

Fourteenth Kerala Legislative Assembly

Bill No. 73

8/8/17

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**THE KERALA MUNICIPALITY (AMENDMENT)  
BILL, 2017**

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2017

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[Translation in English of “2017-ലെ കേരള മുനിസിപ്പാലിറ്റി (ഭേദഗതി) ബിൽ” published under the authority of the Governor.]

THE KERALA MUNICIPALITY (AMENDMENT)

BILL, 2017

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*further to amend the Kerala Municipality Act, 1994.*

*Preamble.*—WHEREAS, it is expedient further to amend the Kerala Municipality Act, 1994 for the purposes hereinafter appearing;

BE it enacted in the Sixty-eighth Year of the Republic of India, as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Municipality (Amendment) Act, 2017.

(2) It shall be deemed to have come into force on the 1st day of June, 2017.

2. *Amendment of section 447.*—In the Kerala Municipality Act, 1994 (20 of 1994) (hereinafter referred to as the principal Act), in section 447, sub-sections (7) to (10) and the Explanation shall be omitted.

3. *Repeal and Saving.*—(1) The Kerala Municipality (Amendment) Ordinance, 2017 (19 of 2017) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

## STATEMENT OF OBJECTS AND REASONS

The existing sub-section (7) of section 447 of the Kerala Municipality Act, 1994, provides that no person shall, without previous permission of the Municipality in writing and otherwise than in accordance with the conditions specified in the permission, establish an Abkari shop within a Municipal area. Sub-section (8) of the said Act provides that while granting permission to establish an Abkari shop near an educational institution or place of worship, the distance limit prescribed in the Abkari Act for the time being in force or the rules framed thereunder shall be complied with and the Municipality shall not grant permission to establish an Abkari shop within the said distance limit. Sub-section (9) provides that Municipality shall be competent, in the interest of public peace or morality or on the grounds of convenience or nuisance, to order the shifting of an Abkari Shop from the place where it is situated to another or its closing as may be directed in this behalf. The afore mentioned provisions were included in the said Act as per the Kerala Municipality (Amendment) Act, 2014 (8 of 2014).

The Government have found that it is essential to amend section 447 of the Kerala Municipality Act, 1994 in order to implement uniform Abkari policy in the State and to put an end to the discrimination between various applicants, the existing licencees and the fresh applicants. Accordingly the Government have decided to amend the said Act.

As the Legislative Assembly of the State of Kerala was not in session and the said proposal had to be given effect immediately, the Kerala Municipality (Amendment) Ordinance, 2017 (10 of 2017) was promulgated by the Governor of Kerala on the 1st June of 2017 and the same was published in the Kerala Gazette Extraordinary No.1136 dated 1st June, 2017.

A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by the Legislative Assembly of the State of Kerala during its session which convened on the 8th day of June, 2017.

As the provisions of the said Ordinance are to be kept alive and the Legislative Assembly of the State was not in session, the Kerala Municipality (Amendment) Ordinance, 2017 (19 of 2017) was promulgated by the Governor of Kerala on the 18th July, 2017 and the same was published in the Kerala Gazette Extraordinary No. 1494 dated 18th July, 2017.

This Bill seeks to replace Ordinance No.19 of 2017 by an Act of the State Legislature.

#### FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

DR. K. T. JALEEL

EXTRACT FROM THE KERALA MUNICIPALITY ACT, 1994  
(20 OF 1994)

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447. *Purpose for which places may not be used without licence.—*

(1) No place within a Municipal area shall be used,—(a) Generally for Industries, Factories, Trades, work places and other services which directly or indirectly adversely affect public interests such as environment, public safety and public health or cause nuisance;

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(6) If the order on an application for any licence or permission are not communicated to the applicant within thirty days after the receipt of the application by the Secretary or within such longer period, as may be prescribed in any class of cases the application shall be deemed to have been allowed for the period required in the application, subject to the Act, rules and bye-laws and all conditions which would have been ordinarily imposed.

(7) Notwithstanding anything contained in the Abkari Act, 1077 (1 of 1077) or in any other law for the time being in force, no person shall, without previous permission in writing of the Municipality and otherwise than in accordance with the conditions specified in the permission, establish an Abkari shop within a Municipal area.

(8) While granting permission to establish an Abkari shop near an educational institution or place of worship, the distance limit prescribed in the Abkari Act for the time being in force or the rules framed thereunder shall be complied with and the Municipality shall not grant permission to establish an Abkari shop within the said distance limit.

(9) A Municipality shall be competent, in consideration of public peace or morality or on the grounds of convenience or nuisance to order shifting from one place to another or closing of an Abkari shop within a period not exceeding fifteen days, as may be directed in this behalf.

(10) Notwithstanding anything contained in this section, the provisions of sub-sections (7) to (9) shall not be applicable to any Abkari shop existing on the 25th day of November, 2012, the date of commencement of the Kerala Municipality (Second Amendment) Ordinance, 2012 (64 of 2012), or, subject to all existing legal provisions for re-establishing the toddy shops existing on the said date, in the area within the boundaries allotted for establishing them.

*Explanation:*—“Abkari shop” means a toddy shop or a foreign liquor shop or a foreign liquor retail shop or an establishment having FL-9 licence or a bar hotel, under the Abkari Act, 1077 and the rules made thereunder.

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