

The Himachal Pradesh Non-Biodegradable Garbage (Control) Act, 1995

HIMACHAL PRADESH

India

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Act 15 of 1995

- Published on 20 December 1995
- Commenced on 20 December 1995
- [This is the version of this document from 20 December 1995.]
- [Note: The original publication document is not available and this content could not be verified.]

The Himachal Pradesh Non-Biodegradable Garbage (Control) Act, 1995 Act No. 15 of 1995 [20 December, 1995] Published in Himachal Pradesh Government Gazette vide Notification No. L.L.R.-D.(6)-15/95 dated 22.12.1995. An Act to prevent throwing or depositing non-biodegradable garbage in public drains, roads and places open to public view and to regulate the use of non-biodegradable material 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 Forty-sixth Year of the Republic of India, as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the Himachal Pradesh Non-Biodegradable Garbage (Control) Act, 1995. (2) It extends to the whole of Himachal Pradesh. (3) It shall come into force on such date as the State Government may, by notification, appoint and different dates may be appointed for different areas.

2. Definitions.

- In this Act, unless the context otherwise requires- (a) "bio-degradable garbage" means the garbage or waste material capable of being destroyed by the action of living beings; (aa) "competent authority" means any authority, officer or person appointed by the State Government, by notification, for enforcement of any of the provisions of this Act; (b) "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 persons employed in the clearing thereof or for the removal of such matter therefrom; (c) "local authority" means a Municipal Corporation, a Municipal Council, a Nagar Panchayat, a Cantonment Board, a Zila Parishad, a Panchayat Samiti or a Gram Panchayat constituted, or continued, under

any law for the time being in force;(d)"market" includes any place where persons; assemble for exposing for sale, meat, fish, fruits, vegetables, food 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 person frequenting the market by the owner of the place or by any other persons;(e)"non-biodegradable garbage" means the waste garbage made of non-biodegradable material;(ee)"non-biodegradable material" means the material which cannot be decomposed or degraded by action of micro-organisms, sunlight or other natural actions and includes goods made or manufactured from Polythene, Nylon or other plastic substances such as Polythynyl-Carbohydrates (P.V.C.), Poly-Propylene and Poly-styrene specified in the Schedule to this Act;(f)"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 building in respect of which such rent paid or is payable;(ii)an owner in occupation of or otherwise using his land or building;(iii)a rent free tenant of any land or building; and(iv)any person who is liable to pay to the owner damages for the use and occupation of any land or building;(g)"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 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;(h)"place" means any land or building or part of a building and includes the garden, ground anti out-houses, if any, pertaining to a building or part of a building;(i)"place open to public view" includes any private place or building, monument, fence or balcony visible to a person being in, or passing along any public place;(j)"prescribed" means prescribed by rules made-under this Act;(k)"Public Analyst" means the person appointed or recognised to be the Government Analyst, in relation to any environmental laboratory established or recognised in the State, under the provisions of the Environment (Protection) Act, 1986 (29 of 1986); and(l)"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, house-gully 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.

3. Prohibition to throw degradable garbage in public drains and sewage.

(1)No person, by himself or through another, shall, knowingly or otherwise throw or cause to be thrown in any drain, ventilation shaft, pipe and fittings, connected with the private or public drainage works, any nonbiodegradable garbage or any bio-degradable garbage in a non-biodegradable bag or container likely to-(i)injure the drainage and sewage system;(ii)interfere with the free flow or affect the treatment and disposal of drain and sewage contents; and(iii)be dangerous or cause a nuisance or be prejudicial to public health.(2)No person shall, knowingly or otherwise, 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-biodegradable 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 a local authority having jurisdiction on an area for the disposal of the garbage.

3A. Restriction or prohibition on use of certain things manufactured from non-biodegradable material.

(1)The State Government may, by notification, impose restriction or prohibition on the use of non-biodegradable material within the State of Himachal Pradesh, which is contrary to the norms as the State Government may, by notification, specify.(2)The State Government may impose requirements on manufacturers, distributors and other persons, who produce or handle commodities, with respect to the type, size, labeling and composition of packaging with respect to its use and disposal including standards or norms for material degradability and re-cyclability.

4. Provision for placement of receptacles and places for deposit of non-biodegradable garbage.

- It shall be the duty of the local authority, or any officer authorised by it, to -(a)place or provide or place in proper and convenient situation public receptacles, deposit or places for temporary deposit or collection of non-biodegradable garbage;(b)provide separate dust bins for temporary deposit of non-biodegradable garbage other than those kept and maintained for deposit of bio-degradable garbage;(c)provide for the removal of contents of receptacles, deposit and of the accumulation at all places provided or appointed by it under clause (a) of this section; and(d)arrange for recycling of the non-biodegradable garbage collected under this Act.

5. Duty of owners and occupiers to collect and deposit non-biodegradable garbage etc.

- It shall be the duty of the owners and occupiers of all lands and buildings(a)to collect or to cause to be collected from their respective land and buildings the non-biodegradable garbage and to deposit, or cause to be deposited, in public receptacles deposits or places provided for temporary deposit or collection of the non-biodegradable garbage by the local authority in the area;(b)to provide separate receptacles or dust bins, other than those kept and maintained for deposit of bio-degradable garbage, of the type and in the manner prescribed by the local authority or its officers for collection therein of all the non-biodegradable waste from such land and building and to keep such receptacles dust bins in good condition and repair.

