



GUJARAT

Judicial Services Exam

CIVIL JUDGE

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GUJARAT JUDICIARY EXAM

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Bombay Prohibition Act

Bombay Prohibition Act

CHAPTER I *Preliminary*

1. Short Title, Extent and Commencement. -

- (1) This Act may be cited as The Bombay Prohibition Act, 1949.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force in the area comprising the Bombay area of the State of Gujarat on such date as the State Government may by notification in the *Official Gazette* specify.

2. Definitions

In this Act, unless there is anything repugnant in the subject or context,-

- (1) "*authorisation*" means an authorization granted under section 45 for the use of liquor for sacramental purposes;
 - (2) "*to bottle*" with its various grammatical variations, means to transfer any article from a cask or other vessel to a bottle, jar, flask pot or similar receptacle for the purpose of sale, whether any process of manufacture be employed or no bottling includes re-bottling;
 - (3) "*Collector*" includes an officer appointed by the State Government to exercise all or any of the powers and to perform all or any of the duties or functions of a Collector under this Act;
 - (4) "*Director*" means an officer appointed as the Director of Prohibition and Excise under section 3, and includes any officer on whom the State Government may confer all or any of the powers of the Director under this Act;
 - (5) "*Committee or board*" means a committee or board appointed by the State Government under section 7;
 - (6) "*Common drinking house*" means a place where the drinking of liquor or consumption of any intoxicating drug is allowed for the profit or gain of the person owning, occupying, using, keeping or having the care of management or control of such place whether by way of charge for the use of the place or for drinking facilities provided, or otherwise howsoever and includes the premises of a club or any other place which is habitually used for the purpose of drinking liquor or consuming any intoxicating drug by more than one person without a licence granted under this Act;
 - (7) "*country liquor*" includes all liquor produced or manufactured in India;
 - (8) "*cultivation*" means raising a plant from seed and includes the tending or protecting of a plant during its growth;
 - (9) "*denatured*" means subjected to a process prescribed for the purpose of rendering unfit for human consumption;
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- (10a) "*denatured spirituous preparation*" means any liquid preparation made with and containing denatured spirit or denatured alcohol and includes lacquers, French Polish, and varnish prepared out of such spirit or alcohol;
- (12) "*to drink*" with its grammatical variations means to drink liquor or to consume any intoxicating drug;
- (13) "*excisable article*" means-
- (a) any alcoholic liquor for human consumption;
 - (b) an intoxicating drug or hemp;
 - (c) opium;
 - (d) other narcotic drugs and narcotics which the State Government may by notification in the *Official Gazette*, declare to be an excisable article;
- (14) "*excise duty*" and "*countervailing duty*" means such excise duty or countervailing duty, as the case may be, as is mentioned in entry 51 in List II in the Seventh Schedule to the Constitution;
- (15) "*excise revenue*" means revenue derived or derivable from any duty, fee, tax, fine (other than a fine imposed by a court of law) or confiscation or forfeiture imposed or ordered under the provisions of this Act, or of any other law for the time being in force relating to intoxicants;
- (16) "*export*" (except in section 147) means to take out of the State otherwise than across a customs frontier. *****
- (17) "*foreign liquor*" means all liquor produced or manufactured outside India: Provided that the State Government may, by notification in the *Official Gazette*, declare, that any specified description of country liquor shall for the purposes of this Act, be deemed to be foreign liquor;
- (18) "*hemp*" means any variety of the Indian hemp plant from which intoxicating drugs can be produced;
- (19) "*hotel licence*" means a licence granted under section 36;
- (19a) "*household*" means a group of persons residing and messing jointly as members of one domestic unit, but does not include their servants;
- (20) "*import*" (except in section 147) means to bring into the State otherwise than across a custom frontier.
- (21) "*interim permit*" means a permit granted under section 47;
- (22) "*intoxicant*" means any liquor, intoxicating drug, opium or any other substance, which the State Government may, by notification in the *Official Gazette* declare to be an intoxicant;
- (23) "*Intoxicating drugs*" means-
- (a) Ganja, that is, the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by whatever name they may be called;
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- (b) charas, that is, the separated resin whether crude or purified obtained from cannabis plant;;
 - (c) any mixture, with or without neutral materials of any of the above forms of intoxicating drug, or any drink prepared therefrom;
