

The Food Safety and Standards Act, 2006

[Serial No. 35 of the Jan Vishwas (Amendment of Provisions) Bill, 2022]

2.206. **Administering Ministry:** **Ministry of Health and Family Welfare**
[Department of Health and Family Welfare]

2.207. **Purpose of the Act:** The Food Safety and Standards Act, 2006 is an Act to consolidate the laws relating to food and to establish the Food Safety and Standards Authority of India for laying down science based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, to ensure availability of safe and wholesome food for human consumption and for matters connected therewith or incidental thereto.

2.208. **Amendments proposed to Act:**

Sl. No.	Sections	Existing Provision	Provision as amended in the Bill introduced in Lok Sabha
1	Section 59 (i)	Punishment for unsafe food.- Any person who, whether by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is unsafe, shall be punishable where such failure or contravention does not result in injury, with imprisonment for a term which may extend to six months and also with fine which may extend to one lakh rupees	Punishment for unsafe food.- Any person who, whether by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is unsafe, shall be punishable- where such failure or contravention does not result in injury, with fine which may extend to three lakh rupees ;
2	Section 61	Punishment for false information.- If a person, in connection with a requirement or direction under this Act, provides any information or produces any document that the person knows is false or misleading, he shall be punishable with imprisonment for a term which may extend to three months and also with fine which may extend to two lakh	Punishment for false information.- If a person, in connection with a requirement or direction under this Act, provides any information or produces any document that the person knows is false or misleading, he shall be punishable with fine which may extend to ten lakh rupees .

		rupees	
3	Section 63	<p>Punishment for carrying out a business without license.- If any person or food business operator (except the persons exempted from licensing under sub-section (2) of section 31 of this Act), himself or by any person on his behalf who is required to obtain licence, manufacturers, sells, stores or distributes or imports any article of food without licence, shall be punishable with imprisonment for a term which may extend to six months and also with a fine which may extend to five lakh rupees.</p>	<p>Punishment for carrying out a business without license.- If any person or food business operator (except the persons exempted from licensing under sub-section (2) of section 31 of this Act), himself or by any person on his behalf who is required to obtain licence, manufacturers, sells, stores or distributes or imports any article of food without licence, shall be punishable with a fine which may extend to five lakh rupees.</p>

2.209. **Submissions by the Ministry:**

2.209.1. The Ministry of Health and Family Welfare in their background note provided the following information on the proposed amendments:

"Section 59(i) of the said Act deals with the punishment for unsafe food, which does not result in injury. Provision of "imprisonment" in section 59(i), as it appears far in excess of the gravity of offence, has been proposed to be omitted. It is, however, proposed to increase the fine under 59(i), from one lakh to three lakhs, to act as deterrent.

Section 61 deals with the punishment for false information. The said provision punishes a person for false or misleading information/ documents. Amendment to omit the imprisonment and enhance the fine has been proposed.

Section 63 deals with the punishment for carrying out a business without license. Provision punishes a person for carrying on business without a license. Accordingly, amendment to omit the imprisonment has been proposed."

2.210. **Discussion in the sitting of the Committee:**

2.210.1. The Secretary, Department of Health and Family Welfare during the briefing on the bill, apprised the Committee that in section 59(1), section 61 and section 63, the Ministry is proposing to remove imprisonment and increase fine from rupees one lakh to three lakhs to completely decriminalise these provisions.

2.210.2. The Secretary, Department. of Health and Family Welfare further informed the Committee that as Food Safety and Standards Act contains provisions for settling penalty disputes by administrative authority under section 50 to 58 and therefore, these could be considered for complete decriminalisation.

2.210.3. The Committee observed that all the sections from 50 to 58 use the word Penalty instead of fine and in line suggested that likewise 'Penalty' should be used in section 50, 61 and 63 as well.

2.210.4. In this regard, Secretary, Department of Health and Family Welfare informed that to fix substantive liability there should be clear definition of 'Unsafe Food' though 'Food' has been defined under section 3 of the Food Safety and Standards Act 2006. The definition talks about 'hazardous food' but not 'unsafe food' which covers several types of unsafe food. Keeping this in view only petty offences under section 56, 61 and 63 have been decriminalised.

2.210.5. The Committee, however, opined that complete decriminalisation of Section 59(1) may affect overall structure of the section, therefore, reduced imprisonment of 3 months period may be retained and fine may be extended to three lakh rupees.

2.210.6. The Committee also agreed to the removal of punishment under section 61 and 63 and to extended fine amount of Rs. ten lakh, and observed that word 'fine' and 'punishment' may be replaced with 'Penalty'.

2.210.7. During the course of discussion, the Committee observed that we should not forget the purpose of the Bill which is to unburden courts from unnecessary litigation. Therefore, for provisions which provides only for fine, our efforts should be to decriminalize them.

2.210.8. The Committee suggested that opening sentence of section 63 should be changed to 'penalty for carrying' instead of 'punishment for carrying' and in place of the words 'shall be punishable be substituted with "shall be liable to a penalty'. The Committee further suggested that section 61 and 63 may be placed after Section 58 and 'penalty' may be provided for in this section. The Committee asked the Ministry to review for renumbering these sections in accordance with uniformity of the Punishment/Penalty being provided for in these sections to maintain the harmonious flow of the provisions.

2.211. Suggestions by the Committee:

2.211.1. After detailed discussions, the Committee agreed, in principle, with the amendments proposed to the Food Safety and Standards Act, 2006, specified at Serial No. 35 of the Schedule to the Bill, and decided to consider the following suggestions/modifications if required during Clause-by-Clause consideration:

- Section 59(i): Imprisonment for a term which may extend to three months and also with fine which may extend to three lakh rupees.
- Section 61: Original Section to be deleted.
- Section 63: Original Section to be deleted.