

ASSAM GANJA AND BHANG PROHIBITION ACT, 1958*

(Assam Act No. XXI of 1959)

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[Received the assent of the Governor on the 29th May, 1959]

**As Act to prohibit cultivation, collection, possession,
consumption, manufacture, or sale of Ganja in,
and of smuggling thereof into, the State of Assam**

And

**To restrict cultivation, collection, possession, consumption,
manufacture, or sale of Bhang with a view to effect its
ultimate prohibition in the State of Assam**

Preamble.

Whereas it is expedient to prohibit cultivation, collection, possession, consumption, manufacture and sale of Ganja in, and of smuggling thereof into, the State of Assam and to restrict cultivation, collection, possession, consumption, manufacture and sale of Bhang with a view to effect its ultimate prohibition in the State of Assam.

It is hereby enacted in the Ninth year of the Republic of India as follows:

**Published in the Assam Gazette, Extraordinary, dated the 1st June, 1959.*

COMMENTS

Preamble.

In the long title of the Act, for the word “and” occur in two places between the words, “manufacture” and “sale”, the word “or” was substituted by Assam Act XIII of 1961 dated 5th May, 1961 to come into force at once.

1. Short title, extent and commencement

- (1) This Act may be called the Assam Ganja and Bhang Prohibition Act, 1958.
- (2) It extends to such area or areas as may be notified in the official Gazette, by the State Government may, by notification in the official Gazette appoint:
- (3) It shall come into force in the notified area or areas on such date as the State Government may, by notification in the official Gazette appoint:

Provided that the State Government may, by notification in the official Gazette, restrict the operation of this Act or of any provision thereof in any notified area.

2. Definitions.

In this Act unless there is anything repugnant in the subject or context –

- (1) **“buy”**, with all its grammatical variations, means receipt for price paid in cash or kind, and includes any receipt by gift, loan or otherwise;
- (2) **“State Prohibition Council”** means the body of a non-official residents of the State as may be constituted by the State Government by notification in the official Gazette;
- (2-i) **“Prohibition Officer”** means a person appointed under S.18 (3) of the Act
- (3) **“Ganja”** means dried flowers, flowering or fruiting tops of the Indian Hemp plant (*Cannabis Sativa* L.);
- (4) **“Bhang”** means leaves of the Indian Hemp plant (*Cannabis Sativa* L.) including such form known as Siddhi;
- (5) **“Import”** means to bring into any notified area otherwise than across a custom frontier defined by the Central Government;

- (6) **“Manufacture”** means every process, whether natural or artificial by which any ganja is produced or prepared;
- (7) **“Notified area”** means an area notified under sub-S. (2) of S. 1 of this Act;
- (8) **“Prescribed”** means prescribed by rules made under this Act;
- (9) **“Sell”**, with all its grammatical variations, means any transfer including transfer by a gift or a loan or otherwise;
- (10) **“Transports”** means to move from one part to another of any notified area or from any notified area to another notified area;

COMMENTS

In this section the sub-S. (2) was substituted by Assam Act IV of 1974 to come into force on 1st April, 1973 and the substituted sub-S. (2) read as follows:

“(2) ‘Commissioner’ means the Excise Commissioner or any other person duly empowered by the State Government to exercise some or all the powers of the Excise Commissioner.”

After sub-S.(2) a 'new sub-S. (2) (i)' was inserted vide Assam Act IV of 1974 to come into effect from 1st April, 1973.

3. Prohibition.

No person shall -

- (a) cultivate, collect or sell the Indian Hemp plant (Cannabis Sativa L); or
- (b) collect ganja or bhang from the Indian Hemp plant (Cannabis Sativa L); or
- (c) import, transport, manufacture, sell and buy ganja or bhang; or
- (d) possess or consume ganja or bhang; or
- (e) use or keep implement or apparatus for the manufacture or consumption of ganja or bhang.

COMMENTS

In Cls.(b), (c), (d) and (e) for the word "and" occurring between the words "ganja" and "bhang", the word "or" was substituted vide Assam Act XIII of 1961 to come into effect from 5th May, 1961.

4. Punishment for contravention.

Whoever contravenes the provisions of S. 3 shall be punished with imprisonment of either description for a term which may extend to two years and also with fine which may extend to one thousand rupees.

5. Punishment for allowing promises to be used for the commission of an offence.

Whoever, being the owner or occupier or having the use of any house, room, enclosure, space, vessel, vehicles or place, knowingly permits it to be used for the commission, by any other person, of an offence punishable under this Act or the rules made thereunder, shall be punished with imprisonment of either description for a term which may extend to six months or with fine, which may extend in five hundred rupees or with both.