 - (d) any other intoxicating or narcotic drug or substance together with every preparation or admixture of the same which the State Government may by notification in the *Official Gazette*, declare to be an intoxicating drug for the purposes of the Act, such drug, substance, preparation or admixture, not being opium, coca leaf or a manufactured drug as defined in section 2 of the Dangerous Drugs Act, 1930 (II of 1920);
- (23-A) "Laththa" means spurious liquor, which contains methanol or any other poisonous substances, which may cause harmful or injurious effects to the human body or death of a person.
- (24) "liquor" includes-
- (a) spirits, denatured spirits, wine, beer, toddy and all liquids consisting of or containing alcohol; and
 - (b) any other intoxicating substance which the State Government may, by notification in the *Official Gazette*, declare to be liquor for the purposes of this Act;
- (25) "manufacture" includes-
- (a) every process whether natural or artificial by which any liquor or intoxicating drug is produced, prepared or blended and also re-distillation and every process for the rectification, flavouring, or colouring of liquor or intoxicating drug but does not include flavouring, blending or colouring of liquor or intoxicating drug lawfully possessed for private consumption; and
 - (b) every process of producing and drawing of toddy from trees;
- (26) "Medical Board" means a board constituted under section 8;
- (27) "mhowra flower" does not include the berry or seed of the mhowra tree;
- (28) "molasses" means the heavy, dark coloured viscous liquid produced in the final stage of the manufacture of gur or sugar containing, in solution or suspension, sugars which can be fermented, and includes the solid form of such liquid and also any product formed by the addition to such liquid or solid of any ingredient which does not substantially alter the character of such liquid or solid; but does not include any article which the State Government may, by notification in the *Official Gazette*, declare not to be molasses, for the purposes of this Act;
- (29) "Officer in charge of a Police Station" includes-
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- (b) the officer in charge of a police station as defined in the Code of Criminal Procedure, 1973 (2 of 1974)
- (30) "opium" means-
- (a) the capsules of the poppy (*Papaver Somniferum L*), whether in their original form or cut, or crushed or powdered and whether or not the juice has been extracted therefrom;
 - (b) the spontaneously coagulated juice of such capsules ***; and
 - (c) any mixture with or without neutral materials of any of the above forms of opium; but does not include any preparations containing not more than 0.2 per cent, of morphine, or a manufactured drug as defined in section 2 of the Dangerous Drugs Act, 1930 (II of 1930).
- (32) "permit" means a permit granted under the provisions of this Act and the expression "permit holder" shall be construed accordingly;
- (33) "police station" means any place declared to be a police station for the purposes of the Code of Criminal Procedure, 1973 (2 of 1974)
- (34) "prescribed" means prescribed by the rules, orders or regulations under this Act;
- (35) "Prohibition officer" includes the Director, Collector or any officer or person appointed to exercise any of the powers or to perform any of the duties and functions under the provisions of this Act and also includes any officer or person invested with any such powers and on whom any such functions or duties are imposed, and any member of a committee, board or medical board;
- (36) 'State' means the State of Gujarat including the space within the limits of the territorial waters appertaining to it;
- (37) "rectification" includes every process whereby liquor is purified or refined;
- (38) "registered medical practitioner" means a person who is entitled to practise any system of medicine in the State under any law for the time being in force relating to medical practitioners, and includes registered dentists as defined in the Dentists Act, 1948 (XVI of 1948) and a veterinary practitioner registered under the Bombay Veterinary Practitioners' Act, 1953 (LXVIII of 1953) or under any law corresponding thereto in any part of the State;
- (39) "regulations" means regulations made under this Act;
- (39A) "rotten gur" means the article known as gur, gul, jaggery, Palmyra jaggery or rab and other intermediary product prepared by boiling or processing juice pressed out of sugar cane or extracted from Palmyra palm, date palm sago plam, barb palm or coconut Palm with or without admixture of molasses and which is in a liquid form or a semi-liquid or viscous form and which has a dark brown or a black colour or which in spite of being in a solid liquid semi-liquid or viscous form is unfit for human consumption owing to its becoming filthy, putrid, disgusting or decomposed and shall include on chemical analysis, if it contains -
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- i. total sugar (expressed as invert sugar) less than 90 per cent and sucrose less than 60 per cent, or
- ii. extraneous matter insoluble in water more than 2 per cent, or
- iii. total ash more than 6 per cent, or
- iv. ash insoluble in by hydrochloric acid (HCL), more than 0.5 per cent, or
- v. more than 10 per cent of moisture, or
- vi. sulphur dioxide in concentration exceeding 70 parts per cillion;

