

# Laws Relating to Tobacco Control



**Compiled by**



**MANT**

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### Article 47 of Indian Constitution:

Duty of the State to raise the level of nutrition and the standard of living and to improve public health  
The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the **State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.**

Food safety and Standards Act, 2006		
Sections	Provisions	Penalty
Section 2.3.4 of FSSA	Ban on manufacture, storage, sale or distribution of 'Gutkha" and "Pan Masala" Processed/flavoured/scented chewing tobacco and any other food products, containing tobacco/nicotine.	
Cigarettes and other Tobacco Products Act (COTPA) 2003		
<b>Section 4</b>	There is a prohibition on smoking in public places	Shall be punishable with fine which may extend to two hundred rupees.
<b>Section 5</b>	There is a prohibition of direct/ Indirect advertisement of any tobacco product	<ul style="list-style-type: none"> <li>● 1<sup>st</sup> Conviction: Imprisonment upto 2 years and/or Fine upto Rs 1000</li> <li>● 2<sup>nd</sup> or Subsequent Conviction: Imprisonment upto 5 years and Fine upto Rs 5000</li> </ul>
<b>Section 6a</b>	There is a prohibition on sale of cigarettes & other tobacco products to and by minors	Shall be punishable with fine which may extend to two hundred rupees.
<b>Section 6b</b>	There is a prohibition on the sale of cigarettes & other tobacco products in an area within radius of 100 yards of any educational institution	
<b>Section 7</b>	There is a prohibition on the sale of cigarettes & other tobacco products without pictorial health warnings	<p><b>1. Production/manufacture</b></p> <ul style="list-style-type: none"> <li>● First conviction-Imprisonment up to 2 years or with fine up to Rs 5000 or both</li> <li>● Second/subsequent conviction: Imprisonment up to 5 years and with fine up to Rs 10000</li> </ul> <p><b>2. Sale/distribution</b></p> <ul style="list-style-type: none"> <li>● First conviction- Imprisonment up to 1 year or with fine up to Rs 1000 or both</li> <li>● Second/subsequent conviction: Imprisonment up to 2 years or with fine up to Rs 3000</li> </ul>

<b>Section 12</b>	<b>Power of entry and Search:</b> Any Police Officer, not below the rank of a sub-inspector.... If he has any reason to suspect that any provision of this Act has been or is being, contravened, enter and search in the manner prescribed, at any reasonable time, any factory, building, business premises or any other place, - <ul style="list-style-type: none"><li>• (a) where any trade or commerce in cigarettes or any other tobacco products is carried on or cigarettes or any other tobacco products are produced, supplied or distributed; or</li><li>• (b) where any advertisement of the cigarettes or any other tobacco products has been or is being made.</li></ul>	
<b>Section 13</b>	<b>Power to Seize:</b> (1) If any police officer, not below the rank of a sub-inspector..... Has any reason to believe that, - <ul style="list-style-type: none"><li>• (a) in respect of any package of cigarettes or any other tobacco products or</li><li>• (b) in respect of any advertisement of cigarettes or any other tobacco products the provisions of this act have been, or are being, contravened, he may seize such package or advertisement materials prescribed.</li></ul>	
<b>Section 25</b>	<b>Power to Detain:</b> Provided that the person so authorized may, if he has reasonable ground for believing that any person has committed an offence under section 4 or section 6, may detain such person unless the accused person furnishes his name and address, and otherwise satisfies the officer detaining him that he will duly answer any summons or other proceedings which may be taken against him.	
<b>Section 27</b>	<b>Bailable:</b> Notwithstanding anything contained in the Code of criminal Procedure, 1973, an offence punishable under this Act shall be bailable.	
<b>The Factories Act,1948</b>		
<b>Schedule -II</b>	(d) smoking, lighting or carrying of matches, lighters or smoking materials shall be prohibited  - Inside the factory.	
<b>Juvenile Justice Act,2015</b>		
<b>Section 77</b>	Whoever gives, or causes to be given, to any child any intoxicating liquor or any narcotic drug or tobacco products or psychotropic substance, except on the order of a duly qualified medical practitioner	Shall be punishable with rigorous imprisonment for a term which may extend to seven years and shall also be liable to a fine which may extend up to one lakh rupees
<b>Indian Penal Code, 1860</b>		
<b>Section 166</b>	Public servant disobeying law, with intent to cause injury to any person.-- Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.	


