

THE ANDHRA PRADESH INTOXICATING LIQUORS (PROHIBITION OF
ADVERTISEMENTS) ACT, 1978

ACT No.30 OF 1978

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ACT No.30 OF 1978

[27th October, 1978]

AN ACT TO PROHIBIT ADVERTISEMENTS IN RESPECT OF INTOXICATING
LIQUORS IN THE STATE OF ANDHRA PRADESH.

BE it enacted by the Legislature of the State of Andhra Pradesh in the Twenty- ninth year of the Republic of India as follows:-

1. Short title, extent and commencement- (1) This Act may be called the Andhra Pradesh Intoxicating Liquors (Prohibition of Advertisements) Act, 1978.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

2. Definitions- In this Act, unless the context otherwise requires,-

(1) 'advertisement' includes any notice, circular, lable, wrapper or other document or a cinematograph film or slide used, or any sky sign or sign-board, baloon, parachute or other similar device employed, or any announcement made, orally or by any means of producing or transmitting light, sound or smoke, as a means or method of attracting public attention;

(2) 'excise officer' means the Commissioner, the Collector or any officer or other person lawfully appointed or invested with powers under relevant provisions of the Andhra Pradesh Excise Act, 1968 (Act 17 of 1968);

(3) 'Government' means the State Government;

(4) 'liquor' includes,-

(a) spirits of wine, denatured spirits, methylated spirits, rectified spirits, wine, beer, toddy and every liquid consisting of or containing alcohol; and

(b) any other intoxicating substance which the Government may, by notification, declare to be liquor for the purpose of this Act;

(5) 'notification' means a notification published in the Andhra Pradesh Gazette, and the term 'notified' shall be construed accordingly;

(6) 'prescribed' means prescribed by rules made by the Government under this Act.

3. Prohibition of advertisements - Whoever prints or publishes, in any newspaper, book, leaflet, booklet or any other single or periodical publication, any advertisement or otherwise displays any advertisement to public view in any manner whatsoever in any place, whether public or private, or distributes any advertisement or other matter, soliciting the use of, or offering any liquor, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees or with both:

Provided that this section shall not apply-

(a) to plain catalogues and price lists which may be generally or specially approved by the Commissioner of Excise; or

(b) to advertisements in medical journals, or to notices and literature circulated exclusively to members of the medical profession, if such advertisement, notices or literature relate to any liquor which has been specially approved as of medicinal value -

(i) by the Medical Council established by the Andhra Pradesh Medical Practitioners Registration Act, 1968 (Act 23 of 1968); or

(ii) by any other Medical Council which has been established under any law for the time being in force in any other part of India, or which has been recognized by the Government of the State concerned; or

(iii) by such authority in respect of Indian Medicine as may be notified by the Government.

4. Power to enter and inspect places or premises and seize articles -(1) Any excise officer, not below the rank of an excise sub-inspector, or any police officer not below the rank of a sub-inspector shall have power to enter and inspect at any time, by day or by night, any place or premises, where he has reason to believe that an offence under this Act has been, is being, or is likely to be committed, and may seize and detain any article or thing which he has reason to believe to be liable to confiscation under this Act.

(2) Every person in occupation of any such place or premises shall allow the officer such access to the place or premises as may be necessary for the aforesaid purpose and shall answer to the best of his knowledge and belief any question put to him by such officer.

(3) If any officer empowered to make an entry under this section cannot otherwise make such entry, it shall be lawful for him to break open any outer or inner door or window and to remove any other obstacles to his entry into any such place or premises.

(4) Whoever does any act in contravention of the provisions of sub-section (2) shall be punished with fine which may extend to two hundred rupees.

5. Confiscation - (1) In any case in which an offence has been committed against any provisions of this Act, the materials, implements or apparatus in respect or by means of which the offence has been committed shall be liable to confiscation along with the receptacles, packages or coverings and animals, vessels, vehicles, carts or other conveyances used to hold or carry the same:

Provided that if anything is not the property of the offender it shall not be confiscated, if the owner thereof had no reason to believe that such offence was being or was likely to be committed.

(2) Where in any case tried by a court, the court decides that anything is liable to confiscation under this section it shall order confiscation of such thing.

(3) When an offence under this Act has been committed, but the offender is not known or cannot be found, or when anything liable to confiscation under this Act and not in the possession of any person cannot be

satisfactorily accounted for, the case shall be enquired into and determined by an excise officer, not below the rank of an excise superintendent who may order such confiscation:

Provided that no such order shall be made until the expiration of one month from the date of seizing the articles or things intended to be confiscated or without hearing the persons, if any, claiming any right thereto and evidence, if any, which they produce in support of their claims:

Provided further that if the article or thing in question is liable to speedy and natural decay or if the excise officer aforesaid is of opinion that the sale would be for the benefit of its owner, he may at any time direct it to be sold, and the provisions of this section shall, as nearly as may be practicable, apply to the net proceeds of such sale.

6. Compounding of offences - (1) The Commissioner of Excise or any excise officer specially empowered by the Government in that behalf may accept from any person who is reasonably suspected of having committed an offence under this Act, a sum of money not exceeding five thousand rupees and subject to such minima as may be prescribed by way of compensation for the offence which may have been committed; and in all cases in which any article or thing has been seized as liable to confiscation under this Act, he may release the same on payment of the value thereof as estimated by such officer.

(2) On the payment by the person the sum of money or the value or both, as the case may be, such person, if in custody shall be set at liberty, and all the articles or things seized may be released and no proceedings shall be instituted against such person in any criminal court. The acceptance of compensation shall be deemed to amount to an acquittal and in no case any further proceedings be taken against such person or article or thing with reference to the same act.

7. Offences under Act to be cognizable - Notwithstanding anything in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), all offences under this Act shall be cognizable.

8. Abetments and attempts - Whoever abets any offence punishable under this Act or attempts to commit any such offence, shall be punished with the punishment provided in this Act for such offence.

9. Protection of persons acting in good faith-No suit, prosecution or other legal proceeding shall be instituted against any person exercising powers under this Act, for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

10. Offences 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 the commission of the offence, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided 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 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 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 firm, means a partner in the firm.

11. Power to make rules- (1) The Government may, by notification, make rules for carrying out all or any of the purposes of this Act.

(2) Every rule made under this section shall, immediately after it is made, be laid before each House of the State Legislature if it is in session and if it is not in session, in the session immediately following, for a total period of fourteen days which may be comprised in one session, or in two successive sessions and if, before the expiration of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled 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.

(3) Any such rule may provide that any breach or contravention thereof shall be punished with fine which may extend to fifty rupees.

12. Cesser of section 6 of Act X of 1937 - With effect on and from the commencement of this Act, the provisions of section 6 of the Andhra Pradesh (Andhra Area) Prohibition Act, 1937, shall cease to apply in so far as they relate to advertisements pertaining to intoxicating liquors.