

The Spirituous Preparations (Inter-State Trade And Commerce) Control Act, 1955

UNION OF INDIA

India

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Act 39 of 1955

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1. [Repealed by The Spirituous Preparations (Inter-State Trade And Commerce) Control (Repeal) Act, 2006 (Act 32 of 2006) on 22 August 2006]

The Spirituous Preparations (Inter-State Trade And Commerce) Control Act, 1955 ACT NO. 39 OF 1955

27.

/1374The Governments of certain States in which 'prohibition' is in force have represented to the Central Government that medicinal and other preparations containing alcohol in some form or other are being increasingly used as alcoholic beverages to the detriment of public health and further that in the absence of powers to control the import of such preparations from outside the States the basic objective underlying prohibition is being frustrated.2. The existing law contained in the Drugs Act, 1940, is not sufficient to control inter-state movements in spirituous preparations. It has also been pointed out that the a State Law regulating trade and commerce in these preparations with or without prohibition States is not likely to be as effective as a Central law. It is accordingly considered necessary for the Central Government to undertake legislation with reference to article 302 of the Constitution for the purpose of controlling inter-State movement in such spirituous preparations.3. The Bill seeks to regualte importance of spirituous preparations into the States in which the consumption of alcoholic liquor is generally prohibied. - Gazette of India, 24-3-1955, Extra, Pt. II, Section 2, p. 111.[15th October, 1955]An Act to make provision for the imposition in the public interest of certain restrictions on inter-State trade and commerce in spirituous medicinal and other preparations and to provide for matters connected therewith.BE it enacted by Parliament in the Sixth Year of the Republic of India as follows:--

1. Short title, extent and commencement.

(1) This Act may be called the Spirituous Preparations (Inter-State Trade and Commerce) Control Act, 1955. (2) It extends to the whole of India. (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2nd September, 1957, vide Notification No. S.R.O. 2467 dated the 29th July, 1957, see Gazette of India, Extraordinary, 1957, Pt. II, Section 3, p. 2235.

2. Definitions.

In this Act, unless the context otherwise requires,--(a) "alcohol" means ethyl alcohol of any strength and purity having the chemical composition C_2H_5OH ; (b) "prescribed" means prescribed by rules made under this Act; (c) "prohibition State" means any State which the Central Government may, by notification in the Official Gazette, specify as being a State in which or in any part of which the consumption of alcoholic liquors is generally prohibited by law; (d) "spirituous preparation" means--(i) any medicinal preparation containing alcohol, whether self-generated or otherwise; or (ii) any mixture or compound of wine with medicinal substances, whether the wine is fortified with spirit or not; or (iii) any other substance notified under section 4 to be a spirituous preparation.

3. Control of inter-State trade and commerce in spirituous preparations.

(1) No person shall, in the course of inter-State trade and commerce, (a) import into a prohibition State any spirituous preparation; or (b) export from any State or transport from one place to another or sell any spirituous preparation for the purpose of its importation into a prohibition State; save in accordance with rules made under sub-section (2) and with the conditions of any licence for that purpose which he may be required to obtain under those rules. (2) The Central Government may, by notification in the Official Gazette, make rules regulating such import, export, transport or sale, and such rules may prescribe the form and conditions of licences therefor, the authorities by which such licences may be granted and the fees that may be charged with respect thereto, and any other matter required to render effective the control over such import, export, transport or sale. (3) Save in so far as may be expressly provided in the rules made under sub-section (2), nothing in this section shall apply to spirituous preparations which are the property of the Government. (4) [Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, 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 the 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 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.] [Inserted by Act 4 of 1986, Section 2 and Sch. (w.e.f. 15-5-1986).]

4. Other preparations containing alcohol may be notified as spirituous preparations.

If the Central Government is satisfied, after making such inquiry in this behalf as it may think fit and after taking into account such representations as may be made in the matter, that control of inter-State trade and commerce in any preparation containing alcohol other than a preparation referred to in sub-clause (i) or sub-clause (ii) of clause (d) of section 2 is necessary in the public interest, it may, by notification in the Official Gazette, declare such preparation to be a spirituous preparation within the meaning of this Act and thereupon the provisions of this Act shall apply thereto.

5. Penalties.

If any person contravenes any of the provisions of this Act or of any rules made thereunder, or the terms and conditions of any licence granted under such rules, he shall, for every such offence, be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

6. Procedure to be followed by magistrate.

In all trials for offences under this Act or the rules made thereunder, the magistrate shall follow the procedure prescribed in the Code of Criminal Procedure, 1898, (5 of 1898.) for the trial of summary cases in which an appeal lies.