(40) "rules" means rules made under this Act;

(41) "sell" with its grammatical variations includes-

- (a) any transfer whether such transfer is for any consideration or not,
- (b) any supply or distribution for mutual accommodation, and
- (c) any supply by a club to its members on payment of price or of any fees or subscription, but does not include selling of opium for export across the customs frontier; The word "buy" with its grammatical variations shall be construed accordingly;

(43) "spirit" means any liquor containing alcohol and obtained by distillation (whether it is denatured or not)

(44) "sweet toddy or nira or neera" means unfermented juice drawn from a coconut, brab, date or any kind of palm tree into receptacles treated in the prescribed manner so as to prevent fermentation

(45) "territorial waters" with reference to the State, means any part of the open sea within a distance of twelve nautical miles from the nearest point of the appropriate base line or such other distance as may be fixed by or under any law made by Parliament;

(46) "toddy" means fermented or unfermented juice drawn from a coconut, brab, date or any kind of palm tree and includes sweet toddy or nira or neera

(47) "to tap" means to prepare any part of a tree, or to use any means, for the purpose of causing juice to exude from the tree;

(47A) 'tourist' means a person who is not a citizen of India and who is either born or brought up or domiciled in any country outside India, but who visits India on a tour for a temporary period;

(47B) 'tourists permit' means a permit granted under section 46-A;

(48) "trade and import licence" means a licence granted under section 33;

(49) "transport" means to move from one place to another within the (State);

(50) "vendor's licence" means a licence granted under section 34;

(51) "visitor's permit" means a permit granted under section 46;

(52) any reference to the Code of Criminal Procedure, 1973 (2 of 1974) the Bombay Village Panchayats Act, 1933, (Bombay VI of 1933), or the Bombay Police Act, 1951, (Bombay XXII of 1951), includes a reference to any law corresponding to those Acts, respectively, in force in any part of the State.

CHAPTER II

Establishment

3. Director of Prohibition and Excise

The State Government may, by notification in the *Official Gazette*, appoint an officer to be called the Director of Prohibition and Excise, who subject to the control of the State Government and subject to such general or special orders as the State Government may from time to time make, shall exercise such powers and shall perform such duties and such functions as are conferred upon, by or under the provisions of this Act and shall superintend the administration and carry out generally the provisions of this Act; Provided that, the person holding the office of Director of Excise and Prohibition immediately before the commencement of the Bombay Prohibition (Extension and Amendment) Act, 1959, shall be the Director of Prohibition and Excise for the State and shall hold the Office until the State Government otherwise directs; and accordingly any reference by whatever form of words to "the Director of Excise and Prohibition" in any law for the time being in force, or in any instrument or document, shall be construed as a reference to the Director of Prohibition and Excise, and all proceedings pending before the Director of Excise and Prohibition shall be deemed to be transferred to the Director of Prohibition and Excise for disposal according to law, and if in any legal proceeding pending before any court, tribunal or, authority, the Director of Excise and Prohibition is a party, the Director of Prohibition and Excise shall be substituted as a party to those proceedings.

4. Collectors.

- (1) The Collectors shall, within the limits of their jurisdiction *** exercise such powers and perform such duties and functions as are provided by or under the provisions of this Act.
 - (2) For the purposes of this Act all Collectors*** shall be subordinate to the Director.
 - (3) Subordinate officers: - The State Government may, by notification in the *Official Gazette*, appoint any person other than the Collector *** to exercise in any district or place all or any of the powers and perform all or any of the duties all the duties and functions as are assigned by or under this Act to a Collector subject to such control, if any, in addition to that of the Director and of the State Government as the State Government may from time to time direct.
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5. Investing officers of Police and other departments with power and duties under this Act.

