

Himachal Pradesh Prohibition of Sale of Loose Cigarettes and Beedies and Regulation of Retail Business of Cigarettes and Other Tobacco Products Act, 2016

HIMACHAL PRADESH

India

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Act 17 of 2016

- Published on 5 October 2016
- Commenced on 5 October 2016
- [This is the version of this document from 5 October 2016.]
- [Note: The original publication document is not available and this content could not be verified.]

Himachal Pradesh Prohibition of Sale of Loose Cigarettes and Beedies and Regulation of Retail Business of Cigarettes and Other Tobacco Products Act, 2016(Act No. 17 of 2016)(As Assented to by the Governor on 5th October, 2016)An Act to provide for prohibition of sale of loose cigarettes and beedies and regulation of retail business of cigarettes and other tobacco products operating in the State of Himachal Pradesh and for matters connected therewith or incidental thereto.Be it enacted by the Legislative Assembly of Himachal Pradesh in the Sixty-seventh Year of the Republic of India as follows:-

1. Short title and commencement.

(1)This Act may be called the Himachal Pradesh Prohibition of Sale of Loose Cigarettes and Beedies and Regulation of Retail Business of Cigarettes and Other Tobacco Products Act, 2016.(2)It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.

(1)In this Act, unless the context otherwise requires,-(a)"cigarette" and "beedi " includes,-(i)any roll of tobacco wrapped in paper or in any other substance not containing tobacco; or(ii)any roll of tobacco wrapped in any substance containing tobacco, which, by reason of its appearance, the type

of tobacco used in the filter, or by its packaging and labeling, is likely to be offered to, or purchased by consumers as cigarette or beedi;(b)"prescribed" means prescribed by rules made under this Act;(c)"sale" with its grammatical variations and cognate expressions, means any transfer of property in Goods by one person to another, whether for cash or on credit, or by way of exchange, and whether wholesale, or retail, and includes an agreement for sale, offer for sale or exposure for sale;(d)"premises" means any location or vessel where any form of retail business specified in this Act or storage or retail sale of any article of cigarettes and other tobacco products is done;(e)"person" means any natural person, partnership, co-operative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity;(f)"tobacco products" means the products specified in the Schedule appended to the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply, and Distribution) Act, 2003;(g)"registration" means the registration granted under section 5 of this Act; and(h)"Registering Authority" means such authority as the State Government may, by notification, designate.(2)The words and expressions used in this Act, but not defined, shall have the meanings as defined in the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003.

3. Prohibition of sale of loose cigarettes and beedies.

- No person shall sell, offer for sale, or permit sale of loose cigarettes or beedies within the State of Himachal Pradesh.

4. Restriction on retail business of tobacco products.

- No person shall carry retail business of any tobacco products without being registered under section 5 of this Act.

5. Registration for the purpose of retail business of tobacco products.

(1)Any person who is carrying on or intends to carry on retail business of cigarettes and other tobacco products, shall make an application to the Registering Authority in such form and in such manner and on payment of such fee as may be prescribed.(2)On receipt of application under sub-section (1), the Registering Authority shall, within a period of six months from the receipt of such application, grant Registration Certificate in such form, containing such particulars and such information as may be prescribed. The Registration Certificate shall be issued for a period of three years and may be renewed on payment of such fee and for such period and in such manner as may be prescribed.(3)If on security the Registering Authority is satisfied that the application submitted under sub-section (1) is not complete in all respect, he may reject the same after affording the reasonable opportunity of being heard to the person concerned.(4)The Registration Certificate shall be kept affixed in a conspicuous place in the premises in such manner as to be visible to everyone.(5)The Registration Certificate shall be non-transferable.

6. Punishment for sale of tobacco products without a valid registration.

(1) Any person who contravenes the provisions of section 4 shall be guilty of an offence under this Act and shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to fifty thousand rupees or with both, and for the second or subsequent contravention, with imprisonment which may extend to one year and with fine which may extend to one lac rupees. (2) Save as provided under sub-section (1), any material or other tobacco products in respect of which any provision of this Act has been or is being contravened, shall be liable to confiscation.

7. Punishment for sale of loose cigarettes and beedies.

(1) Any person who contravenes the provisions of section 3 or sub-section (4) or (5) of section 5 shall be guilty of an offence under this Act and shall be punishable with fine of ten thousand rupees for the first offence and with fine of fifteen thousand rupees for the second and subsequent offence. (2) All offences under this section shall be compoundable and shall be tried summarily in accordance with the procedure provided for summary trial in the Code of Criminal Procedure, 1973.

8. Power of entry, search and seizure.

(1) Any police officer, not below the rank of Assistant Sub-Inspector or any authorized officer of the State Government may, if he has reason to suspect that any provision of this Act has been, or is being, contravened, enter and search in the manner prescribed, at any reasonable time, any business premises or any other place where retail business of cigarettes or beedies or any other tobacco products is being carried or where such products are stored. (2) If any police officer, not below the rank of Assistant Sub-Inspector or authorized officer of the State Government has reason to believe that any of the provisions of this Act has been, or is being, contravened, he may seize such material in the manner prescribed. (3) The provisions of Code of Criminal Procedure, 1973 shall apply to every search and seizure made under this Act.

9. Offences to be cognizable and bailable.

- All offences under this Act shall be cognizable and bailable.

10. Composition of offences.

(1) Any offence committed under section 3 of this Act may, either before or after the institution of the prosecution, be compounded by such officer authorized by the State Government for an amount of five thousand rupees. (2) Where an offence has been compounded under sub-section (1), the offender, if in custody, shall be discharged and no further proceeding shall be taken against him in respect of such offence.

11. Protection of action taken in good faith.

- No. suit, prosecution or other legal proceeding shall lie against the State Government or any officer of the State Government for anything which is in good faith done or intended to be done under this Act.

12. Power to make rules.

(1)The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.(2)Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session, for a total period of fifteen 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, and if the Assembly agrees in making any modification in the rule or if assembly 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.