



The Andhra Pradesh Excise Act, 1989

Act 10 of 1989

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THE ANDHRA PRADESH EXCISE ACT, 1989*..

ACT No. 10 OF 1989.

[20th April, 1989.]

An Act further to amend the Andhra Pradesh Excise Act, 1968.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Fortieth Year of the Republic of India as follows:-

*Received the assent of the Governor on the 19th April, 1989. For Statement of Objects and Reasons, please see the Andhra Pradesh Gazette, Part-IV A, Extraordinary, dated the 14th March, 1989 at Pages 11 & 12.

Short title
and com-
mencement.

1. (1) This Act may be called the Andhra Pradesh Excise (Amendment) Act, 1989.

(2) (a) section 6 shall be deemed to have come into force on the 1st December, 1981;

(b) sections 17 and 18 shall be deemed to have come into force on the 1st January, 1987; and

(c) the remaining provisions shall be deemed to have come into force on the 16th September, 1988.

Amendment
of section
2, Act 17
of 1968.

2. In the Andhra Pradesh Excise Act, 1968 (hereinafter referred to as the principal Act), in section 2, to clause (31), the words "and includes, to move from a place outside the State to any other place outside it through the intervening area lying within the State" shall be added at the end.

Substitu-
tion of new
section for
section 5.

3. For section 5 of the principal Act, the following section shall be substituted, namely:-

5. (1) The Government may appoint an Additional Commissioner of Excise, Director of Distilleries and Breweries, as many Deputy Commissioners of Excise, Assistant Commissioners of Excise and such other officers as they think fit for the purpose of performing the functions respectively conferred on them by or under this Act.

(2) The Government may sanction the appointment of as many Excise Superintendents, Assistant Excise Superintendents and other

Subordinate Staff as they think fit for the purpose of performing the functions respectively conferred on them by or under this Act.

(3) The appointment to the posts sanctioned in sub-section (2), shall be made by such authority as may be prescribed.

(4) All such officers shall perform the said functions within such area or areas or in the whole of the State as the Government or the Commissioner may assign to them."

4. Sections 6 and 7 of the principal Act shall be omitted.

Omission of sections 6 and 7.

5. In section 11 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:-

Amendment of section 11.

"(1) The Government may, by notification, prohibit or regulate the transport of an intoxicant or any kind of intoxicants from any area into any other area within the State or from any place outside the State to any other place outside it through the intervening area lying within the State, except under a permit issued under section 12."

6. In section 12 of the principal Act, for sub-section (1), the following sub-section, shall be substituted, namely:-

Amendment of section 12.

"(1) Any officer not below the rank of an Assistant Excise Superintendent authorised by the Commissioner may issue a permit for the transport of intoxicants."

7. In section 24 of the principal Act, sub-section (3) shall be omitted.

Amendment of section 24.

Amendment
of section
26.

8. In section 26 of the principal Act, the words "which shall not exceed the duty payable therefor, under this Act" shall be omitted.

Amendment
of section
27.

9. In section 27 of the principal Act,

(a) the words "belonging to the Government" shall be omitted;

(b) in the marginal heading, the word "Government" shall be omitted.

Amendment
of section
31.

10. In section 31 of the principal Act, in sub-section (1),--

(a) in the opening portion, after the words "may cancel or suspend it", the words "irrespective of the period to which the licence or permit relates" shall be inserted;

(b) in clause (d),--

(i) for the expression "the Dangerous Drugs Act, 1930", the expression "the Narcotics Drugs and Psychotropic Substances Act, 1985" and for the expression "Customs Act, 1962; or" the expression "Customs Act, 1962 irrespective of the fact whether such conviction relates to the period earlier or subsequent to the grant of licence or permit; or" shall be substituted;

(ii) in the margin for the expression "Central Act 2 of 1930", the expression "Central Act 61 of 1985" shall be substituted.

Amendment
of section
34.

