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SECRETARIAT  
OF  
THE ODISHA LEGISLATIVE ASSEMBLY  
NOTIFICATION

The 1st October, 2016

No.9233/L.A.—The following Bill which has been introduced in the Odisha Legislative Assembly on the 27th September, 2016 is herewith published under Rule 68 of the Rules of Procedure and Conduct of Business in the Odisha Legislative Assembly for general information.

**THE ODISHA PROHIBITION OF MANUFACTURE, IMPORT, SALE,  
STORE AND USE OF POLYTHENE CARRY BAGS BILL, 2016**

(By Shrimati Radharani Panda, M.L.A.)

**A  
BILL**

TO PROVIDE FOR PROHIBITION OF MANUFACTURE, IMPORT, SALE,  
STORE AND USE OF POLYTHENE CARRY BAGS IN THE ENTIRE  
STATE OF ODISHA AND FOR MATTERS CONNECTED THEREWITH.

**B**E it enacted by the Legislature of the State of Odisha in the Sixty-seventh Year of Republic of India as follows:—

Short title,  
extent and  
commence-  
ment.

1. (i) This Act may be called The Odisha Prohibition of Manufacture, Import, Sale, Store and Use of Polythene Carry Bags Act, 2016.
- (ii) It extends to the whole of the State of Odisha.
- (iii) It shall come into force on such date as the State Government may by notification appoint.

Definitions.

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

- (a) “carry bags” means the bags which have self carrying features for carrying commodities;
- (b) “Local Authority” means a Municipal Corporation, a Municipality, a Notified Area Council, an Industrial Township, or a Panchayat by whatever name called, constituted or continued under any law for the time being in force;
- (c) “manufacture” means any person who is involved in manufacturing of non biodegradable carry bags.
- (d) “non-biodegradable” means the material not capable of being destroyed by the activity of living beings or by natural biological process and which remains in the environment for a long period of time and has potential to harm the ecosystem;
- (e) “public place” means any place which is open to use by the public and includes a road, street, market, park or beach;
- (f) “pollution” means such contamination of water or air or such alteration of the physical, chemical properties of both or of any other liquid, gaseous or solid substance into water (whether directly or indirectly) as may, or is likely to, create a nuisance or injurious to public health or safety;
- (g) “polythene” means polyethylene which are non-biodegradable, synthetic polymer derived from monomer ethylene which is chemically polymerised into polyethylene, both Low Density Poly Ethylene (LDPE) and High Density Poly Ethylene (HDPE) which come under the category of recyclable plastics (Thermoplastic).
- (h) “prescribed” means prescribed by rules made under this Act.
- (i) “State Government” means Government of Odisha;
- (j) “Surface Water bodies “ means water of ponds, lakes, streams, rivers, estuaries or seas.

Imposition of prohibition of manufacture, import, sale, store and use of polythene carry bags.

**3.** The State Government shall, with effect from the commencement of this Act, impose, ensure and enforce total prohibition of manufacture, import, sale, store and use of polythene carry bags of less than 75 microns in thickness in the entire State.

Restriction or prohibition on carrying out certain activities involving non-biodegradable material.

**4.** (1) No person shall manufacture, import, sale, store or use virgin polythene carry bags of thickness less than 75 microns.

(2) No person shall manufacture, import, sell, store or use recycled polythene carry bags irrespective of any thickness.

(3) No person, by himself or through another, shall throw or dump non-biodegradable material such as polythene carry bags in any drain, water bodies or any public places which may likely to cause;

- (a) clogging or blockage of drainage or sewerage system;
- (b) interfere with the free flow or affect the treatment of sewage;
- (c) affect the water quality of the surface water bodies;
- (d) affect the aquatic life;
- (e) death of animals due to suffocation, stomach and intestine related disease;
- (f) premature death of precious marine such as fish, sea birds etc. by swallowing non-biodegradable carry bag waste;
- (g) loss of soil fertility due to its impervious nature.

