The Andhra Pradesh Gaming Act, 1974

Act Act No. 27 of 1974. 18 sections. Bare Act with the official footnotes.

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Official file: https://indiacode.gov.in/server/api/core/bitstreams/031eb2f2-f859-4331-bc3c-5837b07ae6cd/content

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[22nd August, 1974]

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE PUNISHMENT OF GAMING AND THE KEEPING OF COMMON GAMING HOUSES IN THE STATE OF ANDHRA PRADESH.

Be it enacted by the Legislature of the State of Andhra Pradesh in the Twenty-fifth Year of the Republic of India as follows:-

Section 1. Short title, extent and commencement

(1) This Act may be called the Andhra Pradesh Gaming Act, 1974.

(2) It extends to the whole of the State of Andhra Pradesh.

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

Section 2. Definitions

In this Act, unless the context otherwise requires: -

(1) 'common gaming house', means -

(i) in the case of gaming -

(a) on a horse-race except in the manner provided in clause (2); or

(b) on the market price of cotton, bullion other commodity or on the digits of the number used for stating such price; or

(c) on the ground of variation in the market price of any commodity specified in item (b) or on the digits of the number used for stating the amount of such variation; or

(d) on the market price of stock or share or on the digits of the number used for stating such price; or

(e) on the number of registration or on the digits of the number of registration of any motor vehicle using a public place; or

(f) on any transaction or scheme of wagering or betting in which the receipt or distribution of winnings of prizes, in money or otherwise, is made to depend on chance, any house, room, tent, enclosure, vehicle, vessel, [1][cyber space] or any place whatsoever in which the gaming takes place or in which the horses or other instruments of gaming, are kept or used for such gaming;

[2]["(ii) in the case of any other form of gaming, any house, room, tent, enclosure, vehicle, vessel, cyber space or any place whatsoever in which any instrument of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, room, tent, enclosure, vehicle, vessel, cyber space or any place whether by way of charge, for the use of such house, room, tent, enclosure, vehicle, vessel, cyber space or any place or instruments of gaming or otherwise howsoever;

Explanation:- For the purpose of clause(ii), any premise or place or cyber space belonging to or occupied by a club, society, company or other associations of persons, whether incorporated or not, which is used or kept for the purpose of gaming shall be deemed to be a common gaming house notwithstanding that there is no profit or gain for the club, society, company or other associations of persons on account thereof.]

(2) "gaming" means playing a game for winnings or prizes in money or otherwise and includes playing a game of mutka or satta, [3][or playing on line game for winning money or any other stakes] and lucky board and wagering or betting, except where such wagering or betting takes place upon a horse-race -

(i) on the day on which the horse-race is to be run;

(ii) in an enclosure which the stewards controlling the horse-race [4][or race meeting] have, with the sanction of the Government set apart for the purpose; and

(iii) (a) with a licensed book maker; or

(b) by means of a totalisator;

but does not include a lottery;

Explanation: - For the purpose of this clause -

[5][(i) Wagering or betting shall includes,-

(a) collection or soliciting of bets;

(b) the receipt or distribution of winning or prizes in money or otherwise in respect of any wager or bet;

(c) any act which is intended to aid, induce, solicit or facilitate wagering or betting or such collection, soliciting, receipt or distribution;

(d) any act of risking money or playing stakes or otherwise on the result of a game or an event including on a game of skill.

(e) any action specified in sub-clauses (a) to (d) carried out directly or indirectly by the players playing any game or by any third parties.".]

(ii) "totalisator" means a totalisator in an enclosure which the stewards controlling a race meeting have set apart in accordance with sub-clause (ii) and includes any instrument, machine or contrivance known as the totalisator or any other instrument, machine or contrivance of a like nature or any scheme for enabling any number of persons to make bets with one another on the like principles;

[6][(iii) "race meeting means a meeting held for the purpose of horse racing at a race course within the State of Andhra Pradesh and includes a meeting held at such race course for the purpose of betting on any horse race at any other race course outside the State.]

(3) "Government" means the State Government;

[7][(4) "Instruments of gaming" includes cards, dice, gaming, tables, or cloths boards or any other article used for intended to be used physically or in any virtual or intangible mode including electronically as a subject or means of gaming, any document, electronic form or record, digital form or record used or intended to be used as a register or record or evidence of any gaming, the proceeds of any gaming which includes online electronic transfer of funds or transactions and any winnings or prizes in money or otherwise, distributed or intended to be distributed in respect of any gaming.]

