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PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.**

The following Act of the Gujarat Legislature having been assented to by the Governor on the 5th February 1978 is hereby published for general information.

S. L. TALATI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 9 OF 1978.

(First published after having received the assent of the Governor in the "Gujarat Government Gazette" on the 14th February, 1978.).

An Act further to amend the Bombay Prohibition Act, 1949.

It is hereby enacted in the Twenty-eighth Year of the Republic of India as follows :—

1. This Act may be called the Bombay Prohibition (Gujarat Amendment) Act, 1978. **Short title.**

Amendment
of section 2
of Bom.
XXV of
1949.

2. In the Bombay Prohibition Act, 1949 (hereinafter referred to as "the principal Act"), in section 2,—

Bom.
XXV
of
1949.

(1) in clause (23), for sub-clause (b), the following shall be substituted, namely:—

"(b) *churns*, that is, the separated resin, whether crude or purified, obtained from cannabis plant;";

(2) in clause (30), in sub-clause (b), the words "which has not been submitted to any manipulation other than those necessary for packing and transport" shall be deleted;

(3) after clause (39), the following clause shall be inserted, namely:—

"(39A) "rotten gur" means the article known as gur, gul, jaggery, palmyra jaggery or rab and other intermediary product prepared by boiling or processing juice pressed out of sugar cane or extracted from palmyra palm, date palm, sago palm, brab palm or coconut palm, with or without admixture of molasses, and which is in a liquid form or a semi-liquid or viscous form and which has a dark brown or a black colour or which, inspite of being in a solid, liquid, semi-liquid or viscous form, is unfit for human consumption owing to its becoming filthy, putrid, disgusting or decomposed;";

(4) for clause (45), the following shall be substituted, namely:—

"(45) "territorial waters" with reference to the State, means any part of the open sea within a distance of twelve nautical miles from the nearest point of the appropriate base line or such other distance as may be fixed by or under any law made by Parliament;".

Insertion
of new
sections
24-1A and
24-1B in
Bom.
XXV of
1949.

3. In the principal Act, after section 24, the following sections shall be inserted, namely:—

Prohibition
of
consumption
of medicinal
preparation
containing
alcohol in
excess of
normal
dose.

"24-1A. No person, shall for the purpose of producing a state of intoxication, consume any medicinal preparation containing alcohol in any quantity exceeding the normal dose.

Explanation.—The expression "normal dose", in relation to any medicinal preparation, means the quantity prescribed by a registered medical practitioner to be taken at a time and in a case where no such prescription has been obtained, the quantity indicated to be taken at a time in the directions given by the manufacturer of the medicinal preparation.

Prohibition
of entry
in State in
intoxicated
condition.

24-1B. No person who has consumed any intoxicant (other than opium) or hemp in any place outside the State shall enter any territory of the State while he is in an intoxicated condition or under the influence of such intoxicant or hemp."

4. In the principal Act, in section 28, in sub-section (3), in clause (d), for the words "ten miles" the words "sixteen kilometres" shall be substituted.

Amendment of section 28 of Bom. XXV of 1949.

5. In the principal Act, in section 40,—

Amendment of section 40 of Bom. XXV of 1949.

(a) in sub-section (1), for the word "permits" the words "a temporary resident's permit" shall be substituted;

(b) for the marginal note, the following shall be substituted, namely:—

"Temporary resident's permits."

6. In the principal Act, in section 54, in sub-section (1), in clause (d),—

Amendment of section 54 of Bom. XXV of 1949.

(i) for the words, figures and brackets "or under the Drugs Act, 1940 or under the Bombay Drugs (Control) Act, 1952" the words, figures and brackets "or under the Drugs and Cosmetics Act, 1940 or under the Bombay Drugs (Control) Act, 1959" shall be substituted; and

XXIII of 1940. Bom. XXIX of 1952. XXIII of 1940. Bom. XI of 1960.

(ii) for the words and figures "or of any offence punishable under Article 8 of the Schedule to section 167 of the Sea Customs Act, 1878" the words, figures, brackets and letter "or of any offence punishable under section 112 of the Customs Act, 1962 for an act specified in clause (d) of section 111 of the said Act, including the abetment of the doing, or the omission, of such act" shall be substituted.

VII of 1878.

LII of 1962.

7. In the principal Act, after Chapter VI, the following new Chapter shall be inserted, namely:—

Insertion of new Chapter VI-A in Bom. XXV of 1949.

"CHAPTER VI-A.

CONTROL AND REGULATION OF ROTTEN GUR AND AMMONIUM CHLORIDE.

