

AS INTRODUCED IN THE RAJYA SABHA
ON THE 3RD DECEMBER, 2021

Bill No. II of 2021

THE CIGARETTES AND OTHER TOBACCO PRODUCTS (PROHIBITION
OF ADVERTISEMENT AND REGULATION OF TRADE AND
COMMERCE, PRODUCTION, SUPPLY AND
DISTRIBUTION) (AMENDMENT) BILL, 2021

A

BILL

*further to amend the Cigarettes and other Tobacco Products (Prohibition of
Advertisement and Regulation of Trade and Commerce, Production, Supply
and Distribution) Act, 2003.*

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

1. (1) This Act may be called the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and
5 Distribution) (Amendment) Act, 2021. Short title and
commencement.

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

Substitution of
preamble.

2. In the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (hereinafter referred to as the principal Act), for the preamble, the following shall be substituted, namely:— 34 of 2003.

WHEREAS India is a signatory to the World Health Organization Framework Convention on Tobacco Control adopted in Geneva, Switzerland on 21st day of May 2003 which came into force on the 27th day of February, 2005; 5

AND WHEREAS the objective of this Convention and its protocols is to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke by providing a framework for tobacco control measures to be implemented by the Parties at the national, regional and international levels in order to reduce continually and substantially the prevalence of tobacco use and exposure to tobacco smoke; 10

AND WHEREAS, it is considered expedient to enact a comprehensive law to implement the WHO Framework Convention on Tobacco Control and its Guidelines in the public interest and to protect the public health; 15

AND WHEREAS, it is expedient to prohibit the consumption of cigarettes and other tobacco products which are injurious to health with a view to achieving improvement of public health in general as enjoined by article 47 of the Constitution;

AND WHEREAS, it is expedient to prohibit the advertisement of, and to provide for regulation of trade and commerce, production, supply and distribution of, cigarettes and other tobacco products and for matters connected therewith or incidental thereto: 20

Amendment of
Section 3.

3. In section 3 of the principal Act, --

(i) for clause (a), the following clause shall be substituted, namely:—

"(a) "advertisement" includes any visible representation by way of notice, circular, label, wrapper pamphlet, brochure, programme, price-list, label, wrapper or other document and any form of commercial communication, recommendation, or action with the aim, effect, or likely effect of promoting cigarettes or any other tobacco product, or tobacco use, either directly or indirectly;" 25

(ii) for clause (c), the following clause shall be substituted, namely:— 30

(c) "distribution" includes distribution by way of samples.

(iii) for clause (1), the following clause shall be substituted, namely: —

(1) "public place" means any place to which the public have access, whether as of right or not, and includes auditorium, hospital buildings, airports, railway station, railway waiting room, bus stop, amusement centres, hotels, restaurants, public offices, work places, court buildings, educational institutions, libraries, parks, public conveyances and the like which are visited by general public; 35

(iv) clause (n), shall be omitted.

Substitution of
section 4.

4. For section 4 of the principal Act, the following section shall be substituted, namely:—

"4. No person shall smoke or use tobacco products in any public place. 40

Prohibition of
use of tobacco
in a public
place.

Explanation.—For the purpose of this section, "use" means, chewing, inhaling, ingesting, spitting or otherwise introducing the tobacco product or any of its constituents or emissions into the human body or voluntary ejecting tobacco product or any of its constituents or emissions after chewing, inhaling and ingesting;

5. For section 5 of the principal Act, the following section shall be substituted, namely:— Substitution of section 5.

"5.(1) No person shall initiate, produce, disseminate or broadcast any advertisement or promotion of cigarettes or any other tobacco products through any medium and no person shall directly or indirectly promote the use or consumption of cigarettes or any other tobacco products. Prohibition on advertisement and promotion of cigarettes or any other tobacco products.

