

Tamil Nadu Plastic Articles (Prohibition of Sale, Storage, Transport and Use) Bill, 2002

A Bill to provide for prohibition of sale, storage, transport and use of certain plastic articles for the protection of environment and public health and for matters connected therewith or incidental thereto.

Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifth-third Year of the Republic of India as follows:

Short title and commencement

1. (1) This Act may be called the Tamil Nadu Plastic Articles (Prohibition of Sale, Storage, Transport and Use) Act, 2002.

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

Declaration

2. It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles laid down in Article 48-A of the Constitution.

Definitions

3. In this Act, unless the context otherwise requires:
 - a. “authorized officer” means an officer or authority authorized by the Board to exercise the powers and to perform the functions of the authorized officer under this Act. Different officers or authorities may be authorized for different areas:

Central Act 6 of 1974
 - b. “Board” means the Tamil Nadu Pollution Control Board constituted under section 4 of the Water (Prevention and Control of Pollution) Act, 1974;
 - c. “non-reusable” in relation to an article means the article which is ordinarily used only once and then discarded;
 - d. “food” means ready to eat food and food products, fast food, processed and cooked food, for human consumption whether in liquid, powder, solid or semi-solid form and includes such other article as may be notified by the Government.
 - e. “food establishment” means a restaurant, hotel including residential hotel, canteen, marriage hall, eating house or any other place or premises where food is prepared, served or supplied to any person for consumption, whether on payment or otherwise;

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f. “Government” means the State Government

4. (1) No person shall sell, store, transport or use any non-reusable carry bag, cup, tumbler or plate made of, or containing, plastic and such other article as may be notified by the non-government in this behalf.

(2) No person shall sell, store, distribute or transport any magazine or periodical packed in plastic wrapper.

(3) Nothing in this section shall apply to the sale, transport or storing of the plastic articles or the magazine or periodical referred to in sub-sections (1) and (2) for sale or use outside the State of Tamil Nadu.

Prohibition of use of plastic articles in food establishment

5. On and from such date as may be notified by the Government in this behalf, no owner or person in charge of any food establishment shall use of permit the use of any plastic article in such food establishment.

Explanation: For the purpose of this section, “plastic article” means any non-reusable carry bag, cup, tumbler, plate, spoon, fork, knife, straw, box, string, cord, sheet, mat or other article made of, or containing, plastic and such other article as may be notified by the government.

Power of entry, search and seizure.

6. (1) For the purpose of carrying out the provisions of this Act or the rules made or directions issued there under, the authorized officer may, at all reasonable hours with or without assistance.

- a. Enter and inspect at any time, any place in which it is reasonably suspected that an offence under this Act has been or is being, or is about to be, committed;
- b. Seize any plastic article in respect of which he has reason to believe that any provision of this Act has been, is being, or is about to be, contravened, along with the packages, coverings or receptacles in which such plastic article is found and thereafter take all measure necessary for securing the production of such plastic articles, packages, coverings or receptacles, so seized, in a court and for their safe custody pending such production.

Central Act 2 of 1974

(2) All searches and seizures under sub-section (1) shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973.

Penalty

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7. (1) (a) Whoever sells, stores or Penalty, transports any plastic article in contravention of sub-section (1) of section 4 shall be punished with fine which shall not be less than five thousand rupees, but which may extend to Twenty five thousand rupees;
- (b) Whoever uses any plastic article in contravention of sub-section (1) of section 4 shall be punished with fine which shall not be less than one hundred rupees but which may extend to Five hundred rupees;
- (2) Whoever contravenes the provisions of sub-section (2) of Section 4 shall be punished with fine which shall not be less than one thousand rupees but which may extend to Five thousand rupees;
- (3) Whoever contravenes the provisions of section 5 shall be punished with fine which shall not be less than five thousand rupees but which may extend to Fifty thousand rupees but which may extend to fifty thousand rupees and in case of continuing contravention, with additional fine which may extend to ten thousand rupees for every day during which such contravention continues, after conviction for the first such contravention.

Offences by companies

8. (1) Where an offence under this Act has been committed by a company every person who, at the time the offence was committed, was in charge of, and was responsible to the company or the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly;

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in sub-section (1), where any such offence under this act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any 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 purpose of this section:

- (a) "company" means any body corporate and includes a trust, a firm, society or other association of individuals; and
- (b) "director" in relation to -
 - (i) a "firm" means a partner in the firm;

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- (ii) a "society" a trust or other or other association of individuals", means the persons entrusted under the rules of the society, trust or other association, with the management of the affairs of the society, trust or other association, as the case may be

Cognizance of offences

9. No Court shall take cognizance of any offence punishable under this Act, except on a complaint in writing made by -

- (a) the authorised officer; or
- (b) any persons who has given notice of not less than thirty days in writing, of the alleged offence and of his intention to make a complaint, to the authorised officer.

Power to compound offences

10. (1) The authorised officer may accept from any person who has committed or is reasonably suspected of having committed an offence under this Act by way of composition of such offence, a sum of money which shall not be less than the minimum but which shall not exceed the maximum fine prescribed for such offence under section 7.
- (2) On payment of such sum of money to the authorised officer, the accused person, shall be discharged and no further proceedings in respect of that offence shall be taken against such person.

Power of Government to give direction

11. The Government may issue to the Board or to the authorised officer such directions as in their opinion are necessary or expedient for carrying out the purposes of this Act and the Board or the authorised officer, as the case may be, shall give effect to all such directions.

Protection of action taken in good faith

12. No suit, prosecution or other legal proceeding shall lie against the Government, the Board or the authorised office or any officer or servant of the Government or of the Board, for anything which is in good faith done or purported to be done in pursuance of this Act or the rules made thereunder.

Overriding effect of this Act

13. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any contract.

Power to make rules

14. (1) The Government may make rules for carrying out the purposes of this Act.

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(2) Every rule made or notification issued under this Act shall, as soon as possible after it is made or issued, be placed on the table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session. The Assembly makes any modification in any such rule or notification, or the Assembly decides that the rule or notification, or the Assembly decides that the rule or notification should not be made or issued, the rule or notification shall thereafter 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 under that rule or notification.

Statement of Objects and Reasons

In this State there is rapid increase in the use of plastic articles, particularly in the use of non-reusable carry bag, cup, tumbler, plate, spoon, fork, straw, string, cord, sheet, mat and other such articles made of, or containing plastic, particularly in retail shops, hotels including residential hotels, restaurants, canteens, marriage halls, eating houses, and other places where food is prepared, served or supplied for consumption. Plastic is non-biodegradable. The aforesaid, non-reusable plastic articles are thrown away after one time use. This causes significant environment risk and health hazards. Further, the municipal solid waste, much of which consists of non-biodegradable plastic material, stored in land fills contaminates under ground water causing serious health hazards, besides obstructing the seepage of rain water into land thereby hindering recharge of ground water.

2. As there is urgent need for a legislation to protect public health, the Government have decided to prohibit the sale, storage, transport and use of non-reusable articles made of, or containing plastic in this State.
3. The Bill seeks to give effect to the above decision.

P. MOHAN

Minister for Forest & Environment

Memorandum regarding delegated legislation

1. Clauses 1(2), 3(a) and (d), 4(1), 5 and 14 authorise the Government and the Board to prescribe the manner and method of giving effect to certain provisions of the proposed Act when enacted and brought into operation by issuing suitable notifications or making Rules as the case may be.
2. The powers delegated are normal and not of an exceptional character.

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