11. In section 34 of the principal Act, in clause (1), for the words "less than two years but which shall not exceed five years and with fine which may extend to five thousand rupees",

the words "less than six months and with fine which shall not be less than five times the value of the duty payable but shall not exceed ten times of such value in case where the value of duty is assessed, and in other cases, with fine which shall not be less than five thousand rupees" shall be substituted.

12. In section 37 of the principal Act, in Amendment clause (d), for the words "shall, on conviction, be punished with imprisonment for a term which may extend to three months and with fine which may extend to five hundred rupees", the following shall be substituted, namely:-

"shall, on conviction, be punished with imprisonment,--

(i) in the case of first offence, for a term which shall not be less than six months and with fine which shall not be less than five times the amount of duty payable but shall not exceed ten times of such duty; and

(ii) in the case of continuing offence for a term which shall not be less than two years, and with fine which shall not be less than ten times the amount of the duty payable."

13. In section 40 of the principal Act,-- Amendment of section

(a) for the words "be punished for each such offence with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees.", the following shall be substituted, namely:-

"be punished with imprisonment, -

(i) in the case of first offence, for a term which shall not be less than three months and with fine which shall not be less than one thousand rupees; and

(ii) in the case of second and subsequent offences for a term which shall not be less than six months and with fine which shall not be less than two thousand rupees.;"

(b) in the marginal heading, the word "Government" shall be omitted.

Amendment of section 41. 14. In section 41 of the principal Act, for the words "two hundred rupee:", the words "five thousand rupees" shall be substituted.

Amendment of section 43. 15. In section 43 of the principal Act, the proviso shall be omitted.

Insertion of new section 43A. 16. After section 43 of the principal Act, the following section shall be inserted, namely:-

*Punishment 43A. Whoever being a licensee for allowing under this Act and having the premises etc., control or use of any house, room, to be used enclosure, space, animal, conveyance knowingly permits it to be used for the commission of an offence, by any other person of an offence punishable under any provision of this Act, shall be punishable in the same manner as if he had himself committed the said offence."

17. In section 47 of the principal Act,-- Amendment
of section
47.

(1) In sub-section (1),--

(a) for the words "The Commissioner, the Collector or any Excise Officer", the words "The Collector or any Excise Officer" shall be substituted;

(b) for the expression "clause (b), clause (c), Clause (d), clause (g), or clause (h) of section 34, section 35", the expression "clause (c), clause (d), clause (g) or clause (h) of section 34" shall be substituted;

(c) for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted;

(ii) in sub-section (2), after the words "as the case may be", the expression "in accordance with the provisions of sub-section (1) or section 47A" and after the words "shall be instituted", the words "or continued" shall be inserted.

18. After section 47 of the principal Act, Insertion
of new section
47A.
the following section shall be inserted, namely:-

*Special powers of the Commissioner in regard to compounding of offences: 47A. (1) Any person who is reasonably suspected of having committed an offence falling under clause (a) of section 34 or section 35 may apply to the Commissioner for compounding the offence before he is convicted.

(2) On receipt of such application, the Commissioner having regard to the circumstances of the case, may in his discretion order for compounding the offence on payment of a sum of money by way of compounding fee or compensation for the offence on such terms and conditions as he deems fit:

Provided that the sum of money fixed as compounding fee or compensation by the Commissioner under this section shall not be less than five times but not more than ten times the duty involved and where no duty is involved not less than rupees fifteen thousand but not more than rupees one lakh:

Provided further that in all cases in which any property has been seized as liable to confiscation under this Act, may be ordered by him, to be released on payment of the value thereof as estimated by him or by an officer authorised by him in this behalf:

Provided also that where the property so seized is a liquor manufactured in contravention of this Act, such liquor shall not be released but shall be disposed of in such manner as may be prescribed."

Amendment of section 53. 19. In section 53 of the principal Act, in sub-section (1), in clause (a) for the expression "section 34", the expression "section 27 or section 34 or" shall be substituted.

Amendment of section 56. 20. In section 56 of the principal Act, in sub-section (1), for the expression "section 34", the expression "section 27, section 34" shall be substituted.

