

THE KERALA REGULATION TO CONTROL NOISE GENERATED FROM LOUDSPEAKERS, FIREWORKS DISPLAY AND OTHER PLURAL SOURCES BILL

A BILL for curtailing the noise generated from the loudspeakers, fireworks and other plural sources in the State of Kerala.

Preamble.—WHEREAS it is considered necessary to control the noise pollution being generated from the fireworks display, loudspeakers and other noise generators which are causing nuisance to the general public and other risks.

BE it enacted in the Fifty Ninth Year of the Republic of India as follows:

1. Short title, extent and commencement.—(1) This Act may be called the Kerala Regulation to Control Noise Generated from Loudspeakers, Fireworks Display and Other Plural Sources Act _____.

(2) It shall extend to the whole of the State of Kerala.

(3) It shall come into force on such date as may be notified by the Government.

2. Definitions.—In this Act unless the context otherwise requires,—

(a) “Act” means the Environment (Protection) Act, 1986 (29 of 1986).

(b) “Air pollutant” means any solid, liquid or gaseous substance (including noise) present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment.

(c) “Air pollution” means the presence in the atmosphere of any pollutant.

(d) “Authority” means any authority or officer authorized by the Government in accordance with the laws in force and includes a District Magistrate, Police Commissioner, or any other officer designated for the maintenance of the ambient air quality standards in respect of noise under any law for the time being in force.

(e) “Loudspeaker” includes any instrument, device or process being used for broadcasting the noise generated or polluting atmospheric acoustics.

(f) “Fireworks” means and includes any bursting of crackers, dynamites and other types of explosives and substances which can generate noise above 40 DB with similar effect notified under this Act.

(g) "Licensee" any person who gets authorization from the authorities contemplated under this Act.

(h) "Silence Zone" under this Act shall mean any place or area where any activity which is being carried on is of such a nature that it will be disturbed wholly or partly by noise or sound beyond reasonable limit and would include zones which are declared as such by the Competent Authority. In short, Silence Zone is an area comprising not less than hundred meters around hospitals, educational institutions and Courts.

(i) Terms not defined in this Act shall have the same meaning as defined in the Noise Pollution (Regulation and Control) Rules, 2000,(Central Rules).

3. Prohibition of use of loudspeakers and fireworks as defined in Section 2.—(1) No person shall use loudspeakers and fireworks as defined in clauses (e) & (f) of Section 2 in any place without obtaining a licence from the concerned authorities.

(2) No licence shall be granted to any person to use loudspeakers or conduct fireworks display in contravention of the provisions of Noise Pollution (Regulation and Control) Rules, 2000 and Explosives Act, 1884 and the rules thereunder.

(3) While granting licence under this provision, the licensing authority shall specify the place where the loudspeakers or any instrument, device, or process shall be installed and fireworks shall be conducted and it shall not be at any rate in any silence zone.

(4) The licence issued shall be only for less than ten days at a time and it shall be monitored by a police officer not below the rank of Sub Inspector and if there is any violation of any conditions, the said officer shall be empowered to take all measures including the disconnection of power supply and taking custody of the said loudspeakers, amplifiers, mikes or any instrument or device or process and other apparatus and materials connected therewith.

(5) If any loudspeaker, amplifier, mikes or any instrument or device or process and other apparatus or materials used for fireworks is being used violating the conditions imposed, the authority is empowered to pass orders of confiscation after giving a reasonable opportunity of being heard.

(6) No licence shall be granted to any person to use loudspeakers or any instrument or process and conduct fireworks display or permitting any noise at any time beyond 8 P.M. and before 6 A.M. without special permission by the licensing authority.

(7) If any licence once granted is violated and action is taken, no further licence shall be granted unless exceptional reason is shown for such renewal to the satisfaction of licensing authority.

4. Prohibition on supplying loudspeakers or other devices or technological process other than to persons who are having licence.—(1) No loudspeakers, amplifiers, mikes and other apparatus

used for amplifying sound or other devices or technologies shall be let on for hire or reward unless the said person obtains a registration as contemplated under Section 4.

(2) All the persons who are engaged in the business of lending out loudspeakers, amplifiers, mikes and other apparatus and materials for amplifying sound or other devices or technologies shall obtain a registration from the authorities.

(3) If any loudspeakers, amplifiers and mikes or other devices, materials or technological processes used is found to be used in contravention of the conditions of licence granted, as per Section 3 above and liable for confiscation, it shall not be a defence in the said proceedings that the said equipments do not belong to the licensee as contemplated under Section 3 above.

5. Liability to compensate the victims of accident caused by violation of the prohibition in Section 3 above.—(1) If any accident occurs on account of fireworks or other devices or technological process conducted in violation of the conditions of licence granted, such licensee or other persons violating Section 3 above shall be personally liable to pay compensation to all the victims of the said accident.

(2) The authorities are empowered to recover the said amount from the properties of the licensee in case the licensee refuses to make the amount payable as stated above, and recover the amount by invoking the provisions of the Kerala Revenue Recovery Act.

6. Offences.—(1) If any person commits any act in contravention of any provisions of this Act or in violation of the conditions imposed by the authorities while granting licence shall in addition to the confiscation proceedings initiated under Section 3 above, be liable for simple imprisonment for a term of one month or with a fine upto fifty thousand rupees;

(2) If any person commits the offence for the second time, he shall be liable for punishment for a term of one year or with a fine upto three lakhs rupees.

(3) All offences under this enactment shall be cognizable and bailable.

Statement of Objects and Reasons

Indian Law now, has no separate Noise Pollution Prevention Act. The noise syndrome permeates every aspect of life. The human ear is constantly being assailed by man-made sounds from all sides. Noise has been proved to be a health hazard; it may change a mans psychological state, cause chronic effects as hypertension or ulcers way damage his hearing. It gives rise to many other ailments. Noise, like smog, is a slow agent of death. The Commission, therefore, is of the view that noise pollution from various sources such as loudspeakers, crackers etc. should be effectively controlled by appropriate legislation. If the Bill is made into an Act of legislature, noise pollution can be reduced to the minimum.
