|  |  |  |
| --- | --- | --- |
| 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 | ：: | 2011.02.252011.02.25 |
| 生效日期Effective Date | ：: | 2011.05.012011.05.01 |
| 时效性Effectiveness | ：: | 现行有效Current |
| 文号No.  | ：: | 主席令第四十一号Presidential Decree No. 41 |

# 中华人民共和国刑法修正案（八）

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

中华人民共和国刑法修正案（八）

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

主席令第四十一号

Presidential Decree No. 41

《中华人民共和国刑法修正案（八）》已由中华人民共和国第十一届全国人民代表大会常务委员会第十九次会议于2011年2月25日通过，现予公布，自2011年5月1日起施行。

The Amendment VIII to the Criminal Law of the People's Republic of China, which was adopted at the 19th session of the Standing Committee of the 11th National People's Congress on February 25, 2011, is hereby promulgated and shall come into effect on May 1, 2011.

中华人民共和国主席 胡锦涛

President Hu Jintao

2011年2月25日

February 25, 2011

中华人民共和国刑法修正案（八）

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

（2011年2月25日第十一届全国人民代表大会常务委员会第十九次会议通过）

(Adopted at the 19th Session of the Standing Committee of the 11th National People's Congress on February 25, 2011)

一、在刑法第十七条后增加一条，作为第十七条之一：“已满七十五周岁的人故意犯罪的，可以从轻或者减轻处罚；过失犯罪的，应当从轻或者减轻处罚。”

I、 There is an article added to the end of Article 17 as Article 17A: "A person attaining the age of 75 may be given a lighter or mitigated penalty if he commits an intentional crime; or shall be given a lighter or mitigated penalty if he commits a negligent crime."

二、在刑法第三十八条中增加一款作为第二款：“判处管制，可以根据犯罪情况，同时禁止犯罪分子在执行期间从事特定活动，进入特定区域、场所，接触特定的人。”

II、 One paragraph is added to Article 38 of the Criminal Law as the second paragraph: "Criminals sentenced to control may, in light of the crime committed, be simultaneously prohibited from engaging in certain activities, entering certain areas or places or contacting certain persons."

原第二款作为第三款，修改为：“对判处管制的犯罪分子，依法实行社区矫正。”

The original Paragraph 2 is changed into Paragraph 3 and amended as: "Criminals sentenced to control shall be subject to community correction."

增加一款作为第四款：“违反第二款规定的禁止令的，由公安机关依照《中华人民共和国治安管理处罚法》的规定处罚。”

Insert "Persons who violate a restraining order stipulated in the second paragraph shall be punished by the public security authorities pursuant to the provisions of the Law of the People 's Republic of China on Public Security Administration and Punishment." as the fourth paragraph.

三、在刑法第四十九条中增加一款作为第二款：“审判的时候已满七十五周岁的人，不适用死刑，但以特别残忍手段致人死亡的除外。”

III、 One paragraph is added to Article 49 as Paragraph 2: "The death penalty shall not be imposed on a person attaining the age of 75 at the time of trial, except that the death of the person has been caused by especially cruel means."

四、将刑法第五十条修改为：“判处死刑缓期执行的，在死刑缓期执行期间，如果没有故意犯罪，二年期满以后，减为无期徒刑；如果确有重大立功表现，二年期满以后，减为二十五年有期徒刑；如果故意犯罪，查证属实的，由最高人民法院核准，执行死刑。

IV、 Article 50 is amended as: "Where a convict is sentenced to death with a reprieve, if he does not commit any intentional crime during the period of reprieve, the sentence shall be commuted to life imprisonment upon expiration of the two-year period; if he has any major meritorious performance, the sentence shall be commuted to imprisonment of 25 years upon expiration of the two-year period; or if it is verified that he has committed any intentional crime, the death penalty shall be executed upon verification and approval of the Supreme People's Court.

“对被判处死刑缓期执行的累犯以及因故意杀人、强奸、抢劫、绑架、放火、爆炸、投放危险物质或者有组织的暴力性犯罪被判处死刑缓期执行的犯罪分子，人民法院根据犯罪情节等情况可以同时决定对其限制减刑。”

"For a recidivist or a convict of murder, rape, robbery, abduction, arson, explosion, dissemination of hazardous substances or organized violence who is sentenced to death with a reprieve, the people's court may, in addition, decide to put restrictions on commutation of his sentence in light of the circumstances of the crime committed."