21. In the Schedule to the principal Act,- Amendment
of the
Schedule.

(i) against item 1, in the entry under column (4), for the words "Rupees eight", the words "Rupees twenty" shall be substituted;

(ii) against item 2, in the entry under column (4), for the words "Rupees three", the words "Rupees five" shall be substituted;

(iii) against item 3, in the entry under column (4), for the words "Rupees forty", the words "Rupees eighty" shall be substituted;

(iv) against item 4, in the entry under column (4), for the words "Rupees forty", the words "Rupees eighty" shall be substituted;

(v) for item 5 and the entries relating thereto, the following shall be substituted,-

(1)	(2)	(3)	(4)
-----	-----	-----	-----

"5. Toddy On each variety
of the following
excise trees:-

Date or Sendhi	.. Rupees twenty per tree.
Palmyrah	.. Rupees thirty per tree.
Coconut	.. Rupees fifty per tree.
Sago	.. Rupees sixty per tree.
Datepalm	.. Rupees fifty per tree."

Validation.

22. Where, before the 16th September, 1988 any permit has been issued for the transportation of intoxicants and any special powers were exercised, in regard to compounding of offences, by the Commissioner, the permit so issued and the special powers so exercised, shall be deemed to have been validly issued or exercised in accordance with the provisions of the principal Act as amended by this Act, as if the amendments made to the principal Act, by sections 6, 17 and 18 of this Act had been in force at all material times and accordingly, all acts, proceedings or things done or taken by the Government or by any officer of the Government or by any other authority in connection with the issue of such permit or compounding of offences shall for all purposes, be deemed to be and to have always been done or taken in accordance with law.

Repeal of
ordinance
12 of 1988.

23. The Andhra Pradesh Excise (Amendment) Ordinance, 1988 is hereby repealed.

THE ANDHRA PRADESH EXCISE (AMENDMENT) ACT,
1994.

ACT No. 4 OF 1994.

[15th January, 1994.]

AN ACT FURTHER TO AMEND THE ANDHRA PRADESH
EXCISE ACT, 1968.

Be it enacted by the Legislative
Assembly of the State of Andhra Pradesh in
the Forty-fourth Year of the Republic of
India as follows:-

1. (1) This Act may be called the Short
Andhra Pradesh Excise (Amendment) Act, title and
1994. Commence-
ment.

(2) It shall be deemed to have come
into force on the 26th November, 1993.

Received the assent of the Governor on the 15th
January, 1994. For Statement of objects and Reasons,
Please see the Andhra Pradesh Gazette, Part IV-A, Extra-
ordinary, dated the 23rd December, 1993 at Page 9-11.

Amendment of section 2, Act 17 of 1968. 2. In the Andhra Pradesh Excise Act, 1968 (hereinafter referred to as the principal Act) in section 2, -

(i) for clause 3, the following shall be substituted, namely:-

"(3) "bottle" means to transfer liquor from one cask to another cask or from a cask or vessel to a bottle, jar, flask, pot, closed packet, basket, tin, barrel, case, receptacle, bag, sack or wrapper or any other receptacle in any form in which any intoxicant is packed for the purpose of sale whether or not any process of manufacture is employed and includes re-bottling;"

(ii) in clause (5) for the words "the District Revenue Officer", the words "the Joint Collector" shall be substituted.

Substitution of new section for section 34. 3. For section 34 of the principal Act, the following section shall be substituted, namely:-

Penalties for illegal import, etc. 34. whoever, in contravention of this Act or of any rule, notification or order made, issued or passed thereunder or of any licence or permit granted or issued under this Act,-

(a) imports, exports, transports, manufactures, collects or possesses or sells any intoxicant; or

(b) taps any excise tree; or

(c) draws toddy from any excise tree; or

(d) constructs or works any distillery or brewery; or

(e) uses, keeps or has in his possession any materials, stills, utensils, implements or apparatus whatsoever for the

purpose of manufacturing any intoxicant other than toddy; or

(f) bottles any liquor for purposes of sale; or

(g) buys any intoxicant; or

(h) possesses any material or film either with or without Government logo of any district in the State of Andhra Pradesh or any other State or wrapper or any other thing in which intoxicants can be packed or any apparatus, or implement or machine for the purpose of packing any intoxicant;