To aid the Director and the Collectors in carrying out the provisions of this Act, the State Government may appoint such subordinate officers with such designations, and assign to them such powers, duties and functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary.

6.

- (1) The State Government may invest any officer of the Police department or any officer of any other department either personally or in right of his office with such powers, impose upon him such duties and direct him to perform such functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary and any such officers shall, thereupon, exercise the said powers, discharge the said duties and perform the said functions in addition to the powers, duties and functions incidental to his principal office.
- (2) The State Government may also invest any person *** with such powers, impose on him such duties and direct him to perform such functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary. Such persons may be given such designations as the State Government may deem fit.

6A. Board of Experts.

- (1) For the purpose of enabling the State Government to determine whether-
 - (a) any medicinal or toilet preparation containing alcohol, or
 - (b) any antiseptic preparation or solution containing alcohol, or
 - (c) any flavouring extract, essence or syrup containing alcohol, is an article fit for use as intoxicating liquor, the State Government shall constitute a Board of Experts.
 - (2) The Board of Experts constituted under sub-section (1) shall consist of such members, not less than five in number, with such qualification as may be prescribed. The members so appointed shall hold office during the pleasure of the State Government.
 - (3) Three members shall form a quorum for the disposal of the business of the Board.
 - (4) Any vacancy of the member of the board shall be filled in as early as practicable:
 - (5) Provided that, during any such vacancy the continuing members may act, as if no vacancy had occurred.
 - (6) The procedure regarding the work of the Board shall be such as may be prescribed. (6) It shall be the duty of the Board to advise the State
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Government on the question whether any article mentioned in sub-section (1) is fit for use as intoxicating liquor and also on any matters incidental to the question, referred to it by the State Government. On obtaining such advice, the State Government shall determine whether any such article is fit for use as intoxicating liquor, and upon determination of the State Government that it is so fit, such article shall, until the contrary is proved, be presumed to be fit for use as intoxicating liquor. (1) Until the State Government has determined as aforesaid any article mentioned in sub-section (1) to be fit for use as intoxicating liquor, every such article shall be deemed to be unfit for such use.

7. Other Boards and Committees

- (1) The State Government may appoint other boards and committees to advise and assist officers in carrying out the provisions of this Act.
- (2) Such other boards and committees shall perform such functions as may be prescribed.
- (3) The constitution of such other boards and committees and the procedure regarding their work shall be as may be prescribed;
- (4) The State Government may direct that the members of such other boards and committees shall be paid such fees and allowances as may be prescribed.

8. Medical Boards

- (1) The State Government may constitute one or more medical boards or panels thereof for such areas and consisting of such members as it may deem fit;
- (2) A medical board or a panel thereof so constituted shall perform such functions as are prescribed;
- (3) The procedure regarding the work of the medical board or a panel thereof shall be as may be prescribed.
- (4) The members of the medical board or a panel thereof shall be entitled to such fees and allowances as may be prescribed.

9. Control of Directors over Prohibition Officers and other officers.

In exercise of their powers and in discharge of their duties and functions under the provisions of this Act or rules, regulations or orders made thereunder all Prohibition Officers and all officers including the officers of the Police and other departments shall, subject to the general or special orders of the State Government be subordinate to and under the control of the Director and shall be bound to follow such orders as the Director may, from time to time make.

10. Delegation

- (1) The State Government may delegate any of the powers exercisable by it under this Act to the Director or such other officers as it deems fit.
- (2) Subject to the control and direction of the State Government the powers conferred on the Director or any other officers appointed or invested with powers under this Act may be delegated by him to any of his subordinates.



