

THE BOMBAY MOTOR VEHICLES (TAXATION OF PASSENGERS) ACT, 1958.

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Adapted and modified by the Gujarat Adaptation of laws (State and Concurrent Subjects) orders, 1960.

Amended by Guj. 12 of 1961

- “ “ “ 15 of 1963. Amended by the President’s Act 10 of 1971.
- “ “ “ 26 of 1964
- “ “ “ 13 of 1965. Amended by Guj. 13 of 1972.
- “ “ “ 37 of 1965.
- “ “ “ 10 of 1969.
- “ “ “ 18 of 1969.

**An Act to provide for the levy of a tax on passengers carried
in certain classes of public service vehicles
in the State of Bombay.**

WHEREAS it is expedient to provide for the levy of a tax on passengers carried in certain classes of public service vehicles in the State of Bombay; It is hereby enacted in the Ninth Year of the Republic of India as follows:-

- 1. (1) This Act may be called the Bombay Motor Vehicles (Taxation of Passengers) Act, 1958.**
(2) It extends to the whole of the State of Gujarat).
(3) This section shall come into force at once, and the rest of the Act shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Short, title, extent and commencement.

- 2. In this Act, unless the context otherwise requires, -**

Definitions

- (1) “fleet owner” means an operator holding a permit for one hundred or more stage carriages;**
- (2) “month” means a calendar month;**
- (3) “municipal area” means an area specified in the Schedule;**

**Guj.
X of
1960.**

[(3A) “new capital area” means the area comprise in the new capital within the meaning of clause © of section 2 of the Gujarat New Capital (Periphery) Control Act, 1960;]

(4) “operator” means any person whose name is entered in the permit as the holder thereof :

(5) “prescribed” means prescribed by rules made under this Act ;

(6) “permit” means a permit granted or countersigned under the Motor Vehicles Act, 1939, authorizing the use of a motor vehicle as a stage carriage or contract carriage in any part of the State;

IV of
1939.

(7) “stage carriage” means a motor vehicle carrying or adapted to carry more than six persons excluding the driver, which carries passengers for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey, and includes such a carriage or other omnibus when used as a contract carriage within the meaning of the Motor Vehicles Act, 1939 ;

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1939.

(8) “tax” means the tax referred to in section 3:

(9) “Tax Officer” means such officer as the State Government may, by notification in the Official Gazette, appoint to be the Tax Officer for the whole State or for any area or areas for the purposes of this Act, and the State Government may appoint more than one officer as Tax Officers for the whole State or for any area;

(10) the words and expressions used but not defined in this Act shall have the meaning assigned to them in the Motor Vehicles Act, 1939 and the rules made there under.

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1939.

3. 1(1) On the commencement of the Bombay Motor Vehicles (Taxation of Passengers) (Gujarat Amendment) Act, 1963 there shall be levied and paid to the State Government, a tax on all passengers carried by stage carriage at such rate as would yield an amount equal to 2[twenty five percent] of the inclusive amount of fares payable to the operator of a state carriage:

3[Provided that where such stage carriage plies exclusively within the new capital area or a municipal area or exclusively on such routes serving the new capital area or a municipal area and also areas adjacent to either of these areas or serving the new capital area, a municipal area and the area between them, as may be approved by the State Government, the rate shall such as would yield such amount, not exceeding 7 ½ percent of the inclusive amount of fare so payable, as may from time to time be notified in the Official Gazette by the State Government].

Provided further that subject to such conditions as the State Government may, by notification, in the Official Gazette, determine in this behalf, no such tax shall be leviable on any student 1[in respect of journeys not more than two per day to and from an educational institution or any other place attended by him in the bona fide prosecution of his studies or for undergoing any training in compliance with the requirements of such educational institution.]

Explanation- This Explanation which was added by the President's Act No. 10 of 1971 has ceased to have effect on 30th November 1972.

(2) After calculating the total amount of tax payable under sub-section (1) out of the total amount received by an operator during each month on account of inclusive fares in respect of the stage carriage or stage carriages held by him under a permit, the total amount of tax shall wherever necessary be rounded off to the nearest naya paisa, fractions of half a naya paisa and over being counted as one and less than half being disregarded.

3A. Levy of additional law on passengers carried by stage carriages [This section which was inserted by the President's Act, 1971 (Guj. 10 of 1971) has ceased to have effect on the expiry of its term of one year on 30 the November 1972.]

4. (1) In respect of the stage carriage or stage carriages held by him, the operator shall deliver or cause to be delivered to the Tax Officer or to such prescribed officer as the Tax Officer may, specify a return in the prescribed form and manner either daily or at such intervals as may be prescribed:

Sub-
mission
of
returns.

