

Fourteenth Kerala Legislative Assembly

Bill No. 74

8/8/17

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**THE KERALA PANCHAYAT RAJ (AMENDMENT)  
BILL, 2017**

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

**THE KERALA PANCHAYAT RAJ  
(AMENDMENT) BILL, 2017**

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*further to amend the Kerala Panchayat Raj Act, 1994.*

*Preamble.*—WHEREAS, it is expedient further to amend the Kerala Panchayat Raj 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 Panchayat Raj (Amendment) Act, 2017.

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

2. *Amendment of section 232.*—In the Kerala Panchayat Raj Act, 1994 (13 of 1994) (hereinafter referred to as the principal Act), in section 232, sub-sections (2) to (5) and the Explanation shall be omitted.

3. *Repeal and Saving.*—(1) The Kerala Panchayat Raj (Amendment) Ordinance, 2017 (18 of 2017) is hereby repealed.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 (2) of section 232 of the Kerala Panchayat Raj Act, 1994, provides that no person shall, without previous permission in writing of a Village Panchayat and otherwise than in accordance with the conditions specified in the permission, establish an Abkari shop within a Village Panchayat area. Sub-section (3) 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 Village Panchayat shall not grant permission to establish an Abkari shop within the said distance limit. Sub-section (4) provides that a Village Panchayat 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 Panchayat Raj (Amendment) Act, 2013 (23 of 2013).

The Government have found that it is essential to amend section 232 of the Kerala Panchayat Raj Act, 1994 in order to implement the 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 Panchayat Raj (Amendment) Ordinance, 2017 (9 of 2017) was promulgated by the Governor of Kerala on the 1st day of June 2017 and the same was published in the Kerala Gazette Extraordinary No. 1135 dated 1st June, 2017.

A Bill to replace the said Ordinance by an Act of the 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 Panchayat Raj (Amendment) Ordinance, 2017 (18 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.1495 dated 18th July, 2017.

This Bill seeks to replace Ordinance No. 18 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 PANCHAYAT RAJ ACT, 1994

(13 OF 1994)

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232. *Purpose for which places may not be used without a license.*—(1) The Village Panchayat may notify, that no place in the Panchayat are shall be used for any of the purposes specified in the rules made in this behalf being purposes which in the opinion of the Government, are likely to be offensive or dangerous to human life or health or property, without a licence issued by the Secretary and except in accordance with the condition specified in such licence:

Provided that no such notification shall take effect until the expiry of thirty days from the date of its publication.

(2) 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 a Village Panchayat and otherwise than in accordance with the conditions specified in the permission, establish an Abkari shop within a Village Panchayat area;

(3) 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 Village Panchayat shall not grant permission to establish an Abkari shop within the said distance limit.

(4) A Village Panchayat 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 within a period not exceeding fifteen days, as may be directed in this behalf.

(5) Notwithstanding anything contained in this section, the provisions of sub-sections (2) to (4) shall not be applicable to any Abkari shop existing on 25th November, 2012, the date of commencement of the Kerala Panchayat Raj (Fourth Amendment) Ordinance, 2012 (63 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.