

THE JHARKHAND PROHIBITION OF SMOKING AND NON-SMOKERS HEALTH PROTECTION ACT, 2002

[Act No. 3 of 2003]

PREAMBLE

An Act to provide for prohibiting of smoking in places of public work or use and in public service vehicles in the State of Jharkhand and to make provision for other matters connected therewith.

Be it enacted by the Legislative Assembly of Jharkhand in the fifty third year of the Republic of India, as follows:-

Section 1 - Short title, extent and commencement

(i) This Act may be called the Jharkhand Prohibition of Smoking and Non-Smokers Health Protection Act, 2002.

(ii) It extends to the whole of the State of Jharkhand.

(iii) It shall come into force on such date as the Government may, by Notification in the Official Gazette, appoint;

Provide that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Section 2 - Definitions

In this Act, unless the context otherwise requires:-

(a) 'advertisement' means and includes any notice, circular, wall paper, pamphlet, display on hoardings or any visible representation made by means of any light, sound, smoke, gas or any other means which has the effect of promoting smoking and the expression 'advertise' shall be construed accordingly;

(b) 'authorized officer' means a person authorized under section 4;

(c) " State" means the State of Jharkhand.

(d) 'Government' means the Government of Jharkhand.

(e) "place of public work or use" means a place declared as such under section-3 and includes auditoria, hospital, buildings, health institutions, amusement centres, public offices, court buildings, educational institutions, libraries, but does not include any open place;

(f) "public service vehicle" means a vehicle as defined under clause (35) of section-2 of Motor Vehicle Act, 1988, and

(g) 'smoking' means smoking of tobacco in any form whether in the form of cigarette, cigar, beedies or otherwise with the aid of a pipe, wrapper or any other instruments.

Section 3 - Declaration of non-smoking places of public work or use

As soon as may be after the commencement of this Act and thereafter from time to time, the Government may, by notification in the Official Gazette, declare any place of public work or use in the State to be a non-smoking place for the purpose of this Act.

Section 4 - Power of Government to authorize officers to act under this Act

(i) The Government may, by notification in the official Gazette, authorize one or more persons who shall be competent to act under this Act.

(ii) Every person authorized under sub-section (1) shall be deemed to be a "public servant" within the meaning of section 21 of the Indian Penal Code, 1860.

Section 5 - Prohibition of smoking in places of public work or use

No person shall smoke in any place of public work or use.

Section 6 - Prohibition of smoking public vehicles

Without prejudice to the provisions of the Motor Vehicles Act, 1988, no person shall smoke in a public service vehicle.

Section 7 - Prohibition on advertisement of cigarettes etc

Notwithstanding anything contained, in any other law for the time being in force, no person shall advertise in any place and or any public service vehicle which may promote smoking, or the sale of cigarettes, beedies etc.

Section 8 - Prohibition of sale and distribution or storage for sale of cigarettes, etc. in the place of public work or use

No person shall, himself or by any person on his behalf, sell or distribute or store for sale of cigarettes or beedies or any other smoking substance within the place of public work or use.

Section 9 - Display and exhibition or board

The owner or manager or in-charge of affairs of every place of public work or use shall display and exhibit a board at a conspicuous place or places in and outside the premises visited or used by general public prominently stating that the place is a "No Smoking Zone" and that "Smoking is an offences"

Section 10 - Penalties

Any person, who contravenes the provisions of-

(i) sections, 5, 6 or 9 shall be punishable with fine which may extend to one hundred rupees and in case of second or subsequent offences, shall be punishable with a minimum fine of two hundred rupees, but which may extend to five hundred rupees;

(ii) Sections 7 or 8 shall be punishable with fine which may extend to five hundred rupees and in case of second or subsequent offences, shall be punishable with imprisonment which may extend to three months or with a minimum fine of five hundred rupees, but which may extend to one thousand rupees or with both.

Section 11 - Ejection of violators of this Act from the place of public work or use

Any authorized officer, or any Executive Magistrate or any police officers, not below the rank of sub-Inspector, may eject any person from the place or public work or use who contravenes the provision of this Act.

Section 12 - Court competent to try offences under this Act and take cognizance of offences

(i) Notwithstanding anything to the contrary contained in the Criminal Procedure Code, 1973 no court other than the court of a Executive Magistrate shall take cognizance of any try an offence under this Act.

(ii) No court shall take cognizance of any offence this Act except on a complaint in writing or an authorized officer with respect to offences under sections 5, 6 and 9 and on a report in writing of a police officer, not below the rank or Sub-Inspector, with respect to the offences under sections 7 & 8.

Section 13 - Certain offences to be cognizable and bailable

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 offences under section 7 & 8 shall be cognizable and bailable.

Section 14 - All offences under the Act to be tried summarily

All offences under this Act shall be tried summarily in the manner provided for summary trial under the Code of Criminal Procedure, 1973

Section 15 - Power to delegates

The Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act, may also be exercised by such officer as may be mentioned therein, subject to such conditions, if any, as may be specified therein.

Section 16 - Composition of offences

The Government or any person authorized by it by general or special order in this behalf, may either before or after the institution of the proceeding, compound any offences made punishable by or under this Act.