[1] Inserted by the Act No.43 of 2020, S.2.
[2] Substituted by the Act No.43 of 2020, S.2.
[3] Inserted by the Act No.43 of 2020, S.2.
[4] Inserted by the Act No.6 of 1975, S.3.
[5] Substituted by the Act No. 43 of 2020, S.2.
[6] Inserted by the Act No.6 of 1975, S.3.
[7] Substituted by the Act No. 43 of 2020, S.2.

Section 3. Penalty for opening, etc., a common gaming house

[1][(1) Any person who opens, keeps, operates, uses or permits to be used any common gaming house or online gaming or conducts or assists in conducting the business of any common gaming house or advances or furnishes money for gaming therein, shall be punishable -

(i) For the first offence, with imprisonment for a term which may extend to one (1) year and with fine which may extend to Rs.5,000/- (Rupees Five Thousand only); but in the absence of special reasons to be recorded in writing, the punishment awarded under this clause shall be imprisonment for not less than three (3) months and fine of not less than Rs. 3,000/- (Rupees Three Thousand only);

(ii) For every subsequent offence, with imprisonment for a term which may extend to two (2) years and with fine which may extend to Rs.10,000/- (Rupees Ten Thousand only), but in absence of special reasons to be recorded in writing the punishment awarded under this clause shall be -

(a) For a second offence, imprisonment for not less than six (6) months and fine of not less than Rs.5,000/- (Rupees Five Thousand only);

(b) For a third or subsequent offence, imprisonment for not less than one (1) year and fine of not less than Rs.10,000/- (Rupees Ten Thousand only).]

Explanation: - For the purpose of this section, the expression "person" includes the owner, or as the case may be, the occupier of the place used as a common gaming house and where such place belongs to or is occupied by a club, society or other association of persons, the person having the care or management of such place.

(2) It shall not be necessary, in order to convict any person for opening, keeping or using or permitting the use of common gaming house or of being concerned with the care or management of a common gaming house, to prove that any person found therein was gaming for money, wager, bet or stake.

[1] Substituted by the Act No. 43 of 2020, S.3.

Section 3A. Offences by companies

[1][Where a person committing a contravention of section or any other provisions of this Act is a every person who, at the time of the contravention 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, its managing directors and other directors, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punishable accordingly:

Provided that nothing contained in this section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge of that he exercised all due diligence to prevent such contravention.]

[1] Inserted by the Act No. 43 of 2020, S.4.

Section 4. Penalty for being found gaming in a common gaming house

[1][Whoever is found gaming or present for the purpose of gaming in a common gaming house shall, on conviction, be punishable with imprisonment for a term which may extend to six (6) months or with fine which may extend to Rs. 3,000/- (Rupees Three Thousand only) or with both.]

Explanation:- For the purpose of this section, any person found in any common gaming house during gaming therein shall be presumed to have been present there for the purpose of gaming.

[1] Substituted by the Act No. 43 of 2020, S.5.

Section 5. Offences are cognizable and non-bailable

[1][(1) Every offence under this Act is cognizable and non-bailable.

(2) Any Police Officer not below the rank of Sub-Inspector of Police has got authority :-

(i) to enter any place and at any time with such force and with such assistance as may be found necessary;

(ii) to arrest all persons found therein;

(iii) to search all such persons and all parts of such place; and

(iv) to seize-

(a) all money found with such persons;

(b) all instruments of gaming; and

(c) all moneys, all securities for money and articles of value reasonably suspected to have been used or intended to be used for the purpose of gaming which are found in such place.

(v) to freeze bank accounts which are used for the purpose of gaming.]

[1] Substituted by the Act No. 43 of 2020, S.6.

Section 6. Instrument of gaming found in a place entered or secured to be evidence that place is common gaming house

[1][where any instrument of gaming or its facilities found in any place entered or searched, on or about person found therein, it shall be presumed that such place is used as a common gaming house and that the persons found therein were present there for the of gaming although no gaming was actually seen by police officer or any of his assistants.]

[1] Substituted by the Act No. 43 of 2020, S.7.

Section 7. Provisions of sections 4 and 6 not to apply in certain cases

[1][Nothing in the Explanation to section 4 or in section 6 shall apply to persons found in a premise or place belonging to or occupied by a club, society, company or other association of persons, whether incorporated or not, unless such persons are actually found gaming or facilitating such gaming in any manner in such premises or place.]

[1] Substituted by the Act No. 43 of 2020, S.8.

