

The Bihar Prohibition And Excise Act, 2016

BIHAR

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Act 20 of 2016

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Bihar Prohibition and Excise Act, 2016(Bihar Act 20 of 2016)Last Updated 20th August, 2020An Act to enforce, implement and promote complete Prohibition of liquor and intoxicants in the territory of the State of Bihar and for matters connected therewith or incidental thereto. Whereas it is expedient to provide for a uniform law relating to Prohibition and regulation of liquor and intoxicants, the levy of duties thereon and punishment for the violation of law in the State of Bihar; Now, therefore be it enacted by the Legislature of the State of Bihar in the Sixty-Seventh year of the Republic of India as follows:-

Chapter I Preliminary

1. Short title, extent and Commencement.

(1) This Act may be called the Bihar Prohibition and Excise Act, 2016. (2) It shall extend to the whole of the State of Bihar. (3) It shall come into force on the day of its publication in the Official Gazette.

2. Definition.

- In this Act, unless otherwise required in the context- (1) "The Act" means the Bihar Prohibition and Excise Act, 2016 (2) "Alcohol" means Ethyl Alcohol having a colourless volatile flammable organic liquid which is produced by a natural or yeast fermentation of sugars and is intoxicating constituent of wine, beer, spirits, and other alcoholic beverages, and is also used as an industrial solvent and as fuel; (3) "alcoholic" means a solution or mixture containing alcohol and being of any strength and purity; (4) "alcoholic beverage or potable liquor" means any beverage containing alcohol in conformity with the BIS standards which may be intoxicating and is fit for human consumption; (5) "beer" means any liquor prepared from malt or grain with or without addition of

sugar and hops and includes beer, ale, stout, porter and such other substances;(6)"BIS standards" means standard prescribed by Bureau of Indian Standards or the standards prescribed by any other Central Government authority, constituted under the relevant Act;(7)"Board" means the Board of Revenue;(8)"black jaggery" means coarse brown sugar made from palm or cane juice ordinarily unfit for human consumption but contains sufficient quantity of fermentable sugar for manufacture of ethyl alcohol;(9)"blending" means mixing of two or more spirits which may be of different strengths and different qualities;(10)"bonded warehouse" means a licensed private bonded warehouse or a part of public bonded warehouse, established under this Act for storing liquor on which duty has not been paid;(11)"to bottle" means to transfer liquor from a cask or other vessel to a bottle or any other receptacle for the purpose of sale, whether any process of rectification be employed or not; and includes re-bottling;(12)"bottling plant" means premises where bottling of liquor is done and includes every place therein where it is stored or wherefrom it is issued;(13)"brewery" means premises where beer is manufactured and includes every place therein where beer is stored or wherefrom it is issued;(14)"compounding" means the manufacture of alcoholic beverage by addition to spirit of a flavoring or a coloring matter or both;(15)"Collector" means Collector-cum-District-Magistrate of a district and includes the Additional Collector-cum-Additional District Magistrate or Deputy Collector or any person appointed by the Government to exercise the powers and perform the functions of the Collector-cum- District Magistrate under the Act;(16)"country or traditional liquor" means- plain or spiced spirit made from mahua, rice, gur, molasses or grains; or- plain or spiced spirit made from silent spirit or extra neutral alcohol; or- Tari, or- all fermented liquors, including pachwai, made from mahua, rice, millet or other grains according to native processes.(17)"De addiction Center" means a center set up by the State Government to treat the addicts of their addiction;(18)"denaturant" means any substance prescribed by rule made under this Act, for admixture with spirit to render the mixture unfit for human consumption, whether as a beverage, or internally as a medicine, or any other way whatsoever;(19)"to denature" means to mix spirit with one or more denaturants in such a manner as may be prescribed by rule made in this behalf under this Act, and "denatured spirit" means spirit so mixed;(20)"Distillery" means premises where spirit or ethanol is manufactured and includes every place therein where it is stored or wherefrom it is issued;(21)"duty" means the excisable duty or the countervailing duty as mentioned in Entry 51 of List II of Seventh Schedule of the Constitution, or as the case may be;(22)"excisable articles or items" means -(i) any liquor or intoxicant as defined under this Act; or (ii) any intoxicating drug; or (iii) any intermediate/final product that serve as raw material to any alcohol; or (iv) Any item or substance that can be used as a substitute of alcohol; or (v) Any item or substance that can be used or consumed for the purposes of intoxication.(23)"Excise Commissioner" means the officer appointed under section-5 of this Act;(24)"Excise Officer" means the Collector or any officer appointed under Section-6 of the Act;(25)"excise revenue" means revenue derived or derivable from any duty, fee, tax, payment (other than a fine imposed by a Criminal Court) or confiscation imposed or ordered under this Act or any other law for the time being in force relating to liquor or intoxicating drugs;(26)"ethanol" means a clear, colorless and homogeneous liquid consisting essentially ethyl alcohol admixed with not more than 0.5% by volume of water and conforming to the BIS standard;(27)"export" means to take out of the State of Bihar otherwise than across a customs frontier as defined by the Central Government;(28)"export out of India" with its grammatical variations and cognate expressions means taking out of the State of Bihar to any place outside India;(29)"extra neutral alcohol or silent spirit" means spirit as may be

specified by the relevant Central Government Authority;(30)"Family" means man and his wife living together in a house along with their dependent children;(31)"fermented liquor" means liquor obtained by the process of fermentation and includes beer, ale, stout, porter, wine, pachwai, fermented tari and any other similar liquor;(32)"foreign liquor" means any liquor imported by land, air or sea into India;(33)"final product" means end product of a process along with such other by-product which a bottling plant, distillery, molasses manufactory or any other manufactory may generate as a result of a primary/secondary process and includes liquor, intoxicant, intoxicating drugs, spirit, molasses, ethanol, extra neutral spirit, and such other alcoholic substances.(34)"hemp plant" means any plant of the genus cannabis;(35)"hologram and holographic sticker" means the label as approved by the Excise Commissioner, containing the batch number of each bottling operation, besides the name of the manufacturer and the brand. Holographic stickers are those stickers, supplied on payment of cost by the manufacturer to the authorized printer(s) through the Excise Commissioner.(36)"illicit liquor" means any liquor manufactured or stored or distributed or sold, in contravention of the provisions of this Act or the rules framed there under or liquor on which appropriate duty or fee leviable under this Act or the rules framed there under, has not been paid and includes foreign liquor on which appropriate duty or customs has not been paid;(37)"import" except the phrase "import into India" means to bring into the State of Bihar other wise than across a customs frontier as defined by the Central Government;(38)"import into India" with its grammatical variations and cognate expressions, means bringing into the State of Bihar from any place outside India;(39)"Indian made foreign liquor" means liquor manufactured in India by process of distillation or using alcohol obtained by distillation such as whiskey, brandy, rum, gin, vodka, liqueurs, beer and other low alcoholic beverages but does not include foreign liquor or country liquor ;(40)"intoxicant" means -(i) liquor, or (ii) Spirit including silent spirit or ENA, or (iii) Methyl Alcohol, or (iv) Ethanol, whether denatured or not; or (v) any substance from which the liquor may be distilled and which is declared by the State Government by notification in the official Gazette to be an intoxicant for the purpose of this Act, or (vi) intoxicating drug, or (vii) medicinal preparation as defined under Medicinal and Toilet Preparations (Excise Duties) Acts, 1955 or (viii) any preparation or ingredient, either medicinal or otherwise, whether solid, semi solid, liquid, semi liquid or gaseous, either made locally or otherwise, that may serve as an alcohol or a substitute for alcohol and is used or consumed for the purposes of getting intoxicated.(41)"intoxicating drug" means -(i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis Sativa L*) including all forms known as bhang, siddhi or ganja (ii) charas, that is, the resin obtained from the hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport; (iii) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared there from; and (iv) any other intoxicating or narcotic substance which the State Government may, by notification, declare to be an intoxicating drug, such substance not being opium, cocoa leaf or a manufactured drug, as defined in section 2 of the Narcotic drugs and Psychotropic substances Act, 1985 (61 of 1985);(42)"license" means a license granted under this Act and the rules framed there under;(43)"licensing authority" means an officer who is authorized to grant, suspend and cancel license, permit and pass under this Act;(44)"Liquor" means country or traditional liquor, Indian Made Foreign Liquor, foreign liquor or any preparation or ingredient, whether solid, semi solid, liquid, semi liquid or gaseous, either made locally or otherwise, that may serve as an alcohol or a substitute for alcohol and is used or consumed for the purposes of getting

