

Haryana Mechanical Vehicles (Levy of Tolls) Act, 1996

HARYANA

India

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Act 9 of 1996

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Haryana Mechanical Vehicles (Levy of Tolls) Act, 1996 Haryana Act No. 9 of 1996 Statement of objects and Reasons. - "The Haryana Mechanical Vehicles (Bridges Tolls) Act enacted in 1974 provides for the levy and collection of tolls on Mechanical Vehicles crossing certain bridges which are notified for the purpose. It essentially covers the imposition of toll only on bridges constructed out of State funds and does not cover other road facilities like by-passes, Expressways, Elevated Highways, Tunnels, Ferries and improvement of roads etc. It also does not cover the levy of toll on facilities constructed with private finance or private management/operation of the toll facility.² Since Haryana has limited resources, and to attract private finance for development of road network in the State, it would be advantageous for supplementing the funds required for new projects like construction of expressways, Elevated Highways, By-passes, Bridges etc. on BOT (Build, Operate and Transfer) basis and this concept is quite common in advanced and developing countries and is gaining ground even in India. In this, a Private Company arranges or supplements finance, builds the facility, operates and maintains the facility for the period of concession and thereafter transfers it back to the Government. In return, the facility is subjected to toll to recoup the Capital Cost, maintenance and operating cost and return on Capital.³ It is, therefore, proposed to amend the existing "The Haryana Mechanical Vehicles (Bridges Tolls) Act, 1974" suitably so as to cover the new requirements mentioned above.⁴ The proposed amended Act provides for levy of toll on every Mechanical Vehicle at such rates and for such period as the State Government may from time to time by notification determine for each such facility. However, the persons or class of vehicles to be exempted from payment of toll will be notified on case to case basis. The amended Haryana Mechanical Vehicles (Levy of Tolls) Act, 1996, as proposed, provides the collection of toll by a Government Servant or an agent authorised for this purpose by the State Government. It also provides that the State Government may by notification, authorise any person who has agreed to construct, reconstruct, improve, strengthen, widen, repair or maintain any road, road infrastructure including bridges, tunnels, ferries, approach roads or section of new roads or by-passes which has been declared as a part of the toll highway, to demand, collect and retain tolls for such period and at such rates as may be specified in the notification for the use of such road, road infrastructure

including bridges, tunnels, ferries, approach roads or section of new roads or by-passes which has been declared as a part of toll highway."Received the assent of the Governor of Haryana on the 21st March, 1996 and was published in the Haryana Gazette, (Extra), Legislative Supplement, Part I, dated March 29, 1996/Chaitra 9, 1918.An Act to provide for the levy and collection of tolls in respect of use of road facilities, road infrastructure including bridges, tunnels, flyovers, ferries, approach roads or sections of new roads or by-passes and to provide for the private management of roads.Be it enacted by the Legislature of the State of Haryana in the Forty-seventh Year of the Republic of India as follows :-

1. Short title and extent.

(1)This Act may be called the Haryana Mechanical Vehicles (Levy of Tolls) Act, 1996.(2)It extends to the whole of the State of Haryana.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a)"Government" means the Government of State of Haryana;(b)"mechanical vehicle" means any laden vehicle designed to be driven under its own power including a motor vehicle as defined in Clause (28) of Section 2 of the Motor Vehicles Act, 1988, but does not include a cart or bicycle;(c)"National Highways" shall have the meaning assigned to it in the National Highways Act, 1956;(d)"Toll Collector" means a person authorised by State Government to collect toll in respect of any mechanical vehicle under this Act and includes a Government servant or an agent appointed for this purpose;(e)"toll facility" means road facilities or road infrastructure and shall include bridges, tunnels, flyovers, ferries, approach road or section of new roads or by-passes which may, from time to time, be notified as such by the State Government;(f)"urban road links" means, -(a)a portion of existing National Highways lying within towns having a population of 20,000 or more; and(b)roads in towns having a population of 20,000 or more connecting the points of the two or more National Highways at the boundary of the town.