五、将刑法第六十三条第一款修改为：“犯罪分子具有本法规定的减轻处罚情节的，应当在法定刑以下判处刑罚；本法规定有数个量刑幅度的，应当在法定量刑幅度的下一个量刑幅度内判处刑罚。”

V、 1st paragraph of Article 63 is amended as: "Where there is any circumstance of mitigation of penalty, a convict shall be given a penalty below the statutory penalty; and if there are two or more ranges of sentencing under this Law, the penalty shall be given within the range next lower to the statutory range."

六、将刑法第六十五条第一款修改为：“被判处有期徒刑以上刑罚的犯罪分子，刑罚执行完毕或者赦免以后，在五年以内再犯应当判处有期徒刑以上刑罚之罪的，是累犯，应当从重处罚，但是过失犯罪和不满十八周岁的人犯罪的除外。”

VI、 1st paragraph of Article 65 is amended as: "Where a convict sentenced to fixed-term imprisonment or a heavier penalty commits again a crime for which a fixed-term imprisonment or a heavier penalty shall be given within five years after finishing serving his sentence or being pardoned, he shall be a recidivist and be given a heavier penalty, unless it is a negligent crime or he commits the crime under the age of 18."

七、将刑法第六十六条修改为：“危害国家安全犯罪、恐怖活动犯罪、黑社会性质的组织犯罪的犯罪分子，在刑罚执行完毕或者赦免以后，在任何时候再犯上述任一类罪的，都以累犯论处。”

VII、 Article 66 is amended as: "A convict of jeopardizing the national security, terrorist activities or organized crime of a gangland nature shall be punished as a recidivist for any of such crimes committed again by him at any time after he finishes serving his sentence or is pardoned."

八、在刑法第六十七条中增加一款作为第三款：“犯罪嫌疑人虽不具有前两款规定的自首情节，但是如实供述自己罪行的，可以从轻处罚；因其如实供述自己罪行，避免特别严重后果发生的，可以减轻处罚。”

VIII、 One paragraph is added to Article 67 as the third paragraph: "A criminal suspect who truthfully confesses to his crime may be given a lighter punishment although there is no voluntary surrender as mentioned in the preceding two paragraphs; and may be given a mitigated punishment if any especially serious consequence is avoided for his truthful confession."

九、删去刑法第六十八条第二款。

IX、 Paragraph 2 of Article 68 is deleted.

十、将刑法第六十九条修改为：“判决宣告以前一人犯数罪的，除判处死刑和无期徒刑的以外，应当在总和刑期以下、数刑中最高刑期以上，酌情决定执行的刑期，但是管制最高不能超过三年，拘役最高不能超过一年，有期徒刑总和刑期不满三十五年的，最高不能超过二十年，总和刑期在三十五年以上的，最高不能超过二十五年。

X、 Article 69 is revised to read: "For a criminal who commits several crimes before a judgment is pronounced, unless he is sentenced to death or life imprisonment, his term of punishment shall be not more than the sum of the terms for all the crimes but not less than the longest of the terms for the crimes, depending on the circumstances of the crimes. However, the term of public surveillance may not exceed the maximum of three years, the term of criminal detention may not exceed the maximum of one year, and if the sum of terms of fixed-term imprisonment is less than 35 years, the term shall not exceed 20 years, and if the sum of terms is 35 years or more, the term shall not exceed 25 years.

“数罪中有判处附加刑的，附加刑仍须执行，其中附加刑种类相同的，合并执行，种类不同的，分别执行。”

"If there are accessory penalties imposed for the crimes, the accessory penalties must still be executed. accessory penalties of the same kind shall be executed on a consolidated basis, while those of different kinds shall be executed separately."

十一、将刑法第七十二条修改为：“对于被判处拘役、三年以下有期徒刑的犯罪分子，同时符合下列条件的，可以宣告缓刑，对其中不满十八周岁的人、怀孕的妇女和已满七十五周岁的人，应当宣告缓刑：

XI、 Article 72 is amended as: "Where a convict sentenced to criminal detention or imprisonment of not more than three years meets the following conditions, a probation may be announced, and a probation shall be announced if he is under the age of 18, is pregnant or attains the age of 75:

“（一）犯罪情节较轻；

1. the circumstances of the crime are minor;

“（二）有悔罪表现；

2. show repentance;

“（三）没有再犯罪的危险；

3. He is not likely to commit any crime again; and

“（四）宣告缓刑对所居住社区没有重大不良影响。

(4) Announcing the probation will not have any major adverse impact on the community where he lives.