CHAPTER III

Prohibitions

11. Manufacture, etc. of intoxicant to be permitted in accordance with provisions of Act, rules etc.

Notwithstanding anything contained in the following provisions of this Chapter, it shall be lawful to import, export, transport, manufacture bottle, sell, buy possess, use or consume any intoxicant or hemp or to cultivate or collect hemp or to tap any toddy producing tree or permit such tree to be tapped or to draw toddy from such tree or ` permit toddy to be drawn therefrom in the manner and to the extent provided by the provisions of this Act or any rules, regulations or orders made or in accordance with the terms and conditions of a licence, permit, pass or authorization granted thereunder.

12. Prohibition of manufacture of liquor and construction and working of distillery or brewer

No person shall-

- (a) manufacture liquor
- (b) construct or work any distillery or brewery;
- (c) import, export, transport or possess liquor; or
- (d) sell or buy liquor.

13. Prohibition of sale, etc. of liquor

No person shall-

- (a) bottle any liquor for sale;
- (b) consume or use liquor; or
- (c) use, keep or have in his possession any materials, still, utensils, implements or apparatus whatsoever for the manufacture of any liquor.

14. Prohibition of export, import, transport, sale, manufacture, etc. of intoxicating drugs. - No person shall

- (a) export, import, transport or possess any intoxicating drug;
 - (b) cultivate or collect the hemp
 - (c) use, keep or have in his possession any materials, still, utensils, implements or apparatus whatsoever for the manufacture of any intoxicating drug;
 - (d) sell or buy any intoxicating drug;
 - (e) consume or use any intoxicating drug; or
 - (f) manufacture any intoxicating drug.
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15. Prohibition of import, export, transport, sale, etc. of sweet toddy.

No person shall-

- (a) import, export, transport or possess sweet toddy or nira;
- (b) bottle sweet toddy or nira for sale; or
- (c) sell or buy sweet toddy or nira.

16. Prohibition of tapping of toddy producing trees and drawing of toddy

No person shall-

- (a) tap any toddy-producing tree or permit to be tapped any toddy-producing tree belonging to him or in his possession; or
- (b) draw toddy from any tree or permit toddy to be drawn from any tree belonging to him or in his possession.

17. Prohibition of possession, etc., of opium. -

No person shall-

- (a) possess opium;
- (b) transport opium;
- (c) import or export opium;
- (d) sell or buy opium; or
- (e) consume or use opium.

18. Prohibition of sale to minors

No licensed vendor and no person in the employ of such licensed vendor or acting with the express or implied permission of such licensed vendor on his behalf shall sell or deliver any intoxicant to any person who is a minor, whether for consumption by such person or by other person and whether for consumption on or off the premises of such licensed vendor.

20. Prohibition or production, etc. of Charas

No person shall

- (a) Produce, (f) transport,
- (b) manufacture, (g) buy,
- (c) Possess (h) sell,
- (d) export, (i) consume, or
- (e) Import, (j) use Charas.

21. Alteration of denatured spirit

No person shall-

- (a) alter or attempt to alter any denatured spirit by dilution with water or by any method whatsoever, with the intention that such spirit may be used for human
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consumption, whether as a beverage or internally as a medicine or in any other way whatsoever; or

- (b) have in his possession any denatured spirit in respect of which he knows or has reason to believe that such alteration or attempt has been made.

21A. Alteration of denatured spirituous preparation

No person shall

- (a) alter or attempt to alter any denatured spirituous preparation by dilution with water or by any method whatsoever, with the intention that such preparation may be used for human consumption as an intoxicating liquor; or
- (b) have in his possession any denatured spirituous preparation in respect of which he knows or has reason to believe that such alteration or attempt has been made.

22. Prohibition of allowing any premises to be used as common drinking house. - No person shall-

- (a) open or keep or use any place as a common drinking house; or
- (b) have the care, management or control of, or in any manner assist in conducting the business of, any place opened, or kept or used as a common drinking house.

22A. Prohibition of issuing prescriptions for intoxicating liquor except by registered medical practitioners.