<b>Section 268</b>	Public Nuisance- A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right. A common nuisance is not excused on the ground that it causes some convenience or advantage.	
<b>Section 290</b>	Punishment for public nuisance in cases not otherwise provided for.- Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred rupees.	
<b>Section 291</b>	Continuance of nuisance after injunction to discontinue.-- Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both	
<b>Section 269</b>	Negligent act likely to spread infection of disease dangerous to life. — Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life.	Shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both
<b>Section 278</b>	Making atmosphere noxious to health. —Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighborhood or passing along a public way.	Shall be Fine which may extend to five hundred rupees.
<b>Ban on Running of Hookah Bars</b>		
<b>Section 144 of Criminal Procedure Code</b>	<p>Under Section 144 of CRPC, which has given power to issue order in urgent cases of nuisance of apprehended danger, action against Hukah Bars could be taken.</p> <p>1. In cases where, in the opinion of a District Magistrate, a Sub- divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in the manner provided by section 134, direct any person to abstain from a certain act or to take certain order with respect to certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to</p>	

	<p>prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, of an affray.</p> <p>4. No order under this section shall remain in force for more than two months from the making thereof: Provided that, if the State Government considers it necessary so to do for preventing danger to human life, health or safety or for preventing a riot or any affray, it may, by notification, direct that an order made by a Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which the order made by the Magistrate would have, but for such order, expired, as it may specify in the said notification.</p>	
<b>Drugs and Cosmetics Act, 1940</b>		
<b>Section 18 (c)</b>	No person shall himself or by any other person on his behalf manufacture for sale [or for distribution], or sell, or stock or exhibit [or offer] for sale, or distribute any drug [or cosmetic], except under, and in accordance with the conditions of, a license issued for such purpose. The only Nicotine product that is legalized under this Act is chewing gums with 2/4 milligrams (mg) of nicotine.	
<b>Motor Vehicle Act, 1988</b>		
<b>Motor Vehicle Act, 1988</b>	Ban on Smoking while driving	1 <sup>st</sup> offence – Rs 300 2 <sup>nd</sup> offence- Rs 600
<b>Tobacco vendor Licensing</b>		
<b>The West Bengal Municipal Act. 1999</b>	<p><b>Section: 201:</b> Licence to be obtained for use of premises for non-residential purposes-</p> <p>(1) No person shall use or permit to be used any premises for any of the non-residential purposes as mentioned in Schedule-II without or otherwise than in conformity with a licence granted by the Chairman in this behalf on such terms and conditions as may be determined by regulations.</p> <p>(2) The Board of Councilors shall determine by regulations a scale of fee to be paid for the issue of licence in respect of premises used for non-residential purposes under sub-section (1):</p> <p>Provided that no such fee shall exceed five hundred rupees per month in respect of any premises.</p> <p style="text-align: center;"><b>SCHEDULE-II</b></p> <p>(Purposes for which premises may not be used without a licence or written permission)</p> <p>139. Tobacco (Including snuff, cigar, cigarette and bidi)- storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.</p>	

<b>Tobacco Use and Smoking in TV/Cinema</b>	
<b>Cable Television Networks (Amendment) Rules, G.S.R. 138(E), February 27, 2009</b>	<p>Provided that a product that uses a brand name or logo, which is also used for cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants, may be advertised on cable service subject to the following conditions that –</p> <ul style="list-style-type: none"> <li>(i) the story board or visual of the advertisement must depict only the product being advertised and not the prohibited products in any form or manner;</li> <li>(ii) the advertisement must not make any direct or indirect reference to the prohibited products;</li> <li>(iii) the advertisement must not contain any nuances or phrases promoting prohibited products;</li> <li>(iv) the advertisement must not use particular colours and layout or presentations associated with prohibited products;</li> <li>(v) the advertisement must not use situations typical for promotion of prohibited products when advertising the other products.</li> </ul>
<b>Ministry of Information Broadcasting Notification S.O. 836(E), Section 5B(2) Cinematograph Guidelines, December 6, 1991</b>	<p>2. The Board of Film Certification shall ensure that-</p> <p>(vi-a) Scenes tending to encourage, justify or glamorise consumption of tobacco or smoking are not shown</p>



# We Want



**No Smoking Area**  
Smoking here is  
an offence

The violators can be challaned with fine of Rs. 200/-

In case someone smokes here, please report to following Authority  
Name: \_\_\_\_\_  
Designation: \_\_\_\_\_  
Contact No: \_\_\_\_\_

Courtesy - MANT



## To Make the People Tobacco Control Advocates