

THE KERALA PROHIBITION OF PLASTIC ARTICLES BILL

A bill to prohibit the production, supply, storage and sale of non-reusable plastics in the State.

Preamble.—WHEREAS it is expedient to prohibit the production, supply, storage and sale of non-reusable plastics in the State for the protection of environment and public health;

BE it enacted in the Fifty ninth year of the Republic of India as follows:

1. Short title extent and Commencement.—(1) This Act may be called the Kerala Prohibition of Non-reusable Plastic Act—

(2) It shall extend to the whole of the State.

(3) It shall come into force on such date as may be notified by the Government.

2. Definition.—In this Act, unless the context otherwise requires.—

(a) “Authorised Officer” means the officers designated under sub-section (2) of Section 4.

(b) “Plastic Article” means any non-reusable carry bag, cup, tumbler, plate, spoon, 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.

(c) “non-reusable” means plastic article which is ordinarily used only once and then discarded.

3. Restriction on manufacture, sale, distribution and use of non-reusable plastics.—(1) No person shall manufacture, stock, distribute, sell or use any nonreusable plastic article thickness of which is less than 50 microns or such other higher microns as may be notified by the Government.

(2) The following specifications are applicable to the plastics articles used in the State, namely:-

i) The minimum thickness of plastic carry bags and containers including plastic cups, bottles and packaging material shall be 50 micron.

(ii) The thickness in micron, material and identity of manufacturer shall be printed on each carry bag and container.

(iii) The minimum size of plastic carry bags shall be 20 × 30 cm.

(iv) No plastic carry bag or container shall be made of halogenated material.

4. Punishment.—(1) Whoever violates the provisions of this Act is liable to be punished for imprisonment for a term which may extend to six months and a fine not exceeding five thousand rupees.

(2) A Judicial Magistrate of the First Class shall have jurisdiction to try the offences under this Act.

5. Offences by companies.—(1) Where an offence under this Act has been committed by a company or firm every person who, at the time the offence was committed, was in charge of, and was responsible to the company or firm the conduct of the business of the company or firm as well as the company or firm 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 or firm 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 partner, director, manager, secretary or other officer of the company or firm such partner, 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” includes a partner in the firm;

(ii) a “society, a trust 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.

6. Local Authority to monitor the implementation of the Act.—(1) It shall be the duty of every local body in the State to implement the provisions of this Act.

(2) Every local authority shall designate such officers as Authorised Officers as it deems necessary for effectively carrying out the provisions in the Act. Every retired officials, public workers and others with adequate technical knowledge in the field may also be notified by the local authority as authorized officers.

(3) The officer designated under sub-section (2) may initiate prosecution proceedings for violation of the provisions of the Act.

7. Power of entry, search and seizure.—(1) For the purpose of carrying out the provisions of this Act or the rules made, 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 measures 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.

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

8. Compounding of offences.—(1) The officers designated under sub-section (2) of Section 6 may compound the offence of violation of the provisions of the Act after realizing an amount not exceeding the maximum amount of fine specified in Section 4.

(2) No compounding of an offence shall be made for the repetition of the offence by the same person.

9. Local Authority to dispose of plastics.—(1) Local Authority shall make necessary arrangement to collect the used plastics in their area of jurisdiction.

(2) The plastics collected by the local authority shall be burnt by using the latest technology for burning without affecting the health of the people.

10. Power to make rules.—(1) The Government may by notification in the Gazette, make rules to carry out the provisions of this Act.

(2) Every rule made under this section, shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule 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 any thing previously done under that rule.

The purpose of the bill is to enact a legislation prohibiting the manufacture, sale and use of non-reusable plastic materials which is defined as plastic materials having thickness not less than 50 microns. Violation of the provision in the bill is made an offence punishable with imprisonment for 6 months and a fine of Rs. 5,000. Local authorities are authorized to enforce the provisions of the bill strictly. For implementing the provisions local authorities can appoint sufficient number of officers who are given rights to initiate prosecution against the violation of the provisions, seize the article etc. A judicial Magistrate of the First Class is designated as the authority authorized to try and dispose of the proceedings initiated under the Act. The local authority is bound to collect and burn the used plastic articles adopting latest technology without causing any pollution and causing danger to life.
