

AS INTRODUCED IN THE RAJYA SABHA
ON 6TH DECEMBER, 2019

Bill No. LXIX of 2019

THE RIGHT TO BREATHE CLEAN AIR BILL, 2019

A

BILL

to provide every citizen the right to breathe clean air, free from pollutants and industrial effluents; to empower the appropriate authorities to combat air pollution; to enhance air quality monitoring across urban and rural areas; to give legislative sanction to the national-level strategy set out in the National Clean Air Program (NCAP) and for matters connected therewith or incidental thereto.

WHEREAS the right to breathe clean air enumerates from protection of life and personal liberty as enshrined in article 21 of our Constitution;

AND WHEREAS this right to clean air has been interpreted to mean, but is not limited to, the freedom to live and breathe clean air, without regard whether an individual is in rural or urban India;

AND WHEREAS the right to clean air requires access without discrimination, but due to economic disparity, only a privileged few have access to clean air;

AND WHEREAS vehicular, industrial and dust pollution and construction works are the major sources of pollutants across the urban parts of the nation and biomass burning remains

a concern in the rural areas, with particulate matters proving to be the major challenge across the nation;

AND WHEREAS the right to clean air should be a right available to future generations of Indians, just as our ancestors taught us to live in harmony with the environment;

NOW, THEREFORE, it is necessary to provide for an enforceable means to protect the access and right of all individuals to clean air.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Right to Breathe Clean Air Act, 2019.

(2) It shall extend to the whole of India, save as otherwise provided in this Act.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. 5

Definitions.

2. (1) In this Act unless the context otherwise requires:—

(a) "appropriate Government" means in relation to the Central Government or a Union Territory Administration, the Central Government; in relation to a State Government, that State Government; and in relation to public authority which is established, constituted, owned controlled or substantially financed by funds provided directly or indirectly:— 10

(i) by the Central Government or a Union Territory Administration, the Central Government;

(ii) by a State Government, that State Government;

(b) "appropriate authority" means the Environment Pollution (Prevention and Control) Authority (EPCA) as constituted under the Environment (Protection) Act, 1986 or other such body as the Central Government may deem fit to carry out such functions; 15 29 of 1986.

(c) "Clean air" means air that does not contain pollutants or such substances, in such concentration or emission above the limits or levels of exposure as are set out in— 20

(i) Schedule I (pollutants relating to local and atmospheric pollution);

(ii) Schedule II (indoor air pollutants);

(iii) Schedule III (pollutants causing environmental harm);

(iv) Schedule IV (pollutants causing climate change); 25

to this Act;

(d) "pollutants" means those particles, gases or other substances that are emitted directly into the air or are formed from secondary chemical reactions in the air, including smoke, grit, dust, fumes, aerosols, volatile organic compounds, carbon dioxide, and other greenhouse gases; and 30

(e) "pollution free zones" means those geographical areas as defined by orders passed by the appropriate authority from time to time.

(2) All other words expressions used herein but not defined and defined in the General Clauses Act, 1897 or the Code of Criminal Procedure, 1973 as the case may be, shall have the same meanings as assigned to them in those Acts. 10 of 1897. 35 2 of 1974.

Right to clean
air.

3. In exercising the powers conferred by this Act, regard shall be had to the following considerations, namely:—

(1) that the right to breathe clean air shall be right available to each individual, irrespective of socio-economic background, and that such right shall not be circumscribed in any way; 40

(2) that article 21 of the constitution enumerates the right to clean air as a fundamental right and that India is party to international treaties which expressly state such a right;

5 (3) that the Environment Pollution (Prevention and Control) Authority (EPCA) shall take into account the best available scientific knowledge and guidance on ambient air pollutants from the World Health Organization (WHO);

(4) that the EPCA shall take the necessary steps to ensure that all industries, factories, workplaces, manufacturers, shall be monitored for signs of air pollution;

10 (5) that employers shall ensure that adequate measures are taken to ensure that ambient air quality in the workplace is within prescribed norms;

(6) that while there may be exceptions and restrictions to this right, due regard shall be paid to ensuring that such restriction and exceptions are limited by nature of time and space.

