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THE ASSAM GAZETTE

অসাধাৰণ

EXTRA ORDINARY

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GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
LEGISLATIVE DEPARTMENT :: LEGISLATIVE BRANCH

NOTIFICATION

The 23rd August, 2006

No. LGL.68/2006/6. -- The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT NO. XIV OF 2006

(Received the assent of the Governor on 18th August, 2006)

THE GUWAHATI NON-BIODEGRADABLE GARBAGE (CONTROL AND PREVENTION)

ACT, 2006.

AN

ACT

to provide for the prevention of throwing or depositing non-biodegradable garbage in public drains, road, wet lands, wastelands, water bodies, places open to public view, to regulate the use of non-biodegradable material and for matters connected therewith or incidental thereto.

Preamble

Whereas it is expedient to provide for prevention of throwing or depositing non-biodegradable garbage in public drains, roads, wet land wasteland, water bodies, places open to public view all over the areas under the Guwahati Municipal Corporation and the Guwahati Metropolitan Development Authority to regulate the use of non-biodegradable material, in the manner hereinafter appearing;

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

Short title,
extent and
commence
ment

1. (1) This Act may be called the Guwahati Non-biodegradable Garbage (Control and Prevention) Act, 2006.

(2) It extends to the whole of the area under the Guwahati Municipal Corporation and the Guwahati Metropolitan Development Authority.

Definitions

2. In this Act, unless the context otherwise requires,-
(a) "bio-degradable garbage" means the garbage or washed materials capable of being destroyed by the activity of living beings;

- (b) "competent authority" means any authority, officer or person appointed by the State Government, by notification in the official Gazette, for enforcement of any provision of this Act;
- (c) "garbage receptacle" means the common bin placed in a public place or any other convenient place for collection of waste in a manner so as to prevent littering, attraction to vectors, stray animals and excessive foul odour;
- (d) "State Government" means the Government of Assam;
- (e) "house-gully" means a passage or strip of land constructed, set apart or utilised for the purpose of serving as or carrying a drain or offering access to the latrine, urinal, cesspit or other receptacle for filth or other polluted matter by persons employed in the clearing thereof or in the removal of such matter therefrom;
- (f) "local authority" means the Guwahati Municipal Corporation and the Guwahati Metropolitan Development Authority constituted under the Guwahati Municipal Corporation Act, 1969 and the Guwahati Metropolitan Development Authority Act, 1985;
- (g) "market" means any place where persons assemble of exposing for sale of meat, fish, fruits, vegetables, food or any other articles for human use or consumption with or without the consent of owner of such places, notwithstanding that there may be no common regulation for the concourse of the buyers and the sellers and whether or not any control is exercised over the business of, for the persons frequenting the market by the owner of the place or by any other persons;
- (h) "non-biodegradable garbage" means the garbage or washed materials made up of non-biodegradable materials and not capable of being destroyed by the activity of living beings or by biological natural process which remains in the environment for a long period of time and has potential to harm eco-system;
- (i) "non-biodegradable material" means the material which cannot be decomposed or degraded by action of micro-organisms, sunlight or other natural action and includes goods made or manufactured from polyethylene, nylon or other plastic substances such as poly-viny-chloride (PVC), poly-propylene and polystyrene, specified in the Schedule to this Act;
- (j) "place open to public view" includes any private place or building, public offices, hut, monument, statue, water pipe line, structure, wall including compound wall, retaining wall, tree, fence post, pole or any other erection or contrivance visible to person being in or passing along, any public place;

Assam
Act I of
1971
Assam
Act XX of
1987

- (k) "public place" means, any place including a road, street or way whether a thoroughfare or not and a landing place to which the public are granted access or have a right to resort or over which they have a right to pass;
- (l) "writing" includes decoration, lettering, ornamentations, drawing caricature and other modes for representing or reproducing words or figures in visible form.
- (m) "occupier" includes –
 - (i) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable ;
 - (ii) an owner in occupation of or otherwise using his land or building;
 - (iii) a rent free tenant of any land or building; and
 - (iv) any person who is liable to pay the owner, damages for the use of occupation of any land or building;
- (n) "owner" includes a person who for the time being is receiving or is entitled to receive the rent of any land or building, whether on his own account or of other person or as an agent, trustee, guardian or receiver or any other person who should so receive the rent or be entitled to receive it if the land or building or part thereof were let to a tenant;
- (o) "prescribed" means prescribed by rules made under this Act ;
- (p) "Public Analyst" means the persons appointed by the State Government in a laboratory established or recognized by the State, as Public Analyst;
- (q) "wetland" includes swamps and marshes, wet grass land and pit lands, estuaries, deltas and char areas, mangroves, wastelands and creeks and human made sites such as fish ponds, rice paddies, reservoirs and beels.

Prohibition
to throw bio-
degradable
and non-
biodegradab
le garbage

3 (1) No person by himself or through another, shall knowingly or otherwise, throw or cause to be thrown, in any drain, ventilation, shaft, pipe and fittings connected with the private or public drainage works, natural or man made lakes, wetland, any non-biodegradable garbage or construction debris, or any bio-degradable garbage by planting in a non-bio-degradable bag or container likely to –

- (i) injure the drainage and sewerage system;
- (ii) interfere with free flow or affect the treatment and disposal of drain and sewerage contents ;

(iii) be dangerous or cause nuisance or be prejudicial to the public health; and

(iv) damage the lake, river water or wetland.