(2) No person, for any direct or indirect pecuniary benefit or otherwise, shall-

(a) display, cause to display, or permit or authorise to display any advertisement of cigarettes or any other tobacco product on any medium including audio, audiovisual, print (including newspapers or magazines whether domestic or international, pamphlets, leaflets, flyers and letters), billboards, hoardings, posters, signs, non-tobacco products, tobacco accessories, buildings or other structures, vehicles, television, radio, films, music, games, live performances, the internet including over-the-top media services, social media platforms, mobile telephones, and other new technologies; or

(b) supply or offer to supply free samples of a tobacco product, including in connection with marketing surveys or taste testing; or

(c) import, distribute, sell or offer for sale any confectionery or other food product or any toy or any other article that is designed to resemble a tobacco product or the packaging of which is designed to resemble the packaging commonly associated with a tobacco product; or

(d) offer to sell any tobacco product at a discounted price; or

(e) provide gifts or discounted products with the purchase of any tobacco product; or

(f) offer or engage in any incentive promotions, loyalty schemes, or competitions associated with tobacco products or brand names whether requiring the purchase of tobacco products or not; or

(g) use a name, brand, mark or trademark of a tobacco product on or in association with, or for marketing, promoting or advertising, any other product, service or event; or

(h) use particular colours, layouts or presentation that are associated with particular tobacco products for marketing, promoting or advertising, any other product, service or event; or

(i) market tobacco products with the aid of a name, mark or brand which is known as, or in use as, a name or brand for any other product, service or event; or

(j) use tobacco products when advertising other goods and services.

Explanation:—For the purpose of this section, "advertising" means any form of commercial communication, recommendation, or action with the aim, effect, or likely effect of promoting cigarettes or any other tobacco product, or tobacco use, either directly or indirectly.

(3) No person, shall:—

(a) provide, receive, initiate or be a party to sponsorship in relation to a tobacco product;

(b) promote or agree to promote whether directly or indirectly any mark, trademark or brand name of a company whose principal business is the manufacture, import or distribution of tobacco products;

(c) provide, receive, initiate or be a party to the provision of financial or other support to artistic, sporting, political or other events, activities, individuals or groups, including corporate social responsibility activities, by or from a company whose principal business is the manufacture, import or distribution of cigarettes or any other tobacco products. 5

Explanation:—For the purpose of this sub-section,—

(a) "sponsorship" means any form of contribution to any event, activity or individual with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly;

(b) "trade mark" means the whole or a part of a trade mark that is registered under the Trade Marks Act, 1999 in respect of goods that are or include tobacco products, irrespective of whether the same or similar marks are also registered in respect of other goods or services". 10 47 of 1999.

(4) No person shall cause or permit display of any tobacco product, or their packaging at the entrance or inside of a warehouse or a shop where cigarettes or any other tobacco products are offered for distribution or sale. 15

Explanation:—For the purpose of this section, "display" means, when any tobacco product or the packaging of a tobacco product is visible to any member of the public in general and not during the course of a transaction for the sale of a specific tobacco product.

(5) The owner or person in control of a warehouse or a shop where cigarettes or any other tobacco products are offered for distribution or sale, — 20

(a) shall ensure that cigarettes and other tobacco products are kept in a closed container or dispenser that is not accessible to any member of the public;

(b) may display a sign in black writing on a white background that states tobacco products are available for sale, provided that the size, nature and location of the sign are as prescribed by rules made under this Act; 25

(c) may provide a list of cigarettes and other tobacco products available for sale, in a manner as prescribed by rules made under this Act."

Amendment of section 6.

6. In Section 6 of the principal Act, —

(i) in clause (a), for the word "eighteen", the word "twenty one" shall be substituted. 30

(ii) in clause (b), for the word "yards", the word "meters" shall be substituted.

Amendment of section 7.

7. In section 7 of the principal Act,—

(i) after sub-section (3), the following sub-section shall be inserted, namely:—

" (3A) No person shall sell, offer to sell cigarettes or any other tobacco products outside its package but in sealed, intact, original packaging of standard size, contents and weights as may be prescribed." 35

(ii) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) The specified warning shall appear on the principal display areas of the package in which cigarettes or any other tobacco products have been packed for distribution, sale or supply in a manner as may be prescribed by rules made under this Act." 40

(iii) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) Any person manufacturing or producing cigarettes or any other tobacco products shall disclose periodically and upon request the constituents and emissions on each cigarette or as the case may be on other tobacco products to the Central Government in such manner as may be prescribed. 45

