

Bihar Power Alcohol Act, 1948

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Act 19 of 1948

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Bihar Power Alcohol Act, 1948[Bihar Act 19 of 1948]Last Updated 1st February, 2020[Dated 01.04.1948]An Act to re-enact the Bihar Power Alcohol Act, 1942.Whereas the Bihar Power Alcohol Act, 1942, was enacted by the Governor of Bihar in exercise of the powers assumed to himself by the proclamation, dated the 3rd November, 1939, issued by him under Section 93 of the Government of India Act, 1935;And whereas under paragraph 6 of the India (Provisional Constitution) Order, 1947, the said Bihar Power Alcohol Act, 1942, shall, unless re-enacted by an Act of the Provincial Legislature, have no effect after the first day of April, 1948;And whereas it is expedient to continue the said Bihar Power Alcohol Act, 1942, after the first day of April 1948;It is hereby enacted: -

Chapter I Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the Bihar Power Alcohol Act, 1948.(2)It extends to the whole of the [State] [Substituted by A.L.O. for the words 'His Majesty's '] of Bihar.(3)This Act, except Sections 3,4,10,11 and 17, shall come into force at once and Section 3, 4,10,11 and 17 shall come into force in any local area in [State] [Substituted by A.L.O. for the words 'His Majesty's '] of Bihar on such date as the [State] [Substituted by A.L.O.] Government may, by notification, appoint and different dates may be appointed for different provisions.(4)Nothing in Section 3 or Section 4 shall apply to the sale or use of petrol without admixture with power alcohol for the requirements of [the Indian] [Substituted by A.L.O.] naval, military or air force [or for such purposes in connection with the affairs of the Union or the State as may be notified by the State Government.] [Substituted by Bihar Act 13 of 1957.]

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context, -(a)"molasses" means the final residual by-product obtained in the manufacture of sugar at a factory as defined in clause (j) of Section 2 of the Bihar Sugar Factories Control Act, 1937 or otherwise;(b)"Petrol" means dangerous petroleum as defined in clause (b) of Section 2 of the Petroleum Act, 1934;(c)"Petroleum" has the meaning assigned to it in clause (a) of Section 2 of the Petroleum Act, 1934;(d)"Power alcohol" means alcohol containing not less than 99.5 per cent by volume of pure ethyl alcohol measured at sixty degree Fahrenheit corresponding to 74.4 overproof strength;(e)"Prescribed" means prescribed by this Act or Rules made thereunder; and(f)"sale" include exchange, barter and offering or exposing for sale.

Chapter II

Production, Mixing and Distribution

3. Compulsory admixture of alcohol with petrol.

(1)Save as otherwise provided by or under this Act, no petrol shall be sold except with an admixture in the prescribed manner of power alcohol supplied by the [State] [Substituted by A.L.O. for the words 'His Majesty' .] Government,(2)The [State] [Substituted by A.L.O. for the words 'His Majesty' .] Government may, by notification and publication in such other manner as it may deem fit, prohibit, subject to Rules made in the behalf, the sale of any petroleum except with an admixture in the prescribed manner of power alcohol supplied by the State Government.(3)The proportion of petrol and power alcohol or petroleum and power alcohol in such mixture shall be such as may be notified by the [State] [Substituted by A.L.O. for the words 'His Majesty' .] Government from time to time and different proportion may be notified for different areas or for mixtures destined for different purposes, but such proportion of power alcohol with petrol in the case of a mixture destined for affording motive power for any motor vehicle shall not be more than thirty per cent, or less than five per cent, by volume.

4. Use of petrol without admixture with alcohol for motive power prohibited.

(1)Save as otherwise provided by or under this Act, no person shall use petrol for providing motive power for any motor vehicle without admixture with power alcohol in the prescribed manner and proportion.(2)Notwithstanding anything contained in sub-section (1), petrol without admixture of power alcohol, brought at any place outside the [State] [Substituted by A.L.O. for the words 'His Majesty' .] of Bihar or at any place in the [State] [Substituted by A.L.O. for the words 'His Majesty' .] of Bihar where this Section is not in force and contained in any fuel tank incorporated in any motor vehicle may be used for providing motive power for such vehicle.

5. Production of alcohol only from molasses.

- No person shall manufacture power alcohol from any substance other than molasses or such other substance as may be notified by the [State] [Substituted by A.L.O. for the words 'His Majesty' .] Government.

6. Certain conditions of licence.

- Every licence granted under the provisions of the Bihar and Orissa Excise Act, 1915, for the manufacture of power alcohol shall, besides containing the particulars that may be necessary under the provisions of that Act or this Act, provide for -(a)the price at which power alcohol shall be sold by the manufacture to the [State] [Substituted by A.L.O. for the words 'His Majesty' .] Government; and(b)the maximum and the minimum quantities of power alcohol which shall be manufactured by the licensee and the spread over of such production during the period of licence, subject to the power of the Excise Commissioner to alter such quantity in accordance with the Rules made in this behalf.

