

Draft Andhra Pradesh Street Vendors' (Protection of Livelihood & Regulation of Street Vending) Bill - 2011

Government of Andhra Pradesh, Department
of Municipal Administration & Urban
Development

DRAFT ANDHRA PRADESH STREET VENDORS' (PROTECTION OF LIVELIHOOD AND REGULATION OF STREET VENDING) BILL 2011

Preamble

To provide for protection of livelihood of urban street vendors and to regulate street vending trade and services provided by street vendors to the public and for matters connected therewith or incidental thereto.

In India, Street Vendors and Hawkers form a sizeable portion, accounting for nearly 2 percent of the total urban population. They suffer from lack of a supportive environment for earning their livelihood and are engaged in petty businesses without identity or security. Further their preoccupation with meeting their daily subsistence needs preempts them from making any moves to organize themselves to raise their voice for a better deal from society.

Street vendors suffer from lack of basic civic facilities at the place of vending, harassment and extortion, burdened with being responsible for congestion in public spaces & streets, causing inconvenience to pedestrians, creating security and law and order issues and sometimes held accountable for unhygienic conditions in the streets.

Andhra Pradesh is considered as one of the foremost States in the country in the area of technology and development. In line with the Government of India's pro-poor stance and its own initiatives aimed at empowerment of poor, the state has directed its governance to proactively address the needs of its citizens living below poverty line in a mode that is definitively aimed at eliminating poverty in a phased manner;

It is therefore considered appropriate to enact a legislation which gives legality and protection to the street vendors to carry on their business without fear or threat of harassment or eviction, giving due consideration to the traffic, addressing the civic imperatives.

CHAPTER - I

PRELIMINARY

1. Short title, extent and commencement :- (1) This Act may be called as 'Andhra Pradesh Street Vendors' (Protection of Livelihood and Regulation of Street Vending) Act, 2011.

(2) It extends to all the Urban Local Bodies in the State of Andhra Pradesh.

(3) It shall come into force on such date as the State Government may, by notification in the Andhra Pradesh Gazette, appoint.

(4) The provisions of this Act shall not apply to the properties owned by the Government of India.

2. Definitions: - (1) In this Act, unless the context otherwise requires,-

- (i) "Government" means the Government of Andhra Pradesh
- (ii) "Holding Capacity" means the maximum number of Street Vendors that can be accommodated in an orderly manner under this Act.
- (iii) "Local Authority" means Municipal Corporation or Municipal Council or Nagar Panchayat, by whatever name called, or the Urban Development Authority or such other body legally entitled to function as a local authority in any city or town to provide civic services and regulate street vending, and includes the "planning authority" which regulates the land use in that city or town;
- (iv) "Mobile vending aid" means and includes push cart on wheels, a vending structure attached to a bicycle, scooter, or any other light motorized vehicle of less than 800 cc engine power or a light structure capable of being moved from place to place on a daily basis, but does not include a tempo, taxi or bus;
- (v) "Mobile vendor" means a person who sells goods or offers services in any of the following ways: moving from place to place on foot while carrying basket on head, or in bags or contraptions attached to own body; moving from place to place on foot while carrying wares on a push cart; moving by bicycle or scooter or any other light motorized vehicle of less than 800 cc engine power; selling wares in moving buses, trains, house to house carrying goods on a cart or on own body for regular or casual customers for on-the-spot payment
- (vi) "Natural market" means a market cluster where vendors gather spontaneously in big or small numbers in response to the market demand for particular services and goods at particular times;
- (vii) "Notification" means a notification published in the Andhra Pradesh Gazette;