(4) No person shall burn polythene carry bags in open places causing air pollution in the locality.

Power of entry and inspection.

**5.** (1) Subject to the provisions of this section, any person authorised by the State Government, by notification, shall have a right to enter, at all reasonable times which such assistance as he considers necessary, any place for the purpose of,—

- (a) Performing any of the functions entrusted to him by the State Government ; or
- (b) Examining any record, register, document or any other material object, or for conducting search of any building/ place 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 seizures such record, register, document or other material object if he has reason to believe that it may furnish evidence of the commission of an offence under this Act or the rule made thereunder.

(2) Every person handling polythene carry bags, shall be bound to render all assistance to the person authorised under sub-section (1) for carrying out the functions under that sub-section, and if he fails to do so without any reasonable cause of excuse, he shall be liable to be punished under this Act.

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

(4) The provisions of the 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.

2 of 1974.

(5) Any material seized under this section, shall be disposed of in the prescribed manner.

Duty of municipal authority.

**6.** It shall be the duty of the Local Authority to—

- (i) not to issue any trading licence for carrying out business by handling polythene carry bags of prohibited thickness;
- (ii) take steps for restricting entry of polythene carry bags of prohibited thickness into the municipal area from outside;
- (iii) Carry out surprise checks in shops and godowns within municipal limits;
- (iv) Advise citizens to adopt the best civic practices such as using garbage bins for disposing the non-biodegradable waste avoid throwing non-biodegradable waste in open spaces, public places, water channels, rivers, beaches and other fragile natural resources or environment;
- (v) provide adequate numbers of separate bins at suitable places/locations in the area under its jurisdiction, for temporary deposit of non-biodegradable materials;

- (vi) provide for the removal of contents of bins placed at all locations at regular intervals;
- (vii) arrange for recycling of the non-biodegradable garbage so collected.
- (viii) to create mass awareness regarding ill effects of polythene carry bags, through print and electronic media and to aware vendors, shop owners and people in general, not to use polythene carry bags of prohibited thickness;
- (ix) create awareness among the people about safe practices of plastic waste management and to run a campaign if possible with the help of other agencies working in this field.

Duty of State  
Pollution  
Control  
Board.

**7. (1)** The State Pollution Control Board shall not issue Registration certificate as required under Plastics (Manufacture, Usage and Waste Management) Rules, 2011 to any units for manufacture of carry bags of less than 75 micron thickness.

(2) The State Pollution Control Board shall not issue registration certificate to a unit unless the unit possesses a valid consent under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 as per the requirements laid down by the State Pollution Control Board.

(3) It shall be the duty of State Pollution Control Board to create mass awareness regarding ill effects of Polythene carry bags, through print and electronic media and to aware people not to use polythene carry bags of prohibited thickness.

Penalties.

**8.** Whoever contravenes any of the provision of this Act or any Rules, notifications or order made under this Act shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to rupees five thousand or with both:

Provided that, whoever having been convicted of an offence under this Act is again convicted of any offence under this Act, shall be punishable for the later offence with the double the penalty:

Provided further that, whoever, in any manner aids, abates or is accessory to the Commission of an offence under this Act shall on conviction, be punished with the penalty provided for the offence.

Offence to be cognizable and bailable. **9.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973 an offence punishable under this Act shall be cognizable and bailable. 2 of 1974.

Offence to be tried summarily. **10.** All offences under this Act shall be tried in a summary way by Court not below the rank of a Judicial Magistrate of the first class and the proviso of Sections 262 to 265 (both inclusive) of Code of Criminal Procedure, 1973 shall, as far as may be, apply to such trials.

Power to make rules. **11.** (1) The State Government may by notification in official Gazette make rules for carrying out the purposes of this Act subject to the provision in Section 4.

(2) In particular and without prejudice to the generality of the foregoing power, State Government may make rules in respect of all matters expressly required or allowed by this Act to be prescribed.