15 **4.** The Central Government may, if it considers it necessary or expedient to do so for the purposes of this Act, by order, grant the appropriate authority the exercise of such powers to perform the functions or taken the measures so mentioned in the order required to exercise those powers or perform those functions as mentioned in this Act.

Government to empower the appropriate authority.

5. (1) The appropriate authority shall ensure that:—

Functions of the appropriate authority.

20 (a) the accurate and regular assessment of air pollution is conducted across each district in India; and

(b) the provision of detailed information about air pollution and ambient air quality in India to the public on a weekly basis;

and may pass such order or regulation so as to comply with this duty.

25 (2) The appropriate authority, in order to monitor air pollution under sub-section (1), shall:—

(a) designate certain areas within metropolitan areas as 'pollution free zones';

(b) designate certain areas which may be exempt from the concentrations of pollutants as specified under Schedules I to IV as 'exempt zones' in such manner as may be prescribed;

30 (c) ensure regular sampling, measurement and modelling of ambient air pollutants, including the deposition of pollutants, listed in Schedule I;

(d) ensure regular sampling, measurement and reporting of indoor air pollutants listed in Schedule II;

35 **(e) ensure regular sampling, measurement and modelling of ambient pollutants causing primarily environmental harm listed in Schedule III; and**

(f) ensure regular sampling, measurement, modelling and reporting of other air pollutants causing climate change listed in Schedule IV.

(3) The appropriate authority may, in order to carry out its duties provided in sub-section (2) frame such regulations which shall:—

40 (a) require owners of buildings used as places of work to comply with the standards and concentrations of pollutants as listed in Schedules I to IV to this Act and to obtain a certificate of compliance which may be updated from time to time as per orders of the appropriate authority;

45 (b) specify the manner in which the certificate of compliance shall be suspended in respect of such owners of buildings which are used as places of work which no longer comply with the standards and concentrations of pollutants as listed in Schedules I to IV to this Act; and

(c) require the owners of buildings which are used as places of work which no longer comply with the standards and concentrations of pollutants as listed in Schedules I to IV this Act to pay a fine as laid out under Schedule V to this Act.

SCHEDULE I

[Clause 2(1) (C)]

POLLUTANTS RELATING TO LOCAL AND ATMOSPHERIC POLLUTION

Pollutant concentrations

<i>Pollutant</i>	<i>Unit</i>	<i>Averaging period</i>
Black carbon	6 µg/m ³	24 hours (35 permitted exceedances each year)
	3 µg/m ³	1 year
Benzene (C ₆ H ₆)	3.5 µg/m ³	1 year
	1, 3 Butadiene	2.25 µg/m ³
Formaldehy de (HCHO)	8.6 µg/m ³	1 year
Ground-level ozone (O ₃)	240 µg/m ³ (alert threshold)	1 hour
	180 µg/m ³ (information threshold)	1 hour
	100 µg/m ³	Running 8 hours (10 permitted exceedances each year)
Lead	0.25 µg/m ³	1 year
Nitrogen dioxide (NO ₂)	200 µg/m ³	1 hour (18 permitted exceedances each year)
	40 µg/m ³	1 year
Particulate matter (PM ₁ , PM _{2.5} and PM ₁₀)	PM ₁ : 18.5 µg/m ³	24 hours (35 permitted exceedances each year)
	PM ₁ : 7.5 µg/m ³	1 year
	PM _{2.5} : 100 µg/m ³ (alert level)	Running 8 hours
	PM _{2.5} : 25 µg/m ³	24 hours (35 permitted exceedances each year)
	PM _{2.5} : 10 µg/m ³	1 year
	PM ₁₀ : 50 µg/m ³	24 hours (35 permitted exceedances each year)
Polycyclic Aromatic Hydrocarbons expressed as concentration of benzo(a) pyrene	PM ₁₀ : 20 µg/m ³	1 year
	0.25 ng/m ³	1 year