- (viii) "Prescribed" means prescribed by rules made under this Act by the appropriate government;
 - (ix) "Public Place" means any place which is open to the use and enjoyment of the public, whether it is actually used or enjoyed by the public or not and it includes public streets vested in the Local Authority or any other authority so empowered under the law.
 - (x) "Scheme" means a scheme framed by the appropriate Government under section 3;
 - (xi) "Specified" means as specified by the scheme;
 - (xii) "State Nodal Officer" means an officer designated by the State government to co-ordinate all matters relating to urban street vending in the State.
 - (xiii) "Street" means a roadway in an urban area, owned and maintained by the municipality for public use. A private road cannot be a street. A street is a paved public thoroughfare in a built environment. It is a public parcel of land adjoining buildings in an urban context, on which people may freely assemble, interact, and move about.
 - (xiv) "Street vendor" means a person engaged in vending of articles, goods, wares, food items or merchandise of everyday use or offering services to the general public, in a street, lane, sidewalk, footpath, pavement, outside the public park or any other public place or private area, or by moving from place to place using any of the aids described under sub-section (iv) and employing any of the means described under sub section (v) for transportation of wares, using cloth, umbrella, plastic sheet or other material or contraption for safety of self and wares and includes hawker, peddler, squatter and all other synonymous terms which may be local or region- specific; and the words "street vending" with their grammatical variations and cognate expressions, shall be construed accordingly;
 - (xv) "Town Vending Committee" means the body constituted by the Urban Local Body;
 - (xvi) "Vending zone" means an area or place or a location designated as such by the planning authority for the specific use by street vendors for street vending and includes footpath, sidewalk, pavement, embankment, portions of a street, waiting area for public or any such place considered suitable for vending activities and providing services to the general public.
 - (xvii) "Zone of the ULB" means a territorial area decided by ULB for administrative purposes.
- (2) Any reference in this Act to any enactment or any provision thereof, shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law, if any, in force in that area.

CHAPTER II SCHEME FOR STREET VENDORS

3. Scheme For Street Vendors:- (1) Every urban local body in the state shall prepare a scheme for street vendors and provide a notification for covering the following:

- (i) the form and manner of grant, renewal, suspension or cancellation of registration for, and issue of Identity Card to the street vendors;
- (ii) the manner of levy and collection of fees for the grant and renewal of registration and fines for contravention of the terms and conditions of registration and other provisions of this Act;
- (iii) the form and manner of filing appeals to, and procedure for disposal of appeals by, the local authority in respect of registration of street vendors;
- (iv) the norms of spatial planning to be adopted by the Urban Local Body for earmarking vending zones for street vendors in the master plan, development plan, zonal plan, layout plan or any other spatial plans;
- (v) the principles for determination of vending zones after obtaining public opinion, as restriction-free-vending zones, restricted-vending zones and no-vending zones: after obtaining public opinion by issuing publication of notice
- (vi) the principles for determining holding capacity of vending zones and the manner of undertaking survey of the street vendors for the purpose of accommodating them within the holding capacity of the vending zones as prescribed;
- (vii) the terms and conditions for street vending including norms to be observed for up-keeping public health and hygiene;
- (viii) the designation of a Town Level Nodal Officer for co-ordination of all matters relating to street vending in the ULB;
- (ix) the manner of maintenance of proper records and other documents in respect of street vendors;
- (x) the manner of giving notice, eviction, impounding, destruction or seizure of stalls, goods and equipments and relocation of street vendors;
- (xi) any other particulars which may be considered from time to time for effective implementation;

CHAPTER III

IDENTIFICATION, SURVEY AND REGISTRATION OF STREET VENDORS & ISSUE OF IDENTITY CARDS

4. (1) Identification of urban street vendors and their registration for the first time as part of the implementation of this Act will be done by the urban local body based on the clear understanding that the registration and issue of Identity Cards to the urban street vendors gives only usufruct rights to the street vendor and no further rights other than those which may be extended by the Government to all street vendors as a section of the urban poor from time to time. Further, any changes made from time to time in the declaration of zones and other related measures taken up by the ULB shall stand binding on the street vendor.

(2) The process of identification, registration and issue of Identity Cards will be done as follows:

- (i) Reconciliation of their names against preliminary profiling already carried for their identification as urban street vendors as per the parameters under Section 2 (xii) whose identity shall be further authenticated on production of one of the documents for proof of identity
 - a) EPIC card
 - b) Ration card
 - c) Gas Connection number
 - d) Driving licence
 - e) PAN card
 - f) Bank pass-book
 - g) Electrical charges receipt
 - h) Property tax receipt
 - i) Water charge receipt
 - j) Telephone / Mobile phone charges bill
 - k) Unique Identity card (AADHAR)
 - l) Any other document as prescribed by the Government

Registration of incumbents, whose names have not been identified in the initial profiling mentioned above in all ULBs will be subject to the verification of their place and type of vending on the field by the ULB;

- (ii) In the absence of any of the proofs mentioned above, the authentication of the identity of the individual may be done based on secondary proofs like the code number of the (rural or urban) SHG to

which the street vendor (or spouse in the case of male street vendor) belongs; and in the absence of that, the authentication of the Ward member or any Gazetted officer.