(2) No person shall knowingly or otherwise, place or permit to be placed, except in accordance with such procedure or after complying with such safeguards as may be prescribed, any bio-degradable or non bio-degradable garbage in any public place or in a place open to public view, unless -

(a) the garbage is placed in a garbage receptacle ;

(b) the garbage is deposited in a location designated by a local authority having jurisdiction on an area for the disposal of such garbage.

Restriction or prohibition or use of certain non-biodegradable material

4. (1) The State Government may, by notification in the Official Gazette, impose restriction or prohibition on the use of non-biodegradable material, or any other material harmful to environment within the Guwahati Municipal Corporation area and the Guwahati Metropolitan Development Authority area, which is contrary to the norms, as the State Government may, by notification in the Official Gazette, specify.

(2) The State Government may, by general or special order, impose requirements on manufacturers, distributors, and other persons who produce or handle commodities, with respect to the type, size, thickness, labeling and composition of packaging with respect to its use and disposal including standards or norms for material degradability and re-cyclability.

Provision for placement of receptacle and places for deposit of non-biodegradable garbage and establishment of waste collection system

5. It shall be the duty of the local authority, or any officer authorized by it, to -

(a) place or provide or place in proper and convenient situation public receptacles, depots or places for temporary deposit or collection of non-biodegradable garbage;

(b) provide separate dustbins for temporary deposit of non-biodegradable garbage other than those kept and maintained for deposit of bio-degradable garbage ;

(c) provide for the removal of contents of receptacles, deposit and of the accumulation at all places provided or appointed by it under clause (a); and

(d) arrange for recycling of the non-biodegradable garbage so collected by local body or through private agencies.

Duty of the owners and occupiers to collect and deposit non-biodegradable garbage etc.

6. It shall be the duty of the owners and occupiers of every land and building to -

(i) collect or to cause to be collected from their respective land and building the non-biodegradable garbage and to deposit, or cause to be deposited in garbage receptacles, deposits or places provided for temporary deposits or collection of the non-biodegradable garbage by the local authority concerned in the area ;

(ii) provide separate garbage receptacles, other than those kept and maintained for deposit of bio-degradable garbage, of the type and in the manner specified by the local authority or its officers for collection therein of all the non-biodegradable waste from such land and building and to keep such receptacles or dustbins in good condition and repair ;

(iii) segregate and store the waste generated by them into a minimum of two receptacles one for biodegradable waste and other for non-biodegradable waste.

Power of local authority or competent authority to remove non-biodegradable garbage or non-biodegradable material

7. The local authority or the Competent Authority may, after giving notice in writing to the owner or occupier or part-owner or person claiming to be the owner or part-owner of any land or building, which has become a place of unauthorized stacking or deposit of non-biodegradable garbage or non-biodegradable material which is likely to cause a nuisance or is likely to injure the drainage and sewerage system or is likely to be dangerous to life and health, remove or cause to be removed the garbage or material so stacked or collected, or take such steps as it may think necessary and dispose of the said garbage or material at the cost of such person in the manner as provided under sub-section (5) of section 8.

Power of entry and inspection

8. (1) Subject to the provision of this section, any person empowered by the State Government, by notification in the Official Gazette or any person so authorized by the Guwahati Municipal Corporation or the Guwahati Metropolitan Development Authority, shall have a right to enter, at all reasonable times with such assistance as he considers necessary, any place, for the purpose of –

(i) performing any of the functions entrusted to him by the State Government; or

(ii) determining whether, and if so, in what manner, any such functions are to be performed, or whether any provisions of this Act or the rules made thereunder, or any notice, order or direction served, made or, given under this Act, is being, or has been complied with ; or

(iii) examining any record, register, document or any other material object or for conducting a search of any building in which he has reason to believe that an offence under this Act or the rules made thereunder has been, or is being, or is about to be committed, and for seizing such, record, register, document or other material object if he has reason to believe that it may furnish evidence of the commission of offence punishable under this Act or the rules made thereunder.

(2) Every person handling any non-biodegradable material or non-biodegradable garbage, shall be bound to render all assistance to the person empowered under sub-section (1) for carrying out the functions under that sub-section, and if he fails to do so without any reasonable cause or excuse, he shall be liable to be punished under this Act.

(3) If any person willfully delays or obstructs any person empowered under sub-section (1) in the performance of his functions, he shall be liable to be punished under this Act.

(4) The provisions of Code of Criminal Procedure, 1973, shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

(5) Any non-biodegradable garbage or non-biodegradable material seized under this section, shall be disposed of in the prescribed manner.

