

Under Rule 130 of the Tamil Nadu Legislative Assembly Rules, the following Bill which was introduced in the Legislative Assembly of the Tamil Nadu on 29th June, 2024 is published together with Statement of Objects and Reasons for general information:—

L.A Bill No. 29 of 2024

A Bill further to amend the Tamil Nadu Prohibition Act, 1937.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Seventy-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Tamil Nadu Prohibition (Amendment) Act, 2024. Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

Tamil Nadu Act X of 1937.

2. In section 3 of the Tamil Nadu Prohibition Act, 1937 (hereinafter referred to as the principal Act), for clause (12), the following clause shall be substituted, namely:— Amendment of section 3.

“(12) “place” includes also a house, shed, enclosure, building, shop, tent, booth, vehicle, cart and vessel;”.

3. In section 4 of the principal Act,—

Amendment of section 4.

(1) in sub-section (1),—

(a) for clause (k), the following clause shall be substituted, namely:—

“(k) being the owner of, or in-charge of, or having the management of, or in control of, or in possession of, a place, allows any of the acts specified in clauses (a) to (jj) upon such place;”.

(b) after clause (k), for the expression “shall be punished—” and clauses (a) to (c) thereunder, the following expression and clauses shall be substituted, namely:—

“shall be punished, in the case of offences—

(A) falling under clauses (aaa), (b), (f), (h) and (i), with rigorous imprisonment for a term not less than three years, which may extend to seven years and with fine which shall not be less than two lakh rupees but which may extend to three lakh rupees;

(B) falling under clauses (aa) and (k), with rigorous imprisonment for a term not less than two years, but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to two lakh rupees;

(C) falling under other clauses, with imprisonment for a term not less than one year, but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees.

Provided that notwithstanding anything contained in clause (A), clause (B) and clause (C) above, offences relating to the transport, possession and consumption of any liquor specified by the State Government under sub-clause (i) of clause (j) which are manufactured and sold in accordance with the provisions of this Act and the rules made thereunder, shall be punished with imprisonment for a term which may extend to one year or with fine which shall not be less than twenty five thousand rupees but which may extend to fifty thousand rupees or with both:”

(c) in the existing proviso, for the expression “Provided that”, the expression “Provided further that” shall be substituted;

(2) in sub-section (1-A), for clauses (i) and (ii), the following clauses shall be substituted, namely:—

“(i) if death has ensued due to its consumption, with rigorous imprisonment for life and with fine which shall not be less than ten lakh rupees; and

(ii) in any other case, with rigorous imprisonment for a term not less than five years, but which may extend to ten years and with fine which shall not be less than five lakh rupees but which may extend to ten lakh rupees.”.

Amendment of section 5.

4. In section 5 of the principal Act, for the expression “rigorous imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees”, the expression “rigorous imprisonment for a term not less than three years but which may extend to seven years and with fine which shall not be less than two lakh rupees but which may extend to three lakh rupees” shall be substituted.

Insertion of section 5-A.

5. After section 5 of the principal Act, the following section shall be inserted, namely:—

“5-A. Sealing of unlicensed places used for consumption of liquor.— (1) No person, being the owner of, or in-charge of, or having the management of, or in control of, or in possession of, any place shall, without obtaining a licence under this Act or the rules made thereunder, allow consumption of liquor in that place.

(2) Where any place not licensed for consumption of liquor under this Act or the rules made thereunder, is allowed to be used for consumption of liquor, then, that place shall be sealed by the Prohibition Officer concerned or by an officer not below the rank of Tahsildar, as may be authorised by the District Collector concerned. The owner of, or the person in-charge of, or having the management of, or in control of, or in possession of, such place shall provide security for the place so sealed under this sub-section.

(3) After sealing a place under sub-section (2), the owner of, or the person in-charge of, or having the management of, or in control of, or in possession of, such place shall be given a notice in writing within forty eight hours, informing him of the grounds on which the said place was sealed and he shall also be given an opportunity of making a representation in writing, to the officer who has sealed the place, within such time as may be specified in that notice. Such representation shall be considered by the officer concerned and a suitable order shall be passed thereon on merits within a period of seven days.