5	<p>Provided that the information disclosed on the constituents and emissions on each cigarette or as the case may be on other tobacco products shall be indicated by the producer, supplier, distributor or seller on every package of cigarettes or any other tobacco product in such manner as may be prescribed by rules made under this Act".</p>	
	<p>8. In section 10 of the principal Act, for the words "nicotine and tar contents", the words, "constituents and emissions" shall be substituted.</p>	Amendment of section 10.
	<p>9. In section 11 of the principal Act, for the words "nicotine and tar contents", the words, "constituents and emissions" shall be substituted</p>	Amendment of section 11.
10	<p>10. In section 15 of the principal Act, for the words "nicotine and tar contents", the words, "constituents and emissions" shall be substituted.</p>	Amendment of section 15.
	<p>11. For section 20 of the principal Act, the following section shall be substituted, namely:—</p>	Amendment of section 20.
15	<p>(1) Any person who produces or manufactures cigarettes or any other tobacco products, which do not contain, either on the package or on their label, the specified warning and constituents and emissions shall in the case of first conviction be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to fifty thousand rupees, or with both, and for the second or subsequent conviction, with imprisonment for a term which may extend to five years and with fine which may extend to one lakh rupees.</p>	Punishment for failure to give specified warning and constituents and emissions.
20	<p>(2) Any person who sells or distributes cigarettes or any other tobacco products which do not contain either on the package or on their label, the specified warning and constituents and emissions shall in the case of first conviction be punishable with imprisonment for a term, which may extend to one year, or with fine which may extend to ten thousand rupees, or with both, and, for the second or subsequent conviction, with imprisonment for a term which may extend to two years and with fine which may extend to twenty five thousand rupees.</p>	
25	<p>(3) Any person who produces or manufactures cigarettes or any other tobacco products, does not disclose to the Central Government the constituents and emissions of cigarettes or any other tobacco products shall in the case of first conviction be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to fifty thousand rupees, or with both, and for the second or subsequent conviction, with imprisonment for a term which may extend to five years and with fine which may extend to one lakh rupees.</p>	
30	<p>12. In Section 21 of the principal Act, in sub-section (1), for the words "two hundred rupees" the words, "one thousand rupees" shall be substituted.</p>	Amendment of section 21.
35	<p>13. In section 22 of the principal Act,—</p> <p>(i) in clause (a), for the words, "which may extend to one thousand rupees" the words "which may extend to ten thousand rupees" shall be substituted.</p>	Amendment of section 22.
40	<p>(ii) in clause (b), for the words, "which may extend to five thousand rupees" the words, "which may extend to fifty thousand rupees" shall be substituted.</p>	
	<p>14. For section 23 of the principal Act, the following section shall be substituted, namely:—</p>	Substitution of section 23.
45	<p>23. Where any person has been convicted under this Act for the contravention of the provision of sections 3,5, 6 and 7, the advertisements materials and packages of cigarettes and other tobacco products may be forfeited to the Government and such advertisements materials and packages shall be disposed of in such manner as may be prescribed by rules made under this Act.</p>	Forfeiture of advertisement materials and packages of cigarettes.