Provided that different rules may be prescribed for the purpose of this sub-section in relation to fleet-owner from those in relation to other operators.

(2) When any return is received by a prescribed officer he shall forward it to the Tax Officer within the prescribed period and in the prescribed manner.

5. The tax payable during any month in accordance with the returns submitted under section 4 shall be paid into a Government treasury 2[or in such other manner as may be prescribed] by the operator and the receipt evidencing such payment forwarded to the Tax Officer, on or, before such date or dates of the month immediately succeeding as may be prescribed in the case of fleet owners and other operators.

Tax to be paid
every month
into
Government
treasury.

6. In the following cases that is to say, -

(a) Where no return have been submitted by the operator in respect of any stage carriage for any month or portion thereof or,

Procedure where no returns are submitted, etc.

(b) Where the returns submitted by the operator in respect of any stage carriage for any month or portion thereof appear to the Tax Officer to be incorrect or incomplete, the Tax Officer shall, after giving the operator a reasonable opportunity in case (a) of making his representation, if any, and in case (b) of establishing the correctness and completeness of the returns submitted by him, determine the sum payable to the State Government by the operator by way of tax during such month or portion thereof:

Provided that the sum so determined shall not exceed the maximum tax which would have been payable to the State Government if the stage carriage had carried its full complement of passengers during such month or portion thereof.

Fares escaping assessment

7. If for any reason, the whole or any portion of the tax leviable under this Act for any month has escaped assessment, the Tax Officer may, at any time within, but not beyond one year from the expiry of that month, assess the tax which has escaped assessment, after issuing a notice to the operator and making such inquiry as the officer may consider necessary.

Penalty for non-payment of tax.

8. Where the whole or any portion of the tax payable to the State Government in respect of any stage carriage for any month or portion thereof in pursuance of sections 5, 6 and 7 has not been paid to it in time, the Tax Officer may, in his discretion, levy in addition to the tax so payable, a penalty not exceeding 25 percent of the maximum tax which would have been payable to the State Government of the stage carriage had carried its full complement of passengers during such month or portion thereof.

Recovery of tax, etc.

9. (1) In the cases referred to in sections 6,7 and 8 the Tax Officer shall serve on the operator a notice of demand for the sums payable to the State Government and the sums specified in such notice may be recovered from the operator as arrears of land revenue.

(2) Where the sums specified in the notice of demand are not paid within fifteen days from the date on which the notice was served on the operator, the stage carriage in respect of which the tax is due and its accessories may be detained and sold under the appropriate law relating to the recovery of arrears of land revenue where or not such vehicle or accessories are in the possession or control of the operator :

Provided that no distraint shall be made in pursuance of this sub-section except at the instance or with the consent of the State Government or such Officer as may be authorized by the State Government in this behalf.

(3) Distraints under sub-section (2) may also be made by such officers or class of officers as the State Government may by general or special order, direct and the officer making any such distraint shall forward the proceedings there of together with the distrained articles to the Collector for further action under sub-section (2).

1[9A. The Tax Officer shall refund to an operator in such manner as may be prescribed the amount of tax and penalty (if any) paid by such operator in excess of the amount due from him. The refund may be either by cash payment or, at the option of the operator by deduction of such excess from the amount of tax and penalty (if any) due in respect of any other period:

Refund of excess payments.

Provided that, the Tax Officer shall first apply such excess towards the recovery of any amount due in respect of which notice under sub-section (1) of section 9 has been served on the operator, and shall then refund the balance (if any).]

10. No stage carriage shall be used on any public road in the State-

(a) in case any tax or penalty payable in respect thereof remains unpaid for more than fifteen days after the notice of demand referred to in section has been served on then operator, until such tax or penalty is paid, or

(b) in case the returns required by section 4 haven not been submitt3ed, if daily returns are required, for more than seven days, and if returns at less frequent intervals have been prescribed for such number of times and during such period as may be prescribed, until the returns are submitted:

Restrictions on the use of stage carriages in certain cases.

Provided that the Tax Officer may, if the operator proves to his satisfaction that the failure to submit the returns referred to in clause (b) was not deliberate, exempt the stage carriage from the operation of that clause.

11. (1) Any operator objecting to a notice of demand served on him under section 9 may within thirty days of the service thereof, appeal to the prescribed authority:

Appeal against demand.

Provided that no appeal shall be entertained unless it is accompanied by satisfactory proof of the payment of the tax admitted by the appellant to be due.

(2) The prescribed authority may, after giving the appellant an opportunity of being heard, pass such orders on the appeal as it thinks fit.

12. Every operator shall keep and maintain accounts and registers in such forms as may be prescribed in respect of stage carriages and the fares collected in respect of passengers traveling therein.

