

The Punjab Plastic Carry Bags (Manufacture, Usage and Disposal) Control Act, 2005

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Act 17 of 2005

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The Punjab Plastic Carry Bags (Manufacture, Usage and Disposal) Control Act, 2005 Punjab Act No. 17 of 2005 Statement of Objects and Reasons - Increased consumption of plastic carry bags for various consumer applications, like disposables, packaging, and carry bags, more and more plastic waste finds its place in garbage dumps and Municipal Solid Waste and thus poses adverse environmental and health problems. Plastic bags are especially tough on sewerage system as these cause clogging of sewers and open drains. Toxicity from the colouring pigments in the plastic leads to various disease. The non-biodegradable nature of plastic further multiplies its adverse impact. It is estimated that plastics account for 16% of chlorine in the environment and have 54 potential Carcinogens. Polythene bags, if burnt, release highly toxic gases like phosgene, carbon monoxide, chlorine, sulphur dioxide, nitrogen dioxide and deadly dioxins. Besides, waste plastic bags eaten by cattle cause serious problems and lead to their deaths. Coloured recycled bags contain heavy metals like Chromium, Mercury, Lead etc., which are carcinogenic in nature hence should not be permitted for dispensing/carrying/packaging and storing eatables. Thus, there is a need to prohibit manufacturing of carry bags made of virgin plastics below specifications, manufacture of and usage of recycled plastics/carry bags and prohibit to throw non-biodegradable plastic waste in public drains, sewers and open public places. To overcome this serious problem, the purpose can be achieved by enacting the Legislation. Hence, the Bill. Published by Punjab Government Gazette (Extraordinary), dated October 7, 2005, Page 2052. Statement of Objects and Reasons - Punjab Act 28 of 2006. - The Punjab Plastic Carry Bags (Manufacture, Usage and Disposal Control Act, 2005 was notified in the Punjab Government Gazette, Extraordinary on November 15, 2005. Under sub-section (2) of Section (1) of the Act *ibid* it has been provided that the Act shall come into force at once, except the provisions of Sections 14 and 17, which shall come into force after the expiry of a period of one hundred and eighty days of its commencement. As such these provisions have come into force with effect from 16th May, 2006. As per Section 14 of the Act *ibid*, whosoever contravenes the provisions of Sections 3, 4 and 6 or fails to comply with any order or direction given under the

Act, shall be punishable with imprisonment for a term, which shall not be less than three months and which may extend to one year, or with fine of not less than twenty five thousand rupees, or both. Further, whosoever contravenes the provisions of Sections 6 and 7 of the Act, or any rule, notification or order made, issued or given under this Act shall be punishable with imprisonment for a term which may extend up to one month or with fine which may extend up to one thousand rupees, or both. Further under Section 17 of the Act *ibid*, a provision of compounding of offences has been made, according to which any offence punishable under this Act, in the case of manufacturers, before the institutions of the prosecution, may be compounded on payment of an amount of not less than rupees fifty thousand for credit to the concerned local authority and for any subsequent offence, amount shall not be less than Rs. one lac. In the case of users, any offence punishable under the Act, before the institution of prosecution, may be compounded on payment of an amount of not less than Rupees two thousand, and not be less than Rupees four thousand for any subsequent offence. In the meantime, the Punjab Recycled Plastic Mfrs. Association (Regd.) Ludhiana, has approached the Government requesting to amend the provisions of the Act which prohibit use of recycled plastic carry bags for storing/carrying or packing any food items or it should give three years period for re-establishing the industry. Under Section 4(1) of the Act *ibid*, a prohibition has been imposed to manufacture or cause to be manufactured, for sale or use, any recycled non-biodegradable plastic carry bags or containers and under Section 7 of the Act *ibid* no person shall use or cause to be used any non-biodegradable recycled carry bags or containers which are liable to cause poisoning of food during storing, carrying or packaging of any item of food. Meetings were held with the Association wherein it was pointed out by the members that financial problems are being faced by the recycled plastic carry bags manufacturing industries which have taken loans from the market/banks for machinery. The industry needs time to settle these loans and to shift to better machinery/process for manufacturing plastic carry bags of virgin plastic. The Association has assured that industry would voluntarily comply with the provisions of the Act if a lead-time is given. The matter has been examined on merit and it has been considered that it would be appropriate to allow the industry a lead-time for a further period of one year. Accordingly it has been decided to defer the implementation of Section(s) 14 and 17 of the Punjab Plastic Carry Bags (Manufacture, Usage and Disposal) Control Act, 2005 for a further period of one year, i.e. up to 16th May, 2007. To achieve this purpose an Ordinance namely "The Punjab Plastic Carry Bags (Manufacture, Usage and Disposal) Control (Amendment) Ordinance, Act, 2006 was promulgated on 24th August, 2006. Now approval of the Punjab Vidhan Sabha is solicited to convert the aforementioned Ordinance into an Act. Hence the Bill.] Published vide Punjab Govt. Gazette (Extraordinary), dated September 12, 2006, page 1771. [Dated 16th November, 2005] Department of Legal Affairs, Punjab No.