(i) removes any intoxicant from any distillery, brewery or ware house licensed, established or continued under this Act;

shall on conviction be punished,-

(1) in the case of an offence falling under clause (a),-

(i) where the intoxicant involved in the offence is less than such quantity as may be notified in this behalf with imprisonment for a term which shall not be less than six months but which may extend upto three years and with fine which shall not be less than rupees five thousand but which may extend upto rupees twenty thousand;

(ii) where the intoxicant involved in the offence is not less than the quantity notified as aforesaid with imprisonment for a term which shall not be less than one year and which may extend upto five years and with fine which shall not be less than rupees ten thousand but which may extend upto rupees one lakh; and

(2) in the case of an offence other than an offence falling under clause (a) with imprisonment which shall not be less than six months but which may extend to one year and with fine which may extend upto rupees ten thousand."

Amendment of section 36. 4. In section 36 of the principal Act, in clause (g) for the words "child apparently under eighteen years of age or permits or suffers such child", the words "person apparently under twenty one years of age or permits or suffers such person" shall be substituted.

Amendment of section 37. Act,- 5. In section 37 of the principal Act,-

(a) after clause (d), the following clause shall be inserted, namely:

"(e) makes any block for printing counterfeit excise adhesive lable, photo copies of such lable for counterfeiting, prints any counterfeit excise adhesive lable, makes counterfeit cork or capsule, to be used on bottles, packages or other receptacles containing Indian liquor or Foreign liquor or in possession of counterfeit excise adhesive lable, cork, capsule, block or any other material to be used for printing such lable or making such cork or capsule.";

(b) for items (i) and (ii), the following items shall be substituted, namely:-

"(i) in case of first offence for a term which shall not be less than one year but which may extend upto three years and with fine which shall not be less than rupees ten thousand but which may extend upto rupees thirty thousand;

(ii) in the case of a second or subsequent offence for a term which shall not be less than two years but which may

extend upto three years and with fine which shall not be less than rupees fifty thousand but which may extend upto rupees one lakh".

6. After section 37 of the principal Act, the following section shall be inserted, namely:-

Insertion of
new section
37 A.

"Penalty for adulteration resulting in death etc. 37 A. (1) Whoever mixes or permits to be mixed with any liquor or intoxicating drug any noxious substance or any substance which is likely to cause disability or grievous hurt or death to human beings, shall, on conviction, be punishable,-

(i) if, as a result of such an act disability or grievous hurt or death is caused to any person, with imprisonment for a term which shall not be less than two years but which may extend upto imprisonment for life, and with fine which may extend upto rupees one lakh;

(ii) in any other case, with imprisonment for a term which shall not be less than one year, but which may extend upto ten years, and with fine which may extend upto fifty thousand rupees.

Explanation: For the purposes of this section, the expression "grievous hurt" shall have the same meaning as in section 320 of the Indian Penal Code, 1860.

Central Act 45
of 1860.

(2) Whoever omits to take reasonable precautions to prevent the mixing of any noxious substance or any substance which is likely to cause disability or grievous hurt or death to human beings, with any liquor or intoxicating drug shall, on conviction, be punishable,-

(i) if as a result of such omission, disability or grievous hurt is caused to any person, with imprisonment for a term which shall not be less than two years but which may extend upto imprisonment for life, and with fine which may extend upto rupees one lakh;

(ii) if as a result of such omission, death is caused to any person, with imprisonment for a term which shall not be less than three years but which may extend upto imprisonment for life, and with fine which may extend upto rupees one lakh;

(iii) in any other case, with imprisonment of a term which shall not be less than one year but which may extend upto ten years and with fine which may extend upto rupees fifty thousand.

(3) Whoever possesses any liquor or intoxicating drug in which any substance referred to in sub-section (1) is mixed, knowing that such substance is mixed with such liquor or intoxicating drug shall, on conviction, be punishable with imprisonment for a term which shall not be less than one year but which may extend upto ten years, and with fine which may extend upto rupees fifty thousand".