6. Enhanced punishment.

Whenever any person, having been convicted for an offence under Cl (a) or Cl (b) or Cl. (c) of S. 3 is again convicted of an offence under any of the afore said clauses, the imprisonment with which he shall be punished shall be rigorous imprisonment for a term which may extend to four years.

7. Security for abstaining from commission of offences.

- (1) When ever any person is convicted of an offence punishable under S. 4 or under S. 5, and the Court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of such offence, the Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offence during such period, not exceeding three years, as it thinks fit to fix.
- (2) The bond shall be in the prescribed form and the provision of the Code of Criminal Procedure, 1898(Act V of 1898), shall in so far as they are applicable, apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under S. 106 of that Code.
- (3) If the conviction is set aside on appeal or otherwise, the bond executed shall become void.
- (4) Any order under this section may also be made by an Appellate Court, or by the High Court when exercising its powers of revision.

COMMENTS

In this section, in sub-S. (1) for the figures “3” and “4”, the figures “4” and “5” were respectively substituted by Assam Act V of 1960 dated 24th February, 1960 to come into effect at once.

8. Attempts.

Whoever attempts to commit an offence punishable under S. 4, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence or towards the causing of its commission, shall be punished with the punishment provided for the offence.

9. Abetments.

Whoever abets an offence punishable under S. 4 or S. 5 shall, whether such offence be or be not committed in consequence of such abetment, be punished with the punishment provided for the offence.

10. Power to issue warrants.

(1) A District Magistrate or a Sub-divisional Magistrate or a Magistrate of the first class, or an officer of the Excise Department not below the rank of a Superintendent specially empowered by the State Government on this behalf, may issue a warrant for

the arrest of any persons whom he has reason to believe to have committed an offence punishable under this Act or the rules made thereunder, or for the search, whether by day or by night, of any building, vessels or place in which he has reason to believe any ganja, bhang, material, utensil, implement or apparatus, in respect of which an offence punishable under the Act has been committed, is kept or concealed.

- (2) The officer to whom a search warrant under sub-S. (1) is addressed shall have all the powers of an officer under S. 11.

11. Power of entry, search and seizures, etc.

- (1) Any officer of the Department of Excise not below the rank of Assistant Inspector of Excise, any officer of the Department of Police not below the rank of Sub-Inspector of Police, any officer of the Department of Revenue not below the rank of Sub-Deputy Collector, and any person authorised in this behalf by the State Government who has reason to believe from personal knowledge or from information received from any person and taken down in writing and attested by the informant, that any ganja, bhang material, utensil, implement or apparatus in respect of which an offence punishable under this Act or the rules made thereunder has been committed is kept or concealed in

any building, vessel, or enclosed place, may between sunrise and sunset –

- (a) enter into any such building, vessel or place;
- (b) in case of resistance, break open any door and remove any other obstacle to such entry;
- (c) seize such ganja, bhang, material, utensil, implement or apparatus, and any document or other article which may furnish evidence of the commission of the offence;
- (d) detain, search and arrest any person whom he has reason to believe to have committed an offence against this Act relating to such ganja, bhang, material, utensil, implement or apparatus;

Provided that if such officer has reason to believe that a search warrant cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender he may, after recording the ground of his belief, enter and search such building, vessel or enclosed place at any time between sunset and sunrise.

- (2) Where an officer taken down any information in writing under sub-S. (1), or records grounds for his belief under the proviso thereto, he shall forthwith send a copy thereof to his immediate official superior.

COMMENTS

In sub- S. (1), for the words and punctuation (,) “Any Officer of the Department of Excise and Police not below the rank of Inspector”, the words and the punctuation (,) “Any Officer of the Department of Excise not below the rank of assistant Inspector of Excise, any Officer of the Department of Police not below the rank of Sub-Inspector of Police” were substituted by Assam Act No. XIII of 1961 dated 3rd May, 1961 to come into force at once.

12. Power of seizure and arrest in public places.

Any officer of any of the Department referred to in S.11 may within the prohibited area notified under this Act –

- (a) seize, in any public place or in transit, any ganja, bhang, material, utensil, implement or apparatus in respect of which he has reason to believe an offence punishable under this Act or the rules made thereunder has been committed, and along with it any document or other article which may furnish evidence of the commission of the offence; and

- (b) detain, search and arrest any person whom he has reason to believe to have committed an offence against this Act relating to such ganja, bhang, material, utensil, implement or apparatus.