intoxicated;(45)"manufactory"means any sugar mill, distillery, brewery, winery or any establishment distilling, brewing, manufacturing, blending or bottling liquor or intoxicant;(46)"manufacture" includes -(i)every process, whether natural or artificial, by which any intoxicant is produced or prepared (including the tapping of tari producing trees and the drawing of tari from trees),(ii)redistillation, and(iii)every process for the rectification, flavoring, blending, or coloring of liquor, or for reduction of liquor for sale;(47)"manufacturer" means any person who manufactures any liquor or intoxicants and includes a manufacturer of alcohol;(48)"methyl alcohol" means- the substance having the chemical formula of CH₃ OH which is also known as Methanol, carbinol or methyl hydrate and highly poisonous in nature; or- any mixture, with or without neutral materials of methyl alcohol as defined above containing not less than 0.05% by volume of methyl alcohol and includes wood naptha;(49)"Molasses manufactory" means premises where molasses is manufactured and includes every place there in where it is stored or wherefrom it is issued and includes sugar mills;(50)"Notification" means a notification issued under this Act and the rules framed there under and published in the Official Gazette.(51)"pachwai" means fermented rice, millet or other grain - whether mixed with any liquor or not, and any liquid obtained there from, whether diluted or undiluted; but does not include beer;(52)"permit" means an authorization granted under this Act and/or the rules framed there under;(53)"place" includes building, house, shop, boat, booth, vessel, raft, vehicle, conveyance or tent enclosure;(54)"Public Place" means any place to which public has access whether as a matter of right or not and includes all places visited by public and also includes any open space or any transport, whether public or private;(55)"police station" means a police station as defined under clause (s) of Section 2 of the Code of the Criminal Procedure , 1973 (Act 2 of 1974);;(56)"prescribed" means prescribed by rules made under this Act;(57)"Public Demand" means public demand as defined under Bihar & Orissa Public Demands Recovery Act, 1914 (Act 4 of 1914).(58)["Premises" means and includes land and such construction by way of a building, store, shop, hotel, restaurant, bar, booth or any other structure and movable structures including vessel, raft, vehicle and any other movable structure] [Substituted by Bihar Act No. 8 of 2018, dated 30.7.2018.](59)"rectification" includes every process whereby spirit is purified or is colored or flavored by mixing any material therewith;(60)"rectified spirit" means un-denatured alcohol, including absolute alcohol, extra neutral alcohol and alcohol derived from malt as may be specified by the BIS standard;(61)"Rules" means Rules made under this Act.(62)"relevant laws" means the Indian Power Alcohol Act, 1948 (22 of 1948), the Motor Spirit Taxation Act, the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (16 of 1955), the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985) and such other Acts relevant to the administration of this Act;(63)"special duty" means a tax on the import of any excisable article being an article on which countervailing duty as is mentioned in Entry 51 of List II of the Seventh Schedule to the Constitution of India is not imposable on the ground merely that such article is not being manufactured or produced in the territory to which the Act extends;(64)"spirit" means any liquor containing alcohol obtained by distillation, whether it is denatured or not;(65)"spirituous preparation" means -(a)any medicinal or toilet preparation containing alcohol;(b)any antiseptic preparation or solution containing alcohol;(c)any flavoring extract, essence or syrup containing alcohol;(66)"spurious liquor" means liquor which has been adulterated with an object to bring intoxication and is harmful to consumers;;(67)"still" includes any apparatus or part thereof, for distillation or manufacture of spirit(68)"State Government" means the State Government of Bihar.(69)"tari" means fermented or unfermented juice drawn from Cocanut, Palmyra, Date or

other kind of Palm tree;(70)"temporary structure" means any structure which does not require foundation to be erected and is easy to dismantle, very easy to change the configuration of the structure and which cannot be sealed completely for the purpose of this Act(71)"transit" means to move from one State to another through the State of Bihar;(72)"transport" means to remove from one place to another within the State of Bihar.(73)"warehouse" means a place where storage of liquor or intoxicant is permitted and includes the relevant part of the manufactory;(74)"wine" means afermented juice of grapes or other fruits with or without the addition of sugar or jaggery containing self-generated alcohol and includes fortified wine;(75)"winery" means-premises where wine is manufactured and includes every place therein where wine is stored or wherefrom it is issued.

3. Power to declare intoxicant.

- Notwithstanding anything mentioned under subsection (40) of section 2 of this Act,the State Government may, by notification, declare for the purposes of this Act or any portion thereof such items or commodities or chemical ingredients, which can be used as a substitute for alcohol, to be intoxicants with such restrictions or conditions as may be specified in the notification.

4. Saving of certain Acts.

- Nothing in this Act shall affect the provisions of -(a)The Customs Act, 1962 (Act 52 of 1962) or(b)The Cantonments Act, 2006, (41 of 2006)

Chapter II

Establishment and Control

5. Appointment of Excise Commissioner.

- The State Government may, by notification, appoint an Excise Commissioner who shall be responsible for administration of this Act.

6. Appointment of Excise Officers.

- The State Government may confer the powers of excise officer to Excise Commissioner, Additional Commissioners, Joint commissioners, Deputy Commissioners, Assistant Commissioners, Excise Superintendents, Excise Deputy Superintendents, Inspectors and such other officers and staff as it may deem fit for the purpose of performing the functions under this Act.

7. Delegation and withdrawal of powers.

(1)The State Government may delegate its powers to the Board or Excise Commissioner or Collector subject to such limitations and conditions as may be specified in the order of delegation.(2)The State

Government may, by an order, also withdraw from any officer or person any or all the powers so delegated.

8. Role of the Collector.

(1)The Collector of the district shall be responsible for the complete prohibition in accordance with the provisions of this Act and shall also ensure the administration of this Act in the area of his jurisdiction;(2)The Collector shall also be responsible for all matters connected with the effective prosecution of cases filed under the Act;(3)The Collector shall also be competent to exercise the powers of the Excise Officer under the Act;(4)The State Government may, by notification, confer the powers of the Collector to any officer, not below the rank of Inspector, of the excise department or any officer, not below the rank of Deputy Collector, of the revenue department, with such designations, powers and duties as the State Government may think fit.

9. Role of the Superintendent of Police.

- The Superintendent of Police shall -(a)assist the Collector in ensuring complete prohibition in accordance with the provisions of the Act;(b)work under direct control and superintendence of the Collector;(c)enforce and implement such lawful directions of the Collector or Excise Commissioner as issued under the Act;(d)submit such reports and in such manner as the Collector or the Excise Commissioner may desire.

10. Powers and functions of the Excise Commissioner.

- The Excise Commissioner shall-(a)enforce complete prohibition in the State in accordance with the provisions of this Act;(b)promote culture of non drinking and make Prohibition a voluntary effort through social awareness;(c)regulate, control and monitor the manufacture, possession, import, export, and transport of intoxicants;(d)curb illegal trade in liquor and illicit distillation;(e)protect excise revenue and ensure prompt recovery;(f)submit returns and information as required under this Act or the rules framed thereunder, to the State Government upon all matters concerning excise;(g)perform such functions and to exercise such other powers as may, from time to time, be entrusted or delegated to him.

11. Excise Intelligence Bureau.

(1)There shall be an Excise Intelligence Bureau, headed by the Excise Commissioner, consisting of such number of excise officers and staff as may be appointed by the State Government and such other officers and staff as may be appointed by the Excise Commissioner with the prior approval of the State Government.(2)The Excise Intelligence Bureau shall -(a)work towards the success of complete Prohibition of liquor and Intoxicants;(b)collect intelligence, keep surveillance and maintain details of excise offences;(c)collect and disseminate information regarding habitual or notorious excise offenders;(d)monitor the detection, investigation and trial of offences under this Act.

12. Persons with special powers.

- The State Government may, by notification, and in order to further strengthen the regime of Prohibition, empower in any Government functionary not being an excise officer, with powers to perform all or any of the functions of any excise officer under this Act, and such person shall, in exercise of these functions, be deemed to be an excise officer.

Chapter III

Prohibition Etc. Ofintoxicants

13. Prohibition of liquor or intoxicants.

- No person shall manufacture, bottle,distribute, transport, collect, store, possess, purchase, sell or consume any intoxicant or liquor;Provided that the State Government may, by notification, allow renewal of the existing licensees for manufacturing, blending, compounding, bottling, storage, import and export of any liquor or intoxicant subject to the provisions of this Act;Provided also that the State Government may, by notification, allow any state owned company to undertake such activities as may be required under the Act.Explanation. - The words "Existing Licensee" mean persons, firms etc who are holding a valid license on the day of this Act coming into force.