Insertion of 7. After section 40 of the principal new Section Act, the following section shall be inserted, namely:-

"Penalty for false statement made in declaration or affidavit."	40A. Whosoever in any declaration or affidavit made to an Excise Officer makes any statement which is false or found to be false after due verification or which he believes to be false or does not believe it to be true, touching any point material to the object for which the declaration or affidavit is made or used shall be
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punished with imprisonment of either description for a term which shall not be less than six months but which may extend upto three years and shall also be liable to fine which may extend upto rupees. ten thousand."

8. In section 41 of the principal Act, Amendment of for the words "be punished with fine section 41. which may extend to five thousand rupees", the words "be punished with imprisonment which may extend upto six months and with fine which may extend upto five thousand rupees" shall be substituted.

9. In section 44 of the principal Act, Amendment of in the proviso, for the expression section 44. "Chapter XXII of the Code of Criminal Procedure, 1898", the expression "Chapter XXI of the Code of Criminal Procedure, 1973" shall be substituted.

10. In section 45 of the principal Act, Amendment of in sub-section (3), the proviso shall be section 45. omitted.

11. In section 47 of the principal Amendment of Act, for the expression "clause (c), section 47. clause (d), clause (g) or clause (h) of section 34", the expression "clause (b), clause (c) or clause (g) of section 34" shall be substituted.

12. In section 47A of the principal Amendment of Act, in sub-section (1), for the expres- section 47A. sion "falling under clause (a) of section 34 or section 38", the expression "falling under section 38" shall be substituted.

13. In section 50 of the principal Amendment of Act,- section 50.

(i) for the words "which shall not exceed six months or with fine which shall not be less than five hundred rupees but which shall not exceed one thousand rupees

or with both", the words "which shall not exceed one year" shall be substituted;

(ii) for the existing marginal heading, the marginal heading "Penalty for abatement" shall be substituted.

Insertion of new section 32A. 14. After section 33 of the principal Act, the following section shall be inserted, namely:-

"Obligation of officers of Departments of Police and Revenue shall, upon notice given or request made by an Excise officer be legally bound to assist him in carrying out the provisions of the Act."

Amendment of section 53. 15. In section 55 of the principal Act, for the expression "or section 37", the expression "section 37 or section 37A" shall be substituted.

Amendment of section 58. 16. In section 56 of the principal Act, for the expression "or section 37", the expression "section 37 or section 37A or section 40A" and for the expression "the Code of Criminal Procedure, 1898", the expression "the code of Criminal Procedure, 1973" shall be substituted.

Amendment of section 57. 17. In section 57 of the principal Act, for the expression "section 190 of the Code of Criminal Procedure, 1898" the expression "section 190 of the Code of Criminal Procedure, 1973" shall be substituted.

Amendment of section 59. 18. In section 59 of the Principal Act, for the expression "the Code of Criminal Procedure, 1898" the expression "the Code of Criminal Procedure, 1973" shall be substituted.

Repeal of Ordinance 10 of 1993. 19. The Andhra Pradesh Excise (Amendment) Ordinance, 1993 is hereby repealed.

K. SATYANARAYANA MURTY,
Secretary to Government,
Legislative Affairs,
Law Department.

THE ANDHRA PRADESH EXCISE (SECOND AMEND-
MENT) ACT, 1994.

ACT No. 20 OF 1994*.

[20th May, 1994.]

AN ACT FURTHER TO AMEND THE ANDHRA PRADESH
EXCISE ACT, 1968.

BE it enacted by the Legislative Assem-
bly of the State of Andhra Pradesh in the
Forty-fifth Year of the Republic of India
as follows:-

1. This Act may be called the Andhra Pradesh Excise (Second Amendment) Act, 1994. Short title.

2. In the Andhra Pradesh Excise Act, 1968 (hereinafter referred to as the principal Act), in section 2, - Amendment of section 2, Act 17 of 1968.