“宣告缓刑，可以根据犯罪情况，同时禁止犯罪分子在缓刑考验期限内从事特定活动，进入特定区域、场所，接触特定的人。

When probation is announced, in light of the crime committed, the convict may also be prohibited from engaging in certain activities, entering certain areas or places or contacting certain persons during probation.

“被宣告缓刑的犯罪分子，如果被判处附加刑，附加刑仍须执行。”

"If a supplementary sentence is imposed on a criminal whose sentence is suspended, it must still be executed."

十二、将刑法第七十四条修改为：“对于累犯和犯罪集团的首要分子，不适用缓刑。”

XII、 Article 74 is amended as: "Probation shall not apply to recidivists and ringleaders of criminal gangs."

十三、将刑法第七十六条修改为：“对宣告缓刑的犯罪分子，在缓刑考验期限内，依法实行社区矫正，如果没有本法第七十七条规定的情形，缓刑考验期满，原判的刑罚就不再执行，并公开予以宣告。”

XIII、 Article 76 is amended as: "A convict on probation shall be subject to community correction during probation, and if none of the circumstances as set out in Article 77 of this Law occurs, the original sentence shall no longer be executed upon expiration of probation, which shall be announced to the public."

十四、将刑法第七十七条第二款修改为：“被宣告缓刑的犯罪分子，在缓刑考验期限内，违反法律、行政法规或者国务院有关部门关于缓刑的监督管理规定，或者违反人民法院判决中的禁止令，情节严重的，应当撤销缓刑，执行原判刑罚。”

XIV、 2nd paragraph of Article 77 is amended as: "Where a convict on probation violates any provision of laws, administrative regulations or the relevant department of the State Council on probation supervision and management or violates any restraining order in the judgment of the people's court during probation, if the circumstances are serious, the probation shall be revoked and the original sentence shall be executed."

十五、将刑法第七十八条第二款修改为：“减刑以后实际执行的刑期不能少于下列期限：

15. 2nd paragraph of Article 78 is amended as: "After commutation, the actually executed term of criminal penalty shall not be:

“（一）判处管制、拘役、有期徒刑的，不能少于原判刑期的二分之一；

"(1) less than 1/2 of the original term of criminal penalty, if control, criminal detention or fixed-term imprisonment is imposed;

“（二）判处无期徒刑的，不能少于十三年；

"(2) less than 13 years, if life imprisonment is imposed; or

“（三）人民法院依照本法第五十条第二款规定限制减刑的死刑缓期执行的犯罪分子，缓期执行期满后依法减为无期徒刑的，不能少于二十五年，缓期执行期满后依法减为二十五年有期徒刑的，不能少于二十年。”

"(3) less than 25 years if the death penalty with a reprieve imposed on a convict is legally commuted to life imprisonment upon expiration of the reprieve period, or less than 20 years if it is commuted to imprisonment of 25 years upon expiration of the reprieve period, where the people's court has put restrictions on commutation of the death penalty with a reprieve according to paragraph 2, Article 50 of this Law."

十六、将刑法第八十一条修改为：“被判处有期徒刑的犯罪分子，执行原判刑期二分之一以上，被判处无期徒刑的犯罪分子，实际执行十三年以上，如果认真遵守监规，接受教育改造，确有悔改表现，没有再犯罪的危险的，可以假释。如果有特殊情况，经最高人民法院核准，可以不受上述执行刑期的限制。

XVI、 Article 81 is amended as: "Where a convict sentenced to fixed-term imprisonment has served not less than half of the term of his original sentence, or a convict sentenced to life imprisonment has actually served not less than 13 years of imprisonment, he may be paroled if he earnestly observes prison regulations, accepts reform through education and shows true repentance and is not likely to commit any crime again. Under special circumstances, with the approval of the Supreme People's Court, a parole may be granted without regard to the above restrictions on the term served.

“对累犯以及因故意杀人、强奸、抢劫、绑架、放火、爆炸、投放危险物质或者有组织的暴力性犯罪被判处十年以上有期徒刑、无期徒刑的犯罪分子，不得假释。

No parole shall be granted to a recidivist or a convict sentenced to imprisonment of not less than 10 years or life imprisonment for murder, rape, robbery, abduction, arson, explosion, dissemination of hazardous substances or organized violent crime.