7. Alcohol to be denatured.

- Every manufacture of power alcohol destined for admixture with petrol or petroleum or for sale to provide motive power for any motor vehicle shall add to its denaturant of such specification and in such proportion as may be prescribed, and different denaturants may be prescribed for power alcohol meant for any of the said purposes.

8. State Government sole purchaser of alcohol.

- All power alcohol manufactured in the [State] [Substituted by A.L.O. for the words 'His Majesty' .] of Bihar and destined for admixture with petrol or petroleum or for sale to provide motive power of any motor vehicle shall be sold to the Government of Bihar and to no other person.

9. Sale of alcohol prohibited except under licence.

- No person shall sell, or keep for sale, any power alcohol for the purpose of its being used to provide motive power for any motor vehicle, except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Collector.

10. Licence to sell petrol.

(1)(a)Notwithstanding anything contained in sub-section (4) of Section 1, no person shall sell petrol without admixture with power alcohol for the requirements of [the Indian] [Substituted by A.L.O.] naval, military or air forces except under a licence granted to him by such officer, not below the rank of Collector, as may be authorised by the [State] [Substituted by A.L.O. for the words 'His Majesty' .] Government to grant such a licence.(b)Notwithstanding anything contained in Section 3, the [State]

[Substituted by A.L.O. for the words 'His Majesty' .] Government may authorise any officer, not below the rank of Collector, to grant a licence to any person to sell petrol without admixture with power alcohol for use in any aircraft other than aircraft used by [the Indian] [Substituted by A.L.O. for the words 'His Majesty' .] naval, military or air forces, or for such purposes other than that of affording motive power for any motor vehicle as may be notified by the [State] [Substituted by A.L.O. for the words 'His Majesty' .] Government.(2)A licence granted under sub-section (1) shall be in such form and subject to such terms and conditions as may be prescribed.

11. Collector's power when supply fails.

- Notwithstanding anything contained in sub-section (3) or sub-section (1) of Section 4 when for any cause there is a failure or an apprehension of immediate failure in the supply of petrol with the prescribed admixture of power alcohol in any district, the Collector may, subject to any Rules that may be made in this behalf, authorise the sale and use within his jurisdiction of petrol without such admixture for such petrol as he may deem fit and may at any time withdraw or modify such authority or from time to time extend the period of such authority.

12. Licence for mixing alcohol with petrol and petroleum.

- No person shall carry on the operation of mixing power alcohol with petrol or petroleum except under the authority and subject to the terms and conditions of a licence granted in that behalf by the prescribed authority.

Chapter III

Administrations, Penalties and Supplemental Provisions

13. Excise Commissioner to be the controlling authority.

- The Excise Commissioner appointed by the SPAN class=amd2>[State] Government under clause (a) of sub section (2) of Section 7 of the Bihar and Orissa Excise Act, 1915, shall be the Chief Controlling Authority under this Act and shall have such power as may be prescribed.

14. Entry and search.

(1)The [State] [Substituted by A.L.O. for the words 'His Majesty' .] Government may, by notification, authorise any officer by name or by virtue of his office to enter and search any place where he has reason to believe that any petrol or petroleum is being mixed with power alcohol, or any mixture of petrol or petroleum with power alcohol is being sold, otherwise than in accordance with the provisions of this Act and the Rules made thereunder, and to seize, detain or remove any or all the petrol, petroleum or mixture in respect of which in his opinion an offence under this Act has been committed.(2)The provisions of the Code of Criminal Procedure, 1898, relating to searches shall, so far as they are applicable, apply to searches by officer under this Act.

15. Inspection and stamping etc.

- The [State] [Substituted by A.L.O. for the words 'His Majesty' .] Government may authorise any officer by name or by virtue of his office to enter and inspect, at any time by day or by night, any place where a licensed person carries on the operation of mixing petrol or petroleum with power alcohol, or where the mixture of petrol or petroleum with power alcohol is sold by any licensed person and to examine, test, measure or weight or any materials, vats, utensils, implements, apparatus, power alcohol, petrol, petroleum, or mixture of petrol or petroleum with power alcohol found in such place, and to see if the conditions of the licence granted to such person are being observed. Such officer may seize any measures weights or testing instruments which he has reason to believe to be false and take samples of power alcohol, petrol or petroleum or mixture of petrol or petroleum with power alcohol for testing.

16. Penalty for offence against Section 3,7,8,9,10 and 12.

(1)Whoever contravenes any of the provisions of Section 3, 7,8, 9,10 or 12 shall be punishable with fine which may extend to five hundred rupees.(2)If any person, having been convicted of any offence punishable under subsection (1), is again guilty of any offence punishable under that sub-section, he shall be punishable for every such subsequent offence with fine which may extend to two thousand rupees.

17. Penalty for offence against Section 4.

- Whoever contravenes the provisions of Section 4 shall be punishable with fine which may extend to one hundred rupees.

18. Jurisdiction.

- Offences punishable by or under this Act shall be triable by a Magistrate of the first class, or by a Magistrate of the second class specially empowered in this behalf by the [State] [Substituted by A.L.O.] Government.