7. Offences under this Act cognisable.

Notwithstanding anything contained in the Code of Criminal Procedure, 1898, (5 of 1898.) all offences under this Act and the rules made thereunder shall be cognisable.

8. Power to enter, search, seize, arrest without warrant and investigate offences.

(1) Any officer of the department of prohibition, excise, police, revenue or public health authorised in this behalf by the State Government, by general or special order, who has reasons to believe from personal knowledge or from information given by any person and taken down in writing that any spirituous preparation in respect of which an offence punishable under section 5 has been committed is kept or concealed in any house, building or enclosed space, or is being transported in any vehicle, vessel or aircraft to any place or is in transit may--(a) enter at any time by day or by night into any such house, building or enclosed space, or vehicle, vessel or aircraft; (b) in case of resistance, break open any door and remove any other obstacle to such entry; (c) seize such preparation and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder; and (d) detain and search any person whom he has reason to believe to be guilty of an offence

punishable under this Act or the rules made thereunder, and if such person has any spirituous preparation in his possession and such possession appears to him to be unlawful, arrest him.(2)Where an officer takes down any information in writing under sub-section (1), he shall forthwith send a copy thereof to his immediate official superior.(3)The State Government may empower any officer of the prohibition or excise department to investigate offences under this Act and the rules made thereunder.(4)An officer empowered under sub-section (3) shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1898, (5 of 1898.) upon an officer in charge of a police station for the investigation of cognisable offences.

9. Vexatious search, seizure, etc., by officers exercising powers under the Act.

(1)Any officer exercising powers under this Act or under the rules made thereunder who--(a)without reasonable ground for believing that it is necessary so to do searches or causes to be searched any house, 52 building or enclosed place or any vehicle, vessel or aircraft;(b)vexatiously or unnecessarily seizes any spirituous preparation or any document or other article;(c)vexatiously or unnecessarily detains, searches or arrests any person; or(d)commits, as such officer, any other act to the injury of any person without having reason to believe that such act is required for the execution of his duty; shall for every such offence be punishable with fine which may extend to two thousand rupees.(2)Any person wilfully and maliciously giving false information and so causing an arrest or a search to be made under this Act shall be punishable with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to one year, or with both.

10. Offences by companies.

(1)If the person committing an offence under section 5 is a company, every person who, at the time the contravention 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 contravention 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 provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.(2)Notwithstanding anything contained in sub-section (1), where an 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 also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.Explanation.--For the purposes of this section,--(a)"company" means any 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.

11. Presumption from possession of spirituous preparations.

In trials under this Act, it may be presumed unless and until the contrary is proved, that the accused

has committed an offence 53 under this Act or the rules made thereunder in respect of any spirituous preparations for the possession of which he fails to account satisfactorily.

Additional Information⁶

The Central Government has directed that the power to make rules under section 3 of the Act shall be exercisable also by the State Governments of Bombay, Madras and Uttar Pradesh subject to the condition that the rules shall have no effect in so far as they are repugnant to any order or rule made under this Act by the Central Government : See S.R.O. 2469 dated 29-7-1957, Gazette of India, 1957, Extra, Pt. II, section 3, p. 2235. For similar notification in respect of Madhya Pradesh, see S.R.O. 194 dated 12-1-1960 , Gazette of India, 1960, Pt. II, section 3(ii), page 342.

12. Delegation of powers.

The Central Government may, by notification in the Official Gazette, direct that the power to make rules under section 3 shall, subject to such conditions, if any, as may be specified in the notification, be exercisable also by a State Government.

13. Power to exempt.

The Central Government may, by notification in the Official Gazette, and subject to such conditions as it may think fit to impose, exempt any spirituous preparation from all or any of the provisions of this Act on the ground that the spirituous preparation is ordinarily required for medicinal, scientific, industrial or such like purposes.

14. Officers acting under this Act to be public servants.

All officers empowered to exercise any powers or to perform any duties under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. (45 of 1860.)

15. Protection of action taken in good faith.

No suit, prosecution or other legal proceeding shall lie against any officer or person empowered to exercise powers or to perform duties under this Act for anything in good faith done or intended to be done under this Act or the rules made thereunder.

16. Saving of local and special laws.

Nothing in this Act or in the rules made thereunder shall affect the validity of any Provincial Act or a State Act for the time being in force, or of any rule, regulation or order made thereunder, which imposes any restriction not imposed by or under this Act, or imposes a restriction greater in degree than a corresponding restriction imposed by or under this Act on the traffic in any spirituous preparations within the territories of the State.