“对犯罪分子决定假释时，应当考虑其假释后对所居住社区的影响。”

When a parole decision is made on a convict, the impact of his release on parole on the community where he lives shall be considered. "

十七、将刑法第八十五条修改为：“对假释的犯罪分子，在假释考验期限内，依法实行社区矫正，如果没有本法第八十六条规定的情形，假释考验期满，就认为原判刑罚已经执行完毕，并公开予以宣告。”

XVII、 Article 85 is amended as: "A convict on parole shall be subject to community correction during parole, and if none of the circumstances as set out in Article 86 of this Law occurs, the original sentence shall be deemed to have been fully executed upon expiration of parole, which shall be announced to the public."

十八、将刑法第八十六条第三款修改为：“被假释的犯罪分子，在假释考验期限内，有违反法律、行政法规或者国务院有关部门关于假释的监督管理规定的行为，尚未构成新的犯罪的，应当依照法定程序撤销假释，收监执行未执行完毕的刑罚。”

XVIII、 Paragraph 3 of Article 86 is amended as: "Where a convict released on parole violates any provision of laws, administrative regulations or the relevant department of the State Council on parole supervision and management during parole, if it does not constitute a new crime, his parole shall be revoked under statutory procedures, and he shall be taken into prison to serve his remaining term of sentence."

十九、在刑法第一百条中增加一款作为第二款：“犯罪的时候不满十八周岁被判处五年有期徒刑以下刑罚的人，免除前款规定的报告义务。”

XIX、 One paragraph is added to Article 100 as 2nd paragraph: "Whoever is given a penalty lighter than imprisonment of five years for a crime committed under the age of 18 shall be exempted from the reporting obligation as mentioned in the preceding paragraph."

二十、将刑法第一百零七条修改为：“境内外机构、组织或者个人资助实施本章第一百零二条、第一百零三条、第一百零四条、第一百零五条规定之罪的，对直接责任人员，处五年以下有期徒刑、拘役、管制或者剥夺政治权利；情节严重的，处五年以上有期徒刑。”

XX、 Article 107 is amended as: "Where any domestic or overseas institution, organization or individual provides funds for the commission of a crime as provided for in Article 102, 103, 104 or 105 of this Chapter, the directly liable person shall be sentenced to imprisonment of not more than 5 years, criminal detention, control or deprivation of political rights; or if the circumstances are serious, be sentenced to imprisonment of not less than 5 years."

二十一、将刑法第一百零九条修改为：“国家机关工作人员在履行公务期间，擅离岗位，叛逃境外或者在境外叛逃的，处五年以下有期徒刑、拘役、管制或者剥夺政治权利；情节严重的，处五年以上十年以下有期徒刑。

XXI、 Article 109 is amended as: "A state functionary who, in the course of performing his official duties, leaves his post without permission and flees this country or flees when he is already outside this country shall be sentenced to imprisonment of not more than 5 years, criminal detention, control or deprivation of political rights; or if the circumstances are serious, be sentenced to imprisonment of not less than 5 years but not more than 10 years.

“掌握国家秘密的国家工作人员叛逃境外或者在境外叛逃的，依照前款的规定从重处罚。”

"A State functionary knowing any national secret, who flees this country or flees when he is already outside this country, shall be given a heavier penalty according to the provision of the preceding paragraph."

二十二、在刑法第一百三十三条后增加一条，作为第一百三十三条之一：“在道路上驾驶机动车追逐竞驶，情节恶劣的，或者在道路上醉酒驾驶机动车的，处拘役，并处罚金。

XXII、 One article is added after Article 133 as Article 133A: "Whoever races a motor vehicle on a road with execrable circumstances or drives a motor vehicle on a road while intoxicated shall be sentenced to criminal detention and a fine.

“有前款行为，同时构成其他犯罪的，依照处罚较重的规定定罪处罚。”

"As for persons who have the conducts in the preceding Paragraph, and commit other crimes in the meantime, provisions with a heavier penalty shall be followed for conviction and punishment."

二十三、将刑法第一百四十一条第一款修改为：“生产、销售假药的，处三年以下有期徒刑或者拘役，并处罚金；对人体健康造成严重危害或者有其他严重情节的，处三年以上十年以下有期徒刑，并处罚金；致人死亡或者有其他特别严重情节的，处十年以上有期徒刑、无期徒刑或者死刑，并处罚金或者没收财产。”

23. 1st paragraph of Article 141 is amended as: "Whoever produces or sells fake drugs shall be sentenced to imprisonment of not more than 3 years or criminal detention and a fine; if any serious damage is caused to the people's health or there is any other serious circumstance, shall be sentenced to imprisonment of not less than 3 years but not more than 10 years and a fine; or if any human death is caused or there is any other especially serious circumstance, shall be sentenced to imprisonment of not less than 10 years, life imprisonment or death penalty and a fine or forfeiture of property."