19. Confiscation.

(1)In any case in which an offence under Section 16 has been committed, the convicting Magistrate may direct that the power alcohol, petrol, petroleum, denaturant or mixture of petrol or petroleum with power alcohol in respect of which the offence has been committed shall, together with the receptacles in which it is contained, be confiscated.(2)This power may also be exercised by any Court in the exercise of its appellate or revisional jurisdiction.

20. Offence to be bailable.

- All offences punishable under this Act shall be bailable within the meaning of the Code of Criminal Procedure, 1898, and the provisions of that Code in respect of bail shall be applicable thereto.

21. Application of Sections 77, 78 and 81 of B. and O. Act 2 of 1915.

- The provisions of Sections 77 and 78 of the Bihar and Orissa Excise Act, 1915, shall apply to offences punishable under this Act and those of Section 81 of that Act to any article seized under this Act.

22. Protection of persons acting in good faith.

- No suit, prosecution or other legal proceedings shall be instituted against the [Government or any person for anything which is in good faith done or intended to be done under this Act or the Rules made thereunder] [Substituted by A.L.O.].

23. Recovery of dues.

- Any dues recoverable by the [State] [Substituted by A.L.O. for the word 'Crown' .] Government under this Act shall be recoverable in the manner provided for the recovery of excise revenue in Section 23 of the Bihar and Orissa Excise Act, 1915.

24. Power to make Rules.

(1)the [State] [Substituted by A.L.O. for the word 'Crown' .] Government may, by notification and subject to the condition of previous publication, make Rules to carry out the purposes of this Act.(2)In particular, and without prejudice to generality of the foregoing power, such Rules may -(a)prescribe specification and tests in respect of the purity of power alcohol intended for admixture with petrol in order to ensure its suitability for use in motor vehicles;(b)regulate the purchase of power alcohol under Section 8 by the [State] [Substituted by A.L.O. for the word 'Crown' .] Government and the fixation of price for the same;(c)regulate the sale of power alcohol by the [State] [Substituted by A.L.O.] Government for mixing with petrol or petroleum or for providing motive power for any motor vehicle and the fixation of price for the same;(d)prescribe conditions in respect of the transport and storage of power alcohol intended for admixture with petrol and for the manner in which the admixture is to be effected;(e)provide for the conditions under which, the forms in which and the period for which, licences under this Act may be granted and the circumstances in which such licences may be suspended, cancelled or refused for renewal;(f)provide for the specification of petrol, petroleum and denaturants which may be mixed with power alcohol;(g)prescribe methods of denaturation of power alcohol destined for admixture with petrol or petroleum or for providing motive power for any motor vehicle;(h)provide for testing and certification of denaturants, power alcohol and mixture of petrol or petroleum with power alcohol, the establishment of a laboratory or laboratories for testing power alcohol, denaturants or such

mixture and the fees that may be charged for the same;(i)provide for the orders, other than orders passed in any judicial proceeding, passed under this Act from which, the authority to which and the period within which, an appeal or revision shall lie and the powers of such authority with respect to such appeals and revisions;(j)prescribe the particulars and forms of returns to be submitted, and the records and books to be maintained by licence-holders under this Act, the manner which they are to be verified and the time when and the authority to whom returns are to be submitted;(k)prescribe the powers and duties to be exercised or performed by officers of the excise Department and of any other Department authorised in this behalf while acting under this Act;(l)regulate the price within which the admixture of petrol and power alcohol shall be sold;(m)provide for the disposal of any article which has been seized or confiscated under this Act;(n)regulate the taking of samples and provide for the cases in which payment shall be made for the value of sample taken and the mode of such payments;(o)provide for the procedure to be adopted when there is a difference of opinion as regards the quality of alcohol, petroleum, denaturant or mixture of petrol or petroleum with power alcohol between an officer of the Excise Department or of any other Department authorised in this behalf and the manufacturer of power alcohol destined for admixture with petrol or petroleum for providing motive power for any motor vehicle, or any licence-holders under this Act;(p)prescribe the measures, weights and instruments to be maintained by the licence-holders at places where the operation of mixing petrol or petroleum with power alcohol is carried on, the procedure to be observed in testing them and the certificate that may be granted when they are found to be correct;(q)provide for the giving of information when an accident by explosion or fire attended with loss of human life or serious injury to person or property occurs as a result of the ignition of power alcohol or mixture of petrol and power alcohol; and(r)provide for any other matter expressly required or allowed by this Act to be prescribed.(3)In making any Rule, the [State] [Substituted by A.L.O.] Government may direct that a breach thereof shall be punishable with fine which may extend to five hundred rupees, and where the breach is a continuing one with further fine which may extend to one hundred rupees for every day after the first day during which the breach has been persisted in.

25. Saving.

- Nothing in this Act shall affect the provisions of Bihar and Orissa Excise Act, 1915, so far as they apply to power alcohol unless there are provisions to the contrary in this Act, or to the Rules made thereunder.

26. Repeal.

- The Bihar Power Alcohol Act, 1942, is hereby repealed, and Rules made, anything done and any action taken in exercise of any power conferred by or under the said Act shall be deemed to have been made, done or taken in exercise of powers conferred by or under this Act.