14. Movement of Intoxicants etc.

(1)No liquor, intoxicant or final product shall be imported, exported or transported or transited within or from outside or through the State except with a valid permit and subject to such duty (if any) payable;(2)If any consignment of liquor or intoxicants is being transported by road from a place outside the State of Bihar to another such place and the vehicle carrying the consignment passes through the territory of the State, the driver or any other person in-charge of the vehicle shall obtain transit permission in the prescribed manner from the authority of the first check post falling enroute after entry into the State and shall surrender the same transit permission to the authority of the last check-post before leaving the State and in the event of failure to do so within the stipulated hours of leaving the first check-post falling enroute, it shall be deemed that liquor or intoxicants so transported have been sold or disposed off by the owner or the person-in-charge of the vehicle within the State of Bihar.(3)In case the driver or person referred to in sub-section (2) fails to comply with the provisions of sub-section (2), he may, apart from being levied such penalty as the State Government may decide, also be prosecuted under section 30 of this Act;(4)The State Government may make detailed rules for this purpose.

15. Restrictions on Vehicles carrying intoxicants etc.

- The State Government may lay down reasonable restrictions on the vehicles transporting any excisable articles or final products and may require them to adhere to certain specifications.Provided further that the State Government may require the transport vehicles to

install such devices as it may require as a pre condition for registration under the Motor Vehicles Act and give such directions to the State Transport Authority as it deems fit.

16. Power to Regulate Transport of Intoxicants.

- Notwithstanding anything contained in the Act or any Act for the time being in force, the State Government may, by notification, regulate the movement or import or export of any or all liquor or intoxicant into or from or through the State or any specified part or area of the State.

Chapter IV

Renewal of License and Permit to the Existing Licensees

17. Renewal of Licenses for Distilleries, breweries, etc.

(1) No new licenses shall be issued to any manufactory, distillery, molasses manufactory, brewery, bottling plant etc; Provided that the Collector may issue a license or permit, as the case may be, only for intoxicants that may be declared as such by the State Government under Section 3 of this Act. (2) The Collector may renew the license or issue the permit, as the case may be, for the existing licensee of any manufactory, distillery, molasses manufactory, brewery, bottling plant etc, subject to the provisions of this Act. (3) The State Government may make rules governing the licensing regime. (4) The licensing authority may require the licensee to give security for the observance of the terms and conditions of the license and to execute an agreement thereon. Explanation. - The words "Existing Licensee" means persons, firms etc who are holding a valid license on the day of this Act coming into force.

18. Non Transferability of Licenses & permits.

- All Licenses renewed and permits issued under this Act shall be non transferable.

19. Powers of the Board.

- The Board of Revenue shall have the power to exercise such authority as may be delegated to it by the State Government.

20. Qualifications for grant of license.

- The applicant for a renewal of license or issuance of permit, as the case may be - (a) must be a citizen of India or a company registered in India; (b) should not be a defaulter or blacklisted or debarred from holding an excise license or in arrears of any government dues; (c) should be solvent and bear good moral character and should not have been convicted of any offence under this Act or any other Act; (d) should not hire or employ persons who are below twenty one years of age or who have criminal background.

21. Holograms.

(1)The State Government may require any molasses manufactory, distillery, license-holder, distributors, sellers, importers, exporters, bottling plant or such other establishments operating under this Act to place holograms on their products as per specifications prescribed by the Excise Commissioner.(2)The State Government may make detailed rules in this regard.

22. Power to suspend or cancel license and permit.

(1)Subject to such restrictions as the State Government may prescribe, the Authority renewing any license or granting any permit under this Act may suspend or cancel it in the following circumstances after giving reasonable opportunity of being heard -(a)if the license or permit is transferred or sublet by the holder thereof without the permission of the licensing authority;(b)if any excise revenue payable by the holder thereof is not duly paid;(c)in the event of any breach by the holder of such license or permit or by his servant or agent, or by any one acting on his behalf, with his express or implied permission, of any of the terms and conditions of such license or permit;(d)if the holder of license or permit or his agent or employee is convicted of an offence punishable under this Act or any other law for the time being in force, relevant and connected with excise matters relating to excise revenue or of any cognizable and non-bailable offence under any other relevant law;(e)if the purpose for which the license or permit was granted ceases to exist;(f)if the license or permit has been obtained through misrepresentation or fraud.(g)if, for any other reason, the Licensing Authority is prima facie satisfied, that the license is fit to be cancelled.(2)For any action taken under Sub-Section (1), the Licensee shall not be eligible for any compensation or refund of fee or deposit whatsoever.

23. Bar to the right of renewal and to compensation.

- No person to whom a license or permit has been granted earlier shall be entitled to claim any renewal thereof as a matter of right, and no claim shall lie for damages or otherwise in consequence of any refusal to renew a license or permit on the expiry of the period for which the same remains in force.

24. Power of the State Government to withdraw or not to renew a license.

(1)The State Government may at any time decide either to withdraw or not to renew a license issued to any manufactory, distillery, molasses manufactory, brewery, bottling plant etc in the entire State of Bihar or any part thereof.(2)For any action taken under Sub-Section (1), nothing shall be paid in consequence thereof, except any license fee or deposit paid in advance after deducting any amount recoverable by the Government.

25. Power of the Collector to take over the Management.

- If any holder of a license renewed under this Act contravenes any provision of the Act or any rules made there under or defaults in complying with any condition imposed upon him or upon refusal to abide by such reasonable directions as the Collector may issue under this Act, or upon expiry of the license or withdrawal of the license, the Collector, may at any time, with or without cancellation of such license or privilege -(a)take over the management of such establishment at the risk and loss of the owner of that establishment; or(b)transfer the establishment , for the unexpired period of the License or the privilege, at the risk and loss of the owner, to any other person.

Chapter V Excise Revenue

26. Nature and components of excise revenue.

- Excise revenue shall be levied and recovered under the following heads, namely:-(a)duty;(b)license fee;(c)label registration fee; import or export or transportation or movement fee;(d)Accruals through privilege fee, fines, penalties and other sundry receipts etc; and(e)Any other duty, cess, fee or surcharge as the State Government may, by notification, impose.

27. Fees for terms, conditions, and form of, and duration of, licenses, permits and passes.

(1)Every license renewed or permit/ pass granted under this Act -(a)shall be renewed or granted -(i)On payment of such fees (if any), and(ii)Subject to such restrictions and on such conditions, and(b)shall be in such form and contain such particulars, as the Rules may provide.(2)Every license renewed or permit or pass granted under this Act shall be for such period (if any) as prescribed by rule made by the State Government under this Act.

28. Excise revenue to be paid irrespective of pendency of any writ petition, suit, etc.

- Notwithstanding that a writ petition has been preferred or a suit or other proceeding has been instituted in any court or any appeal has been filed before any Tribunal or the Excise Commissioner or a revision has been filed before the State Government, any sum due to the State Government under this Act as a result of demand or order made or passed by any officer or authority empowered in this behalf by or under this Act, shall be payable in accordance with such demand or order unless and until such payment has been stayed by the competent authority or the Court.

29. Power to impose duty on import, export, transport and manufacture.

(1)An excise duty or a countervailing duty or any other duty or fee, as the case may be, at such rate or rates as the State Government may direct, may be imposed, either generally or for any specified local area on -(a)any excisable article imported, or(b)any excisable article exported, or(c)any excisable article transported, or(d)any excisable article manufactured under any license issued or renewed under this Act, or(e)any excisable article manufactured in any distillery or brewery licensed, established, authorized or continued under this Act.Explanation (1). - Duty may be imposed on any article under this sub-section at different rates according to the places to which such article is to be removed for consumption, or according to the varying strength and quality of such article.(2)A duty, at such rate or rates as the State Government may direct, may be imposed, either generally or for any specified local area, on any intoxicant under the provisions of this Act.

Chapter VI

Offences and Penalties

30. [Penalty for unlawful manufacture, import, export, transport, possession, sale, purchase, distribution, etc. of any intoxicant or liquor. [Substituted by Bihar Act No. 8 of 2018, dated 30.7.2018.]