- (3) The registration of the street vendor shall be as follows:
- (i) Identification of the street vendors
 - (ii) The age of street vendor shall be 18 years and above
 - (iii) Identity Card shall be issued for street vendor and the family members who have crossed 14 years involved in street vending
 - (iv) Registration is renewable every 3 years
 - (v) Location of the vendor's vending, in the case of Static vendors shall be displayed on the Identity Card
 - (vi) Fee shall be charged for registration and issue of Identity Card as prescribed by the ULB
 - (vii) Annual fee shall be charged for vending as prescribed by the ULB
5. Application made by the street vendor shall be disposed within a period of 30 days; if not disposed within the specified period it shall be deemed to have been registered.
- (i) The designated officer of the ULB shall not summarily reject the application without giving the applicant an opportunity for hearing.
 - (ii) Any person aggrieved by the decision of the designated officer of the ULB can prefer an appeal to the Commissioner of the ULB within 30 days from the date of receipt of rejection of registration.

CHAPTER IV

SUSPENSION, CANCELLATION OF REGISTRATION, AND PENALTY

6. Cancellation or suspension of registration: (1) Where any street vendor who has been registered under this Act commits breach of any of the provisions under this Act or any rules or schemes made thereunder, or where the Town Vending Committee is satisfied that such registration has been secured by the street vendor through misrepresentation or fraud, the Town Vending Committee may, without prejudice to any other fine which may have been incurred by the street vendor under this Act, cancel the registration or suspend the same for such period as it deems fit:

Provided that no such cancellation or suspension shall be made by the local authority unless an opportunity or hearing has been given to the street vendor.

7. Levy of Penalty

A street vendor is liable to pay penalty if (s)he:

- (i) indulges in street vending without registration;
- (ii) vends beyond the designated vending zones or specified timings;
- (iii) vends goods or offers services that are detrimental to public health;
- (iv) contravenes the terms and conditions of registration;
- (v) contravenes any other terms and conditions specified for the purpose of regulating street vending under this Act or any rules or schemes made thereunder by following due procedure given below.

8. Procedure to impose penalty and the details thereof:

- (i) Notice as first step with reasonable time, followed by imposition of fine, followed by physical eviction
- (ii) As far as the act of vending in the no vending zone is concerned, no laxity shall be allowed and vendors will be evicted giving time to the offender only to wrap up wares
- (iii) In the case of vending in the Restricted Vending Zone, one day notice may be given.
 - (a) The fine amounts may be decided by the ULB in consultation with the Town Vending Committee as prescribed
 - (b) The amount of fine will differ for the different vending zones
 - (c) Similarly the fine amount may also differ for different areas (main, arterial and peripheral areas) within the municipal area depending on the density of business
- (iv) Confiscation of goods and/or the mobile vending aid will be done as the last resort and will follow the Panchnama procedure (preparation of a list of the details of the type and amount of goods seized from the vendor in the presence of the required number of witnesses). The return of the confiscated goods and/or the mobile vending aid will be done after payment of prescribed fee. In the case of food and other perishable items proper care will be exercised to ensure that the individual will not suffer the loss of spoiled food and items rendered damaged.

CHAPTER V

CONSTITUTION AND FUNCTIONS OF TOWN VENDING COMMITTEE

9. Town Vending Committee (1) The Urban Local Body shall constitute a committee to be called the Town Vending Committee to guide and implement the street vending policy.

- (i) The committee shall consist of the following number of members, depending on the size of urban local body, namely:
 - 1. ULBs/Zone with above 10 lakh population – 30 members
 - 2. ULBs with a population between 3 – 10 lakhs – 20 members.
 - 3. ULBs with a population between 1 – 3 lakhs – 15 members
 - 4. ULBs with less than 1 lakh population – 10 members.
- (ii) In ULBs with above 10 lakh population there shall be Zonal Vending Committee headed by the Commissioner of the ULB or his representative
- (iii) In the ULBs with below 10 lakh population there will be one Town Vending Committee headed by the Commissioner
- (iv) 40 % of members in Zonal Vending Committee / Town Vending Committee shall be nominated from the Zonal Level / Town Level / Street Vendors' Federation.

