



THE DELHI PROHIBITION OF SMOKING AND NON-SMOKERS HEALTH PROTECTION BILL, 1995



TO BE INTRODUCED ^{IN} ~~BY~~ THE LEGISLATIVE ASSEMBLY,
NATIONAL CAPITAL TERRITORY OF DELHI

Bill No. 6 of 1995

THE DELHI PROHIBITION OF SMOKING AND NON-SMOKERS HEALTH PROTECTION BILL, 1995

A

BILL

to provide for prohibiting of smoking in places of public work or use and in public service vehicles in the National Capital Territory of Delhi and to make provision for other matters connected therewith.

Be it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Forty sixth Year of the Republic of India as follows :—

1. (1) This Act may be called the Delhi Prohibition of Smoking and non-Smokers Health Protection Act, 1995.

(2) It extends to the whole of the National Capital Territory of Delhi.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires :—

"advertisement" means and includes any notice, circular, wall poster, pamphlet, display on hoardings, sponsorship at stadia, "bazaars", "melas" or other public gatherings for games, amusement or entertainment, any visible representation made by means of any light, sound, smoke gas or any other means which has, directly or indirectly, the effect of promoting smoking and the expression "advertise" shall be construed accordingly.

Short title, extent
and commencement

Definitions

- (b) "authorised officer" means an officer authorised under section 4 ;
- (c) "Delhi" means the National Capital Territory of Delhi ;
- (d) "Government" means the Government of the National Capital Territory of Delhi ;
- (e) "Legislative Assembly" means the Legislative Assembly for Delhi ;
- (f) "no-smoking place of public work or use" means an area and a place declared as such under section 3 and includes auditoria, hospitals, health institutions, amusement centres, restaurants, public offices, court buildings, educational institutions, libraries and the like, which are visited by the general public ;
- (g) "official Gazette" means the Delhi Gazette ;
- (h) "public service vehicle" means a vehicle as defined under clause (25) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988) ;
- (i) "rule" means the rule made under this Act ;
- (j) "smoking" means smoking of tobacco in any form, whether in the form of cigarettes, cigars, beedis or otherwise or with the aid of a pipe, wrapper or any other instrument.

Declaration of no-smoking places of public work or use

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 of public work or use in Delhi to be a no-smoking place for the purposes of this Act.

Power of Government to authorise officers to Act under this Act

4. The Government may, by notification in the official Gazette, authorise one or more officers, who shall be competent to act under this Act.

- (2) Every officer 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 (45 of 1860).

Prohibition of smoking in no-smoking places of public work or use

5. No person shall smoke in any no-smoking place of public work or use.

Prohibition of smoking in public service vehicles

6. Without prejudice to the provisions of the Motor Vehicles Act, 1988 (59 of 1988) no person shall smoke in a public service vehicle.

Prohibition on advertisement of cigarettes etc.

7. Notwithstanding anything contained in any other law for the time being in force, no person shall advertise in any place and any public service vehicle which may promote, directly or indirectly, smoking, or the sale of cigarettes and beedis etc.

Prohibition of sale of cigarettes, etc. to minors

8. No person shall sell cigarettes, beedis or any other such smoking substance to any person who is below the age of eighteen years.

- Prohibition of storage, sale and distribution of cigarettes, etc. in the vicinity of educational institutions**
9. No person shall himself or by any person on his behalf, store, sell or distribute cigarettes or beedies or any other such smoking substance within an area of one hundred metres around any college, school or other educational institution.
- Display and exhibition of board**
10. The owner or manager or incharge of affairs of every place of public work or use shall display and exhibit a board at each and every conspicuous place in and outside the premises visited or used by general public prominently stating that the area or place is "Smoking Free Zone" and that "Smoking is an offence".
- Penalties**
11. Any person, who contravenes the provisions of :—
- (i) sections 5, 6 or 10 shall be punishable with fine which may extend to one hundred rupees and in case of second or subsequent offence, shall be punishable with a minimum fine of two hundred rupees, but which may extend to five hundred rupees ;
- (ii) sections 7, 8 or 9 shall be punishable with fine which may extend to five hundred 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 hundred rupees, but which may extend to one thousand rupees, or with both.
- Ejection of violators of this Act from the place of public work or use**
12. Any authorised officer or any police officer, not below the rank of sub-inspector, may eject any person from the place of public work or use who contravenes the provisions of this Act.
- Court competent to try offences under this Act and take cognizance of offences**
13. (1) No court other than the court of a Metropolitan Magistrate shall take cognizance of, and try an offence under this Act. (2) No court shall take cognizance of any offence under this Act except on a complaint in writing of an authorised officer with respect to offences under section 5, 6 and 10 and on a report in writing of a police officer, not below the rank of sub-inspector, with respect to the offences under sections 7, 8 and 9.
- Certain offences to be cognizable and bailable**
14. Notwithstanding anything contained in the Code of Criminal Procedure, 1973(2 of 1974) offences under sections 7, 8 and 9 shall be cognizable and bailable.
- Offences under the Act to be tried summarily**
15. All offences under this Act shall be tried summarily in the manner provided for summary trial under the Code of Criminal Procedure, 1973(2 of 1974).
- Power to delegate**
16. The Government may, by notification in the official Gazette, direct that any power exercisable by it under this Act, may also be exercised by such officer as may be mentioned therein, subject to such conditions, if any, as may be specified therein.