- Whoever, in contravention of any provision of this Act or of any rule, regulation, order made, notification issued thereunder, or without a valid license, permit or pass issued under this Act, or in breach of any condition of any license, permit or pass renewed or authorisation granted thereunder

(a)Manufactures, possesses, buys, sells, distributes, collects, stores, bottles, imports, exports, transports, removes or cultivates any intoxicant, liquor, hemp; or(b)Constructs or establishes or works in any manufactory, distillery, brewery or warehouse; or(c)Manufactures, uses, keeps or has in his possession any material, utensil, implement or apparatus, or uses any premises, whatsoever, for the purpose of manufacturing any intoxicant or liquor; or(d)Manufactures any material or film either with or without the State Government logo or logo of any State or wrapper or any other thing in which liquor or intoxicant can be packed or any apparatus or implement or machine, for the purpose of packing any liquor or intoxicant; or(e)Removes any liquor or intoxicant from any distillery, brewery, warehouse, other place of storage licensed, established, authorized or continued under this Act; or(f)Manufactures, possesses, sells, distributes, bottles, imports, exports, transports or removes, any preparation made with or without the use of any intoxicant or liquor, which can serve as an alcohol or a substitute for alcohol and is used or likely to be used or consumed for the purposes of getting intoxicated;shall be punishable with imprisonment for the term which may extend to life and with fine which may extend to ten lakh rupees.Provided that the punishment:(a)For the first offence shall not be less than five years imprisonment and fine of not less than one lakh rupees, and(b)For the second and subsequent offences shall not be less than ten years rigorous imprisonment and fine of not less than five lakh rupees.]

31. Commission of offence by companies.

(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of and responsible to, the company for the conduct of its business at the time of commission of the offence, shall be deemed to be guilty of offence, and shall be liable to be proceeded against and punished accordingly. Provided that where a company has different establishment or branches or different units in any establishment or branch, the concerned Chief Executive and the person in charge of such establishment, branch, unit nominated by the company as responsible for the conduct of business shall be liable for contravention in respect of such establishment, branch or unit: Provided further that nothing in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such 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 that the commission of the offence is attributable to any neglect on the part of any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall be liable to be proceeded against and punished accordingly. (3) This section shall not apply to such companies where the majority shareholding is held by Central or any State Government or such companies as the Board may exempt. Explanation. - For the purpose of this section - "company" means any body corporate and includes a firm or other association of individuals; and "director", in relation to the firm, means a partner in the firm.

32. [Presumption as to commission of offence in certain cases. [Substituted by Bihar Act No. 8 of 2018, dated 30.7.2018.]

(1) In prosecution of an offence under this Act, the accused person would have to account for the possession of any liquor, intoxicant, material, utensil, implement or apparatus involved in manufacture or storage of such liquor. (2) In the event of a failure to offer a satisfactory explanation, there shall be a presumption that the accused person is guilty of the commission of such offence, unless proved otherwise. (3) Where any equipment, machinery, animal, vessel, cart, vehicle, conveyance or any premises are used in the commission of an offence under this Act, and are liable to confiscation and/or liable to be sealed, the owner or occupier thereof would need to account satisfactorily, and in the absence of a satisfactory explanation the presumption that accused person committed the offence shall arise, unless proved otherwise.

33. Penalty for rendering denatured spirit fit for human consumption.

- Whoever alters or attempts to alter any denatured spirit with the intention to make it fit for human consumption, whether as a beverage or as a medicine, or in any other way and by any other method or knowingly possesses any altered denatured spirit, shall be punishable with imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees.

34. Penalty for mixing noxious substance with liquor.

- Whoever,(a)mixes or permits to be mixed with any liquor sold or manufactured or possessed by him, any noxious drug or any poisonous ingredient; or(b)makes, sells or possesses any preparation, whether solid, semi solid, liquid, semi liquid or gaseous, either made locally or otherwise, that may serve as an alcohol or a substitute for alcohol and is used or consumed for the purposes of getting intoxicated which is likely to cause disability or grievous hurt or death to human beings, shall be punishable:- (i)if as a result of such an act, death is caused, with death or imprisonment for life and shall also be liable to fine, which shall not be less than five lakh rupees but which may extend to ten lakh rupees;(ii)if as a result of such an act, disability or grievous hurt is caused to any person, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine which shall not be less than two lakh rupees but which may extend to ten lakh rupees;(iii)if as a result of such an act, any other consequential injury is caused to any person, with imprisonment for a term which shall not be less than eight years but which may extend to life imprisonment and with fine, which shall not be less than one lakh rupees but which may extend to ten lakh rupees;(iv)if as a result of such an act, no injury is caused, with imprisonment which shall not be less than eight years but which may extend to ten years and fine which shall not be less than one lakh rupees but may extend to five lakh rupees;Explanation. - For the purpose of this section the expression "grievous hurt" shall have the same meaning as in section-320 of the Indian Penal Code, 1860 (XLV of 1860).]

35. [Deleted by Bihar Act No. 8 of 2018, dated 30.7.2018.]

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35. Penalty for committing fraud.- Whosoever,(a) sells or keeps or exposes for sale as foreign liquor imported into India, any liquor which he knows or has reason to believe to be Indian made foreign liquor or country liquor; or(b) sells or keeps or exposes for sale, as Indian made foreign liquor, any liquor which he knows or has reason to believe to be country liquor; or(c) labels any bottle,case, package or other receptacle containing country liquor or Indian made foreign liquor, or the cork of any such bottle,or deals with any bottle, case, package or such other receptacle containing country liquor or Indian made foreign liquor or deals with any bottle, case, package or other receptacle containing country liquor or Indian made foreign liquor with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor; or(d) labels any bottle,case, package or other receptacle containing country liquor, or the cork of any such bottle, or deals with any bottle, case, package or such other receptacle containing country liquor or deals with any bottle, case, package or other receptacle containing country liquor with the intention of causing it to be believed that such bottle, case, package or other receptacle contains Indian made foreign liquor; or(e) camouflages or attempts to camouflage any liquor or liquor bottle in order to cheat any consumer or buyer, by use of any means with the objective to project the liquor what it is not ;shall be punishable with imprisonment which shall not be less than ten years but which may extend to imprisonment for life and with fine, which shall not be less than one lakh rupees but which may extend to ten lakh rupees.

36. [Penalty for dealing in spurious liquor. [Substituted by Bihar Act No. 8 of 2018, dated 30.7.2018.]

- Whoever, manufactures, possesses, sells, stores, distributes, bottles, imports, exports, or transports any spurious liquor, shall be punishable with imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and with fine, which shall not be less than one lakh rupees but which may extend to ten lakh rupees.

37. Penalty for consumption of liquor.

- Whoever, in contravention of this Act or the rules, notification or order made thereunder
(a) consumes liquor or intoxicant in any place; or (b) is found drunk or in a state of drunkenness at any place; or (c) drinks and creates nuisance or violence at any place including in his own house or premises; or (d) permits or facilitates drunkenness or allows assembly of drunken elements in his own house or premises; shall be punishable, (1) in case of an offence falling under clause (a) and (b), for the first offence only with fine which shall not be less than Fifty thousand rupees or in lieu thereof sentence for a period of three months imprisonment but for subsequent offence falling under clause (a) and (b), shall be punishable with a term which shall not be less than one year but may extend to five years and with fine, which may extend to one lakh rupees (2) In case of an offence falling under clause (c) and (d), with a term which shall not be less than five years but which may extend to ten years and with fine, which shall not be less than one lakh rupees which may extend to five lakh rupees.]

38. [[Deleted by Bihar Act No. 8 of 2018, dated 30.7.2018.]

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38. Penalty for possession or knowledge of possession of intoxicant.- If any person has (1) in his possession, without lawful authority, any liquor or intoxicant, knowing or having reason to believe the same to have been unlawfully imported, transported, manufactured, or knowing or having reason to believe that the prescribed duty has not been paid thereon; or (2) any knowledge about the possession or storage without lawful authority, of liquor or intoxicant, in his premises or the premises that he is occupying and if he fails to inform the nearest excise officer or the police officer, then; he shall be punished with imprisonment for a term which may not be less than eight years but which may extend to ten years and shall also be liable to fine which may extend to ten lakh rupees and in default of payment of fine, shall be punished with a further imprisonment for a term which may extend to one year. Explanation.- "Possession" here means the possession by any family or member of that family and includes the knowledge of possession where any member of a family or the family itself know that such possession is illegal, whether it is in his or her own possession or with some other member of the family.

39. Penalty for consumption of liquor in chemist's shop.

(1) If a chemist, druggist, apothecary or a keeper of a dispensary, allows any medicine or medicinal preparation which has been declared by the State Government to be an intoxicant or any liquor or intoxicant which has not been bonafidely medicated for medicinal purposes to be consumed on his business premises by any person, he shall be punishable with a term which shall not be less than eight years but which may extend to ten years and with fine, which shall not be less than one lakh rupees which may extend to ten lakh rupees (2) If a person consumes any such liquor or intoxicant on such premises, he shall be punishable with a term which shall not be less than five years but which may extend to seven years and with fine, which shall not be less than one lakh rupees which may extend to ten lakh rupees.