Provided that not less than one third of the members shall be from amongst women street vendors considered

- (v) 30% members shall be from
 - (a) Officers from the Urban Local Body of town planning, sanitation (excluding Municipal Commissioner).
 - (b) Officers from Police and traffic Department (at least one person, not below the rank of Inspector of Police.
 - (c) Officers from Revenue Department (at least one person, not below the rank of Mandal Revenue Officer).
 - (d) Officers from concerned Urban Development Authorities (Wherever applicable)
- (vi) 10% members representing the elected members of the Urban Local Body and Areas Sabha representatives

- (vii) 10% of Members representing Resident Welfare Association, & Community Based Organizations
- (viii) 10% of members representing from NGOs who are working with street vendors, representatives of Trade and Commerce, and representatives from Nationalized banks.

Provided that reasonable representation shall be given to persons who are physically challenged.

- (ix) Such number of members in the committee to be constituted shall maintain the rule of reservation to the categories of Scheduled Tribes, Scheduled Castes and Backward Communities and women as per their quota as prescribed by the Government of Andhra Pradesh in the case of Urban Local Bodies elections.
- (2) Further, the Zonal Vending Committees shall have the Area Sabha Representative as the ex-officio member during discussion of area-level issues;
- (3) The members nominated under clause (i), (iv) to (viii) of sub-section (2) shall, unless his / her nomination is terminated earlier by the competent authority on allegation proved with due procedure in existence, hold office for a term of three years from the date of their nomination to Zonal / Town Vending Committee.

Provided that the vacancy so raised shall be nominated immediately in the next meeting of the town vending committee.

10. Meeting of Town Vending Committee:-

The urban local body shall provide accommodation for the town vending committee for its meetings; the committee shall meet once in quarter duly observing 51% of total members as quorum and notice period of 3 clear days.

Provided that the meeting shall observe such rules of procedure in regard to the transaction of business at its meetings, and in discharge of its functions, within timeframes as may be prescribed.

11. Office space for Zonal / Town Vending Committee: The urban local body shall provide office space to the Zonal / Town Vending Committee and Associations formed / vetted / recognized by them, to carry out and discharge the functions of the committee as prescribed.

12. Functions of Zonal / Town Vending Committee: (1) The Committee shall, save otherwise provided in this Act, perform the following functions:

- a. Registration of Street Vendors
- b. Collection of fees from street vendors
- c. Give recommendations to the ULB for demarcation of vending zones based on natural markets and the tendency of people to congregate

for such transactions and; deciding the Holding Capacity of each of these zones

- d. Maintenance of records and documents of street vendors
- e. Facilitate the provision of basic amenities
- f. Promotion of self regulatory and social security measures
- g. Supervise and promote the membership based on Common Interest Groups (CIGs) and federations of street vendors
- h. Resolve disputes among street vendors and between street vendors and others
- i. The Zonal / Town Vending Committee shall prepare its annual accounts and place the same before the council for information.

13. Appointment of non official members of the Vending Committee:

- (1) Persons to be appointed as non official members of the Vending Committee must satisfy the following minimum qualifications:
 - (a) They must be affiliated with an organization working for the benefit of street vendors;
 - (b) Such organization must have been registered as a trust, cooperative, trade union, society or any other form of organization capable to be registered under the law in force;
 - (c) Such organization must have been registered in accordance with the law in force for a consecutive period of three years or more;
 - (d) Such organization must have complied with the provisions of the relevant law under which it is registered with regard to conducting audits and filing returns.
- (2) The Local Authority shall take into consideration and give preference to the following criteria when nominating persons affiliated with organizations established for the benefit of street vendors:
 - (a) organizations having a record of working for the benefit of street vendors for a greater number of years;
 - (b) organizations having a larger number of street vendors as their members, beneficiaries or affiliates;

14. Demarcation of Vending Zones:-

- (1) The Zonal / Town Vending Committee shall demarcate vending zones and holding capacity as prescribed. The Zonal / Town Vending Committee shall specify in writing the manner in which the holding capacity of a vending zone is demarcated.
- (2) The reasons in writing specified under this section shall be displayed appropriately and shall be freely available to any person at the offices of the Local Authority or at any other location that the Local Authority might specify.

