

Amendment IV to the Criminal Law of the People's Republic of China

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Comments Adopted at the 31st Meeting of the Standing Committee of the Ninth National People's Congress on 28 December 2002 and promulgated by Order No. 83 of the President of the People's Republic of China on 28 December 2002. This Amendment to the [Criminal Law of the People's Republic of China](#) (1 October 1997) entered into force on the date of promulgation.

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In order to punish the crimes of disrupting the order of the socialist market economy, obstructing the administration of public order, and of dereliction of duty committed by functionaries of State organs, and to guarantee smooth progress of the socialist modernization drive, the following revisions and supplements are made to the Criminal Law:

1. Article 145 is revised to read: "Whoever produces medical apparatus and instruments or medical hygiene materials that are not up to the national or trade standards for safeguarding human health or sells such things while clearly knowing the fact, which is harmful enough to seriously endanger human health, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall, in addition, be fined not less than half, but not more than two times, the amount of earnings from sales; if serious harm is caused to human health, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years and shall, in addition, be fined not less than half, but not more than two times, the amount of earnings from sales; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and shall, in addition, be fined not less than half, but not more than two times, the amount of earnings from sales or be sentenced to confiscation of property."

2. One paragraph is added to Article 152 as the second paragraph, which reads: "Whoever, evading Customs supervision and control, transports solid waste, liquid waste or gaseous waste from outside China into the territory of China, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than five years and shall in addition, or shall only, be fined; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than five years and shall in addition be fined."

The original second paragraph of Article 152 is revised as the third paragraph, which reads: "Where a unit commits any of the crimes as mentioned in the preceding two paragraphs, it shall be fined, and the persons

who are directly in charge of the unit and the other persons who are directly responsible for the crime shall be punished in accordance with the provisions of the preceding two paragraphs."

3. Article 155 is revised to read: "Whoever commits any of the following acts shall be deemed to have committed the crime of smuggling and shall be punished in accordance with the relevant provisions of this Section: (1) directly and illegally purchasing from smugglers articles, the import of which is forbidden by the State, or directly and illegally purchasing from smugglers other smuggled goods or articles and in and of relatively large quantities and values; (2) transporting, purchasing or selling in inland seas, territorial waters, boundary rivers or boundary lakes articles the import and export of which are forbidden by the State, or transporting, purchasing or selling, without legal certificates and in and of relatively large quantities and values, goods or articles the import and export of which are restricted by the State."

4. One article is added after Article 244 as Article 244(a), which reads: "Where a unit, in violation of the laws and regulations on labor administration, employs a minor under the age of 16 to do physical labor of ultra-intensity, or to work high above the ground or in a pit, or to work under explosive, inflammable, radioactive, poisonous and other dangerous conditions, if the circumstances are serious, the person who is directly responsible shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall, in addition, be fined; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall, in addition, be fined."

"Whoever commits the act mentioned in the preceding paragraph, which results in an accident and at the same time constitutes another crime, shall be punished in accordance with the provisions on combined punishment for several crimes."

5. The third paragraph of Article 339 is revised to read: "Whoever, under the pretext of using it as raw material, imports solid waste, liquid waste or gaseous waste that cannot be used as such shall be convicted and punished in accordance with the provisions of the second and the third paragraph of Article 152 of this Law."

6. Article 344 is revised to read: "Whoever, in violation of the regulations of the State, illegally fells or destroys precious trees or other plants under special State protection, or illegally purchases, transports, processes or sells such trees or plants as well as the products thereof, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall, in addition, be fined; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall, in addition, be fined."

7. Article 345 is revised to read: "Whoever stealthily fells trees, bamboo, etc. in forest or woods, if the amount involved is relatively large, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall in addition, or shall only, be fined; if the amount involved is huge, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall, in addition, be fined; if the amount involved is especially huge, he shall be sentenced to fixed-term imprisonment of not less than seven years and shall, in addition, be fined."

"Whoever, in violation of the provisions of the Forestry Law, arbitrarily fells trees, bamboo, etc. in forest or woods, if the amount involved is relatively large, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall, in addition, or shall only, be fined; if the amount involved is huge, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall, in addition, be fined."

"Whoever illegally purchases or transports trees, bamboo, etc. which he clearly knows are felled stealthily or

arbitrarily, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance and shall, in addition, or shall only, be fined; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years and shall, in addition, be fined.

"Whoever stealthily or arbitrarily fells trees, bamboo, etc. in forest or woods of nature reserves at the national level shall be given a heavier punishment."

8. Article 399 is revised to read: "Any judicial officer who, bending the law for selfish ends or twisting the law for a favor, subjects to investigation for criminal responsibility a person he knows to be innocent or intentionally protects from investigation for criminal responsibility a person he knows to be guilty or, intentionally running counter to the facts and law, twists the law when rendering judgments or orders in criminal proceedings shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than ten years; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than ten years.

"Any judicial officer who, in civil or administrative proceedings, intentionally runs counter to the facts and law and twists the law when rendering judgments or orders, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than ten years.

"Any judicial officer who, being seriously irresponsible or abusing his power in execution of judgments or orders, does not take preservation measures in litigation in accordance with law, or does not perform his statutory duty of execution, or unlawfully takes preservation measures in litigation or takes compulsory enforcement measures, thus causing heavy losses to the interests of the parties or other persons, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; and if especially heavy losses are caused to the interests of the parties or other persons, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than ten years.

"Any judicial officer who accepts bribes and commits one of the acts mentioned in the preceding three paragraphs, which at the same time constitutes a crime as provided for in Article 385 of this Law, shall be convicted and punished in accordance with the provisions for a heavier punishment."

9. This Amendment shall go into effect as of the date of promulgation.

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