64. No person shall have in his possession, except under a permit granted by an officer empowered by the State Government in that behalf, any quantity of rotten gur in excess of such quantity as the State Government may, by notification in the *Official Gazette*, specify.

Prohibition against possession of rotten gur in excess of prescribed limit.

64A. No person shall manufacture, use or consume rotten gur except under the authority, and in accordance with the terms and conditions of, a licence, permit, pass or authorisation granted for the purpose by an officer empowered in that behalf by the State Government.

Regulation of manufacture, etc. of rotten gur.

Regulation of manufacture etc. of ammonium chloride.

64B. No person shall manufacture, use or have in his possession ammonium chloride, in excess of such quantity as the State Government may, by notification in the *Official Gazette*, specify, except under a licence, permit, pass or authorisation granted by an officer empowered by the State Government in that behalf.

Provision of sections 53 to 59 to apply to licences, permits, etc., granted under sections 64, 64A and 64B.

64C. The provisions of sections 53 to 59 (both inclusive) shall, so far as may be applicable, apply to licences, permits, passes or authorisations granted under sections 64, 64A and 64B."

Amendment of Section 66 of Bom. XXV of 1949.

8. In the principal Act, in section 66,—

(1) in sub-section (1), after clause (d), the following new clause shall be inserted namely:—

"(e) enters the territory of the State in an intoxicated condition or under the influence of an intoxicant (other than opium) or hemp, after having consumed such intoxicant or hemp at any place outside the State,";

(2) in sub-section (2),—

(a) after the words "for the consumption of an intoxicant", the words, brackets, letter and figure "or in any trial of an offence under clause (e) of sub-section (1) for entry in the territory of the State after consumption of an intoxicant or hemp at any place outside the State" shall be inserted;

(b) for the words "the liquor consumed was a medicinal or toilet preparation," the words, figures and letter "the liquor consumed was a medicinal preparation consumed in quantity not in excess of normal dose as defined in section 24-1A or that the liquor consumed was a toilet preparation" shall be substituted.

Insertion of new section 70A in Bom. XXV of 1949.

9. In the principal Act, after section 70, the following new section shall be inserted, namely:—

Penalty for illegal possession, etc. of rotten gur or ammonium chloride.

"70A. Whoever in contravention of the provisions of this Act, or any rule, regulation or order made or of any licence, permit, pass or authorisation granted thereunder possesses, manufactures, uses or consumes rotten gur or ammonium chloride shall, on conviction, be punished with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees."

Amendment of section 103 of Bom. XXV of 1949.

10. In the principal Act, in section 103, after sub-section (1), the following sub-section shall be inserted, namely:—

"(2) Where in any trial of an offence of manufacturing liquor or any intoxicating drug and using a still for such purpose in contravention of the

provisions of this Act, it is proved that the accused person was present by the side of the still while it was working or that he was the owner or occupier having the care, management or control of the place wherein such still was used, then the burden of proving that the accused person had not used, or had not abetted in using the still for manufacturing liquor or an intoxicating drug shall be on the accused person and the court shall, in the absence of such proof, assume to the contrary."

11. In the principal Act, in section 105, after sub-section (I), the following new sub-sections shall be added, namely:—

Amendment of section 105 of Bom. XXV of 1949.

"(2) All notifications or orders issued under sub-section (I) shall be laid for not less than thirty days before the State Legislature as soon as may be after they are issued and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect."

12. In the principal Act, after section 106, the following new section shall be inserted, namely:—

Insertion of new section 107 in Bom. XXV of 1949.

"107. The State Government may, by rules, prescribe the fees payable in respect of any privilege, licence, permit, pass or authorisation granted or issued under this Act."

Fees.

13. In the principal Act, after section 116A, the following new section shall be inserted, namely:—

Insertion of new section 116B in Bom. XXV of 1949.

"116B. Where in any trial for any offence of unlawful possession of liquor under this Act, it is proved that the accused person was in the possession of any sealed bottle bearing the original label indicating the name of any known brand of spirits, such as whisky, brandy, rum, gin, club cup, liqueurs, milk punch, or of wines such as champagne, moselle, burgundy, chianti, white wines, clarets, hocks, riesling, meceira, ginger-wine, port type, port vermouth, sherry, wincarnis, vibrona, manola, buckfast, tonic-wine, or of fermented liquors such as ale, beer, milk-stout (porter), cider, and the name of its manufacturer it shall be presumed that the accused person was in possession of liquor."

No analysis required for known brand of liquor.