30-Legislative/2005. - The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 11th November, 2005, and is hereby published for general information :- An Act to provide for the control on the manufacture of plastic carry bags and other plastic products from the recycled plastic and pigmented carry bags, their use; and for the prohibition of disposal of non-bio- degradable plastic waste in public places, drains and sewers, for restoring and maintaining clean environment and for the matters connected therewith or incidental thereto. Be it enacted by the Legislature of the State of Punjab in the Fifty-sixth Year of the Republic of India as follows :-

1. Short title and commencement.

(1) This Act may be called the Punjab Plastic Carry Bags (Manufacture, Usage and Disposal) Control Act, 2005. (2) It shall come into force at once, except the provisions of Sections 14 and 17, which shall come into force after the expiration of a period of [one year and six months] [Substituted for 'one hundred and eighty days' by Punjab Act No. 28 of 2006.] from the date of its commencement.

2. Definitions.

- In this Act, unless the context otherwise requires - (a) "bio-degradable garbage" means the garbage or waste material capable of being degraded by the action of micro-organism; (b) "building" means any shop, house, out-house, hut, shed or stable whether used for the purpose of human habitation or otherwise and whether of masonry, bricks, wood, mud, thatch, metal or any other material whatever; and includes a wall and a well; (c) "carry bag" means the plastic carry bag whether it has a self-carrying handle or a "D" punched handle or not; (d) "food" means any article used as food or drink for human consumption and includes, - (i) any article which ordinarily enters into or is used in the composition or preparation of human food; (ii) any flavouring matter or condiment; and (iii) any other article which the Government, may, having regard to its use, nature, substance or quality, declare by notification in the Official Gazette as food for the purpose of this Act; (e) "house gully" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as or carrying a drain or affording access to the latrine, urinal, cesspool or other receptacle for filth or other polluted matter, by the persons employed in the cleaning thereof or in the removal of such matter therefrom; (f) "local authority" means a Municipal Corporation, a Municipal Council, a Nagar Panchayat, a Zila Parishad, a Panchayat Samiti or a Gram Panchayat constituted or continued as such, as the case may be, under any law for the time being in force in the State of Punjab; (g) "market" means a place where goods are sold and purchased for human use and includes any other place where persons assemble for sale of fruits, vegetables, food, meat, fish or any other articles for human use or consumption with or without the consent of the owner of such place, notwithstanding that there may be no common regulation for the concourse of the buyers and the sellers and whether or not any control is exercised over the business of, or the persons, frequenting the market by the owner of the place or by any other person; (h) "non-bio-degradable garbage" means the waste garbage or material, which is not bio-degradable by an action of micro-organism, and includes thermoplastics and thermo-set plastics, such as PVC, polyethylene, terephthalate, polypropylene, polyurethane, polycarbonate, polystyrene as specified in the Schedule appended to this Act; (i) "occupier" includes - (i) any person, who for the time being is paying or is liable to pay to the owner, the rent or any portion of the rent of the land or building, as the case may be, in respect of which such rent is paid or is payable; (ii) an owner in occupation of or otherwise using his land or building; (iii) a tenant occupying any land or building without rent; and (iv) any person, who is liable to pay to the owner damages for the use and occupation of any land or building; (j) "owner" includes a person, who for the time being is receiving or is entitled to receive the rent of any land or building whether on his own account or on account of himself and others or as an agent, trustee, guardian or receiver for any other person or who should so receive the rent or be entitled to receive it, if the land or building or part thereof were let to a tenant; (k) "pigments" means organic or inorganic chemical substances whether natural or synthetic, used for colouring the carry bags; (l) "place" means any land

