|  |  |  |
| --- | --- | --- |
| 发文机关  Promulgator | ：  : | 全国人民代表大会常务委员会  The Standing Committee of the National People's Congress |
| 发布日期  Date of Issue | ：  : | 2005.02.28  2005.02.28 |
| 生效日期  Effective Date | ：  : | 2005.02.28  2005.02.28 |
| 时效性  Effectiveness | ：  : | 现行有效  Current |
| 文号  No. | ：  : | 主席令第三十二号  Presidential Decree No. 32 |

# 中华人民共和国刑法修正案（五）

# Amendment V to the Criminal Law of the People's Republic of China

中华人民共和国刑法修正案（五）

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

主席令第三十二号

Presidential Decree No. 32

《中华人民共和国刑法修正案（五）》已由中华人民共和国第十届全国人民代表大会常务委员会第十四次会议于2005年2月28日通过，现予公布，自公布之日起施行。

The Amendment V to the Criminal Law of the People's Republic of China, which was adopted at the 14th meeting of the Standing Committee of the 10th National People's Congress of the People's Republic of China on February 28, 2005, is hereby promulgated and shall come into force as of the date of its promulgation.

中华人民共和国主席 胡锦涛

President Hu Jintao

二零零五年二月二十八日

February 28, 2005

中华人民共和国刑法修正案（五）

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

（2005年2月28日第十届全国人民代表大会常务委员会第十四次会议通过）

(Adopted at the 14th Meeting of the Standing Committee of the Tenth National People's Congress on February 28, 2005)

一、在刑法第一百七十七条后增加一条，作为第一百七十七条之一：“有下列情形之一，妨害信用卡管理的，处三年以下有期徒刑或者拘役，并处或者单处一万元以上十万元以下罚金；数量巨大或者有其他严重情节的，处三年以上十年以下有期徒刑，并处二万元以上二十万元以下罚金：

I、 There is an article added to the end of Article 177 as Article 177 (I): "Whoever commits one of the following acts which hamper the administration of credit cards shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined not less than 10,000 yuan but not more than 100,000 yuan; if the amount involved is huge, or if there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan:

“（一）明知是伪造的信用卡而持有、运输的，或者明知是伪造的空白信用卡而持有、运输，数量较大的；

1. Knowingly holding or transporting forged credit cards, or knowingly holding or transporting forged blank credit cards in relatively large quantities;

“（二）非法持有他人信用卡，数量较大的；

"2. illegally holding others' credit cards in relatively large quantities; and

“（三）使用虚假的身份证明骗领信用卡的；

"3. obtaining credit cards by using false identity certification; and

“（四）出售、购买、为他人提供伪造的信用卡或者以虚假的身份证明骗领的信用卡的。

"4. selling, purchasing or providing to others forged credit cards or credit cards defrauded by using false identity certification.

“窃取、收买或者非法提供他人信用卡信息资料的，依照前款规定处罚。

"Whoever steals, buys or illegally provides information and materials about others' credit cards shall be punished in accordance with the provisions of the preceding paragraph.

“银行或者其他金融机构的工作人员利用职务上的便利，犯第二款罪的，从重处罚。”

Any staff member of a bank or any other financial institution who, taking advantage of his position, commits the crime mentioned in the second paragraph shall be given a heavier punishment. "

二、将刑法第一百九十六条修改为：“有下列情形之一，进行信用卡诈骗活动，数额较大的，处五年以下有期徒刑或者拘役，并处二万元以上二十万元以下罚金；数额巨大或者有其他严重情节的，处五年以上十年以下有期徒刑，并处五万元以上五十万元以下罚金；数额特别巨大或者有其他特别严重情节的，处十年以上有期徒刑或者无期徒刑，并处五万元以上五十万元以下罚金或者没收财产：

II、 Article 196 is revised to read: "Whoever commits fraud by means of a credit card in any of the following ways shall, if the amount involved is relatively large, be sentenced to fixed-term imprisonment of not more than five years or criminal detention and shall also be fined not less than 20,000 yuan but not more than 200,000 yuan; if the amount involved is huge, or if there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan; if the amount involved is especially huge, or if there are other especially serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined not less than 50,000 yuan but not more than 500,000 yuan or be sentenced to confiscation of property:

“（一）使用伪造的信用卡，或者使用以虚假的身份证明骗领的信用卡的；

"1. using a forged credit card, or using a credit card obtained by using false identity certification;

“（二）使用作废的信用卡的；

2. Using invalid credit cards;

“（三）冒用他人信用卡的；

"3. illegally using another's credit card; and

“（四）恶意透支的。

4. Overdrawing with ill intention.

“前款所称恶意透支，是指持卡人以非法占有为目的，超过规定限额或者规定期限透支，并且经发卡银行催收后仍不归还的行为。

"Overdrawing with ill intentions as mentioned in the preceding paragraph means that a credit card holder who, for the purpose of illegal possession, overdraws beyond the norm set or beyond the time limit and refuses to repay the overdrawn amount after the bank that issues the card urges him to do so.

“盗窃信用卡并使用的，依照本法第二百六十四条的规定定罪处罚。”

Whoever steals a credit card and uses it shall be convicted and punished in accordance with the provisions in Article 264 of this Law. "

三、在刑法第三百六十九条中增加一款作为第二款，将该条修改为：“破坏武器装备、军事设施、军事通信的，处三年以下有期徒刑、拘役或者管制；破坏重要武器装备、军事设施、军事通信的，处三年以上十年以下有期徒刑；情节特别严重的，处十年以上有期徒刑、无期徒刑或者死刑。

III、 One paragraph is added to Article 369 as the second paragraph and this Article is revised to read: "Whoever sabotages weapons or equipment, military installations or military telecommunications shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance; whoever sabotages major weapons or equipment, military installations or military telecommunications shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years, life imprisonment or death.

“过失犯前款罪，造成严重后果的，处三年以下有期徒刑或者拘役；造成特别严重后果的，处三年以上七年以下有期徒刑。

"Whoever negligently commits the crime mentioned in the preceding paragraph, thus causing serious consequences, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

“战时犯前两款罪的，从重处罚。”

Whoever in wartime commits any of the crimes mentioned in the preceding two paragraphs shall be given a heavier punishment. "

四、本修正案自公布之日起施行

IV、 This Amendment shall come into force as of the date of promulgation.