

The Karnataka Prohibition Of Smoking And Protection Of Health Of Non-Smokers Act, 2001

KARNATAKA

India

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Act 2 of 2003

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The Karnataka Prohibition Of Smoking And Protection Of Health Of Non-Smokers Act, 2001 KARNATAKA ACT 2 OF 2003 An Act to provide for prohibition of smoking in places of public work or use and in public service vehicles and for the protection of health of non-smokers in the State of Karnataka and to make provision for matters connected therewith or incidental thereto. Be it enacted by the Karnataka State Legislature in the fifty second year of the Republic of India as follows:-

1. Short title and commencement.-

(1) This Act may be called the Karnataka Prohibition of Smoking and Protection of Health of Non-Smokers Act, 2001. (2) It shall come into force from such date, as the State Government may, by notification, appoint and different dates may be appointed for different provisions of this Act.

2. Definitions.-

In this Act, unless the context otherwise requires,-(a) “advertisement” means and includes any notice, circular, wall paper, pamphlet, display on hoardings, or any visible representation made by means of any light, sound, smoke, gas or any other means which has the effect of promoting smoking and the expression ‘advertise’ shall be construed accordingly; (b) “Authorised Officer” means an officer appointed under section 6; (c) “Place of public work or use” means a place which is visited by general public and includes Auditorium, Hospital Buildings, Health Institutions, Amusement centres, Restaurants, Public Offices, Court Buildings, Educational Institutions, Libraries, Places of worship and such other places notified by the State Government to be a Place of Public Work or use but does not include any open place; (d) “Public Service Vehicle” means a vehicle

as defined under clause (35) of section 2 of the Motor Vehicles Act, 1988 (Central Act 59 of 1988);(e)“smoking” means smoking of tobacco in any form, whether in the form of cigarette, cigar, beedis or otherwise with the aid of a pipe, wrapper or any other instrument.

3. Prohibition of smoking, advertisement, sale and storage of smoking substances.-

No person shall,-(1)engage in smoking in any place of public work or use, where smoking is prohibited and such prohibition is displayed or conveyed through any audio or visual medium, or in any Public Service Vehicle.(2)notwithstanding anything contrary contained in any other law advertise in any place of Public Work or use or in any Public Service Vehicle to promote smoking or the sale of cigarettes and beedies:Provided that this clause shall not apply in relation to,-(a)an advertisement of cigarettes or beedies in or on a package containing cigarettes or beedies;(b)advertisement of cigarettes or beedies which is displayed at the entrance or inside a warehouse or a shop where cigarettes or beedies are offered for distribution or sale.(3)sell cigarettes, beedis or any other smoking substance to any person who is below the age of eighteen years;(4)himself or by any person on his behalf, store, sell or distribute cigarettes or beedis or any other smoking substance within the premises of any Hospital, Health Institution, Public Office, Court, Library, College, School or other Educational Institution and Place of worship.

4. Notice to be displayed.-

For the purpose of clause (1) of section 3, the owner or manager or person incharge of a place of public work or use shall display or convey through audio or visual medium in Kannada and English languages at a conspicuous place or places in the premises of place of public work or use prominently stating that the entire place or such part of it is a “No smoking Zone” and that “Smoking is prohibited in such place or, as the case may be, part of it.”

5. Penalties.-

Any person, who contravenes the provisions of:-(1)Clause (1) of section 3 or of section 4 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;(2)Clauses (2),(3),(4) of section 3 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 for a term which may extend to three months, and with a minimum fine of five hundred rupees, but which may extend to one thousand rupees.

6. Authorised Officer.-

(1)The State Government may by notification appoint one or more persons in respect of any area or areas to be authorised officers for the purpose of this Act.(2)Every authorised officer appointed under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the

Indian Penal Code, 1860 (Central Act 45 of 1860).

7. Removal of a person from the Place of an offence.-

Any person who contravenes the provisions of section 3 and who is being asked by an authorised officer or a Police Officer not below the rank of a Sub-Inspector of Police to desist from smoking persists, shall be liable to be removed from the place of the offence. A person removed from the show house, auditoria, amusement centre or a Public Service Vehicle shall not be entitled to refund of any payment made by him for journey or for admission to the demonstration, exhibition, assembly or meeting or to any other compensation.

8. Court Competent to try offences under this Act and take cognizance of offences.-

(1) No court other than the court of a Metropolitan Magistrate or Judicial Magistrate First-Class 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 authorized officer with respect to offences under clause (1) of section 3 or section 4 and on a report in writing of a Police Officer, not below the rank of Sub-Inspector of Police, with respect to offences under clauses (2), (3) and (4) of section 3.

9. Certain offences to be cognizable and Bailable.-

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) offences under clauses (2), (3) and (4) of section 3 shall be cognizable and bailable.

10. Offences under the Act to be tried summarily.-

All offences under this Act shall be tried summarily in the manner provided for summary trial of cases under the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

11. Offences by Companies.-

(1) Where an offence under this Act has been committed by a company, every person, who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and 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, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where any 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 neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager,

secretary or other officer shall be proceeded against and punished accordingly. Explanation.- For the purposes of this section, - (a) "Company" means a 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.

12. Delegation of Powers.-

The State 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 and subject to such conditions, if any, as may be specified therein.

13. Compounding of offences.-

(1) The State Government or any person authorised by the State Government in this behalf by general or special order, may either before or after the institution of the proceedings compound any of the offences made punishable under this Act. (2) When an offence is compounded under sub-section (1), the offender if in custody shall be discharged and no further proceeding shall be taken against him in respect of the offence compounded.

14. Repeal and savings.-

(1) The Karnataka Prohibition of Smoking in Show houses and Public halls Act, 1963 (Karnataka Act 30 of 1963) is hereby repealed and in clause (y) of sub-section (1) of section 92 of the Karnataka Police Act, 1964 (Karnataka Act 4 of 1964) the words "smokes or" shall be omitted: Provided that the provisions of section 6 of the Karnataka General Clauses Act, 1899 shall be applicable in respect of the repeal of the said enactment and the provisions of the said law and sections 8 and 24 of the said Act shall be applicable as if the said enactment and provisions had been repealed and re-enacted by this Act.

15. Power to make rules.-

(1) The State Government may by notification and after previous publication make rules generally for the purpose of carrying into effect the provisions of this Act. (2) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall from the date on which the modification or annulment is notified by the Government in the Official Gazette have effect only in such modified form or be of no effect, as the case may be, so however, that any modification or annulment shall be without prejudice to the validity of anything previously done under such rule.