(3) All rules made under this Act, shall as soon as may be after they are made, be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions. The State Legislature makes modifications, if any, therein the rules shall thereafter have effect only in such modified form. So, however that such modifications shall be without prejudice to the validity of anything previously done under that rule.

Delegation of powers. **12.** The State Government may, by an order, direct that any power exercisable by it under this Act, except the power to make rules, may also be exercised by such officers with such designation as it things fit for the purposes of this Act and may entrust them such powers and functions under this Act as it may deem fit.

Protection of action taken in good faith. **13.** No suit, prosecution or other legal proceeding shall lie against the State Government or the local authority or any officer or any employee of the State Government or the local authority or any other person authorised by the State Government under this Act for any thing done in good faith or intended to be done under this Act or the rules made or direction issued, thereunder.

Provision not in derogation of other laws. **14.** The provision of this Act shall be in addition to and not in derogation of any other law, for the time being in force.

Power to remove difficulties. **15.** (1) If any difficulty arrises in giving effect to the provisions of this Act, the Government may, by order, make such provisions or give such directions not inconsistent with the provision of the Act as may appear to it to be necessary or expedient for the removal of the difficulty.

(2) Every order made under this section shall be laid as soon as made before the State Legislature.

Overriding  
effect of the  
Act.

16. Notwithstanding anything contrary to any other law or rule, order or resolution made by the State Government in vogue, the provision of this Act shall have effect.

## STATEMENT OF OBJECTS AND REASONS

1. As per the Directive Principles of State Policy, it shall be the duty of State to save environment from pollution and protect wild life. Article 48-A, ensures Protection and improvement of environment and safeguarding of forests and wild life.

2. The Environment (Protection) Act, 1986 has been enacted to provide for the protection and improvement of the environment and for matter connected therewith, and the water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 were enacted to provide for the prevention, control and abatement of pollution of water and air.

3. Polythene carry bags when disposed pose a serious hazard to life and environment.

4. Littering of polythene carry bags cause blocking of drains and sewerage systems which leads to spreading of water borne diseases and increasing the cost of sewerage maintenance systems.

5. Polythene carry bags which are non-biodegradable materials and when disposed find its way into streams, rivers, estuary and seas due to which aquatic life face serious health hazards and is wrecking havoc on water bodies.

6. Due to improper disposal of polythene carry bags, those are eaten by animals causing death due to suffocation, stomach and intestine related diseases.

7. Recent floodings in different parts of our country have demonstrated clogging of drainage systems by non-biodegradable materials including polythene carry bags preventing free flow of storm water from the area.

8. When disposed on land, polythene carry bag waste remains in the soil for years together without natural degradation which effects soil fertility.

9. It is expedient to provide for the prohibition of use of polythene carry bags of prohibited thickness so as to encourage people to use paper bags and bags made with cloth materials which are environmentally friendly.

10. The existing provisions are inadequate to act as an effective deterrent to prevent use of polythene carry bags. By such prohibition, the excessive dependance on polythene carry bags can be controlled to some extent having its far reaching consequences.

11. Hon'ble High Court of Orissa by their order dated the 24th April, 2008 directed the State Government that there shall be total ban of manufacture or import or sale or use of the recycled polythene bag in any form and manner in the State. Though the industries department has issued an order on 12th May, 2008 to this effect but has felt in its objectives.

12. Therefore, it has been considered to provide an appropriate Legislative frame work for imposing a total prohibition of manufacture, import, sale, store and use of polythene carry bags of both virgin and recycled polythene less than 75 microns in thickness.

13. Accordingly it has been decided to undertake a Legislation which envisages for total prohibition of manufacture, import, sale, store and use of polythene carry bags of less than 75 micron in thickness and taking cognizance of the offences, penalties have been proposed for violation of the provisions in order to prevent short term and long term environmental risks and tackling health hazards due to indiscriminate use and disposal of polythene carry bags and to curb the menace.

This Bill seeks to achieve the above objectives.

RADHARANI PANDA

Member-in-Charge

A. K. SARANGI

Secretary

Odisha Legislative Assembly