Maintenance of accounts and registers.

13. The authority prescribed under sub-section (1) of section 11 or the Tax Officer or any officer empowered in this behalf by the State Government may, by order, require any operator to produce such accounts, registers and documents, and to furnish such information relating to the stage carriages or the fares collected in respect of passengers traveling therein, as may be specified in the order.

Power to order production of accounts.

14. (1) Any Officer authorized by the State Government in this behalf may at all reasonable times enter into, inspect and search any stage carriage and any place ordinarily used by the operator for garaging such vehicle or keeping accounts of the business, for the purpose of seeing or verifying whether the provisions of this Act or any rules made thereunder are being complied with.

Powers of entry and inspection.

(2) All searches made under sub-section (1) shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898.

V of 1898.

Offences and penalties and competent court..

15. (1) Any person who -

(a) being an operator, submits or allows to be submitted an incorrect or incomplete return under section 4 or fails to submit a return as required under that section ; or

(b) being an operator, fraudulently evades or allows to be evaded, the payment of any tax due from him ; or

(c) being an operator, fraudulently makes or allows to be made any wrong entry in or fraudulently omits or allows to be omitted any entry from any statement submitted, or any accounts or register maintained, by him; or

(d) willfully acts in contravention of any of the provisions of this Act or any rules made thereunder or any lawful orders passed in accordance therewith ;

Shall, on conviction, be punished with fine which may extend to one thousand rupees, and if the Magistrate so directs in his order, the person convicted shall pay in addition, as if it were a fine, such specified amount as the Magistrate may determine to be the amount which the person convicted had evaded to pay.

(2) No offence punishable under this Act shall be inquired into or tried by any court inferior to that of * * * a Magistrate of the second class.

Offences by companies..

16. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section,-

- (a) "company" means a body corporate, and includes a firm or other association of individuals ; and
- (b) "director" in relation to a firm means a partner in the firm.

17. (1) The Tax Officer may, either before or after the institution of proceedings for any offence punishable under section 15, accept from any person charged with such offence by way of composition of the offence, where the offence charged consists of the evasion of the tax, a sum of money not exceeding double the amount of the tax recoverable, in addition to the amount of tax so recoverable; and in other cases, a sum of money not exceeding two hundred and fifty rupees.

Composition of offences.

(2) On payment of such sum as may be determined by the Tax Officer, under sub-section (1), no further proceedings shall be taken against the accused person in respect of the same offence.

18. All officers acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Officers to be public servants.

19. (1) No. No prosecution or other proceeding shall be instituted in a Criminal Court without the previous sanction of the State Government, against any officer or servant of the Government, for any act done or purporting to be done under this Act.

Bar of certain proceedings.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding, if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

20. No suit or other proceeding shall be instituted against the State and no suit, prosecution or other proceeding shall be instituted against any officer or servant of the Government in respect of any act done or purporting to be done under this Act, unless the suit, prosecution or other proceeding is instituted within one year from the date of the act complained of.

Limitation for suits and prosecutions

21. The State Government may, by notification in the Official Gazette, exempt totally or partially from payment of tax the passengers carried in stage carriages on such inter-State route as may be specified in the notification or carried by stage carriages operating in furtherance of any educational, medical, philanthropic or other object.

Power to exempt certain passengers, from payment of tax..

22. (1) The State Government may make rules to carry out the purposes this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for –

(a) the officer to receive returns under section 4 and the intervals, if any, at which returns under that section shall be submitted and the period within which and the manner in which such officer shall forward the return to the Tax officer;

(b) the maintenance of accounts and registers and the submission of returns and statements by operators;

(c) the manner of serving notices of demand under this Act ;

(d) the duties and powers of officers appointed for the purpose of enforcing the provisions of this Act;

(e) the authority to which an appeal may be preferred under sub – section (1) of section 11 ;

(f) generally regulating the procedure to be followed and the forms to be adopted in proceedings under this Act;

(g) any other matter which is required or allowed by this Act to be prescribed.

(3) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of the rules being made after previous publication for a period of not less than one month.

(4) All rules made under this section shall be published in the official Gazette and shall, unless some later date is appointed, come into force on the date of such publication.

SCHEDULE
(See section 2.)

Area within the jurisdiction of -

(1) a Corporation constituted under 1* * * * * * *
The Bombay Provincial Municipal Corporation Act,1949, 2* * * * *
* * * * * or

Bom.LIX
of 1949.

3[(2) a municipality constituted or deemed to be constituted under
the Gujarat Municipalities Act, 1963].

II of 1924..

(3) a Cantonment Board constituted under the Cantonments Act,
1924.

