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Fourteenth Kerala Legislative Assembly
Bill No. 141

THE ABKARI (AMENDMENT) BILL, 2018

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BILL

further to amend the Abkari Act, 1077.

Preamble.—WHEREAS, it is expedient further to amend the Abkari Act, 1077 (1 of 1077) for the purposes hereinafter appearing;

BE it enacted in the Sixty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Abkari (Amendment) Act, 2018.

(2) It shall be deemed to have come into force on the 21st day of December, 2017.

2. *Amendment of section 15A.*—In the Abkari Act, 1077 (1 of 1077) (hereinafter referred to as the principal Act), in section 15A,—

(a) in the marginal heading, for the figure “21”, the figure “23” shall be substituted;

(b) in the section, for the figure “21”, the figure “23” shall be substituted.

3. *Amendment of section 15B.*—In section 15B of the principal Act,—

(a) in the marginal heading, for the figure “21”, the figure “23” shall be substituted;

(b) in the section, for the words “twenty one”, the words “twenty three” shall be substituted.

4. *Amendment of section 57.*—In section 57 of the principal Act,—

(a) in clause (a), for the words “any ingredient”, the words and symbols “any ingredient, other than starch,” shall be substituted;

(b) after clause (a), the following clause shall be inserted, namely:—

“(aa) mixes or permits to be mixed with starch in the liquor sold or manufactured by him; or”;

(c) after clause (d), for the words "shall, on conviction before a competent court, be punished for each such offence with imprisonment for a term which may extend to five years or with fine which may extend to fifty thousand rupees, or with both", the following words, figures, symbols and brackets shall be substituted, namely:—

"shall, on conviction before a competent court, be punished,—

(i) for the offences, other than an offence falling under clause (aa), with imprisonment for a term which may extend to five years or with fine which may extend to fifty thousand rupees or with both;

(ii) for an offence falling under clause (aa), with imprisonment for a term which may extend to six months or with fine which shall not be less than twenty five thousand rupees."

5. *Amendment of section 67A.*—In section 67A of the principal Act, in the Table,—

(a) in column (1), for the figure "21" occurring in both the places, the figure "23" shall be substituted;

(b) after the existing entries under columns (1), (2) and (3), the following entries shall, respectively, be inserted, namely:—

"Mixing starch with liquor	57(aa)	25,000."
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6. *Repeal and saving.*—(1) The Abkari (Amendment) Ordinance, 2018 (20 of 2018) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been 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.

STATEMENT OF OBJECTS AND REASONS

As per the Abkari Policy of the Government for the year 2017-2018 declared as per G.O. (P) No. 43/2017 dated 13th June, 2017 the Government have specified that consumption of liquor by younger generation in the State would be curtailed. Accordingly, the Government have decided to enhance the minimum age limit for consumption or use of liquor from 21 years to 23 years and also to prohibit the sale of liquor to persons below 23 years.

2. As per clause (a) of section 57 of the Abkari Act, 1 of 1077, any licensee who mixes or permits to be mixed with the liquor sold or manufactured by him any ingredient likely to add to its actual or apparent intoxicating quality or strength other than noxious substance shall be punished with imprisonment which may extend to five years. So, for mixing starch in the liquor also the above punishment was imposed. This caused much hardship to the licensees and workers in the toddy sector. Being a traditional industry, it is necessary to protect the interest of the workers in the toddy sector. In the circumstances, the Government have decided to reduce the punishment for mixing starch, a less harmful substance in the liquor and also decided to make the offence compoundable. For the above purpose it was decided to amend the Abkari Act, 1 of 1077 suitably.

3. As the Legislative Assembly of the State of Kerala was not in session and the above proposals had to be given effect to immediately, the Abkari (Amendment) Ordinance, 2017 was promulgated by the Governor of Kerala on the 21st day of December, 2017 and the same was published as Ordinance No. 38 of 2017 in the Kerala Gazette Extraordinary No. 2791 dated 21st December, 2017.