40. Penalty for unlawful advertisement.

- Whoever prints, publishes or gives an advertisement directly or indirectly in any media, including films & television, or any social platform soliciting the use of any liquor or intoxicant, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years or with fine which may extend to ten lakh rupees, or with both.

41. Penalty for import, export, manufacture, transport, sale or possession by one person on account of another.

(1) Where any intoxicant or liquor has been imported, exported, manufactured, transported or sold or is possessed by any person on account of any other person and such other person knows or has reason to believe that such import, export, manufacture, transport or sale was or that such possession is, on his account, the intoxicant or liquor shall, for the purpose of this Act, be deemed to have been imported, exported, transported, sold or manufactured by or to be in possession of such other person who shall be punishable with a term which shall not be less than eight years but which may extend to ten years and with fine which may extend up to ten lakh rupees. (2) Nothing in sub-section (1) shall absolve any person who manufactures, sells or has in possession any intoxicant or liquor on account of another person, from liability to any punishment under this Act or unlawful manufacture, sale or possession of such intoxicant or liquor.

42. Order by Collector to pay compensation.

- Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) the Collector, while passing an order under this Act may, if he is satisfied that death or injury has been caused to any person due to consumption of liquor sold in any place, order the manufacturer and/or seller, whether or not he is convicted of an offence, to pay, by way of compensation, an amount not less than four lakh rupees to the legal heirs of each deceased or two lakh rupees to the person to whom grievous hurt has been caused, or twenty thousand rupees to the person for any other consequential injury: (2) The Collector may recover the said compensation as "Public Demand" under the Public Demands Recovery Act, 1914 (Bihar and Orissa Act IV of 1914). (3) Any person aggrieved

by an order under sub-section (1) may, within thirty days from the date of the order, prefer an appeal to the High Court: Provided that no appeal can be filed against any order filed under this Section unless 50% of the amount ordered to be paid under sub-section (1) is deposited by the appellant in the court: Provided further that the High Court may entertain an appeal after expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

43. Penalty for misconduct of licensees, etc.

- Whoever being a holder of a license or permit granted or issued under this Act or being in the employment of such holder and acting on his behalf, -(a) Fails to produce such license or permit on demand by any excise officer or any other officer duly empowered to make such demand; or (b) Willfully does or omits to do anything in contravention of the conditions of the license or permit not otherwise provided in this Act; or (c) fails to cooperate during the inspection by any excise officer of his premises, (d) Fails to submit returns. shall on conviction, be punished -(1) In the case of an offence falling under clause (a), with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees. (2) In the case of an offence falling under clause (b), with an imprisonment for a term which shall not be less than five years but may extend to seven years and with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees. (3) In the case of an offence falling under clause (c) and (d), with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees and ten thousand rupees per day for subsequent delay.

44. Penalty for employing minors or women in illegal liquor trade.

(1) If any person employs any minor below the age of eighteen years or women for the purposes of hiding, selling, possessing, transporting, or distributing any liquor or intoxicant, he shall be punishable with a term which shall not be less than ten years but which may extend to life imprisonment and with fine, which shall not be less than one lakh rupees which may extend to ten lakh rupees, or with both. (2) If any person threatens, cajoles, lures or encourages or makes any attempt to threaten, cajole, lure or encourage women or any minor below the age of eighteen, into possessing, storing, distributing, selling, purchasing, transporting or consuming any intoxicant or liquor, he shall be punishable with a term which shall not be less than eight years but which may extend to ten years and with fine, which shall not be less than one lakh rupees which may extend to ten lakh rupees, or with both

45. Penalty for assault and obstruction.

- Notwithstanding anything contained in the Indian Penal Code, 1860 (XLV of 1860) any person who assaults or threatens to assault or obstructs or attempts to obstruct any excise officer or police officer or any other officer in the discharge of his official duties shall be punishable with a term which shall not be less than eight years but which may extend to ten years and with fine, which shall not be less than one lakh rupees which may extend to ten lakh rupees.

46. Penalty for non-payment of duty or fee.

- If any person fails to pay any duty or fee, which under this Act he is liable to pay, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and also with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees.

47. Penalty for allowing premises, etc., to be used for commission of an offence.

- Whoever, whether being a licensee under this Act or otherwise, and having the control or use of any house, room, enclosure, space, animal or conveyance, knowingly permits it to be used for commission by any other person of an offence punishable under any provision of this Act, shall be punishable in the same manner as if he had himself committed the said offence.

48. Penalty for attempt to commit an offence.

- Whoever attempts to commit an offence punishable under this Act, shall be liable for half the maximum punishment provided for the offence under this Act.

49. Penalty for Contempt of Court.

- Every Proceeding under this Act before a Collector or before any officer, of such rank as the State Government may by notification prescribe, who is exercising power of the Collector, shall be deemed to be a judicial proceeding within the meaning of section 228 of the Indian Penal Code (45 of 1860)and any person guilty of the offence of contempt shall be punished accordingly.

50. Penalty on excise officer or police officer for making vexatious search, seizure, detention or arrest.

- Any excise officer, police officer or any other person who vexatiously and without reasonable ground for suspicion -(a)enters or searches or causes to be entered or searched any closed place under color of exercising any power conferred by this Act; or(b)seizes the movable property of any person on the pretext of seizing or searching for any article liable to confiscation under this Act; or(c)searches, detains or arrests any person;or(d)in any other way exceeds his lawful powers under this Act,shall be liable to imprisonment for a term which may extend to three years, or with fine which may extend to one lakh rupees or with both.

51. Penalty on excise officer or police officer refusing to do duty.

- Any excise officer or police officer who, without lawful excuse, refuses to perform or withdraws himself from the duties of his office, unless expressly allowed to do so in writing by the Excise Commissioner or Collector, or unless he shall have given to his official superior officer two months'

notice in writing of his intention to do so, or who shall be guilty of cowardice shall be punishable with imprisonment which may extend to three months or with fine which may extend to ten thousand rupees, or with both.

52. Penalty for offences not otherwise provided for.

- Whoever does any act in contravention of any of the provisions of this Act or any rule or order made there under and punishment for which has not been otherwise provided for such contravention, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years or with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees or both.

53. [Deleted by Bihar Act No. 8 of 2018, dated 30.7.2018.]

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53. Enhanced punishment after previous conviction.- If any person, after having been previously convicted of an offence punishable under this Act, subsequently commits and is convicted of an offence under this Act, he shall be liable to twice the punishment, provided for the first conviction.

54. [Failure of occupier to disclose information of unlicensed manufacture or cultivation or consumption of liquor or intoxicant. [Substituted Bihar Act No. 8 of 2018, dated 30.7.2018.]

(1)Whenever any liquor or intoxicant or other excisable item is manufactured, sold, stored, bottled, possessed, consumed or any excisable plant is cultivated in contravention of this Act, occupier of that land or building or his agents, shall give information to the nearest excise official, police official or the Collector as soon as the fact comes to their knowledge.(2)Whenever occupier(s) of that land or building or his agents fail to disclose information as per subsection (1), such person or persons shall be liable to be punished for imprisonment up to two years.]

55. Non-compounding of offences.

- Any offence committed in contravention of the provisions of this Act shall be non-compoundable under this Act.

56. [Things liable for confiscation. [Substituted Bihar Act No. 8 of 2018, dated 30.7.2018.]

- Whenever an offence has been committed, which is punishable under this Act.(a)any intoxicant or liquor unlawfully imported, transported, manufactured, sold, stored, possessed, material, utensil, implement, apparatus, package or covering and or the other contents, if any, of such receptacle, package or covering for the purposes of storing, manufacturing or labelling such intoxicant or

liquor;;(b)any animal, vehicle, vessel or other conveyance used for carrying any intoxicant or liquor; or(c)any premises or part thereof that may have been used for storing or manufacturing any liquor or intoxicant or for committing any other offence under this Act; shall be liable to be confiscated in a manner prescribed under the provisions of the Act,(d)The State Government, if deem necessary, may issue necessary directions, guidelines, Regulations and instructions with respect to mode and manner of search, seizure and confiscation.]