(i) for clause (9), the following clause shall be substituted, namely:-

*Received the assent of the Governor on the 13th May, 1994. For Statement of objects and Reasons, Please see Andhra Pradesh Gazette, Part IV-A, Extraordinary, dated the 12th May, 1994 at Page 3.

"(9) "excisable article" means any alcoholic liquor for human consumption; or any intoxicating drug"-;

(ii) in clause 20, in sub-clause (d) for the expression "Dangerous Drugs Act, 1930", the expression "Narcotic Drugs and Psychotropic Substances Act, 1985" and in the margin for the expression "Central Act 2 of 1930", the expression "Central Act 61 of 1985" shall respectively be substituted.

Amendment of Section 37A. 3. In section 37A of the principal Act, in sub-section (1), in the explanation, for the words "this section", the expression "this section and section 37B" shall be substituted.

Insertion of new section 37B. 4. After section 37A, of the principal Act, the following section shall be inserted, namely:-

Central Act 2 of 1974.

"Order to pay Compensation.

37B. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 the court when passing the judgement in a case falling under section 37A may, if it is satisfied that death or grievous hurt or disability has been caused to any person or persons by consumption of liquor or intoxicating drug sold in any place, order the persons who sold the liquor or intoxicating drug, whether or not he is convicted of an offence under section 37A to pay, by way of compensation, such amount as it deems just, to the legal representatives of the deceased or to the person or persons to whom grievous hurt or disability has been caused:

Provided that where the liquor or intoxicating drug is sold in a licenced shop, the liability to pay the compensation under this section shall be on the licensee.

(2) Any person aggrieved by an order under sub-section (1) may, within ninety days from the date of the order, prefer an appeal to the High Court:

Provided that no such appeal shall lie unless the amount ordered to be paid under sub-section (1) is deposited in the court which passed such order:

Provided further that the High Court may entertain the appeal after the expiry of the said period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time."

5. In section 42 of the principal Act, ~~Amendment of~~ after the expression "section 34" the ~~section 42.~~ expression "sections 37 and 37A" shall be substituted.

6. For section 46 of the principal Act, ~~Substitution,~~ the following sections shall be substituted, ~~of new sec-~~ ~~tions for~~ ~~section 46.~~ namely:-

"Confisca- tion by Excise Officers in certain cases.	46. (1) Notwithstanding anything contained in this Act or any other law for the time being in force, where anything liable for confiscation under section 45 is seized or detained under the provisions of this Act, the Officer seizing and detaining such property shall, without any unreasonable delay, produce the said seized property before the Deputy Commissioner of Excise who has jurisdiction over the area.
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(2) On production of the said seized property under sub-section (1) the Deputy Commissioner of Excise if satisfied that an offence under this Act has been Committed, may, whether or not a prosecution is

instituted for the Commission of such an offence, order, confiscation of such property.

(3) While making an order of confiscation under sub-section (2), the Deputy Commissioner of Excise may also order that such of the properties to which the order of confiscation relates which in his opinion cannot be preserved or are not fit for human consumption be destroyed.

(4) Where the Deputy Commissioner of Excise after passing an order of confiscation under sub-section (2) is of the opinion that it is expedient in the public interest so to do, he may order the confiscated property or any part thereof to be sold by public auction or disposed of departmentally.

(5) The Deputy Commissioner of Excise shall submit a full report of all particulars of confiscation to the Commissioner of Excise within twenty-four hours of such confiscation.

(6) The Deputy Commissioner of Excise shall, for the purposes of this Act have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 when making enquiries under this section in respect of the following matters, namely:-

Central Act 5
of 1908.

- (a) receiving evidence on affidavits;
- (b) summoning and enforcing the attendance of any person and examining him on oath; and
- (c) compelling the production of documents.

Issue of show cause notice. 46A. No order of confiscation of any property shall be made under section 46 unless the person from whom the said property is seized, -

(a) is given a notice in writing informing him of the grounds on which it is proposed to confiscate such property; and

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice.

Order of confiscation in the absence of offender. 46B. When an offence under this Act has been committed, but the offender is not known or cannot be found, or when anything liable to confiscation, under this Act, and not in the possession of any person cannot be satisfactorily accounted for, the Excise Superintendent may by order confiscate such property:

Provided that no such order shall be made until the expiration of one month, from the date of seizing the goods intended to be confiscated.

