

A
BILL

*to provide for prohibition of tobacco in public places
and public service vehicles and to protect the health of non-smokers in the
Province of the Khyber Pakhtunkhwa*

WHEREAS it is expedient to provide for prohibition of tobacco in public places and public service vehicles and to protect the health of non-smokers in the Province of the Khyber Pakhtunkhwa and for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:

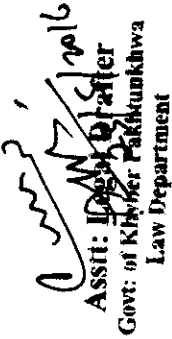
1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Prohibition of Tobacco and Protection of Non-Smokers Health Act, 2016.

(2) It extends to the whole Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. Definitions.---In this Act, unless there is anything repugnant in the subject or the context,-

- (a) "advertisement" means and includes any notice, circular, wall paper, pamphlet, display on any board or hoarding, through internet, or any visible representation made by any form of media whether mechanical, electronic, audio, visual or any other technological means of any light, sound, smoke, gas, writing instruments, stickers, symbol, color, logo, trademarks, display on articles like T-shirts, shoes, sportswear, sports gears, caps, carry bags, telephone booths or by any other mean, direct or indirect, which have the effect of promoting smoking and other tobacco use and the expression "advertise" shall be construed accordingly;
- (b) "authorized officer or authorized person" means an officer or a person authorized under section 4;
- (c) "public place" means any place declared as such under section 3 and includes auditoriums, public buildings, health institutions, amusement centers, restaurants, public offices, court buildings, cinema halls, conference or seminar halls, eating houses, hotel lounges, other waiting lounges libraries, bus stations or stands, sports stadiums, educational institutions, libraries, play grounds, public parks and the like which are visited by general public and includes roof tops lawns, lobbies, etc. of the premises;
- (d) "promotion" includes sponsorship, sampling, display and uses of tobacco brand names, logos and colors on non-tobacco merchandise which has the effect of promoting smoking and other tobacco use;


Assit: ~~Deputy~~ ~~Secretary~~ ~~Govt. of Khyber Pakhtunkhwa~~
Law Department

- (e) "public service vehicle" means a vehicle as defined in the Provincial Motor Vehicles Act, 1965 (W.P. Act XIX of 1965), and includes railway train and aero planes.
- (f) "rules" mean the rules made under this Act; and
- (g) "tobacco" means tobacco in any form and includes cigarettes, cigar, sheesha (with or without smoke) or otherwise with the aid of a pipe wrapper or any other instrument.

3. Powers to declare a place as public place.---As soon as may be after the commencement of this Act, Government may from time to time, by notification in the official Gazette, declare any place as public place for the purposes of this Act.

4. Power to authorize.---(1) Government may, by notification in the official Gazette, authorize an officer or person, who shall be competent to act under this Act.

(2) Every person authorized under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

5. Prohibition of tobacco.---No person shall use tobacco in any public place and there shall be no designated areas for using tobacco in any public place.

6. Prohibition of tobacco in public service vehicles.---Without prejudice to the provisions of the Provincial Motor vehicles Ordinance, 1965 (W.P. Ordinance XIX of 1965), no person shall use tobacco in a public service vehicle.

7. Prohibition on advertisement for promotion and sponsorship of tobacco, etc.---Notwithstanding anything contained in any other law for the time being in force, no person or company shall advertise tobacco on any media or any public place and any public service vehicle.

8. Prohibition of sale of tobacco etc., to juveniles.---No person shall sell tobacco products to any person, who is below the age of eighteen years.

9. Prohibition of storage, sale and distribution of tobacco in the immediate vicinity of educational institutions or Health Facilities.---No person shall himself or by any person on his behalf, store, sell or distribute tobacco within hundred (100) meters from any college, school or educational institution or within the premises of health facilities and public parks.

10. Display and exhibition of boards.---The owner or manager or incharge of the affairs of every public place or public service vehicle as the case may be, shall display and exhibit a board at each conspicuous place in and outside the premises visited or used by general public prominently stating that the place is a "No Smoking Zone" and that "Smoking is an offence." Moreover he has to ensure that no one uses tobacco in the public place or public service vehicle as the case may be, under his charge.

11. Penalties for violation of sections 5, 6 and 10.---Any person, who contravenes the provisions of section 5, section 6 or section 10 respectively, shall be punishable with fine which may extend to rupees one thousand and in case of repetition of the same offence, shall be punishable with a fine which may extend to rupees ten thousand.

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12. Penalties for violation of sections 7, 8 and 9.---Any person who contravenes the provisions of section 7, section 8 or section 9 respectively, shall be punishable with fine which may extend to rupees five thousand and in case of repetition of the same offence, shall be punishable with imprisonment which may extend to three months, or with a fine which shall not be less than rupees five thousand and not more than rupees twenty thousand, or with both.

13. Ejection of violators from any place of public work or use or public service vehicle.---Any authorized officer or authorized person may eject any person from any place of public work or use or public service vehicle who contravenes the provisions of this Act.

14. Cognizance of offences.---(1) No Court, other than the Court of Judicial Magistrate of First Class, shall take cognizance of any offence under this Act, except on a complaint in writing by an authorized officer with respect to an offence under sections 5, 6 and 10 and on a report in writing by a police officer, not below the rank of sub-Inspector, with respect to an offence under sections 7, 8 and 9 respectively.

(2) The provisions of the Code of Criminal Procedure, 1898 (Act No. V of 1898), shall mutatis mutandis apply to this Act.

15. Power to delegate.---Government may, by notification in the official Gazette, direct that all or any of its powers under this Act or the rules shall, subject to such conditions, if any, as may be specified therein, be exercisable also by any officer or authority subordinate to Government.

16. Power to make rules.---(1) Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) The power to make rules conferred by this section shall, except for the first occasion of the exercise thereof, be subject to the condition of previous publication.

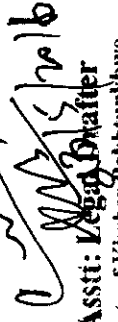
17. Repeal and savings.---(1) The West Pakistan Juvenile Smoking Ordinance, 1959 (W.P. Ordinance XII of 1959) and the West Pakistan Prohibition of Smoking in Cinema Houses Ordinance, 1960 (W.P. Ordinance IV of 1960) are hereby repealed while the Prohibition of Smoking and Protection of Non-Smokers Health Ordinance, 2002 (LXXIV of 2002) is hereby repealed to the extent of the Province of the Khyber Pakhtunkhwa.

(2) Notwithstanding the repeal of the Ordinances in sub-section (1) all actions done, rules made, orders issued, proceedings taken and decisions made, or any other thing done shall be deemed to be validly done, issued taken and made under this Act.

STATEMENT OF OBJECTS AND REASONS.

It is desirable to provide for prohibition of tobacco in public places and public service vehicles and to protect the health of non-smokers in the Province of the Khyber Pakhtunkhwa. Hence, this Bill.


MINISTER IN-CHARGE


Asstt. Legal Officer
Govt. of Khyber Pakhtunkhwa
Law Department