Substitution of Section 24.	<p>15. For section 24 of the principal Act, the following section shall be substituted, namely:—</p> <p style="margin-left: 40px;">24. Any person who contravenes the provisions of section 6 shall be guilty of an offence under this Act and shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to a fine which may extend upto one lakh rupees.</p>	5
Punishment for sale of cigarettes or other tobacco products in certain places or to persons below the age of twenty one years.		
Insertion of new sections 24A and 24AA.	<p>16. After section 24 of the principal Act, the following sections shall be inserted, namely: —</p> <p style="margin-left: 40px;">24A. No person shall directly or indirectly, produce or manufacture or sell or distribute or offer for sale or permit sale of illicit cigarettes or any other tobacco products.</p> <p style="margin-left: 80px;">"24A. (1) Any person who produces or manufactures or supplies or imports illicit cigarettes or any other tobacco products shall in the case of first conviction be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to fifty thousand rupees, or with both, and for the second or subsequent conviction, with imprisonment for a term which may extend to five years and with fine which may extend to one lach rupees.</p> <p style="margin-left: 80px;">(2) Any person who distributes or sells, or offers for sale or permits sale of illicit cigarettes or any other tobacco products shall in the case of first conviction be punishable with imprisonment for a term, which may extend to one year, or with fine which may extend to ten thousand rupees, or with both, and, for the second or subsequent conviction, with imprisonment for a term which may extend to two years and with fine which may extend to twenty five thousand rupees."</p>	10
Prohibition on production or sale etc. of illicit cigarettes or any other tobacco products.		
Punishment on production or sale etc. of illicit cigarettes or any other tobacco products.		
Amendment of section 25.	<p>17. In section 25 of the principal Act, -"the words and figure "or section 6" wherever they occurred shall be <i>omitted</i>".</p>	25
Substitution of section 27.	<p>18. For section 27 of the principal Act, the following section shall be substituted, namely:—</p> <p style="margin-left: 40px;">"27.(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under this Act shall be bailable.</p> <p style="margin-left: 40px;">(2) For the avoidance of doubts, it is hereby declared that offences punishable under section 5, 6, and 7 of this Act shall be cognizable."</p>	2 of 1974.
Offences to be cognizable and bailable.		
Amendment of section 28.	<p>19. In section 28 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—</p> <p style="margin-left: 40px;">"(1) any offence committed under section 4 may either before or after the institution of the prosecution be compounded by such officer authorized by Central Government or State Government and for an amount which may not exceed one thousand rupees."</p>	35
Amendment of section 30.	<p>20. In section 30 of the principal Act, the following proviso shall be inserted, namely:—</p> <p style="margin-left: 40px;">"Provided that the Central Government, may, by notification, remove any tobacco product specified in the Schedule of the Act, in respect of which production, supply and distribution has been prohibited under any other law".</p>	40

21. In section 31 of the principal Act, in sub-section (2),—

Amendment of
section 31.

(i) for clause (b), the following clause shall be substituted, namely:—

5 "*(b)* specify the form and the manner in which constituents and emissions shall be disclosed to the Central Government and indicated on packages of cigarettes or other tobacco products under sub-section (5) of section 7".

(ii) in clause (d), for the words "nicotine and tar contents", the words, "constituents and emissions" shall be substituted.

22. In section 32 of the principal Act, in the proviso, for the words "nicotine and tar contents", the words, "constituents and emissions" shall be substituted.

Amendment of
section 32.

STATEMENT OF OBJECTS AND REASONS

India has over 26 crores tobacco users, and tobacco kills over 13 lakh Indians each year. The total direct and indirect cost of diseases attributable to tobacco use was a staggering 1.04 lakh crore (\$17 billion) in 2011 or 1.16 per cent of India's GDP according to the 'Economic Burden of Tobacco Related Diseases in India'. Owing to such high numbers, there is a considerably high number of people who are exposed to secondhand smoke which can prove to be equally dangerous. Over the past two decades, India has made a considerable amount of progress. Nationwide surveys show that the proportion of people using tobacco came down from 34.6 per cent in 2010 to 28.6 per cent in 2017. This meant 81 lakh fewer tobacco users during this period saving a significant number of lives.

The Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act 2003 was enacted over 17 years ago. This Bill, while amending some of the penal provisions to make it more stringent also aims to abolish all designated smoking areas in airports, hotels and restaurants, as it has been shown that comprehensive smoke-free areas that include workplaces, restaurants, and bars are estimated to reduce the risk of heart attack by 85 per cent improve the respiratory health of workers, and may also reduce the risk of stroke. A study conducted in over 6000 hospitality venues across 8 cities in India found that only 4 per cent of the venues had a designated smoking room (DSR) and among those that could be assessed for compliance, only 3 per cent (n=3) were compliant with the requirements as provided for in the above Act. The Bill also aims to ban all point of sale advertising and point of sale tobacco product displays. A study assessing data from 130 countries found that point of sale advertising bans are significantly associated with reduced smoking experimentation among youth. A study reviewing data from 77 countries estimated that having a point of sale display ban reduced daily smoking prevalence by about 7 per cent. The Bill makes provision for prohibiting single stick sales of cigarettes and bidis. Evidence suggests that availability of single cigarettes facilitates smoking among youth and people with fewer resources, and that having greater accessibility of single cigarettes reduces the likelihood that smokers will make a quit attempt. The Bill also provides for establishing fines large enough to deter violations, establishing a system for increasingly severe penalties for repeat violations and provide authority for Ministry of Health and Family Welfare OHFW to revise penalties through rules.