or building or part of a building and includes the garden, ground and out-houses, if any, pertaining to a building or part of a building;(m)"place open to public view" includes any place or building, monument, fence or balcony visible to a person being in, or passing along any public place;(n)"prescribed" means prescribed by rules made under this Act;(o)"Public Analyst" means a person appointed as such under Section 8;(p)"public place" means any place which is open to use and enjoyment of the public whether it is actually used or enjoyed by the public or not and includes a road, street, market, household or way, whether a thoroughfare or not, and landing place to which public are granted access or have a right to resort or over which they have a right to pass;(q)"recycle" means the process by which plastic waste is collected, segregated and processed for the purpose of manufacturing carry bags or any other plastic item for use;(r)"section" means a section of this Act; and(s)"State Government" means the Government of the State of Punjab.

3. Prohibition to manufacture carry bags from virgin plastic.

- No person shall manufacture or cause to be manufactured any carry bags from virgin plastic of thickness of not less than 30 micron and of a size, not less than 8" x 12" and of a colour, other than the specified colour.

4. Prohibition to manufacture carry bags from recycled plastic.

(1)No person shall manufacture or cause to be manufactured for sale or use any recycled non-biodegradable plastic carry bags or containers with or without containing inorganic or organic pigments, plasticizers, lubricants and stabilizers, which are liable to cause poisoning of food during storing, carrying or packing of any item of food.(2)No licence, for the manufacture, or sale of recycled carry bags referred to in sub-section (1), granted or received under any law before the commencement of this Act, shall entitle the holder thereof or any person on his behalf to commence or carry on such business.

5. Permission to manufacture carry bags from recycled plastic.

- Notwithstanding anything contained in Section 4, the State Government may, permit to manufacture carry bags from recycled plastic in such colour, size, thickness and purpose, as may be specified by it.

6. Manufacturer to print on carry bags his name, address, registration number and other particulars.

- Every manufacturer shall print on each carry bag his name, address, registration number, size, thickness and the nature of plastic from which it is made and its codification as per IS : 14534 : 1998.

7. Prohibition to use carry bags or containers manufactured from recycled plastic.

- No person shall use or cause to be used any recycled non- biodegradable plastic carry bag or container with or without containing organic pigments, plasticizers, lubricants and stabilizers, which are liable to cause poisoning of food for the purpose of storing, carrying or packing any item of food.

8. Public Analyst.

(1)The State Government may, by notification in the Official Gazette, appoint or recognize a person or persons, as it thinks appropriate, having such qualifications, as may be prescribed, to be a Public Analyst for the purpose of analyzing and testing any plastic carry bag under this Act.(2)The report of a Public Analyst shall be treated as a document of evidence in any proceeding under this Act.

9. Functions of local authority.

- The local authority may perform all or any of the following functions, namely :-(a)to carry out and sponsor investigation and research relating to the problem of plastic waste;(b)to plan and organize the training to persons engaged in manufacture, use and disposal of plastics;(c)to organize through the mass media a comprehensive programme regarding prevention of environment degradation due to plastics;(d)to collect, compile and publish technical and statistical data relating to manufacture, use and disposal of plastic waste;(e)to prepare manuals, guides relating to manufacture, use and disposal of plastics and disseminate information relating thereto;(f)to make aware the general public about the harm of usage of plastics; and(g)to perform such other functions, as may be prescribed.

