

The Bihar Prohibition of Intoxicants Ordinance, 1979

JHARKHAND

India

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Act 110 of 1979

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The Bihar Prohibition of Intoxicants Ordinance, 1979(Bihar Ordinance No. 110 of 1979)Published in Bihar Gazette (extra-ordinary) dated 15.6.1979.An Ordinance to provide for prohibition of consumption and possession of intoxicants in the State of Bihar.Preamble. - Whereas, the Legislature of the State of Bihar is not in session;And, Whereas, it is expedient to provide for prohibition of consumption and possession of intoxicants in the State of Bihar and to give effect to the Directive Principle contained in Article 47 of the Constitution of India;And, Whereas, the Governor of Bihar is satisfied that circumstances exist which render it necessary for him to take immediate action to carry out the said policy;Now Therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor is pleased to promulgate the following Ordinance: -

1. Short title, extent and commencement.

(1)This Ordinance may be called the Bihar Prohibition of Intoxicants Ordinance, 1979.(2)It extends to the whole of State of Bihar.(3)It shall be deemed to have come into force on the 1st day of April, 1979.

2. Definition.

- In this Ordinance, unless there is anything repugnant in the subject or context: -(a)"foreign liquor" means-(i)beer and spirit, wines and liquors which have been imported into India and were liable, on such importation, to duty under the Indian Tariff Act, 1934 or the Sea Customs Act, 1878;(ii)beer which has been brewed in India, or imported into India in a condensed form and afterwards converted into potable beer and on which excise duty has been imposed at the rate fixed by the State Government under section 27 of the Bihar and Orissa Excise Act, 1915 (Bihar and Orissa Act II of 1915);(iii)spirit which has been made in India and has been sophisticated or compounded so as to resemble in colour and flavour whisky brandy, gin or rum;(iv)wines and liquors which have been made in India and on which excise duty has been imposed at the rate fixed by the State Government

under section 27 of the Bihar and Orissa Excise Act, 1915 (Bihar & Orissa Act II of 1915);(b)"public place" for the purposes of this Ordinance means any place intended for use by, or accessible to, the public and shall include any public conveyance;(c)"intoxicant" shall have the same meaning as in the Bihar and Orissa Excise Act, 1915 (Bihar and Orissa Act II of 1915) but shall not include Bhang and Tari, and(d)expressions used in this Ordinance but not defined herein shall have the same meanings as are respectively assigned to them in the Bihar and Orissa Excise Act, 1915 (Bihar and Orissa Act II of 1915) or the rules made thereunder.

3. Prohibition of consumption or possession of intoxicants.

- Save as provided in this Ordinance no person shall possess or consume any intoxicant in the State of Bihar.

4. Exceptions.

(1)Nothing in section 3 shall apply to-(i)consumption or possession of-(a)foreign liquor by members of the Defence Services within the premises of defence establishments;(b)foreign liquor by foreign nationals holding passport and holding permits , issued by the Excise Commissioner or any other officer empowered by him in this behalf;(c)foreign liquor by persons holding permits issued on grounds of health by the Excise Commissioner or any other officer empowered by him in this behalf;(d)home-brewed pachwai by members of the Scheduled Tribes for domestic consumption:Provided that no such person shall possess or consume such pachwai in a public place except on social or religious occasions;(e)any intoxicant for industrial, scientific, educational, medicinal or religious purposes:Provided that where any intoxicant is required in that form for medicinal or religious purposes by any person other than a licensee the limit of possession of such intoxicant shall be as may be prescribed by the Board of Revenue;(f)denatured spirit for non-potable domestic use other than human consumption upto such limits as may be prescribed under the Bihar and Orissa Excise Act, 1915 (Bihar and Orissa Act II of 1915);(ii)possession of-(a)any intoxicant by travellers travelling through or staying in transit in any area of the State for not more than forty-eight hours;(b)any intoxicant by any person holding a licence, pass or permit under the Bihar and Orissa Excise Act, 1915 (Bihar and Orissa Act II of 1915) or any other law for the time being in force; and(c)any intoxicant in transit consigned by rail, road, air or water from, to or through Bihar under permits issued by the Excise Commissioner or any officer authorised by him in this behalf.(2)Notwithstanding anything contained in sub-clauses (a), (b) and (c) of clause (i) of sub-section (1) no person shall drink any intoxicant lawfully possessed by him in a public place.(3)Possession of intoxicants under sub-clause (a), (b) and (c) of clause (i) and sub-clause (a) of clause (ii) of sub-section (1) shall be subject to such limits as may be prescribed by the Board of Revenue.