The Bill seeks to achieve the stated objectives.

Dr. SASMIT PATRA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill proposes to amend section 31 of the principal Act to empower the Central Government to make rules for specifying the form and the manner in which the constituents and omissions shall be disclosed to the Central Government. The rules to be made by the Government pertain to matters of administrative detail only. The delegation is, therefore, normal in character.

ANNEXURE

EXTRACTS FROM THE CIGARETTES AND OTHER TOBACCO PRODUCTS (PROHIBITION OF
ADVERTISEMENT AND REGULATION OF TRADE AND COMMERCE, PRODUCTION,
SUPPLY AND DISTRIBUTION) ACT, 2003

(34 OF 2003)

* * * * *

An Act to prohibit the advertisement of, and to provide for the regulation of trade, and commerce in, and production, supply and distribution of, cigarettes and other tobacco products and for matters connected therewith or incidental thereto.

WHEREAS, the Resolution passed by the 39th World Health Assembly (WHO), in its Fourteenth Plenary meeting held on the 15th May, 1986 urged the member States of WHO which have not yet done so to implement the measures to ensure that effective protection is provided to non-smokers from involuntary exposure to tobacco smoke and to protect children and young people from being addicted to the use of tobacco;

AND WHEREAS, the 43rd World Health Assembly in its Fourteenth Plenary meeting held on the 17th May, 1990, reiterated the concerns expressed in the Resolution passed in the 39th World Health Assembly and urged Member States to consider in their tobacco control strategies plans for legislation and other effective measures for protecting their citizens with special attention to risk groups such as pregnant women and children from involuntary exposure to tobacco smoke, discourage the use of tobacco and impose progressive restrictions and take concerted action to eventually eliminate all direct and indirect advertising promotion and sponsorship concerning tobacco;

AND WHEREAS, it is considered expedient to enact a comprehensive law on tobacco in the public interest and to protect the public health;

AND WHEREAS, it is expedient to prohibit the consumption of cigarettes and other tobacco products which are injurious to health with a view to achieving improvement of public health in general as enjoined by article 47 of the Constitution;

AND WHEREAS, it is expedient to prohibit the advertisement of, and to provide for regulation of trade and commerce, production, supply and distribution of, cigarettes and other tobacco products and for matters connected therewith or incidental thereto:

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:-

* * * * *

Definitions.

3. In this Act, unless the context otherwise requires,-

(a) "advertisement" includes any visible representation by way of notice, circular, label, wrapper or other document and also includes any announcement made orally or by any means of producing or transmitting light, sound, smoke or gas;

* * * * *

(c) "distribution" includes distribution by way of samples, whether free or otherwise;

* * * * *

(I) "public place" means any place to which the public have access, whether as of right or not, and includes auditorium, hospital buildings, railway waiting room,

amusement centres, restaurants, public offices, court buildings, educational institutions, libraries, public conveyances and the like which are visited by general public but does not include any open space;

* * * * *

4. No person shall smoke in any public place:

Prohibition of smoking in a public place.

Provided that in a hotel having thirty rooms or a restaurant having seating capacity of thirty persons or more and in the airports, a separate provision for smoking area or space may be made

* * * * *

5. (1) No person engaged in, or purported to be engaged in the production, supply or distribution of cigarettes or any other tobacco products shall advertise and no person having control over a medium shall cause to be advertised cigarettes or any other tobacco products through that medium and no person shall take part in any Advertisement which directly or indirectly suggests or promotes the use or consumption of cigarettes or any other tobacco products.

Prohibition of advertisement of cigarettes and other tobacco products.

(2) No person, for any direct or indirect pecuniary benefit, shall—

(a) display, cause to display, or permit or authorise to display any advertisement of cigarettes or any other tobacco product; or

(b) sell or cause to sell, or permit or authorise to sell a film or video tape containing advertisement of cigarettes or any other tobacco product; or

(c) distribute, cause to distribute, or permit or authorise to distribute to the public any leaflet, hand-bill or document which is or which contains an advertisement of cigarettes or any other tobacco product; or

(d) erect, exhibit, fix or retain upon or over any land, building, wall, hoarding, frame, post or structure or upon or in any vehicle or shall display in any manner whatsoever in any place any advertisement of cigarettes or any other tobacco product:

Provided that this sub-section shall not apply in relation to-

(a) an advertisement of cigarettes or any other tobacco product in or on a package containing cigarettes or any other tobacco product;

(b) advertisement of cigarettes or any other tobacco product which is displayed at the entrance or inside a warehouse or a shop where cigarettes and any other tobacco products are offered for distribution or sale.