6. Power of local authority or competent authority for removal of non biodegradable garbage or non-biodegradable material.

- The local authority or the competent authority may, after giving notice in writing to 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 unauthorised stacking or deposit of non-biodegradable garbage or non-biodegradable material which is likely to occasion a nuisance or is likely to injure the drainage and sewage system or is likely to be dangerous to life and health remove or caused to be removed the said garbage or material so sacked or collected, or take such steps as it may think necessary, and dispose of the said garbage or materials the cost of such person in the manner as provided under

sub-section (5) of section 7A of this Act.

7. Studies, research and support programme.

- The State Government may -(a)undertake studies to determine the composition of bio-degradable or non-biodegradable garbage;(b)establish measures to conduct or support research or programmes to encourage source reduction, re-use and recycling for waste;(c)conduct or support studies to determine the social and economic feasibility of household and other solid waste separation schemes, including studies of the type and amount of recyclable materials in solid wastes ;(d)encourage local authorities in the State to provide readily accessible solid waste collection depots for residents who are not provided with regular garbage pick up ;(e)undertake and encourage, local authorities and other persons to implement policies to recycle waste materials, to promote energy conservation and to purchase products made from recyclable materials ;(f)conduct and support research on recycling including information or. operating recycling business and market information on recyclables;(g)conduct or support research on waste management and recycling, for use in educating the public, local authorities, institutions and industry; and(h)impose requirements on manufacturers, distributors and other persons who produce or handle commodities with respect to the type, size, packaging, labeling and composition of packaging that may or must be used and with respect to the disposal of packaging including standards for material degradability and recyclability.

7A. Power of entry and inspection.

(1)Subject to the provisions of this section any person empowered by the State Government, by notification in this behalf, shall have a right to enter, at all reasonable times with such assistance as considers necessary, any place -(a)for the purpose of performing any of the functions entrusted to him by the State Government; or(b)for the purpose of determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules made thereunder or any notice, order or direction served, made or, given under this Act is being or has been complied with; or(c)for the purpose of examining any record, register, document or any other material object or for conducting a search of any building in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed and for seizing such record, register, document or other material object if he has reasons to believe that it may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder.(2)Every person handling any non-biodegradable material or non-biodegradable garbage shall be bound to render all assistance to the person empowered under sub section (1) for carrying out the functions under that sub-section and if he fails to do so he shall be punished under this Act.(3)If any person willfully delays or obstructs any person empowered under sub section (1), in the performance of his functions, he shall be liable to be punished under this Act.(4)The provisions of Code of Criminal Procedure, 1973, shall, so far as may be apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.(5)Any non-biodegradable garbage or non-biodegradable material seized under this section shall be disposed of in the manner as the State Government may, by notification, specify.

8. Penalties.

(1) Whoever is guilty of any act or intentional omission Contravention of any of the provisions of this Act, or of any rules, notification or order made, issued or given under this Act, shall be punishable with imprisonment for term which may extend to three month or with fine which may extend to rupees twenty five thousand, or with both.(2) Whoever having been convicted of an offence under this Act is again convicted of any offence under this Act shall be punishable with double the penalty provided for the latter 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 imprisonment prescribe for the offence.

9. 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 incharge 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 offend 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 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.

10. Offences to be tried summarily.

- All offences under the Act shall be tried in a summary way by a judicial Magistrate of the First Class and the provisions of section 262 to 265 (both inclusive) of Code of Criminal Procedure, 1973 (2 of 1974) shall, as fa as may be, apply to such trials.

11. Compounding of offences.

(1) Any offence punishable under this Act may, before the institution of the prosecution be compounded by such officer as may be authorised by the State Government in this behalf, on payment, for credit to the State Government, of such sum as the State Government may, by notification, specify.(2) Where any offence has been compounded under sub-section (1) no proceeding shall be taken against the offender, in respect of the offence as compounded, and the offender, if in custody, shall be discharged.

12. Directions by the State Government.

- The local authority, competent authority or any other person shall carry out such directions as may be issued to it, from time to time, by the State Government for the efficient administration of this Act.

13. Power to amend Schedule.

(1)Where it is expedient to do so, the State Government may, in the public interest and in consultation with the Public Analyst, by notification in the Official Gazette, add to, or omit from the Schedule any item of non-biodegradable waste and thereafter the Schedule shall be deemed to be amended accordingly.(2)Every notification under sub-section (1) shall be laid, as soon as may be, after it is made, before the State Legislative Assembly.

14. Power to delegate.

- The State Government may, by order published in the Official Gazette direct that any power exercisable by it under this Act (not including the power to make rules under section 17) may also be exercised, in such cases as may be specified in the order, by such officer or authority, as may be specified therein.

15. Protection of action taken in good faith.

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

16. Other laws not affected.

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

17. Power to make rules.

(1)The State Government may subject to the condition of previous publication, make rules for the purposes of carrying out of the provisions of this Act.(2)Every rule made by the State Government under this Act shall be laid as soon as may be, after it is made, before the State Legislative Assembly while it is in session, for a total period of fourteen days which may comprise 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 aforesaid the Assembly agrees, in making any modification in the rule or decides that the rule should not be made, the rule shall thereafter have the 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.

Schedule

[See Section 2(ee)]Non-Biodegradable Garbage

1. Polythylene

2. Nylon

3. P.V.C.

4. Poly-propylene

5. Poly-styrene