Penalty

9. (1) Whoever contravenes any of the provisions of this Act or any rules, notification or order made under this Act for throwing of biodegradable garbage or use of non-biodegradable garbage or restricted use of certain non-biodegradable material shall, on conviction, be punished –

(a) for the first offence with a fine which may extend to two thousand rupees;

(b) for the second offence with a fine which may extend to five thousand rupees;

(c) for the subsequent offence, with an imprisonment for a term which may extend to three months and with a fine which may extend to twenty-five thousand rupees;

(2) Whoever in any manner aids, abets or is accessory to the commission of an offence under this Act, shall, on conviction, be punished with the punishment provided for the offence.

Offences
by
companies

10. (1) If the person committing any offence punishable under this Act is a company, every person, who, at the time of the commission of the offence, was in-charge of and responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or attributable to any gross negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation :- For the purpose of this section -

- (i) "company" means any body corporate and includes a firm or other association of individuals; and
- (ii) "director", in relation to a firm, means a partner in the firm.

Offences to be tried summarily

11. All offences under the Act shall be tried in a summary way by a court not below the rank of a Judicial Magistrate of the First Class and the provisions of section 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973, shall as far as may be, apply to such trial.

Central Act 2 of 1973

Compounding of offences

12. (1) Any officer of the State Government or of the local authority, authorized by the State Government or authorized by the Commissioner, Guwahati Municipal Corporation and the Chief Executive Officer, Guwahati Metropolitan Development Authority, as the case may be, in this behalf, may accept from any person who has committed or who is reasonably suspected of having committed the first or second offence under this Act, a sum of money by way of compounding of the offence as specified in the Table below :-

TABLE		
Sl. No	Contravention/offence	The sum of money to be accepted for compounding of an offence
(1)	(2)	(3)
1.	First offence	Five thousand rupees.
2.	Second offence	Ten thousand rupees.

- (2) On payment of money in accordance with sub-section (1) any person in custody in connection with that offence shall be set at liberty and no proceedings shall be instituted or continued against such person in any criminal court.
- (3) The acceptance of a sum of money for compounding of an offence in accordance with sub-section (1) shall be deemed to be an acquittal within the meaning of section 300 of the Code of Criminal Procedure, 1973.

Central Act. 2 of 1974

Delegation of power by the State Government

13. (1) The State Government may, in exercise of its powers and the performance of its functions under this Act issue directions, in writing, to any officer or authority and such officer or authority shall be bound to comply with such directions.
- (2) Without prejudice to the provisions of sub-section (1), the State Government may appoint, by general or special order published in the official Gazette, officers with such designation as it thinks fit for the purpose of this Act and may entrust to them such of the powers and functions under this Act as it may deem fit.

- Amendment of the Schedule
14. (1) Where it is expedient to do so, the State Government may, in the public interest and in consultation with the Public Analyst, by notification in the Official Gazette, omit any entry from the Schedule or add any entry thereto or amend any such entry and that the Schedule shall, on the issue of such notification, be deemed to be so amended.
- (2) Every notification under Sub-section (1) shall be laid, as soon as may be after it is made, before the State Legislature.
- Delegation of power
15. The State Government may, by order published in the Official Gazette, direct that any power exercisable by it under this Act except the power to make rules, may also be exercised by such officer or authority, as may be specified therein
- Protection of action taken in good faith
16. No suit, prosecution or other legal proceedings shall lie against the State Government or the local authority or any officer or other employee of the State Government or the local authority or any other person authorized by State Government for anything which is in good faith done, or intended to be done under this Act or the rules made or directions issued thereunder
- Act to conform other laws.
17. The provisions of this Act shall be in addition to and not in derogation of, the provisions of any other law for the time being in force.
- Power to make rules.
- 18 (1) The State Government may, by notification in the Official Gazette, make rules for the purpose of carrying out the provisions of this Act.
- (2) Except when the rules are made for the first time, all rules made under this Act shall be subject to the condition of previous publication.
- (3) Without prejudice to the generality of the provisions of the sub-section (1), such rules may provide for –
- (i) requirements or conditions on manufacturers, distributors, users and other persons who produce or handle commodities with respect to type, size, thickness, labelling and composition of packaging, with respect to its use and disposal, including standards or norms for material degradability and re-cyclability under sub-section (2) of section 4 ; and
- (ii) any other matter which may be, or which is required to be prescribed for giving effect to the provisions of this Act.

- (4) Every rule made under this section shall be laid as soon as may be after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the Assam Legislative Assembly agree in making any modification in the rule or the Assam Legislative Assembly agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

SCHEDULE

(See section 2 and 14)

Non-Biodegradable and Biodegradable Garbage or Material, Electronic Waste

- (i) Acetyl
- (ii) Acrylic
- (iii) Cellulose Acetate
- (iv) Cellulose Acetate Butyrate
- (v) Construction debris
- (vi) Electronic waste
- (vii) HIPS
- (viii) Nylon
- (ix) Plastic strips used for packaging
- (x) Polycarbonate
- (xi) Polyethylene
- (xii) Polyethylene terephthalate (PET)
- (xiii) Polypropylene
- (xiv) Polystyrene
- (xv) Poly-Vinyl-Chloride (PVC)
- (xvi) Thermocol.

MOHD. A. HAQUE,
Secretary to the Govt. of Assam,
Legislative Department, Dispur.