<i>Pollutant</i>	<i>Unit</i>	<i>Averaging period</i>
Sulphur dioxide (SO ₂)	500µg/m ³	10 minutes (24 permitted exceedances each year)
	20µg/m ³	24 hours (3 permitted exceedances each year)
Pollutant exposures		
Particulate matter (PM _{2.5})	PM _{2.5} : 6.5 µg/m ³ (population weighted exposure within each zone and agglomeration)	5 percent per calendar year until the limit is reached

SCHEDULE II
[Clause 2 (C)]
INDOOR AIR POLLUTANTS

Biological indoor air pollutants (dampness and mould)

<i>Pollutant</i>	<i>Concentration</i>	<i>Averaging period</i>
Dampness	Zero	n/a
Mould	Zero	n/a

Pollutant-specific guidelines (chemical pollution)

<i>Pollutant</i>	<i>Unit</i>	<i>Averaging period</i>
Benzene (C ₆ H ₆)	3.5 µg/m ³	1 year
1, 3 Butadiene	2.25 µg/m ³	1 year
Carbon monoxide (CO)	7 mg/m ³	24 hours
Formaldehyde (HCHO)	8.6 µg/m ³	1 year
Hydrogen sulphide (H ₂ S)	7 µg/m ³ 0.15 µg/m ³	30 minutes 24 hours
Nitrogen dioxide (NO ₂)	200 µg/m ³	1 hour (no exceedances)
	40 µg/m ³	1 year
Naphthalene	0.01 mg/m ³	1 year
Polycyclic aromatic hydrocarbons (PAHs) expressed as concentration of benzo(a) pyrene	Zero	n/a
Radon	100 becquerels/m ³	3 months
Tetrachloroethylene	0.25 mg/m ³	1 year
Trichloroethylene	Zero	n/a

Pollutants from indoor combustion of fuels

<i>Pollutant</i>	<i>Unit</i>	<i>Averaging period</i>
Particulate matter (PM ₁ , PM _{2.5} and PM ₁₀)	PM ₁ : 18.5 µg/m ³	24 hours (35 permitted exceedances each year)
	PM ₁ : 7.5 µg/m ³	1 year
	PM _{2.5} : 25 µg/m ³	24 hours (35 permitted exceedances each year)
	PM _{2.5} : 10 µg/m ³	1 year
	PM ₁₀ : 50 µg/m ³	24 hours (35 permitted exceedances each year)
	PM ₁₀ : 20 µg/m ³	1 year

Infiltration of outdoor air into indoor environments

<i>Pollutant</i>	<i>Unit</i>	<i>Averaging period</i>
Particulate matter (PM _{2.5} and PM ₁₀)	PM _{2.5} : 12.5 µg/m ³	24 hours (35 permitted exceedances each year)
	PM _{2.5} : 5 µg/m ³	1 year
	PM ₁₀ : 25 µg/m ³	24 hours (35 permitted exceedances each year)
	PM ₁₀ : 10 µg/m ³	1 year

SCHEDULE III

[Clause 2 (C)]

POLLUTANTS CAUSING PRIMARILY ENVIRONMENTAL HARM

Pollutant concentrations

<i>Pollutant</i>	<i>Unit</i>	<i>Calendar Year</i>
Ammonia (NH ₃)	3 µg/m ³	1 year
Ground-level ozone (O ₃)	AOT40 (Calculated from 1 hour values) 6,000µg/m ³ hours	Summer (1 April to 30 September)
Nitrogen oxides (NO _x) (expressed as NO ₂)	75µg/m ³ 30µg/m ³	24 hours Calendar year
Sulphur dioxide (SO ₂)	20µg/m ³	Calendar year and winter (1 October to 31 March)