14. In the principal Act, after section 117, the following new section shall be inserted, namely:—

Insertion of new section 117A in Bom. XXV of 1949.

"117A. (1) If the Commissioner of Police or the District Superintendent of Police, as the case may be, considers that in any gram, nagar, municipal borough or city, or in any locality thereof it is necessary to have a list of local persons liable to serve as pancha witnesses for searches made and for

Maintenance of list of Panchas.

such other purposes connected with the investigation of offences under this Act, the Commissioner of Police or the District Superintendent of Police, as the case may be, may request the gram panchayat, the nagar panchayat, the municipality, or the municipal corporation, of such gram, nagar, municipal borough or city respectively to prepare and maintain such list for such gram, nagar, municipal borough, city or any locality thereof, and thereupon it shall be the duty of such panchayat, municipality or municipal corporation to prepare and maintain such list.

(2) The State Government shall, by rules, prescribe the age and qualifications of persons who may be considered suitable for being included in any such list, the procedure for preparing, publishing and maintaining such list and the period for preparing, publishing and maintaining such list and the period for which such list shall remain in force.

(3) Every person whose name is included in such list shall, when so required by a prohibition officer or a police officer, be bound to serve as a pancha witness."

Amendment
of
section 128A
of Bom.
XXV of
1949.

15. In the principal Act, in section 128A, for the words "denatured spirituous preparations" the words "denatured spirituous preparations, rotten gur or ammonium chloride" shall be substituted.

Amendment
of
section 143
of Bom.
XXV of
1949.

16. In the principal Act, in section 143, in sub-section (2),—

(1) after clause (b), the following clause shall be inserted, namely:—

"(bb) regulating the possession, manufacture, use and consumption of rotten gur and the possession, manufacture and use of ammonium chloride;"

(2) in clause (f), for the word, brackets and letter "clause (b)" the words, brackets and letters "clauses (b) and (bb)" shall be substituted;

(3) in clause (g), for the word, brackets and letter "clause (b)" the words, brackets and letters "clauses (b) and (bb)" shall be substituted;

(4) in clause (h), for the word, brackets and letter "clause (b)" the words, brackets and letters "clauses (b) and (bb)" shall be substituted;

(5) in clause (hl),—

(a) in sub-clause (iii), for the words "denatured spirituous preparation or hemp" the words "denatured spirituous preparation, hemp, rotten gur or ammonium chloride" shall be substituted;

(b) in sub-clause (v), for the word "intoxicant" the words "intoxicant, rotten gur or ammonium chloride" shall be substituted;

(c) in sub-clause (viii), for the words "mhowra flowers or molasses" the words "mhowra flowers, molasses, rotten gur or ammonium chloride" shall be substituted;

(6) in clause (k), for the words "mhowra flowers or molasses" the words "mhowra flowers, molasses, rotten gur or ammonium chloride" shall be substituted;

(7) in clause (n), for the words "intoxicant or hemp" the words "intoxicant, hemp, rotten gur or ammonium chloride" shall be substituted;

(8) in clause (o), for the words "intoxicant or hemp" the words "intoxicant, hemp, rotten gur or ammonium chloride" shall be substituted;

(9) in clause (p), for the words "mhowra flowers or molasses" the words "mhowra flowers, molasses, rotten gur or ammonium chloride" shall be substituted ;

(10) in clause (r), for the words "sample of molasses" the words "samples of molasses, rotten gur or ammonium chloride" shall be substituted.

17. In the principal Act, in section 144, in sub-section (1),—

Amendment
of section
144 of Bom.
XXV of 1949.

(1) in clause (a), for the words "mhowra flowers or molasses" the words "mhowra flowers, molasses, rotten gur or ammonium chloride" shall be substituted ;

(2) in clause (b), for the words "mhowra flowers or molasses" the words "mhowra flowers, molasses, rotten gur or ammonium chloride" shall be substituted;

(3) in clause (d), for the words "mhowra flowers or molasses" the words "mhowra flowers, molasses, rotten gur or ammonium chloride" shall be substituted.

18. In the principal Act, in section 146B, for the words "mhowra flowers or molasses" the words "mhowra flowers, molasses, rotten gur or ammonium chloride" shall be substituted.

Amendment
of
section 146B
of Bom.
XXV of
1949.

19. (1) The Bombay Prohibition (Gujarat Amendment) Ordinance, 1977 is hereby repealed.

Repeal
and
savings.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act as if this Act had come into force on the date on which the said Ordinance had come into force,

Guj.
Ord.
No. 8
of
1977.