Appeal. 46C. Any person aggrieved by an order passed by Deputy Commissioner of Excise under section 46 may, within sixty days from the date of passing such order, appeal to the Commissioner of Excise, who may after giving reasonable opportunity to the appellant pass such orders as he deems fit.

Order of confiscation not to 46D. The order of confiscation under sub-section (2) of section 46 or section 46B shall not prevent

interfere with other punishments from initiation of criminal proceedings against the accused under this Act. The result of criminal proceedings either acquittal or conviction or otherwise under the provisions of the Act, will have no bearing on the order of confiscation passed under this Act.

Act 2 of 1974. Bar of jurisdiction. 46E. Notwithstanding anything contained in the code of Criminal Procedure, 1973 when the Deputy Commissioner of Excise or the appellate authority is seized with the matter under this Act, no court shall entertain any application in respect of excisable articles any package, covering, receptacle, any animal, vehicle or other conveyance used in carrying such articles as far as its release, confiscation is concerned and the jurisdiction of the Deputy Commissioner of Excise or the appellate authority with regard to the disposal of the same shall be exclusive.

Property confiscated when to vest in Government. 46F. When an order for confiscation of any property has been passed under section 46 and such order has become final in respect of the whole or any portion of such property, such property or portion thereof, as the case may be, shall vest in Government free from all encumbrances."

Insertion of new section 50A. 7. After section 50 of the principal Act, the following section shall be inserted, namely:-

Central Act 45 of 1860. "Penalty for assault. 50A. Notwithstanding anything contained in the Indian Penal Code, 1860 whoever assault or threatens to assault or obstructs or attempts to obstruct any Excise Officer in the discharge of his official duties in

the matter of detection, seizure, arrest, investigation, prosecution of the offences under the Act or attempts to use criminal force on such Excise Officer shall be punished with imprisonment for a term which may extend to three years and with fine which may extend to rupees fifty thousands."

8. In section 53 of the principal Act, in Amendment of sub-section (1),- section 53.

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

"(a) arrest without warrant any person for an offence punishable under section 27 or section 34 or section 35 or section 36 or section 37 or section 37A or section 40A or section 50 or section 50A";

(ii) in sub-section (2) after the expression "or section 37", the expression "section 37A or section 50" shall be inserted;

9. In section 60 of the principal Act,- Amendment of section 60.

(i) in sub-section (4), for the expression "sections 499 to 502, section 513, section 514 and section 515 of the Code of Criminal Procedure, 1898" the expression "sections 441 to 446 and section 449 of the Code of Criminal Procedure, 1973", shall be substituted;

(ii) after sub-section (4), the following sub-section shall be added, namely:-

"(5) Notwithstanding anything contained Central Act 2 in the Code of Criminal Procedure, 1973, of 1974. no person accused of an offence under clauses (a) and (b) of section 34 or section 37, section 37A, section 40A, section 50 and section 50A of this Act, the

court shall not grant any bail, unless the prosecuting officer is given an opportunity to oppose the application, and the court shall record reasons while granting the bail".

Amendment of 10. In section 62 of the principal Act, section 62. for the expression "section 32 of the Code of Criminal Procedure, 1898", the expression "section 29 of the Code of Criminal Procedure, 1973", shall be substituted.

K. SATYANARAYANA MURTHY,
Secretary to Government,
Legislative Affairs,
Law Department.

ACT No. 28 OF 1998.

[21st August, 1998.]

AN ACT TO AMEND THE ANDHRA PRADESH EXCISE ACT, 1968.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Forty-ninth Year of the Republic of India, as follows:—

*[Received the assent of the Governor on the 19-08-1998. For statement of object and reasons please see the Andhra Pradesh Gazette, Part-IV-A, Extraordinary dated 24-07-1998 at page 3.]

SECRETARY TO GOVERNMENT
ANDHRA PRADESH

Short
title
and
commence-
ment.