3. Levy of toll and payment.

- There shall be levied and paid to the Toll Collector on every mechanical vehicle passing over any toll facility, notified as such under the Act, a toll and at such rate, place and for such period as the Government may, from time to time by notification, determine :Provided that no toll shall be levied on any mechanical vehicle crossing or using any toll facility on National Highways or urban road links.

4. Authorisation for collection of toll.

- The Government may, by notification, authorise any person who has agreed to construct, reconstruct, improve, strengthen, widen, repair or maintain any road, road infrastructure including bridges, tunnels, ferries, approach roads or section of new roads or by-passes which has been declared as a part of the toll facilities, to demand, collect and retain tolls for such period and at such

rates as may be specified in the notification for the use of such toll facilities.

5. Procedure.

- Every person incharge of a mechanical vehicle shall, before or after passing on toll facility, pay to the Toll Collector, the toll and shall obtain a receipt from him in token of having paid the amount thereof.

6. Erection of barrier.

- Any person authorised to demand, collect and retain tolls under Clause (e) of Section 2 may cause a barrier to be erected at any place where tolls are to be paid, and such barrier may be kept against any person or vehicle until the toll due in respect of such person or vehicle, has been paid.

7. Duties to maintain account books, records etc. in respect of tolls and maintenance of road facility.

(1)Any person authorised to demand, collect and retain tolls under Sections 3 and 4 shall
-(a)maintain such account books and records in respect of the payment collection of tolls, as may be prescribed;(b)furnish to the Government such information, returns and accounts in respect of the payment and collection of tolls, as may be prescribed;(c)permit any person authorised by the Government to have access to, or to examine or inspect, any account books, records, documents, machinery or equipment maintained or used for the payment or collection of tolls.(2)Any person who is authorised to demand, collect and retain tolls under an order made under Section 4, shall maintain in good repair and condition and in accordance with sound engineering practices the road, road infrastructure including bridges, tunnels, ferries, approach roads or section of new roads or by-passes, as the case may be, in respect of which the order is made.

8. Duties for maintenance.

- The Government shall not be liable to any person in respect of any injury, damage or loss of any description whatsoever arising from the failure of the person entitled to demand, collect and retain the tolls notified under Section 4 to carry out any of his duties under this Act.

9. Power of Toll Collector.

- The driver of a mechanical vehicle shall cause the vehicle to stop when required to do so by the Toll Collector to enable him to carry out the duties imposed on him by or under this Act.

10. Officers and penalties.

(1)Whatsoever -(a)attempts to pass on a toll facility without complying with the provisions of this Act; or(b)obstructs the Toll Collector in the discharge of his duties imposed by or under this Act;

or(c)contravenes any other provision of this Act or the rules made thereunder or any order or direction made under any such provision or rule, shall, on conviction, be liable to a fine of one thousand rupees, which may extend to five thousand rupees and in default, sentenced to simple imprisonment for a term not exceeding six months.(2)No Magistrate shall take cognizance of any offence under this Act except on a complaint, in writing, made by the Toll Collector.

11. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against any person authorised to act, by or under this Act, for anything done or purporting to have been done in good faith under this Act or the rules made the thereunder.

12. Bar of jurisdiction of civil Courts.

- No civil Court shall have jurisdiction in respect of any matter which the Government or any other person or authority is empowered by or under this Act or the rules made thereunder, ti dispose of or take cognizance of, and regarding the manner in which the Government or such person or authority exercise any powers vested in it or him by or under this Act or the rules made thereunder.

13. Power to exempt.

- The State Government may, by notification in the Official Gazette, exempt any person or class of persons, or any mechanical vehicle from the payment of tolls.

14. Power to make rules.

(1)The State Government may, by notification, make rules for securing the levy and collection of toll and generally for carrying out the purposes of this Act including the rate of toll on any toll facility and the period for its levy.(2)Every rule made under this section 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 successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, 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.

15. Repeal.

- The Haryana Mechanical Vehicles (Bridge Tolls) Act, 1974 (Haryana Act No. 44 of 1974), is hereby repealed.