13. Mode of executing warrants, etc.

The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), shall, in so far as they are applicable, apply to the execution of warrants and making of searches, arrests, and seizure under this Act.

14. Report of arrest and seizure.

Any officer making an arrest or seizure under this Act shall, within twenty-four hours of such seizure and arrest, make a full report of all the particulars of such arrest or seizure to his immediate official superior.

15. Production of persons arrested.

Every person arrested under any of the provisions of this Act shall be produced before the nearest Magistrate, within twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the court of the Magistrate.

16. Power to invest Excise Officer.

The State Government may invest any officer of the Excise Department, not below the rank of Inspector with the powers of an officer in-charge of a Police Station for the investigation of offences under this Act.

17. Jurisdiction to try offences.

The provisions of the Code of criminal Procedure, 1898 (Act V of 1895), shall apply to the trial of offences against this Act or the rules made thereunder.

COMMENTS

The Code of Criminal Procedure has been amended by the Code of Criminal Procedure, 1973.

18. Prohibition Committees.

(1) The State Government may, by notification in the official Gazette, constitute for the State and for such period as it may deem fit a State Prohibition Council consisting of two or more non-official residents of the state as may be prescribed by the State Government. the State Government may, by like notification, dissolve or reconstitute any such Council.

- (2) The State Prohibition Council may, by notification in the official Gazette, constitute for any district or part thereof and for such as it may deem fit, "Prohibition Committees" consisting of two or more non-official residents of the district. The State Prohibition Council may, by like notification, dissolve or re-constitute any such Committee.
- (3) For the purposes of Ss. 11 and 12 of the Act, the State Government may, by notification in the official Gazette, appoint any member of a Prohibition Committee by virtue of office or otherwise to be a Prohibition Officer and the relation of officers so appointed to the State Prohibition Council shall be such as may be prescribed.
- (4) The duties to be performed by the State Prohibition Council and the Prohibition Committees and the relation between the council and the Committees and the relation of such Committees to the Council shall be such as may be prescribed.

COMMENTS

This section was substituted by Assam Act IV of 1974 dated 23rd January, 1974 to come into effect from 1st April, 1973 and the old section read as follows:

“18. Prohibition Committees. (1) The Commissioner may, by notification in the official Gazette, constitute for any area or any part thereof a “Prohibition Committee” consisting of in such proportion as the commissioner may deem fit of two or more official or non-official residents of such area or part thereof. He may also, by like notification, dissolve or re-constitute any such committee.

(2) The duties to be performed by a Prohibition Committee and its relation to other such Committees and to the Commissioner shall be such as may be prescribed.

(3) The members of the Prohibition Committee shall be designated Prohibition Officers.”

19. Punishment for vexatious entry, etc.

Any person acting under the powers given by S. 11 or 12 who –

(a) without reasonable grounds of suspicion, enters or searches or causes to be entered or searched any building, vessels or place; or

(b) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any ganja and bhang or seizing any document or other article liable to seizure under S. 11 or 12; or

- (c) vexatiously and unnecessarily detains, searches or arrests any person or fails to produce, within the time specified in S. 15, the person arrested or the article seized before the proper authority, shall be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

20. Indemnity.

No action shall lie against any officer for damages in any Civil Court for any act done bona fide or ordered to be done in pursuance of this Act or the rules thereunder.

21. Permits.

Notwithstanding anything contained in this Act, the State Government may prescribe the conditions under which permits may be issued for –

- (a) cultivation collection or sale of the Indian Hemp plant (Cannabis Sativa L);
- (b) import, transport, manufacture, sale, possession or use of bhang; and
- (c) use or keeping of any implement or apparatus for the manufacture of Bhang for social, religious, medicinal and scientific purposes.

22. Repeal (*Act I of 1910*).

The provisions relating to ganja and bhang in the Assam Excise Act, 1910, shall stand repealed in respect of the area or areas in which this Act may be enforced.

23. Power to make rules.

- (1) The State Government may, subject to the condition of previous publication make rules for carrying out the purposes of this Act.
- (2) in particular and without prejudice to the generality of the fore-going power such rules may prescribe -
 - (a) the duties to be performed by a Prohibition Committee and its relation to the State Prohibition Council and other Committees;
 - (b) any other matter as may, or requires to be prescribed.
- (3) In making rules under this section, the State Government may attach a penalty for the breach of any particular rule.

COMMENTS

In sub- S.(2) (a) for the word “Commissioner”, the words, “State Prohibition council”, were substituted by Assam Act IV of 1974 to come into effect from 1st April, 1973.