1. (1) This Act may be called the
Andhra Pradesh Excise (Amendment) Act,
1998.

(2) It shall come into force at once.

Amendment
of sec-
tion 32.
Act 17 of
1968.

2. In the Andhra Pradesh Excise Act,
1968, in section 32, in sub-section (2),
after the words "under sub-section (1)",
the words "or clause (e) of sub-section
(1) of section 31" shall be inserted.

G. BHAVANI PRASAD,
Secretary to Government,
Legislative Affairs & Justice.

ANDHRA PRADESH ACTS, ORDINANCES AND REGULATIONS Etc.

The following Act of the Andhra Pradesh Legislative Assembly received the assent of the Governor on the 27th April, 2000 and the said assent is hereby first published on the 28th April, 2000 in the Andhra Pradesh Gazette for general information:-

ACT No. 11 OF 2000.

**AN ACT FURTHER TO AMEND THE ANDHRA
PRADESH EXCISE ACT, 1968./**

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Fifty-first Year of the Republic of India as follows:-

Short title. 1. This Act may be called the Andhra Pradesh Excise (Amendment) Act, 2000.

Amendment of section 13, Act 17 of 1968. 2. In the Andhra Pradesh Excise Act, 1968 (hereinafter referred to as the principal Act) in section 13, to sub-section (1) the following proviso shall be added; namely:-

"Provided that the provisions of this sub-section, in so far as they relate to establishing, continuing or licensing a distillery shall apply only to those distilleries which manufacture spirits for potable purpose and regulatory provisions relating to regulation and supervision, shall be applicable to all distilleries."

Amendment of section 16. 3. In section 16 of the principal Act, after sub-section (3) the following proviso shall be added, namely:-

"Provided that the provisions of this section in so far as they relate to establishing, continuing or licensing a distillery shall apply only to those distilleries which manufacture spirits for potable purpose and other regulatory provisions relating to regulation and supervision, shall be applicable to all distilleries."

G. BHAVANI PRASAD,
Secretary to Government,
Legislative Affairs & Justice,
Law Department.

STATEMENT OF OBJECTS AND REASONS

The State Government have been issuing licenses under sections 13 and 16 of the Andhra Pradesh Excise Act, 1968 for all types of Distilleries irrespective of the purpose for which the Rectified Spirit produced by them is put to use i.e., for Industrial Purpose or Potable purpose or for both. The Hon'ble Supreme Court of India by an order dated 29-1-1997 in W.P.No.322/96 in W/s Bihar Distilleries and others has held that:-

(i) in the matter of industries where the manufacture of Rectified Spirit is exclusive for the purpose of obtaining or manufacture potable liquors, such industries shall be under the total and exclusive control of the States in all respects;

(ii) in the matter of industries where the manufacture of rectified spirit is for both industrial and potable purposes permission to establish and regulate the functioning of distilleries shall be the exclusive domain of the Union;

(iii) however, even in regard to industries where the entire Rectified spirit is supplied for industrial purposes or both for industrial and potable purpose, the power of the States to take necessary steps to ensure against mis-use or diversion of Rectified Spirit meant for industrial purposes, both during and after manufacture of Rectified Spirit continues unaffected.

In view of the said observation of the Apex Court, the Government have decided to amend sections 13 and 16 of the Andhra Pradesh Excise Act, 1968 so as to restricting the power to grant licenses to those industries manufacturing Rectified Spirit for potable purpose and empowers the Government or officials of Prohibition and Excise Department to regulate all the industries manufacturing the Rectified Spirit for potable purpose, or Industrial purpose or for both so as to avoid the misuse or diversion of the Rectified spirit meant for Industrial purpose to be used for potable purpose.

Whereas the Andhra Pradesh Excise (Amendment) Bill, 1998 has been introduced in the Legislative Assembly of the State on 26th November, 1998 as L.A. Bill No. 36 of 1998, the same has lapsed due to dissolution of the tenth legislative Assembly.

This Bill seeks to give effect to the above decision.

TUMMALA NAGESWARA RAO,
Minister for Prohibition and Excise.