(3) No person, shall, under a contract or otherwise promote or agree to promote the use or consumption of—

(a) cigarettes or any other tobacco product; or

(b) any trade mark or brand name of cigarettes or any other tobacco product in exchange for a sponsorship, gift, prize or scholarship given or agreed to be given by another person.

* * * * *

6. No person shall sell, offer for sale, or permit sale of, cigarette or any other tobacco product—

Prohibition on sale of cigarette or other tobacco products to a person below the age of eighteen years and in particular area.

(a) to any person who is under eighteen years of age, and

(b) in an area within a radius of one hundred yards of any educational institution.

* * * * *

Restrictions on trade and commerce in, and production, supply and distribution of cigarettes and other tobacco products.	* * * * *	<p>7.</p> <p>(3) No person shall import cigarettes or any other tobacco products for distribution or supply for a valuable consideration or for sale in India unless every package of cigarettes or any other tobacco products so imported by him bears thereon, or on its label, the specified warning.</p> <p>(4) The specified warning shall appear on not less than one of the largest panels of the package in which cigarettes or any other tobacco products have been packed for distribution, sale or supply for a valuable consideration.</p> <p>(5) No person shall, directly or indirectly, produce, supply or distribute cigarettes or any other tobacco products unless every package of cigarettes or any other tobacco products produced, supplied or distributed by him indicates thereon, or on its label, the nicotine and tar contents on each cigarette or as the case may be on other tobacco products along with the maximum permissible limits thereof:</p> <p>Provided that the nicotine and tar contents shall not exceed the maximum permissible quantity thereof as may be prescribed by rules made under this Act.</p>
Size of letters and figures.	* * * * *	<p>10. No specified warning or indication of nicotine and tar contents in cigarettes and any other tobacco products shall be deemed to be in accordance with the provisions of this Act if the height of each letter or figure, or both the used on such warning and indication is less than the height as may be prescribed by rules made under this Act.</p>
Testing laboratory for nicotine and tar contents.	* * * * *	<p>11. For purposes of testing the nicotine and tar contents in cigarettes and any other tobacco products the Central Government shall by notification in the Official Gazette grant recognition to such testing laboratory as that Government may deem necessary.</p>
Power to give option to pay costs in lieu of confiscation.	* * * * *	<p>15.</p> <p>(2) On payment of the costs ordered by the court, the seized packages shall be returned to the person from whom they were seized on condition that such person shall, before making any distribution, sale or supply of such packages of cigarettes or other tobacco products, get the specified warning and indication of nicotine and tar contents incorporated on each such package.</p>
Punishment for failure to give specified warning and nicotine and tar contents.	* * * * *	<p>20. (1) Any person who produces or manufactures cigarettes or tobacco products, which do not contain, either on the package or on their label, the specified warning and the nicotine and tar contents, shall in the case of first conviction be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both, and for the second or subsequent conviction, with imprisonment for a term which may extend to five years and with fine which may extend to ten thousand rupees.</p> <p>(2) Any person who sells or distributes cigarettes or tobacco products which do not contain either on the package or on their label, the specified warning and the nicotine and tar contents shall in the case of first conviction be punishable with imprisonment for a term, which may extend to one year, or with fine which may extend to one thousand rupees, or with both, and, for the second or subsequent conviction, with imprisonment for a term which may extend to two years and with fine which may extend to three thousand rupees.</p>

21. (1) Whoever contravenes the provisions of section 4 shall be punishable with fine which may extend to two hundred rupees. Punishment for smoking in certain places.

(2) An offence under this section shall be compoundable and shall be tried summarily in accordance with the procedure provided for summary trials in the Code of Criminal Procedure, 1973 (2 of 1974).

22. Whoever contravenes the provision of section 5 shall, on conviction, be punishable— Punishment for advertisement of cigarettes and tobacco products.

(a) in the case of first conviction, with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both; and

(b) in the case of second or subsequent conviction with imprisonment for a term which may extend to five years and with fine which may extend to five thousand rupees.