57. Power of Collector, etc., to order sale or destruction of articles before confiscation.

- If the article in question is liable to speedy and natural decay, or if the Excise Commissioner, Collector, Court or the officer authorized by the State Government in this behalf is of opinion that the sale would be in public interest or the sale would be for the benefit of the owner, the Excise Commissioner, Collector, Court or the officer may, at any time, before passing the Order of confiscation, direct such articles to be sold and proceeds be deposited with the Government:Provided that, where anything is liable to speedy and natural decay, or is of trifling value or which can be put to misuse, the Collector or the officer concerned, may, order such thing to be destroyed, if in its or his opinion such order is expedient in the circumstances of the case.

58. Confiscation by District Collector.

(1)Notwithstanding anything contained in this Act or any other law for the time being in force, where anything liable for confiscation under this Act is seized or detained under the provisions of this Act, the officer seizing and detaining such property shall, without any reasonable delay submit a report to the District Collector who has jurisdiction over the said area;(2)On receipt of the report under sub-section (1), the District Collector if satisfied that an offence under this Act has been committed, may, whether or not prosecution is instituted for the commission of such an offence and whether or not a case is pending before any court, order confiscation of such property;(3)The Collector shall, before passing an order under subsection (2), give a reasonable opportunity to the person concerned, of being heard;(4)While making an order of confiscation under sub-section (2), the District Collector may also order that such of the properties which the order of confiscation relates, which in his opinion cannot be preserved or are not fit for human consumption, be destroyed. Whenever any confiscated article has to be destroyed in conformity with these provisions, it shall be destroyed in the presence of a Executive Magistrate or officer ordering the confiscation or forfeiture, as the case may be, or in the presence of the Excise Officer not below the rank of a Sub-Inspector;(5)While making an order of confiscation under sub-section (2), if the District Collector is of the opinion that it is expedient in the public interest to do so, he may order the said property or any part thereof to be sold by public auction or dispose of departmentally and proceeds deposited with the State Government;(6)The District Collector shall submit a full report of all particulars of confiscation to the Commissioner of Excise within one month of such confiscation.

59. Order of confiscation and destruction not to interfere with other punishment.

- The order of any confiscation under section 58 shall not prevent imposition of any order punishment to which the person affected thereby is liable under this Act.

60. Bar of jurisdiction in confiscation.

- Whenever any liquor, material, still, utensil, implements or apparatus or any receptacle, package, any animal cart, vessel, or other conveyance used in committing any offence, is seized or detained under this Act, no court shall have, notwithstanding anything to the contrary contained in any other law for the time being in force, jurisdiction to make any order with regard to such property.

61. Confiscated articles to vest with the Collector.

- When an order for confiscation of any property has been passed under section-57 and such order has become final in respect of the whole or any portion of such property, such property or portion thereof, as the case may be, shall vest with the State Government free from any encumbrance.

62. [Premises liable to be sealed. [Substituted Bihar Act No. 8 of 2018, dated 30.7.2018.]

- If it comes to the notice of any excise officer or any police officer, not below the rank of a Sub Inspector, that any liquor or intoxicant has been found at a particular premises or a particular premises or a part thereof is or has been used for committing any offence under this Act, he may immediately seal the premises and send a report to the Collector for the confiscation of the same. Provided that if the said premises are temporary structures which cannot be effectively sealed, then the excise officer or the police officer, with the order of the Collector, may demolish such temporary structures.]

63. Power of Collector to close places where liquor, intoxicant or hemp is sold in certain cases.

(1) If the Collector is of opinion that it is in the interest of public peace to close any place in which any liquor or intoxicant is sold, it shall be lawful for the Collector, by an order in writing to the person holding a license for the sale or manufacture of such intoxicant, to require him to close such place at such time or for such period as may be specified in the order. (2) If a riot or unlawful assembly is imminent, or takes place, it shall be lawful for any Executive Magistrate who is present to direct that such place shall be closed and kept closed for such period as he thinks fit, and in the absence of any Executive Magistrate, the person referred to in subsection (1) shall, himself, close such place. (3) Any order given under this section, shall be appealable before Collector, if given by any other Executive Magistrate, and before the Excise Commissioner, if given by the Collector.

64. [[Deleted by Bihar Act No. 8 of 2018, dated 30.7.2018.]

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64. Collective Fine.- (1) If the Collector is satisfied, whether on a report of any excise officer or police officer or otherwise, that a particular village or town or any locality within a village or town or any particular group/community living in that village or town have been repeatedly violating any of the provisions of this Act or are habitually prone to commit an offence under this Act or are obstructing the administration of this Act, then the Collector may, by an order, impose a suitable collective fine on such group of people living in such area of the town or village and may recover such fine as if they were Public Demands under the Bihar & Orissa Public Demands Recovery Act, 1914(Bihar and Orissa Act IV of 1914);(2) The Collector, upon receipt of the report or information under subsection (1), may if consider necessary, conduct or cause such enquiry to be conducted as he deems fit;(3) The Collector shall, before passing an order under subsection (1), give a reasonable opportunity to the people of the area, of being heard;(4) Upon hearing the accused persons or upon such an enquiry under subsection (2), the Collector may pass a suitable order which shall be duly proclaimed in the area by such means as the Collector may decide.

65. Power of the State Government to withdraw facilities, privileges etc.

- The State Government may, by a notification to be published in the Official Gazette, impose reasonable restrictions or prohibit or withdraw certain facilities, privileges, contracts, licenses, benefits extended under any other Act, schemes, projects etc on the persons charge sheeted under any of the offences in this Act.

Chapter VII

Externment and Internment

66. [[Deleted by Bihar Act No. 8 of 2018, dated 30.7.2018.]

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66. Externment etc of notorious or habitual offenders.- (1) Where it appears to the Collector that-(a) any person is a notorious or habitual offender under this Act, or(b) that there are reasonable grounds for believing that any person is engaged or about to engage, in the district or any part thereof, in the commission of any offence punishable under this Act or abetment of such offence; the Collector shall, by notice in writing, inform him of the general nature of the material allegation against him in respect of clauses (a) or (b) and shall give him a reasonable opportunity of tendering an explanation regarding them;(2) The person against whom an order under this section is proposed to be made may be allowed to consult and be defended by a counsel of his choice;(3) The Collector, on being satisfied that the conditions specified in clauses (a) or (b) of subsection (1) exist, may by order in writing-(a) direct him to remove himself outside the district or part thereof, as the case may be, by such route, if any, and within such time as may be specified in the order and to

resist from entering the district or the specified part thereof, until, the expiry of such period, not exceeding six months as may be specified in the order; and/or(b)(i) require such person to notify his movement, or to report himself, or to do both, in such manner, at such time and to such authority or person as may be specified in the order; or(ii) prohibit or restrict possession or use by him of such article or excisable item as may be specified in the order;or(iii) prohibit or restrict any particular activity or occupation that he is currently engaged in or likely to engage in;or(iv) intern him to the nearest De-addiction Center to undergo such treatment or counseling or both under the supervision of such medical expert for such period as may be specified in the order: or(v) direct him otherwise to conduct himself in such manner as may be specified in the order;until the expiry of such period, not exceeding six months, as may be specified in the order.

67. Extension of period of order.

- The Collector may, after giving reasons to be recorded in writing and if he is satisfied that in the interest of the general public or any member of the public, the period specified in the order made under section-66, be extended, he shall be competent to extend the period which, however, shall not exceed two years in the aggregate.

68. Permission to return temporarily.

- The Collector, may by an order, permit any person in respect of whom an order has been made under Section-66 to enter or return, for temporary period, into or to the area from which he was directed to remove himself, subject to such conditions as the Collector may specify and may at any time rescind any such permission.

69. Nature of evidence.

- The Collector may for the purpose of satisfying himself as to whether the conditions necessary for the making an order under section-65 exist or not take into consideration any evidence which he considers to have probative value and the provisions of the Indian Evidence Act, 1872, shall not apply thereto.

70. Immediate Arrest.

- Any excise officer or police officer may arrest, without warrant, any person who has contravened or is likely to contravene an order passed under Section-66 of the Act and shall forthwith forward the person so arrested to the Court.

71. Penalty for non-compliance of order under Section-66.

- Any person contravening an order of the Collector made under Section-66 shall be punishable with imprisonment for a term not less than five years but which may extend to seven years and with fine which shall not be less than Rs one lakh but which may extend to Rs 10 lakhs.

72. Powers in relation to absconding person.

(1) If the Collector finds that a person in respect of whom an order has been made under Section-66, is an absconder or has absconded or is concealing himself so that the order cannot be executed, the Collector may by order notified in the official gazette and published in the local newspaper, direct the said person to appear before such officer, at such place and within such period as may be specified in the order. (2) If any person fails to comply with any order issued under sub-section (1), the Collector shall be competent to confiscate the moveable and/or immoveable properties of the concerned person under Section-58 of this Act.