(4) The place so sealed under sub-section (2) may continue to be under seal for a period of not more than three months, as may be ordered.

(5) No person shall break the seal unless and until the order of sealing is revoked under sub-section (3) or sub-section (6).

(6) Any person aggrieved by an order passed under sub-section (3) may, within a period of thirty days from the date of receipt of a copy of such order, make an appeal to the District Collector concerned, who shall, after giving an opportunity of making a representation to the appellant, pass suitable order on such appeal as he deems fit within a period of thirty days.”.

6. In section 6 of the principal Act, for the expression “with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both”, the expression “with rigorous imprisonment for a term not less than two years, but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to two lakh rupees” shall be substituted. Amendment of section 6.

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

“7. Punishment for conspiracy.— When two or more persons agree—

(i) to commit or cause to be committed any offence punishable under clause (A), clause (B) and clause (C) of sub-section (1) of section 4 except the first proviso thereto, sub-section (1-A) of section 4 or section 5; or

(ii) to evade or nullify the provisions of this Act,

each of such person shall, notwithstanding that no act except the agreement was done by any of the parties thereto in pursuance thereof, be punished in the case of any offence under clause (i), be punished with the punishment provided for the commission of such offence and in the case of any offence under clause (ii), be punished with imprisonment for a term not less than one year but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees.”.

8. In section 11 of the principal Act, for the expression “imprisonment which may extend to six months or with fine which may extend to five hundred rupees or with both”, the expression “imprisonment for a term not less than one year but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees” shall be substituted. Amendment of section 11.

9. In section 13-A of the principal Act, in clause (1), for the expression “apparatus”, the expression “apparatus and other movable properties” shall be substituted. Amendment of section 13-A.

Amendment of section 14.

10. In section 14 of the principal Act,—

(1) in the proviso to sub-section (2), for the expression “cart or other vehicle” occurring in two places, the expression “cart, vehicle or other movable properties” shall be substituted;

(2) in sub-section (4), for the expression “cart or other vehicle” occurring in five places, the expression “cart, vehicle or other movable property” shall be substituted;

(3) after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) Where any property has been confiscated under this section, such property shall vest with the Government free from all encumbrances.”.

Amendment of section 14-A.

11. In section 14-A of the principal Act, including the marginal heading, for the expression “cart or other vehicle”, the expression “cart, vehicle or other movable property” shall be substituted.

Amendment of section 24-D.

12. In section 24-D of the principal Act, for the expression “offence under clauses (aaa), (b), (f) and (h) of sub-section (1) and offence punishable under sub-section (1-A) of section 4 and offences under section 6 and section 52-E by way of composition of such offence a sum of money not exceeding ten thousand rupees but not less than one thousand rupees.”, the following expression shall be substituted, namely:—

“offences punishable under clause (A), clause (B) and clause (C) of sub-section (1) of section 4 except the first proviso thereto, sub-section (1-A) of section 4, sections 5, 6, 7 and 52-E, by way of composition of such offence an amount not exceeding twenty five thousand rupees, but not less than ten thousand rupees”.

Insertion of section 52-AA.

13. After section 52-A of the principal Act, the following section shall be inserted, namely:—

“52-AA. Security for maintaining good behaviour from habitual offenders.— (1) When an Executive Magistrate receives information that within his local jurisdiction there is a person convicted under clause (A), clause (B) and clause (C) of sub-section (1) of section 4, sub-section (1-A) of section 4, section 5 and section 7 and he habitually commits or attempts to commit, or abets the commission of offences punishable under the aforesaid sections which involves a breach of peace, the Executive Magistrate may, in the manner provided in sections 111 to 116 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), require such person to show cause as to why he should not be ordered to execute a bond with sureties, for the good behaviour for such period not exceeding three years, as the Executive Magistrate thinks fit.