4. Though a Bill to replace the said Ordinance by an Act of the State Legislature was published as Bill No. 96 of the Fourteenth Kerala Legislative Assembly the same could not be introduced in, and passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of January, 2018 and ended on the 7th day of February, 2018.

5. As the provisions of the said Ordinance are to be kept alive and the Legislative Assembly of the State of Kerala was not in session, the Abkari (Amendment) Ordinance, 2018 (4 of 2018) was promulgated by the Governor of Kerala on the 12th day of February, 2018 and the same was published as Ordinance No. 4 of 2018 in the Kerala Gazette Extraordinary No. 336 dated 12th February, 2018.

6. Though a Bill to replace the said Ordinance by an Act of the State Legislature was published as Bill No. 120 of the Fourteenth Kerala Legislative Assembly the same could not be introduced in, and passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 26th day of February, 2018 and ended on the 4th day of April, 2018.

7. As the provisions of the said Ordinance are to be kept alive and the Legislative Assembly of the State of Kerala was not in session, the Abkari (Amendment) Ordinance, 2018 was promulgated by the Governor of Kerala on the 7th day of April, 2018 and the same was published as Ordinance No. 20 of 2018 in the Kerala Gazette Extraordinary No. 917 dated 7th April, 2018.

8. The Bill seeks to replace Ordinance No. 20 of 2018 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

T. P. RAMAKRISHNAN.

EXTRACT FROM THE ABKARI ACT (1 OF 1077)

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15A. Consumption or use of liquor by persons under the age of 21 years prohibited.—No person under the age of 21 years shall consume or use any liquor.

15B. Sale of liquor to person under 21 years of age prohibited.—No person licensed to sell liquor and no person in the employe of such licensed person or acting with the express or implied permission of such licensed person on his behalf shall sell or deliver any liquor to any person under the age of twenty one years.

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57. For Adulteration, etc., by licensed vendor or manufacturer.—whoever being the holder of a licence for the sale or manufacture of liquor or of any intoxicating drug under this Act,—

(a) mixes or permits to be mixed with the liquor or intoxicating drug sold or manufactured by him, any drug, other than a noxious drug or any ingredient likely to add to its actual or apparent intoxicating quality or, strength, or any article prohibited other than an article which the Government shall deem to be noxious by any rule made under section 29, clause (k), when such admixture shall not amount to the offence of adulteration under section 272 of the Indian Penal Code; or

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(d) sells or keeps or exposes for sale any country liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of selling goods to which a false trade mark or false trade description is applied under section 79 of the Trade and Merchandise Marks Act, 1958 ;

Shall, on conviction before a competent court, be punished for each such offence with imprisonment for a term which may extend to five years, or with fine which may extend to fifty thousand rupees, or with both.

67A. Power to compound offences.—(1) The commissioner of Excise or the Deputy Commissioner of Excise of the District concerned or any Abkari Officer specially empowered by the Government in this behalf by notification in the Gazette, may accept, from any person reasonably suspected of having committed any of the offences specified in column (1), a sum of money as

specified in column (3) of the Table below by way of composition for the offence which may have been committed and where any property has been seized, the same shall be confiscated to Government or disposed of in such manner as may be prescribed.

TABLE

<i>Offence</i>	<i>Corresponding Section in the Act</i>	<i>Compounding fee in Rupees</i>
(1)	(2)	(3)
Transporting of liquor or intoxicating drug in excess of the quantity prescribed by the Government by notification	10	5,000
Possession of liquor or intoxicating drug in excess of the quantity prescribed	13	5,000
Consumption or use of liquor by persons under the age of 21 years	15A	5,000
Sale of liquor to person under the age of 21 years	15B	5,000
Consumption of liquor in public places	15C	5,000
Taps or causes to be tapped any toddy producing tree in contravention of the Act, Rules or any order made under the Act	55(d)	10,000
Draws or causes to be drawn toddy from any tree in contravention of the Act, Rules or any order made under the Act	55(e)	10,000
Misconduct by licensee etc.	56	25,000
Consumption of preparations containing liquor or intoxicating drug other than <i>bonafide</i> medicinal preparations in the business, manufacturing or stocking premises	56A(2)	5,000
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