- (3) The Local Authority shall invite objections to the demarcation of vending zones and no-vending zones and the declaration of holding capacity by giving notice of the same and calling for objections and supported by giving reasonable time.

CHAPTER VI

DUTIES OF URBAN LOCAL BODY

15. Duties of Urban Local Body: Notwithstanding anything contained in any other law for the time being in force, the local authority shall be responsible for the following:

- (i) Overall supervision and monitoring of the scheme for street vendors;
- (ii) Monitoring effective functioning of the Zonal / Town Vending Committee;
- (iii) Granting, renewal, suspension or cancellation of registration to the registered street vendors in the manner prescribed;
- (vii) Determine within 6 months from the enactment of this Act, in consultation with the Zonal / Town Vending Committee, the holding capacity within the ULB and take up survey of the existing number of street vendors for the purpose of accommodating street vendors within the holding capacity of the vending zones;
- (iv) Take up review of the Holding Capacity in the ULBs once every 5 years
- (v) Facilitating following civic services in the vending zones to the street vendor in consultation with the Zonal / Town Vending Committee:-
 - (a) solid waste disposal,
 - (b) public toilets to maintain cleanliness,
 - (c) drinking water
 - (d) any other civic facility extended by ULB

16. Duties of Planning Wing Under ULB: The Town Planning Authority of the ULB shall be responsible for Determining spatial planning norms for street vending balancing the interests of both the street vendors and general public on use of streets and Earmarking of space for vending zones in the master plan, development plan, zonal plan, layout plan and any other plan as prescribed by taking into consideration the provisions if any,

CHAPTER VII

ORGANIZATION OF STREET VENDORS, OTHER PROMOTIONAL MEASURES & REGULATION OF STREET VENDING

17. Organization of Street Vendors: The Zonal / Zonal / Town Vending Committee shall promote and supervise Common Interest Groups and their federations for building their capacities.

The Street Vendors will be organized on the lines of Common Interest groups (CIGs) and their Federations with the following features:

- *Not less than 15 Street Vendors those who are vending in a particular area can form a Street Vendor Group*
- All the Street Vendors group in zone / town can form a Federation of Street Vendors
- No member can join more than one group

18. Promotional Measures: Zonal / Zonal / Town Vending Committee may promote following promotional measures for street vendors with the help of Street Vendors' Associations:

- (i) Public Health & Hygiene
- (ii) Skill development, Education, Insurance & Social Security
- (iii) Medical coverage to vendors and families

19. Regulation of Street Vending: ULB shall take up demarcation of zones, specification of the spatial norms, and facilitation of the provision of civic amenities to the street vendors in consultation with Zonal / Zonal / Town Vending Committee.

CHAPTER VIII

FOOD VENDORS

20. Provisions for food vendors:

- (i) The town vending committee may frame appropriate rules to be complied with by street vendors who prepare food or other edible items as their business in order to maintain cleanliness, hygiene and public health.
- (ii) The town Vending committee may carry out spot inspections to ensure that such rules are observed by such street vendors.
- (iii) In case of non-compliance by any street vendor for three continuous spot inspections, the town Vending Committee may revoke the registration of such street vendor and withdraw their Identity Card.

CHAPTER IX

GENERAL

21. Powers of Government to make Rules, Bylaws and Regulations:

The Government may by notification in the Andhra Pradesh Gazette make rules for carrying out all or any of the purposes of this Act and appoint a State Nodal Officer for coordinating and monitoring the implementation of this Act

22. Delegation of powers by the Government

The Government may, by notification in the Andhra Pradesh Gazette delegate to any person or authority, subject to such restrictions and conditions, any of the powers vested in them by the Act except the power to make rules, and may in like manner withdraw any power so delegated.

23. Dispute resolution mechanism:

- i) The District Collector shall constitute a district Street Vendors' Dispute Resolution Forum and its term may be for three years
- ii) The State Government shall constitute a State Level Street Vendors' Dispute Resolution Forum, as prescribed
- iii) In the case of Greater Hyderabad Municipal Corporation (GHMC) the Commissioner, GHMC shall constitute the Greater Hyderabad Municipal Corporation Street Vendors' Dispute Resolution Forum with a term of three years

24. Power to remove difficulties

If any difficulty arises in giving effect to the provisions of this Act, the Government may, issue such orders or clarifications as may appear to it necessary or expedient for the removal of the difficulty.