(2) If, upon such inquiry, it is proved that for maintaining the good behaviour, it is necessary that the person in respect of whom the inquiry is made, should execute a bond, with sureties, the Executive Magistrate shall make an order accordingly:

Provided that—

(a) no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the show cause notice issued under sub-section (1);

(b) the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive;

(c) when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

(3) The bond shall be in the format provided in Schedule II to this Act, and the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) shall insofar as they are applicable, apply *mutatis mutandis* to all matters connected with such bond as if it were a bond for maintaining good behaviour ordered to be executed under section 117 of that Code.

(4) If any person ordered to give security under sub-section (2) does not give such security on or before the stipulated date or if such person has, in the opinion of the Executive Magistrate or his successor-in-office, has committed breach of the bond, necessary action may be initiated against such person in the manner as provided in section 122 of the said Code as if the bond was executed under section 117 of the said Code.”.

14. In section 52-E of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:- Amendment of section 52-E.

“(1) When any person having been—

(i) previously convicted at least twice for an offence punishable under clause (A), clause (B) or clause (C) of sub-section (1) of section 4; or

(ii) previously convicted of an offence punishable under sub-section (1-A) of section 4 or section 5 or section 7,

the Court may, either on its own motion at the time of passing the sentence of imprisonment on such person or on an application made to it within a period of two months from the date of conviction by the Prohibition Officer or the Investigation Officer concerned by an order, also direct such person to remove himself after the expiry of such sentence of imprisonment, from the place in which he ordinarily resides or operates, to any other place in any other district as the Court may specify in such order.

15. In the Schedule II to the principal Act,— Amendment of Schedule II.

(1) for the expression “(See section 52-A)”, the expression “(See sections 52-A and 52-AA)” shall be substituted;

(2) for the expression “any offence under sections 4(1) (a), 4(1)(aa), 4(1)(aaa), 4(1)(b), 4(1)(d), 4(1)(e), 4(1)(f), 4(1)(g), 4(1)(h), 4(1)(i) and 4(1)(jj)” occurring in two places, the expression “any offence punishable under clause (A), clause (B), clause (C) of sub-section (1) of section (4), sub-section (1-A) of section 4, section 5, section 7” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Tamil Nadu Prohibition Act, 1937 (Tamil Nadu Act X of 1937) provides for various punishments for the offences such as import, export, transport, possession, manufacture, bottling and consumption of liquor, in violation of the provisions of the said Act and the rules made thereunder. It is considered that the punishments provided in the said Act for some of the heinous crimes, especially for the offences of manufacture, possession and selling of illicit liquor, which are injurious to the human life, are not sufficient enough to eliminate such crimes and to deter the offenders habitually indulging in such crimes.

2. It is expedient to completely eradicate the menace of illicit liquor from the State of Tamil Nadu. In order to achieve the above objective, the punishments provided under the said Act for the offences relating to prohibited liquors such as denatured spirits and methanol, which are often admixed with illicit liquor, have to be substantially increased to have a strong deterrent effect on the bootleggers who are habitually engaged in the manufacture, possession and sale of illicit liquors which often results in loss of precious human life.

3. The Government have therefore decided to substantially enhance the term of imprisonment and quantum of fine provided for commission of various offences under sections 4,5,6,7 and 11 of the said Act. It is also proposed to confiscate all the movable properties used in the commission of such offences and also to seal the unlicensed places used for consumption of liquor. It is also proposed that the aforesaid heinous offences are to be made non-compoundable. Apart from that, it is also proposed to insert section 52-AA in the said Act so as to empower the Executive Magistrate to issue an order requiring those persons who are habitually committing the aforesaid offences to execute a bond with sureties for substantial amount in order to deter such persons from committing such offences in future. It is also proposed to amend section 52-E, of the said Act providing for making of an application by the Prohibition Officer or the Investigating Officer before the Jurisdictional Court for the removal of a person, who was convicted of certain offences under the said Act, from an area.

4. The Bill seeks to give effect to the above decision.

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Secretariat,
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29th June 2024.

K. SRINIVASAN,
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