Section 8. Instruments of gaming, etc., found in a common gaming house may be ordered to destroyed or forfeited on conviction

On conviction of any person for opening, keeping or using or permitting the use of a common gaming house, or gaming therein, or being present for the purpose of gaming, the convicting magistrate, -

(i) may order all the instruments of gaming found therein or on or about the person found therein, to be forthwith

destroyed or forfeited; and

(ii) may order -

(a) all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and the proceeds thereof with all moneys seized to be forfeited; or

(b) any part of such proceeds, and other moneys to be paid to any person appearing to be entitled thereto.

Section 9. Penalty for gaming or setting birds or animals to fight in a public street or place

(1) Whoever is found gaming or reasonably suspected to be gaming in any public street or thoroughfare or in any place to which the public have, or are permitted to have, access shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to three hundred rupees or with both.

(2) Whoever is found setting any birds or animals to fight or is reasonably suspected to be aiding or abetting such fighting of birds or animals in any public street or thoroughfare or in any place to which the public have, or are permitted to have, access, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

Section 10. Power to arrest without warrant for gaming or setting birds or animals to fight in public street or place and to seize moneys, instruments of gaming birds and animals

(1) Any police officer may arrest and search without warrant any person referred to in section 9.

(2) Any such police officer may seize all moneys, all instruments of gaming and all things reasonably suspected to be instruments of gaming found in the public street, thoroughfare or place or found with the persons arrested by him and all birds or animals found with the persons arrested by him or are reasonably suspected to have been kept for being set to fight in the public street, thoroughfare or place.

Section 11. Presumptive proof of gaming

When anything is seized under sub-section (2) of section 10, and if the magistrate is satisfied that the police officer who seized it has reasonable grounds for suspecting that the thing so seized was an instrument of gaming, it shall be presumed that such thing was an instrument of gaming and that the person on or about whom the thing was found was present in the public street, thoroughfare or place for the purpose of gaming.

Section 12. Instruments of gaming etc., found in public street or place may be ordered to be destroyed or forfeited on conviction

On conviction of any person under section 9, the convicting magistrate may order that -

(i) all the instruments of gaming seized, shall forthwith be destroyed or forfeited;

(ii) all birds or animals seized, shall be sold and the proceeds thereof with the moneys seized shall be forfeited.

Section 13. Indemnification of persons concerned who are examined as witnesses

Any person who is concerned in gaming contrary to the provisions of this Act, and who is examined as a witness before a magistrate on the trial of any person for a breach of any of the provisions of this Act and who upon such examination, makes true and faithful discovery to the best of his knowledge of all things as to which he is so examined, shall thereupon receive from the said magistrate a certificate in writing to that effect and shall be freed from any prosecution under this Act for anything previously done in respect of that particular gaming.

Section 14. Payments of portion of fine to informants

(1) The convicting magistrate may direct any portion, not exceeding one half, of any fine which is imposed under section 3, section 4 or section 9 and of the moneys or the proceeds of articles seized and ordered to be forfeited under section 8 or section 12 to be paid to such informants as may have assisted in the detection of the offenders.

(2) A direction under sub-section (1) may also be made by any court of appeal, reference or revision.

(3) Where a direction is made under sub-section (1) or sub-section (2) the magistrate or court concerned shall send the amount to be paid under sub-section (1) or sub-section (2), as the case may be, in the area within the jurisdiction of the commissioner of Police, Hyderabad to the said Commissioner and elsewhere to the Superintendent of Police, who shall distribute it among such of the informants aforesaid as may be chosen by him in such proportion as he thinks fit.

(4) The amount to be paid as aforesaid shall not be sent to the Commissioner of Police or the Superintendent of Police until the expiration of three months from the date of the direction under sub-section (1) or if an appeal,

reference or revision is made within the period, until the same is disposed of.

Section 15. Overriding effect

[1][The Provisions of this Act, shall have the effect notwithstanding anything inconsistent therewith in any other law for the time being in force.]

[1] Substituted by the Act No. 43 of 2020, S.9.

Section 16. Power to make rules

(1) The Government may, by notification in the Andhra Pradesh Gazette, make rules for carrying out all or any of the purposes of this Act.

(2) Every rule made under this section shall immediately after it is made, be laid before each House of the State Legislature if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiration of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified have effect only in such modified form or shall stand annulled,as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Section 17. Repeals and Savings

The Andhra Pradesh (Andhra Area) Gaming Act, 1930, and the Andhra Pradesh (Telangana Area) Gambling Act, 1305 F. are hereby repealed:

Provided that such repeal shall not affect the previous operation of the said acts and subject thereto, anything done or any action taken in the exercise of any powers conferred by or under the Acts so repealed shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the date on which such thing was done or action was taken.

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