly.
- (b) “Authorised Officer” means a person authorised under Section 4 of this Act.
- (c) “Chewing” means chewing of tobacco, gul (tobacco), use of tobacco paste, supari with tobacco, pan masala, zarda, gutka and the like.
- (d) “Government” means Government of Gujarat.
- (e) “*Official Gazette*” means Gujarat Government *Gazette*.
- (f) “Place of public work or use” means a place declared as such under Section 3 of this Act, and includes auditoria, cinema/conference/seminar halls, hospital buildings, health institutions, amusement centres, restaurants, eating houses, hotel lounges, other waiting lodges, public offices, court buildings, educational institutions, libraries, bus stations, ferry boats, places of worship, beaches, sports stadiums which are visited by the general public but does not include other open place.
- (g) "Public Service Vehicle" means a vehicle as defined under the Motor Vehicles Act, 1988.
- (h) "Smoking" means smoking of tobacco in any form, whether in the form cigarette, cigar, beedies, or otherwise with the aid of pipe, wrapper or any other instruments.
- (i) "Spitting" means voluntary ejection of saliva from the mouth after chewing or without chewing and ejection of mucus from the nose after inhaling snuff or without inhaling.

3. As soon as may be after the commencement of this Act and thereafter from time to time, the Government may, by notification in the *Official Gazette*, declare any place to be a place of public work or use in Gujarat for the purpose of this Act..
- Declaration of places of public work or use .*
4. (1) The Government may, by notification in the *Official Gazette*, authorise one or more persons as authorised officers who shall be competent to act under this Act.
- Power of Government to authorize officers to act under this act.*
- (2) Every persons authorised under sub-section (1) shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860.
5. No person shall smoke or spit in any place of public work or use.
- Prohibition of smoking and*
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6. Without prejudice to the provisions of the Motor Vehicles Act, 1988 no person shall smoke or spit while travelling in or using a public service vehicle.
- Prohibition of smoking and spitting in public service vehicle.*
7. Notwithstanding anything contained in any other law for the time being in force no person shall advertise or cause to advertise in any place and on any public service vehicle, any material which may directly or indirectly promote smoking or chewing of tobacco products or products containing tobacco even if classified as by any other name.
- Prohibition of advertisement of smoking and chewing.*
8. No person shall sell cigarettes, beedies, chewing tobacco, gul (tobacco), tobacco paste including tobacco based tooth paste, supari with tobacco, pan masala, zarda snuff, gutkas, or any other such smoking and/or chewing substance containing nicotine and/or tobacco to any person who is below the age twenty one years.
- Prohibition of sale of cigarettes etc. to minors.*

Prohibition of storage, sale and distribution of cigarettes etc.

9. No person shall himself or by any person on his behalf, store, sell or distribute cigarettes, beedies, chewing tobacco, gul (tobacco), tobacco paste, supari with tobacco, pan masala, zarda, gutka, snuff or any other such smoking substance or substances containing tobacco within an area of 100 metres around a place of worship or any college, school or other educational institutions.

Display and exhibition of board.

10. The owner or manager or incharge of affairs of every place of public work or user shall display and exhibit a board at a conspicuous place or places in and outside the premises visited or used by the general public prominently stating that the place is a "No Smoking and No Spitting Zone" and that "Smoking/Spitting is an offence".

Any person who contravenes the provisions to be punished.

11. (1) Any person, who contravenes the provisions of Section 5, 6, 9 or 10 shall be punishable with fine which may extend to one thousand rupees and in case of second or subsequent offence, shall be punishable with a minimum fine of two thousand rupees, which may extend to five thousand rupees.

(2) Any person who contravenes the provisions of Section 7 and 8 shall be punishable with fine which may extend to one thousand rupees and in case of second or subsequent offence, shall be punishable with imprisonment which may extend to three months, or with a minimum fine of five thousand rupees which may extend to ten thousand rupees, or with both.

Power to eject violators.

12. Any authorised officer or any police officer, not below the rank of a sub-inspector, may eject any person who contravenes any of the provisions of this Act, from the place of public work or use, and any driver/conductor of a public service vehicle may, eject any person who contravenes any of the provisions of this Act in the public service vehicles.

Court competent to take cognizance and try offences.

13. (1) No court other than the court of, a Judicial Magistrate First class shall take cognizance of and try an offence under this Act.

(2) No court shall take cognizance of any offence except on a complaint in writing of an authorised officer or an authorised representative of a recognised Non-Government organization devoted to the cause or controlling tobacco use/spitting with respect to offences under Sections 5, 6, and 9 on report in writing of a police officer not below the rank of Sub-Inspector, or an authorised representative of a recognised Non-Government organisation devoted to the cause of controlling tobacco use/spitting with respect to the offence under Sections 7, 8, 9 and 10.

14. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 offences under Sections 5, 6, 7, 8 and 9 of this Act shall be cognizable and bailable. *Certain offences to be cognizable and bailable.*

2 of 1974. 15. All offences under this Act shall be tried summarily in the manner *Summary trial of offences*

16. The Government may, by notification in the *Official Gazette*, direct that any power exercisable by it under this Act, may also be exercisable by such officer and subject to such conditions, if any, as may be specified therein. *Power to delegate.*

17. (1) The Government may, by notification in the *Official Gazette*, empower the authorised officer or a police officer not below the rank of a sub-inspector to compound any offence committed under this Act on payment of a sum not less than rupees one thousand which may extend upto rupees five thousand by way of composition for the offence which such person is suspected to have committed. *Composition of offences.*

(2) On payment of such sum to such officer, the offender if in custody, shall be released and no further proceedings shall be taken against such, offender.

STATEMENT OF OBJECTS AND REASONS

It is a very well known fact proved scientifically that a person who consumes tobacco in any of the forms mentioned above in the Bill is prone to suffer more from those deadly diseases like cancers of oral cavity, lungs and Gastro intestinal tract, than the persons not consuming the tobacco. So it is true that the consumption of the tobacco in any of the forms is certainly injurious and hazardous to the health.

Smoking is not only dangerous to the consumer but is equally rather more harmful to the person living with the addict or to the other persons working along With the addict.

Spitting of the saliva and excretion of the nasal mucus here and there is very dangerous and serious threat to the health of the public and the society, as it causes many bacterial and viral and other air-born diseases

The poythene materials used for packing these tobacco products for the consumers increase in the solid waste and choking of the drainage systems. Smoke increases the air pollution.

Half of the earnings and the income is wasted in purchasing these costly products of the tobacco by the addicts and the consumers. Thereby leaving nothing for the expenses of the family, leading to poverty.

It is therefore essential to prohibit smoking and spitting in public places in the States of Gujarat in the general interest of the public at large.

Hence this Bill.

Gandhinagar
Dated the 1st February, 2016.

SHABDASHARAN TADVI
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub Clause (3) of Clause (1) empowers to the State Government to specify the date on which the Act shall come into force.

The delegation of Legislative powers as aforesaid is essential and of a normal character.

Gandhinagar
Dated the 1st February, 2016.

SHABDASHARAN TADVI
M.L.A.

Gandhinagar
Dated the 25th February, 2016

D. M. PATEL,
Secretary,
Gujarat Legislative Assembly.