Chapter VIII

Detection, Investigation and Trial of Offences

73. Power to enter, inspect, search and seize.

- Any of the following officers namely: (a) The Excise Commissioner; or (b) The Collector; or (c) Any block level officer and above of the District authorized by the Collector; or (d) Any Excise Officer; or (e) Any police officer not below the rank of [Assistant Sub-Inspector] [Substituted 'Sub Inspector' by Bihar Act No. 10 of 2020.]; or (f) Any other officer or agency or force, armed or otherwise, authorized for this purpose by the State Government; may, without warrant but subject to such restrictions as may be prescribed by the State Government, enter, inspect, search any place at any time, day or night, and seize any document, sample, equipment, conveyance, animal, commodity, intoxicant, material, raw material or any other item of concern.

74. Power to arrest or detain without warrant.

(1) Any of the officers mentioned in Section-73 may arrest or detain, without warrant, any person and/or any vehicle, animal, means of conveyance, at any time of day and night, found committing an offence or attempting to commit an offence punishable under any provision of this Act. (2) All arrests made under this section must be reported to the Collector forthwith.

75. Power to conduct breath analysis tests and medical tests.

(1) Any of the Officers mentioned in Section-73 may ask any person to undergo breath analysis tests and/or such medical tests as he may deem fit. (2) The person so asked, is duty bound to submit himself to such medical tests or breath analysis tests. Should he fails to do so, it shall be presumed that he has committed an offence under Section 37 of the Act and shall be prosecuted accordingly. (3) The reports of such tests shall be admissible as evidences under the Indian Evidence Act, 1872.

76. Offences to be Cognizable and Non-Bailable.

(1) All offences under this Act shall be Cognizable and Non-Bailable and provisions of Code of Criminal Procedure, 1973 (Act 2 of 1974) shall apply. [Provided that offence committed for the first time under sub section (1) of section-37 and offence under section- 54 of the Act shall be bailable.] [Inserted by Bihar Act No. 8 of 2018, dated 30.7.2018.] (2) Notwithstanding anything mentioned in subsection (1) above, nothing in Section-360 of Code of Criminal Procedure, 1973 (Act 2 of 1974), Section-438 of Code of Criminal Procedure, 1973 (Act 2 of 1974) and Probation of Offenders Act 1958 (20 of 1958) shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.

77. Power to obtain information.

- The Excise Commissioner or Collector or any excise officer or police officer not below the rank of Assistant Sub Inspector, may by order, require any person or any establishment deemed reasonably connected with any unlawful handling of any liquor or intoxicant to furnish to him such information as may be specified in the order.

78. Power to investigate.

(1) Any excise officer may investigate any offence punishable under this Act. (2) Any police officer, not below the rank of [Assistant Sub-Inspector] [Substituted 'Sub Inspector' by Bihar Act No. 10 of 2020.] may investigate any offence punishable under this Act.

79. Powers of the Excise Officer.

(1) All excise officers mentioned in Section-73 shall exercise the powers of the officer-in-charge of a police station in his area of jurisdiction for the purposes of this Act. (2) The area to which an excise officer is empowered under Section-73 shall be deemed to be a police station.

80. Production of Persons arrested.

- Any person arrested under this Act shall be produced before the Court within twenty four hours.

81. Duty of police to accept seized articles and arrested persons.

- Every officer-in-charge of a police station shall take charge of and keep in safe custody, pending the order of the Court or the Collector, all articles seized or persons arrested under this Act which may be delivered to him and shall allow the excise officer who may accompany such articles, to affix his seal to such articles and to take samples of and from them.

82. Reports of arrests, seizures and searches.

- Every Police Officer upon making any arrest, search or seizure shall submit a report to the Collector and to the excise officers empowered under Section-73 within twenty four hours.

83. Trial by the Court.

- Notwithstanding anything contained in subsection(1) of section-76 of this Act, all offences punishable under this Act shall be tried by the Court of Sessions.

84. Special Courts.

(1)Notwithstanding anything contained in this Act or the Code of Criminal Procedure 1973 (Act 2 of 1974), the State Government may, if consider necessary in the public interest, for the purposes of trial of all or any of the offences under this Act, either appoint or designate in every District of the State, Special Court(s) in consultation with the Chief Justice of the High Court.(2)The Special Court shall be presided over by a Special Judge who is or has been a Sessions Judge or an Additional Sessions Judge or an Assistant Sessions Judge under the Code of Criminal Procedure 1973 (Act 2 of 1974).(3)The trial under this Act of any offence by the Special Court shall have precedence over the trial of any other case against the accused in any other Court (not being a Special Court) and shall be concluded in preference to the trial of such other case.(4)All trials and proceedings under the Bihar Excise Act 1915(Bihar& Orissa Act II of 1915), pending in any other Court, before the commencement of this Act, shall stand transferred to the Special Courts.

85. Procedure and Power of the Special Judge.

(1)A Special Judge may take cognizance of offences without the accused being committed to him for trial and, in trying the accused persons, shall follow the procedure prescribed by the Code of Criminal Procedure, 1973 (2 of 1974), for the trial of warrant cases by the Magistrates;(2)Save as provided in sub-section (1), the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as they are not inconsistent with this Act, apply to the proceedings before a special Judge; and for purposes of the said provisions, the Court of the special Judge shall be deemed to be a Court of Session and the person conducting a prosecution before a special Judge shall be deemed to be a public prosecutor;(3)In particular and without prejudice to the generality of the provisions contained in subsection (2), the provisions of sections-326 and 475 of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as may be, apply to the proceedings before a special Judge and for the purposes of the said provisions, the special Judge shall be deemed to be a Magistrate;(4)A special Judge may pass upon any person convicted by him any sentence authorized by law for the punishment of the offence of which such person is convicted;(5)A special Judge, while trying an offence punishable under this Act, shall exercise all the powers and functions exercisable by a District Judge under the Criminal Law Amendment Ordinance, 1944 (Ord.38 of 1944);(6)Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the special Judge shall, as far as practicable, hold the trial of an offence on day-to-day basis.

86. Power to transfer cases to Regular Courts.

- Where, after taking cognizance of any offence in this Act, a Special Court is of the opinion that the offence is not triable by it, it shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case for the trial of such offence to any court having jurisdiction under the Code of Criminal Procedure, 1973 (Act 2 of 1974) and the Court to which the case is transferred may proceed with the trial of the offence as if it had taken cognizance of the offence.

87. Power of the Special Court to implead manufacturer, owner, occupier, etc.

- Where at any time during the trial of an offence under this Act, alleged to have been committed by any person, not being the manufacturer, distributor or dealer of any intoxicant or owner or occupier of any premises involved in the offence, the Special Court is satisfied, on the evidence adduced before it, that such manufacturer, distributor , dealer, owner or occupier is also concerned with that offence then the court may notwithstanding anything contained in the sub-section (3) of section-319 of the Code of Criminal Procedure, 1973 (2 of 1974), proceed against him under any section of this chapter.

88. Special/ Additional Public Prosecutors.

- For every Special Court set up under Section 84 of the Act, the State Government, as per the procedure laid down under Section-24 of the Code of Criminal Procedure, 1973 (Act 2 of 1974), may appoint a person to be the Special Public Prosecutor and more than one person to be Additional Public Prosecutors.

89. Appeal.

- Any person aggrieved by any order of the Special Court may, within forty five days from the date of order, prefer an appeal in the High Court.

90. Application of certain provisions of the Code of Criminal Procedure, 1973.

(1)Save as otherwise expressly provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (Act 2 of 1974) relating to arrests, detention, searches, summons, warrants of arrest, search warrants, and the production of persons arrested or articles seized shall apply so far as may be, to arrests, detentions and searches made, summons and warrants issued, and the production of persons arrested or articles seized under this Act.(2)The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall in their application to any proceeding in relation to an offence punishable under this Act have effect as if-(a)in sub-section (1) of Section-243, for the words "The accused shall then be called upon", the words "The accused shall then be required to give in writing at once or within such time as the Court may allow, a list of the persons (if any) whom he proposes to examine as his witnesses and of the documents (if any) on which he proposes to rely and he shall then be called upon" had been substituted;(b)in sub-section (2) of section-309, after the

third proviso, the following proviso had been inserted, namely :-"Provided also that the proceeding shall not be adjourned or postponed merely on the ground that an application under section-397 has been made by a party to the proceeding."(c)after sub-section (2) of section-317, the following sub-section had been inserted, namely :-"(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Judge may, if he thinks fit and for reasons to be recorded by him, proceed with enquiry or trial in the absence of the accused or his pleader and record the evidence of any witness, subject to the right of the accused to recall the witness for cross-examination."(d)in sub-section (1) of section-397, before the Explanation, the following proviso had been inserted, namely :-"Provided that where the powers under this section are exercised by a court on an application made by a party to such proceedings, the court shall not ordinarily call for the record of the proceedings,-(a)without giving the other party an opportunity of showing cause why the record should not be called for; or(b)if it is satisfied that an examination of the record of the proceedings may be made from the certified copies."