Pollutant emissions

<i>Pollutant</i>	<i>Unit</i>	<i>Calendar Year</i>
Ammonia (NH ₃)	283 kilotonnes	2020
	271 kilotonnes	2025
	258 kilotonnes	2030
Non-methane volatile Organic compounds (NMVOCs)	689 kilotonnes	2020
	671 kilotonnes	2025
	654 kilotonnes	2030
Oxides of nitrogen (NO _x)	724 kilotonnes	2020
	579 kilotonnes	2025
	434 kilotonnes	2030
Particulate matter (PM _{2.5})	79 kilotonnes	2020
	70 kilotonnes	2025
	61 kilotonnes	2030
Sulphur dioxide (SO ₂)	292 kilotonnes	2020
	188 kilotonnes	2025
	85 kilotonnes	2030

SCHEDULE IV
[Clause 2 (C)]
POLLUTANTS CAUSING CLIMATE CHANGE

Non-Fluorinated gases

<i>Pollutant or measure</i>	<i>MtCO₂e</i>	<i>Period or calendar year</i>
Methane (CH ₄)	Reduce emissions by around 19% below 2015 levels	2030
Nitrous oxide (N ₂ O)	Reduce emissions by around 19% below 2015 levels	2030

Fluorinated gases

<i>Pollutant</i>	<i>MtCO₂e</i>	<i>Calendar year</i>
Hydrofluorocarbons	Reduce emissions by at least 79% below 2015 levels	2030
	Reduce emissions by at least 86% below 2015 levels	2036
Nitrogen trifluoride	Reduce emissions by at least 68% below 2016 levels	2030
Perfluorocarbons	Reduce emissions by at least 68% below 2016 levels	2030
Sulphur hexafluoride	Reduce emissions by at least 68% below 2016 levels	2030

SCHEDULE V
[Clause 5(3) (D)]

Penalty Matrix

<i>Time of offence</i>	<i>Individual</i>	<i>Corporate body</i>
First offence under the Act	Not exceeding Rs. 10,000	Not exceeding Rs. 100,000
Second offence under the Act	Not exceeding Rs. 15,000	Not exceeding Rs. 150,000
Third offence under the Act	Not exceeding Rs. 25,000	Not exceeding Rs. 250,000
Any subsequent offence	Not exceeding Rs. 50,000	Not exceeding Rs. 500,000

STATEMENT OF OBJECTS AND REASONS

The national capital of India witnessed an Air Emergency every year, where Air Quality remained hazardous on AQI, creating a state of panic, fear, seen medical distress and may be medical damages to many individuals that may be unnoticed now. This situation sparked a state of panic and confusion both amongst our citizen, in privileged class as well as unprivileged class alike. It was not limited to national capital alone but spread over many areas in our country, across political boundaries of different states ruled by different political parties. While it was evident that Government's efforts proved dwarfed against the challenge of pollution emergency mounted yet this year again.

It is therefore, I believe, cannot be left in present state of affairs and Central Government has to step in with a more pro-active role, that can be provided only through a legislation. Mask and Air Purifiers were being sold increasingly however, experts are varied on their utility in our country, and not everyone can afford it. This creates a situation where, even if masks and air purifiers work, they give an advantage and preference to few privileged over majority of underprivileged.

It is need of the hour that individuals & institutions unite and work towards meeting this challenge, on a defined BLUEPRINT. Though the Central Government announced NCAP (National Clean Air Program) earlier this year, there appears a need to do much more. A Study should be done, if masks or air purifiers work. As even if they do, it's a ethical debate whether some privileged citizen have more than equal right to life and liberty than other citizen.

A Right to Breathe for citizen is a fundamental requirement of Right to Life, which is and can be guaranteed only when there is right, and more importantly opportunity to Breathe Clean Air.

Hence, this Bill.

R.K. SINHA

RAJYA SABHA

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BILL

to provide every citizen the right to breathe clean air, free from pollutants and industrial effluents; to empower the appropriate authorities to combat air pollution; to enhance air quality monitoring across urban and rural areas; to give legislative sanction to the national-level strategy set out in the National Clean Air Program (NCAP) and for matters connected therewith or incidental thereto.

(Shri R.K. Sinha, M.P.)