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# 中华人民共和国刑法修正案（四）

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

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主席令第八十三号

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《中华人民共和国刑法修正案(四)》已由中华人民共和国第九届全国人民代表大会常务委员会第三十一次会议于2002年12月28日通过，现予公布，自公布之日起施行。

The Amendment IV to the Criminal Law of the People's Republic of China, which was adopted at the 31st session of the Standing Committee of the 9th National People's Congress on December 28, 2002, is released hereby and shall take effect as of the date of promulgation.

中华人民共和国主席 江泽民

President of the PRC: Jiang Zemin

二○○二年十二月二十八日

December 28, 2002

中华人民共和国刑法修正案（四）

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

(2002年12月28日第九届全国人民代表大会常务委员会第三十一次会议通过)

(Adopted at the 31st Meeting of the Standing Committee of the Ninth National People's Congress on December 28, 2002)

为了惩治破坏社会主义市场经济秩序、妨害社会管理秩序和国家机关工作人员的渎职犯罪行为，保障社会主义现代化建设的顺利进行，保障公民的人身安全，对刑法作如下修改和补充：

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:

一、将刑法第一百四十五条修改为：“生产不符合保障人体健康的国家标准、行业标准的医疗器械、医用卫生材料，或者销售明知是不符合保障人体健康的国家标准、行业标准的医疗器械、医用卫生材料，足以严重危害人体健康的，处三年以下有期徒刑或者拘役，并处销售金额百分之五十以上二倍以下罚金；对人体健康造成严重危害的，处三年以上十年以下有期徒刑，并处销售金额百分之五十以上二倍以下罚金；后果特别严重的，处十年以上有期徒刑或者无期徒刑，并处销售金额百分之五十以上二倍以下罚金或者没收财产。”

I、 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 10 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 10 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."

二、在第一百五十二条中增加一款作为第二款：“逃避海关监管将境外固体废物、液态废物和气态废物运输进境，情节严重的，处五年以下有期徒刑，并处或者单处罚金；情节特别严重的，处五年以上有期徒刑，并处罚金。”

II、 One paragraph is added to Article 152 as Paragraph 2: "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 also, 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 also be fined."

原第二款作为第三款，修改为：“单位犯前两款罪的，对单位判处罚金，并对其直接负责的主管人员和其他直接责任人员，依照前两款的规定处罚。”

The original Paragraph 2 becomes Paragraph 3 and is revised as follows: "Where a unit commits any of the crimes mentioned in the preceding two paragraphs, it shall be fined, and the persons who are directly in charge and the other persons who are directly responsible for the crime shall be punished in accordance with the provisions of the preceding two paragraphs."

三、将刑法第一百五十五条修改为：“下列行为，以走私罪论处，依照本节的有关规定处罚：(一)直接向走私人非法收购国家禁止进口物品的，或者直接向走私人非法收购走私进口的其他货物、物品，数额较大的；(二)在内海、领海、界河、界湖运输、收购、贩卖国家禁止进出口物品的，或者运输、收购、贩卖国家限制进出口货物、物品，数额较大，没有合法证明的。”

III、 Article 155 is amended as: "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 a smuggler articles, the import of which is prohibited by the State, or directly and illegally purchasing from a smuggler other smuggled goods and articles in and in and in and in relatively large quantities or values; (2) transporting, purchasing or selling in inland seas, territorial waters, boundary rivers or boundary lakes articles the import and export of which are prohibited by the State, or transporting, purchasing or selling, without legal certification, goods and articles the import and export of which are restricted by the State and in and in relatively large quantities or values."

四、刑法第二百四十四条后增加一条，作为第二百四十四条之一：“违反劳动管理法规，雇用未满十六周岁的未成年人从事超强度体力劳动的，或者从事高空、井下作业的，或者在爆炸性、易燃性、放射性、毒害性等危险环境下从事劳动，情节严重的，对直接责任人员，处三年以下有期徒刑或者拘役，并处罚金；情节特别严重的，处三年以上七年以下有期徒刑，并处罚金。

IV、 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 work of ultra-intensity, to work high above the ground or in the pit, or to work under explosive, inflammable, radioactive, toxic 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 also 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 also be fined.

“有前款行为，造成事故，又构成其他犯罪的，依照数罪并罚的规定处罚。”

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

五、将刑法第三百三十九条第三款修改为：“以原料利用为名，进口不能用作原料的固体废物、液态废物和气态废物的，依照本法第一百五十二条第二款、第三款的规定定罪处罚。”

V、 The third paragraph of Article 339 is amended as: "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."

六、将刑法第三百四十四条修改为：“违反国家规定，非法采伐、毁坏珍贵树木或者国家重点保护的其他植物的，或者非法收购、运输、加工、出售珍贵树木或者国家重点保护的其他植物及其制品的，处三年以下有期徒刑、拘役或者管制，并处罚金；情节严重的，处三年以上七年以下有期徒刑，并处罚金。”

VI、 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 also 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 also be fined."

七、将刑法第三百四十五条修改为：“盗伐森林或者其他林木，数量较大的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；数量巨大的，处三年以上七年以下有期徒刑，并处罚金；数量特别巨大的，处七年以上有期徒刑，并处罚金。

VII、 Article 345 is amended as: "Whoever stealthily fells trees, bamboo, etc. in forest or woods, if the amount involved is relatively large, shall be sentenced to imprisonment of not more than three years, criminal detention or control and/or a fine; if the amount involved is huge, be sentenced to imprisonment of not less than three years but not more than seven years and a fine; or if the amount involved is especially huge, be sentenced to imprisonment of not less than seven years and a fine.

“违反森林法的规定，滥伐森林或者其他林木，数量较大的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；数量巨大的，处三年以上七年以下有期徒刑，并处罚金。

"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 also, 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 also be fined.

“非法收购、运输明知是盗伐、滥伐的林木，情节严重的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；情节特别严重的，处三年以上七年以下有期徒刑，并处罚金。

"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 also, 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 also be fined.

“盗伐、滥伐国家级自然保护区内的森林或者其他林木的，从重处罚。”

"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."

八、将刑法第三百九十九条修改为：“司法工作人员徇私枉法、徇情枉法，对明知是无罪的人而使他受追诉、对明知是有罪的人而故意包庇不使他受追诉，或者在刑事审判活动中故意违背事实和法律作枉法裁判的，处五年以下有期徒刑或者拘役；情节严重的，处五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。

VIII、 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 10 years; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years.

“在民事、行政审判活动中故意违背事实和法律作枉法裁判，情节严重的，处五年以下有期徒刑或者拘役；情节特别严重的，处五年以上十年以下有期徒刑。

"Whoever, 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 10 years.

“在执行判决、裁定活动中，严重不负责任或者滥用职权，不依法采取诉讼保全措施、不履行法定执行职责，或者违法采取诉讼保全措施、强制执行措施，致使当事人或者其他人的利益遭受重大损失的，处五年以下有期徒刑或者拘役；致使当事人或者其他人的利益遭受特别重大损失的，处五年以上十年以下有期徒刑。

"Any judicial officer who, being seriously irresponsible or abusing his power in execution of judgments or orders, fails to take preservation measures in litigation in accordance with law, or fails to perform his statutory duty of execution, or unlawfully takes preservation measures in litigation or takes compulsory execution 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 10 years.

“司法工作人员收受贿赂，有前三款行为的，同时又构成本法第三百八十五条规定之罪的，依照处罚较重的规定定罪处罚。”

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. "

九、本修正案自公布之日起施行。

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