- (1) No person other than a registered medical practitioner, shall issue any prescription for any intoxicating liquor.
- (2) No registered medical practitioner shall prescribe such intoxicating liquor, unless he believes in good faith after careful medical examination of the person for whose use such prescription is sought, that the use of such intoxicating liquor by such person is necessary, and will afford relief to him from some known ailment.
- (3) A registered medical practitioner shall state, in every prescription for intoxicating liquor issued by him, the name and address of the person to whom issued, the date of issue, directions for use, and the amount, and frequency of the dose, and shall preserve a copy of the prescription for one year from the date of issue. On the copy so preserved he shall state the purpose or ailment for which the intoxicating liquor is prescribed.

23. Prohibition of soliciting use of intoxicant or hemp or doing any act calculated to incite or encourage member of public to commit offence. -

No person shall-

- (a) solicit the use of, or offer any intoxicant or hemp; or
- (b) ***
-

- (c) do any act which is calculated to incite or encourage any member of the public or a class of individuals or the public generally to commit any offence under this Act or to commit a breach of any rule, regulation or order made thereunder or the conditions of any licence, permit, pass or authorization granted thereunder.

24. Prohibition of publication of advertisements relating to intoxicant, etc.

- (1) No person shall print or publish in any newspaper, news-sheet, book, leaflet, booklet or any other single or periodical publication or otherwise display or distribute any advertisement or other matter,-
- (a) which * solicits the use of or offers any intoxicant or hemp;
 - (b) which is calculated to encourage or incite any individual class of individuals or the public generally to commit an offence under this Act, or to commit a breach of or to evade the provisions of any rule, regulation or order made thereunder or the conditions of any licence, permit, pass or authorization granted, thereunder.
- (2) Save as otherwise provided in sub-section (3), nothing in this section shall apply to-
- (a) catalogues or price lists which may be generally or specially approved by the Director in this behalf;
 - (b) any advertisement or other matter contained in any newspaper, news-sheet, book, leaflet, booklet or other publication printed and published outside the State;
 - (c) any advertisement or other matter contained in any newspaper printed, and published in the State before such date as the State Government may by notification in the *Official Gazette*, specify; and
 - (d) any other advertisement or matter which the State Government may, by notification in the *Official Gazette*, generally or specially exempt from the operation of this section.
- (3) Notwithstanding anything contained in sub-section (2), the State Government may, by notification in the *Official Gazette*, prohibit within the State the circulation, distribution or sale of any newspapers, news-sheet, book, leaflet, booklet or other publication printed and published outside the State which contains any advertisement or matter,-
- (a) which * solicits the use of or offers any intoxicant or hemp; or
 - (b) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit any offence under this Act or to commit a breach of or to evade the provisions of any rule, regulation or order made thereunder, or the conditions of any licence, permit, pass or authorisation granted thereunder.
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24A. This chapter not to apply to certain articles

Nothing in this Chapter shall be deemed to apply to-

- (1) any toilet preparation containing alcohol which is unfit for use as intoxicating liquor;
- (2) any medicinal preparation containing alcohol which is unfit for use as intoxicating liquor;
- (3) any antiseptic preparation or solution containing alcohol which is unfit for use as intoxicating liquor.
- (4) any flavouring extract, essence or syrup containing alcohol which is unfit for use as intoxicating liquor:

Provided that such article corresponds with the description and limitations mentioned in section 59A: Provided further that the purchase, possession or use of any liquor or alcohol for the manufacture of any such article shall not be made or had except under a licence granted under section 31A.

Explanation. - Nothing in this section shall be construed to mean that any person may drink any toilet preparation, or antiseptic preparation or solution containing alcohol; and it is hereby provided that no person shall drink any such preparation.

24IA. Prohibition of consumption of medicinal preparation containing alcohol in excess of normal dose.

No person, shall for the purpose of producing a state of intoxication, consume any medicinal preparation containing alcohol in any quantity exceeding the normal dose.

*Explanation:-*The expression "normal dose" in relation to any medicinal preparation, means the quantity prescribed by a registered medical practitioner to be taken at a time and in a case where no such prescription has been obtained, the quantity indicated to be taken at a time in the directions given by the manufacturer of the medical preparation.

24-IB. Prohibition of entry in State in intoxicated condition

No person who has consumed any intoxicant (other than opium) or hemp in any place outside the State shall enter any territory of the State while he is in an intoxicated condition or under the influence of such intoxicant or hemp.