23. Where any person has been convicted under this Act for the contravention of the provision of section 5, the advertisement and the advertisement material for cigarettes and other tobacco products may be forfeited to the Government and such advertisement and advertisement material shall be disposed of in such manner as may be prescribed by rules made under this Act. Forfeiture of advertisement and advertisement material.

24. (1) Any person who contravenes the provisions of section 6 shall be guilty of an offence under this Act and shall be punishable with fine which may extend to two hundred rupees. Punishment for sale of cigarettes or any other tobacco products in certain places or to persons below the age of eighteen years.

(2) All offences under this section shall be compoundable and shall be tried summarily in accordance with the procedure provided for summary trials in the Code of Criminal Procedure, 1973 (2 of 1974).

25. (1) Notwithstanding anything contained in any other law for the time being in force, the Central Government or the State Government may, by notification in the Official Gazette, authorise one or more persons who shall be competent to act under this Act: Prevention, detention and place of trial of offences under sections 4 and 6.

Provided that the person so authorised may, if he has reasonable ground for believing that any person has committed an offence under section 4 or section 6, may detain such person unless the accused person furnishes his name and address, and otherwise satisfies the officer detaining him that he will duly answer any summons or other proceedings which may be taken against him.

(2) Any person detained under sub-section (1) shall forthwith be taken before Magistrate to be dealt with according to law.

(3) Any person committing an offence under section 4 or section 6 shall be triable for such offence in any place in which he may be or which the State Government may notify in this behalf, as well as in any other place in which he is liable to be tried under any law for the time being in force.

(4) Every notification issued under sub-sections (1) and (3) shall be published in the Official Gazette, and a copy thereof shall be exhibited for information to the public in some conspicuous place or places as the State Government may direct.

(5) Every person authorised under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

* * * * *

27. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under this Act shall be bailable. Offences to be bailable.

Composition of offences.

28. (1) Any offence committed under section 4 or section 6 may either before or after the institution of the prosecution be compounded by such officer authorised by Central Government or State Government and for an amount which may not exceed two hundred rupees.

Power to add any tobacco products in the Schedule.

30. The Central Government, after giving by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by like notification, add any other tobacco product in respect of which it is of opinion that advertisements are to be prohibited and its production, supply and distribution is required to be regulated under this Act, and thereupon the Schedule shall in its application to such products be deemed to be amended accordingly.

* * * * *

Power of Central Government to make rules.

31. (2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) specify the form and manner in which warning shall be given in respect of cigarettes or other tobacco products under clause (o) of section 3;

(b) specify the maximum permissible nicotine and tar contents in cigarettes or other tobacco products under the proviso to sub-section (5) of section 7;

(c) specify the manner in which the specified warning shall be inscribed on each package of cigarettes or other tobacco products or its label under sub-section (2) of section 8;

(d) specify the height of the letter or figure or both to be used in specified warning or to indicate the nicotine and tar contents in cigarettes or other tobacco products under section 10;

(e) provide for the manner in which entry into and search of any premises is to be conducted and the manner in which the seizure of any package of cigarettes or other tobacco products shall be made and the manner in which seizure list shall be prepared and delivered to the person from whose custody any package of cigarettes or other tobacco products has been seized;

(f) provide for any other matter which is required to be, or may be, prescribed.

* * * * *

Act not to apply to cigarettes of other tobacco products which are exported.

32. Nothing contained in this Act shall apply to any cigarette or other tobacco products or package of cigarettes or other tobacco products which is exported:

Provided that nothing in this section shall be deemed to authorise the export of any package of cigarettes or other tobacco products, not containing the specified warning and indication of nicotine and tar contents to any country if the law in force in that country requires that the same or similar warning and nicotine and tar contents shall be specified on each package of cigarettes or other tobacco products.

Explanation.— For the purpose of this section, any cigarette or other tobacco products or package of cigarettes or other tobacco products shall be deemed to be exported before the commencement of this Act, if the necessary steps for export have already been taken notwithstanding that the actual export has not taken place.

* * * * *

RAJYA SABHA

A

BILL

further to amend the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003.

(Dr. Sasmit Patra, M.P.)

MGIPMRND—1325RS(S3)—07-12-2021.