**Power to make 18.
rules**

The Government or any person authorised by it by general or special order in this behalf, may either before or after the institution of the proceedings compound any offences made punishable by or under this Act.

Power to make 18. (1)
rules

The Government may make rules to provide for or regulate any matter in respect of which this Act makes no provision or makes insufficient provision and provision is, in its opinion, necessary.

(2) Any rule made by the Government shall be subject to previous publication thereof in the official Gazette.


(3) Every rule made under this Act shall be laid as soon as may be after it is made before the House of the Legislative Assembly and if the House agrees in making any modification in the rule or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Smoking of cigarettes, beedis, etc. is a harmful habit which can have grave effects on health. Studies on the subject have proved that there is a relationship between smoking of cigarettes and lung-cancer, chronic bronchitis, certain diseases of the heart and arteries, cancer of bladder, prostate, mouth pharynx and oesophagus, peptic ulcer, etc., are also reported to be among the ill-effects of cigarette smoking. Passive smokers are also exposed to the similar risks and therefore, it is also aimed to protect the health of the non-smokers. It has therefore, become necessary to enact an anti-smoking legislation to provide, in the interest of the general public, to prevent and reduce the burden of illness and early mortality, and the resulting enormous human suffering, that are due to smoking as well as passive smoking. More specifically, the purpose of the proposed anti-smoking legislation are—

- (i) to confer on the Government the power to declare any place of public work or use in Delhi to be a no-smoking place, and to appoint officers to act under the Act;
- (ii) to prohibit smoking in places of public use or work which are declared to be no-smoking places and used by the general public or serving as a place of work;
- (iii) to prohibit smoking in public service vehicles;
- (iv) to ban advertisement of cigarettes, beedis, etc. so as to discourage promotion of sales thereof;
- (v) to prohibit sale of cigarettes, beedis or any other smoking articles to any person who is below the age of 18 years;
- (vi) to prohibit storage, sale and distribution of cigarettes, etc. in the vicinity of educational institutions;
- (vii) to enjoin on owners or managers or in-charge of affairs of every place of public work or use to display and exhibit a board at each and every conspicuous place in and outside the premises visited or used by general public prominently that the area of place is "Smoking Free Zone" and that "Smoking is an offence";
- (viii) to protect the rights of non-smokers against the dangers and discomfort of passive smoking and to contribute to the development of a no-smoking environment.
- (ix) to protect young generation from ill effects of smoking and to reduce smoking by dissuading them from beginning to smoke and to make the future generation as a smoking-free Society.

The Bill seeks to achieve the aforesaid objectives.

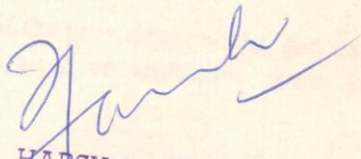


(Dr. Harshvardhan)

Minister of Medical, Public
Health and Family Welfare.

FINANCIAL MEMORANDUM

The Department have proposes to evolve a mechanism through which publicity shall be provided for the benefit of the people in Delhi about the provisions that are now proposed to be implemented through an Act of Assembly of the Government of Delhi. The publicity would be undertaken through Mass Media and the Department will make use of other exhibition being organised by it for propogating the Health Care. The amounts have been estimated to be of the tune of Rs. 15 lakhs which would be incurred in this regard only.



Dr. HARSH VARDHAN
Minister for Health
Govt. of National Capital
Territory of Delhi,

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Government to authorise one or more officers, who shall be competent to act under this Act.

Clause 16 of the Bill confers on the Government the power to delegate any power exercisable by it under this Act to other officer.

Clause 18 of the Bill confers on the Government the power to make rules to provide for or regulate any matter in respect of which this Act makes no provision or makes insufficient provision and provision is, in its opinion, necessary.

These are matters of detail necessary for effective Administration of the provisions of the Act and it is difficult to provide for all situations in the Act itself. The delegation of legislative power is, therefore, of a normal character.