91. Procedure for launching Prosecution.

(1)As soon as a violation of any of the provisions of the Act is detected, the excise officer or the police officer, of the rank of assistant sub inspector and above, shall register a case under the Act.(2)The excise officer or police officer concerned shall then proceed for investigation of the case.(3)After investigation of the case, he shall file a Report within Sixty -Days from the date of registration of the case.(4)The Report so filed shall be deemed to be a Police Report for the purposes of Section- 173(2) and Section-190 of the Code of Criminal Procedure ,1973 (Act 2 of 1974).(5)The Collector shall ensure that the aforementioned Report is filed in time and shall also monitor effective prosecution of the cases before the Courts.(6)The Superintendent of Police shall closely monitor the status of cases filed by the police officers under this Act and shall submit period reports to the Excise Commissioner and the Collector.

Chapter IX

Appeals and Revision

92. Appeals.

(1)All final orders passed by any Excise Officer other than the Excise Commissioner or Collector under this Act, shall be appealable to the Collector within sixty days from the date of the order.(2)All final orders passed by the Collector and Excise Commissioner shall be appealable to the Excise Commissioner and the State Government respectively within ninety days from the date of the order complained of.Provided that no second appeal shall lie against an order passed by the Excise Commissioner on appeal.(3)The State Government may make rules in this behalf.

93. Revision.

- The State Government may, on its own motion or on an application made to it, call for and examine the records of any proceeding before any Excise Officer or any document, including that

relating to renewal or refusal of license or grant of permit, passed under this Act, for the purpose of satisfying itself as to the correctness and legality of any order passed in, and as to regularity of, any such proceeding and may, when calling for such record, direct that the order be not given effect till the pendency of the examination of the record, so called for. After examining the record, the State Government may annul, reverse, modify or confirm such order, or pass such other order as it may deem fit.

Chapter X

Exemptions

94. Power of State Government to exempt intoxicants from the provisions of this Act.

- The State Government may, by notification, either wholly or partially, and subject to such conditions (if any) as it may think fit to prescribe, exempt any intoxicant or any manufactory of an intoxicant from all or any of the provisions of this Act, either throughout the State or any specified area of the State, for any specified period or occasion or for any specified class of persons and for such purposes.

Chapter XI

Miscellaneous

95. Power of the State Government to make rules.

(1) The State Government may, by notification, in the Official Gazette, make rules not inconsistent with the provisions of this Act to carry out the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-(a) prescribing the powers and duties of excise officers; (b) prescribing the manner of dealing with appeal and revision; (c) prescribing the process of filing prosecution report by the excise officers; (d) prescribing the procedure for appointment of Special Public Prosecutors or Additional Public Prosecutors; (e) prescribing the manner of monitoring of prosecution of all cases filed under the Act by the Collector; (f) declaring the process and procedure of manufacturing, storage, disposal and denaturation of spirit and ethanol; (g) regulating the time, place, rate and manner of payment of duty or fee and taking of security for its due payment; (h) prescribing the authority by which, the form and the manner in which, and the terms and conditions, subject to which any license, permit or pass shall be granted; (i) providing for destruction or other disposal of any liquor deemed to be unfit for use; (j) regulating disposal of confiscated articles; (k) providing for the grant of reward to excise officers and informers; (l) regulating the grant of expenses to witnesses; (m) regulating the power of excise officer to summon witnesses; (n) curbing activities of boot-leggers who distill, manufacture, store, transport, import, export, sell or distribute any liquor or intoxicant in contravention of any provisions of this Act or the rules made there under; (o) prescribing the manner and procedure for sealing of premises, confiscation and

community fine as mentioned in the Act;(p)prescribing the delegation of various powers and duties between the Board, the Excise Commissioner or the Collector;(q)any miscellaneous matter for which the Government feels essential to make rules for;(r)any other matter which is required to be, or may be prescribed under this Act;(3)Every rule made under this Act shall be laid, as soon as may be after it is made, before the State Legislature while it is in session, for a total period of thirty 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 the State Legislature agrees in making such modifications in the rule or the State Legislature agrees that the rule should not be made, the rule shall 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.

96. Officers to be Public Servants.

(1)All officers and persons empowered to exercise any powers or to perform any functions under this Act shall be deemed to be public servants within the meaning of section-21 of the Indian Penal Code, 1860 (Act 45 of 1860).(2)No suit shall lie in any civil court against the State Government or any excise officer for damages for any act done in good faith or ordered to be done in pursuance of this Act or of any other law for the time being in force relating to the excise revenue.(3)No civil court shall try any suit against the State Government in respect of anything done, or alleged to have been done, in pursuance of this Act, and except with the previous sanction of the State Government, no Magistrate shall take cognizance of any charge made against any excise officer under this Act or made against any other person under this Act.

97. Orders to remain in force.

(1)Every order, notification, rule or regulation which was made under the Bihar Excise Act, 1915(Bihar and Orissa Act II of 1915), Bihar Excise (Amendment) Act, 1973, Bihar Excise (Amending & Validating) Act, 1981, Bihar and Orissa Excise (Amendment) Act, 1985, and the Bihar Excise (Amending and Validating) Act, 1995, Bihar Excise (Amendment) Act, 2016 (Bihar Act 3 of 2016), Bihar Prohibition Act, 1938 (Act 6 of 1938) by the State of Bihar or by the Excise Commissioner, Collector, the Board or any other Excise Officer appointed under those enactments, relating to the matter of Excise and which was in force immediately before the expiration thereof shall, in so far as such order or notification or rule or regulation is not inconsistent with the provisions of this Act, be deemed to continue in force and to have been made under this Act.

98. Repeal and Savings.

(1)The Bihar Excise Act, 1915 (Bihar and Orissa Act II of 1915) including its amending Acts called Bihar Excise (Amendment) Act, 1973, Bihar Excise (Amending & Validating) Act, 1981, Bihar and Orissa Excise (Amendment) Act, 1985, and the Bihar Excise (Amending and Validating) Act, 1995, and the Bihar Excise (Amendment) Act, 2016 (Act 3 of 2016)along with the Bihar Prohibition Act, 1938 (6 of 1938), are hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the said Act shall be deemed to have been done or taken under the corresponding

provisions of this Act.(3)All references in any enactment to any of the provisions of the Act so repealed shall be construed as references to the corresponding provisions of this Act.(4)All proceedings (including proceedings by way of investigations) pending before any Officer, Authority or Court, immediately before the commencement of this Act shall on such commencement be deemed to be proceedings pending before it as per this Act and shall continue to be dealt with accordingly.

99. Validation.

- Notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority,-(a)the provisions of the Bihar Excise Act, 1915(Bihar and Orissa Act II of 1915),Bihar Prohibition Act, 1938 (Act 6 of 1938) , Bihar Excise (Amendment) Act, 1973, Bihar Excise (Amending & Validating) Act, 1981, Bihar and Orissa Excise (Amendment) Act, 1985, and the Bihar Excise (Amending and Validating) Act, 1995, and the Bihar Excise (Amendment) Act,2016 (Act 3 of 2016) shall have and shall be deemed always to have effect for all purposes as if the provisions of the Bihar Excise Act, 1915(Bihar and Orissa Act II of 1915) and the Bihar Prohibition Act, 1938(6 of 1938), as amended by the aforesaid amendments, had been in force at all material times;(b)no suit or other proceedings shall, without prejudice to the generality of the foregoing provisions, be maintained or continued in any court or tribunal or authority for the enforcement of any decree or order or direction given by such court or tribunal or authority under the provisions of the Bihar Excise Act, 1915 (Bihar and Orissa Act II of 1915) and the aforesaid amending Acts and the Bihar Prohibition Act, 1938 (6 of 1938), as it stood before the commencement of the Bihar Prohibition and Excise Act, 2016.

100. Power to remove difficulty.

(1)If any difficulty arises in giving effect to the provisions of this Act the State Government may, by notification in the Official Gazette, make such provisions as it deems necessary or expedient for removing the difficulty.(2)Every notification issued under this section shall, as soon as may be after it is issued, be laid before the State Legislature.