10. Prohibition to throw non-bio-degradable garbage in public drains, sewer or public place.

(1)No person, shall throw or cause to be thrown in any drain, ventilation shaft, pipe and fittings connected with the private or public drainage works or at any public place or in any place open to public view any non-bio-degradable garbage or plastic or any bio-degradable garbage in a non-bio-degradable bag, which may -(a)injure the proper functioning of the drainage and sewerage system;(b)interfere with the free flow or affect the treatment and disposal of drain and sewer contents;(c)be dangerous or cause nuisance or be prejudicial to public health; or(d)likely to be ingested by stray animals leading to serious health hazards.(2)No person shall place or permit to be placed, except in accordance with such procedure and after complying with such safeguards, as may be prescribed, any bio-degradable or non-bio-degradable garbage in any public place or in a place open to public view, unless, -(a)the garbage is placed in a garbage receptacle; or(b)the garbage is deposited in a location designated by the local authority having jurisdiction in the area for the disposal of the garbage.(3)If any person throws any bio-degradable or non-bio-degradable garbage at any public or in any place open to public view, any person aggrieved of any such nuisance, may

complain to the local authority.

11. Provision for placement of receptacles.

- It shall be the duty of the local authority or any officer authorized by it, to -(a)place or provide at proper and convenient location public receptacles, depots or places for temporary deposit or collection of non-bio- degradable garbage;(c)provide for the removal of contents of receptacles, depots and of the accumulation at all places provided under clause (a); and(d)arrange for disposal of plastic waste in an environmentally sound manner.

12. Power of local authority for removal of garbage.

- It shall be the duty of the owner and occupiers of all lands and buildings to collect or cause to be collected from their respective land and buildings the non-bio-degradable garbage and to deposit, or cause to be deposited, in public receptacles, deposits or places provided for temporary deposit or collection of the non-bio-degradable garbage by the local authority in the area.

13. Duty of owners and occupiers to collect and deposit garbage.

- The local authority may, by notice in writing, require the owner or occupier or part- owner, or person claiming to be the owner or part-owner, of any land or building, which has become a place of unauthorized stacking or deposit of non-bio-degradable garbage and is likely to occasion nuisance, to remove or cause to be removed the said garbage so stacked or collected, and if, in its opinion, such stacking or collection of non-bio-degradable waste is likely to injure the drainage and sewerage system or is likely to be dangerous to public health and environment, it may pass an order to take such steps immediately at the cost of such persons, as it may deem appropriate.

14. Penalties.

(1)Whoever -(a)contravenes the provisions of Sections 3, 4 or 5 or fails to comply with any order or direction given under this Act, shall be punishable with imprisonment for a term, which shall not be less than three months and which may extend to one year or with fine of not less than twenty-five thousand rupees or with both; or(b)contravenes the provisions of Sections 6 or 7 or of any rule, notification or order made, issued or given under this Act, shall be punishable with imprisonment for a term, which may extend to one month or with fine, which may extend to one thousand rupees or with both.(2)Whoever having been convicted of an offence under this Act, is again found guilty and is convicted of an offence under this Act, shall be punishable with double the penalty provided for the offence.(3)Whoever in any manner aids, abets or is accessory to the commission of an offence under this Act, shall on conviction, be punished with the same imprisonment as is specified for the commission of that offence.

15. Offences by Companies.

(1) If the person committing any offence punishable under this Act, is a Company, every person, who at the time of the commission of the offence, was in-charge of, and 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 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 the 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 gross negligence on the part of any Director, Manager, Secretary or other officer of the Company, such Director, Manager, Secretary or other official shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation. - For the purpose 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.

16. Offences to be tried summarily.

- All offences under this Act shall be tried in a summary way by a Judicial Magistrate of the First Class and the provisions of Sections 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973, shall, as far as may be, apply to such trials.