5. Grant of exclusive privilege.

- For the purposes of section 4, the State Government may grant to any person exclusive privilege of import, export, transport, manufacture, possession and sale of intoxicants in the manner laid down in Section 22 of the Bihar and Orissa Excise Act, 1915 (Bihar & Orissa Act II of 1915).

6. Licences under the Bihar and Orissa Act II of 1915.

- All export, import, transport, manufacture, sale and possession of intoxicants not prohibited under this Ordinance shall be in accordance with the provisions of the Bihar and Orissa Excise Act, 1915 (Bihar and Orissa Act II of 1915), the rules made and the notifications issued thereunder.

7. Seizure and surrender of intoxicants lawfully held on the 31st of March, 1979.

(1) All stocks of intoxicants lawfully held on the 31st of March, 1979 and seized or sealed in pursuance of the Excise Department Notification No. S.O. 566, dated the 27th March, 1979 shall be disposed of in the manner specified in section 8. (2) All other stocks of intoxicants lawfully held on the March, 1979 but not already seized or sealed in pursuance of the notification No. S.O. 566, dated the 27th March, 1979 and the possession of which has been prohibited under this Ordinance shall be surrendered to the Collector of the district within such time as may be notified by the State Government, failing which it shall be liable to be confiscated without payment of any amount.

8. Disposal of seized and surrendered stocks of intoxicants and payment for residual stocks.

(1) The Excise Commissioner may, on an application made to him in this behalf, within such period as may be fixed by the State Government, order disposal of stocks of intoxicants seized, sealed or surrendered under section 7 in any manner not prohibited under this Ordinance. (2) On the expiry of the period fixed under sub-section (1) stock of intoxicants not disposed of shall vest in the State free from all encumbrances and there shall be paid to the lawful owners thereof a sum equal to the aggregate of the—(a) duty paid, if any; (b) transportation charges incurred, if any; (c) cost of acquisition in respect of such stocks.

9. Authorities to carry out the provisions of this Ordinance.

- The authorities responsible for administration of the Bihar and Orissa Excise Act, 1915 (Bihar and Orissa Act II of 1915) shall be the authorities responsible for the administration of this Ordinance and all provisions of the said Act, the rules made and notifications issued thereunder relating inter alia, to search, seizure, confiscation, disposal, prosecution and appeal shall, mutatis mutandis, apply in respect of this Ordinance.

10. Penalty.

- Whoever contravenes any of the provisions of this Ordinance shall be liable to imprisonment for a term which may extend to one year or a fine which may extend to two thousand rupees or both: Provided that no person shall be punished for contravention of any provision of this Ordinance between the 1st of April, 1979 and the date of publication of this Ordinance in the Official Gazette.

11. Validation of action taken.

- Notwithstanding anything to the contrary contained in any decree, judgement or order of any court, all action taken in pursuance of Excise Department notification No. S.O. 566 dated 27th March, 1979 shall be deemed to be valid and to have been taken under this Ordinance as if this Ordinance were in force on the day on which such action was taken.

12. Over-riding effect of the Ordinance.

- The provision of this Ordinance shall have effect notwithstanding anything contrary thereto in the Bihar and Orissa Excise Act, 1915, (Bihar and Orissa Act II of 1915).

13. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Ordinance, the State Government may, by order notified in the Official Gazette do anything which appears to be necessary for the purpose of removing the difficulty within two years from the date of commencement of this Ordinance, as occasion may require.