17. Compounding of offences.

(1) Any offence punishable under this Act, - (a) in the case of a manufacturer, before the institution of the prosecution, may be compounded, on payment of an amount of not less than rupees fifty thousand for credit to the concerned local authority : Provided that the compounding amount shall not be less than rupees one lac for any subsequent offence; (b) in the case of any user, before the institution of the prosecution, may be compounded, on payment of an amount of not less than rupees two thousand for credit to the concerned local authority : Provided that compounding amount shall not be less than rupees four thousand for any subsequent offence. (2) Where any offence has been compounded under sub-section (1), no proceedings shall be taken against the offender, in respect of the offence so compounded, and if the offender is in custody, he shall be discharged immediately.

18. Appeals.

- Any person aggrieved by an order made by a local authority under Section 13, may within a period of forty-five days from the date on which the order is communicated to him, prefer an appeal to such authority, as the State Government may, by notification on the Official Gazette, specify. The appellate authority after hearing the parties, may either accept the appeal or in case, it is not satisfied with the contentions made by the appellant, it may reject the appeal.

19. Powers to State Government to issue directions to the local authority.

- The State Government may, from time to time, issue to the local authority such directions, as in its opinion, are necessary or expedient for carrying out the purposes of this Act and the Rules made thereunder and the local authority shall comply with the directions so issued.

20. Power to amend Schedule.

- Where it is expedient so to do, the State Government, in consultation with the Public Analyst, may, by notification in the Official Gazette, add to or omit from the Schedule appended to this Act any item and thereafter, the Schedule shall be deemed to have been amended accordingly.

21. Power to delegate.

- The State Government may, by order published in the Official Gazette, delegate any power exercisable by it under this Act, except the power to make rules under Section 25 to such officer or an authority, as may be specified.

22. Protection of actions taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against the State Government or the local authority or any officer or other employee of the State Government or of the local authority or any other person or authority, authorised by the State Government, for anything, which is done or intended to be done in good faith under this Act or the rules made thereunder.

23. Cognizance of offences.

(1) No Court shall take cognizance of any offence punishable under this Act or the rules made thereunder, except on a complaint made by the local authority or an officer authorised by the State Government in this behalf. (2) No Court inferior to that of a Judicial Magistrate of the First Class, shall try any offence punishable under this Act.

24. Other laws not affected.

- The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law on the subject, for the time being in force.

25. Power to make rules.

(1) The State Government may, subject to the condition of previous publication, make rules for the purpose of carrying out the provisions of this Act. (2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :- (a) for prescribing qualifications for appointing or recognizing a person as Public Analyst

under sub-section (1) of Section 8;(b)for prescribing functions to be performed by the local authority under clause (g) of Section 9;(c)for prescribing procedure and safeguards to be complied with under sub-section (2) of Section 10; and(d)any other matter, which is required to be prescribed by or under this Act.(3)Every rule made under this Act shall be laid, as soon as may be, after it is made before the House of the State Legislature, while it is in session, for a total period of ten days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions as aforesaid, the House agrees in making any modification in the rules, or the House agrees, that the rules should not be made, the rules 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 or omitted to be done under that rule.

26. Repeal and saving.

(1)The Punjab Plastic Carry Bags (Manufacture, Usage and Disposal) Control Ordinance, 2005 (Punjab Ordinance No. 11 of 2005), is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the Ordinance referred to in sub-section (1), shall be deemed to have been done or taken under the corresponding provisions of this Act.

Schedule

[See Section 2(h)]Non-Bio-Degradable Plastics(as per IS : 14534 : 1998)

- 1. Polyethylene Terephthalate (PET)**
- 2. High Density Polyethylene (HDPE)**
- 3. Poly Vinyl Chlorine (PVC)**
- 4. Low Density Polyethylene (LDPE)**
- 5. Polypropylene (PP)**
- 6. Polystyrene (PS)**
- 7. Others such as Polybutadiene**

Terephthalate (PBT), Acrylonitrile Butadiene Styrene (ABS) and Acrylic.