二十四、将刑法第一百四十三条修改为：“生产、销售不符合食品安全标准的食品，足以造成严重食物中毒事故或者其他严重食源性疾病的，处三年以下有期徒刑或者拘役，并处罚金；对人体健康造成严重危害或者有其他严重情节的，处三年以上七年以下有期徒刑，并处罚金；后果特别严重的，处七年以上有期徒刑或者无期徒刑，并处罚金或者没收财产。”

XXIV、 Article 143 is amended as: "Whoever produces or sells food not up to the food safety standards which may cause any serious food poisoning accident or any other serious food-borne disease shall be sentenced to imprisonment of not more than three years or criminal detention and a fine; if any serious damage is caused to the human health or there is any other serious circumstance, shall be sentenced to imprisonment of not less than three years but not more than seven years and a fine; or if there are especially serious consequences, shall be sentenced to imprisonment of not less than seven years or life imprisonment and a fine or forfeiture of property."

二十五、将刑法第一百四十四条修改为：“在生产、销售的食品中掺入有毒、有害的非食品原料的，或者销售明知掺有有毒、有害的非食品原料的食品的，处五年以下有期徒刑，并处罚金；对人体健康造成严重危害或者有其他严重情节的，处五年以上十年以下有期徒刑，并处罚金；致人死亡或者有其他特别严重情节的，依照本法第一百四十一条的规定处罚。”

XXV、 Article 144 is amended as: "Whoever mixes the food that he produces or sells with toxic or harmful non- food raw materials or knowingly sells such food shall be sentenced to imprisonment of not more than five years and a fine; if any serious damage is caused to the people's health or there is any other serious circumstance, shall be sentenced to imprisonment of not less than five years but not more than 10 years and a fine; or if any death is caused or there is any other especially serious circumstance, shall be punished according to the provisions of Article 141 of this Law."

二十六、将刑法第一百五十一条修改为：“走私武器、弹药、核材料或者伪造的货币的，处七年以上有期徒刑，并处罚金或者没收财产；情节特别严重的，处无期徒刑或者死刑，并处没收财产；情节较轻的，处三年以上七年以下有期徒刑，并处罚金。

XXVI、 Article 151 is amended as: "Whoever smuggles weapons, ammunitions, nuclear materials or counterfeit currencies shall be sentenced to imprisonment of not less than 7 years and a fine or forfeiture of property; if the circumstances are especially serious, shall be sentenced to life imprisonment or death penalty and a forfeiture of property; or if the circumstances are minor, shall be sentenced to imprisonment of not less than 3 years but not more than 7 years and a fine.

“走私国家禁止出口的文物、黄金、白银和其他贵重金属或者国家禁止进出口的珍贵动物及其制品的，处五年以上十年以下有期徒刑，并处罚金；情节特别严重的，处十年以上有期徒刑或者无期徒刑，并处没收财产；情节较轻的，处五年以下有期徒刑，并处罚金。

"Whoever smuggles cultural relics, gold, silver or other precious metals, the export of which is forbidden by the State, or precious and rare species of wildlife as well as the products thereof, the import and export of which are forbidden by the State, shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be sentenced to confiscation of property; if the circumstances are minor, he shall be sentenced to fixed-term imprisonment of not more than five years and shall also be fined.

“走私珍稀植物及其制品等国家禁止进出口的其他货物、物品的，处五年以下有期徒刑或者拘役，并处或者单处罚金；情节严重的，处五年以上有期徒刑，并处罚金。

Whoever smuggles rare plants or their products or any other goods or articles that are prohibited by the state from being imported or exported shall be sentenced to fixed-term imprisonment not more than five years or criminal detention, and/or be fined; or if the circumstances are serious, shall be sentenced to fixed-term imprisonment not less than five years and be fined.

“单位犯本条规定之罪的，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，依照本条各款的规定处罚。”

"Where an entity commits a crime as provided for in this Article, the entity shall be fined, and its directly responsible person and other directly liable persons shall be punished according to the provisions of this Article."

二十七、将刑法第一百五十三条第一款修改为：“走私本法第一百五十一条、第一百五十二条、第三百四十七条规定以外的货物、物品的，根据情节轻重，分别依照下列规定处罚：

27. 1st paragraph of Article 153 is amended as: "Whoever smuggles goods or articles other than those as mentioned in Articles 151, 152 and 347 shall be punished in light of the graveness of the crime according to the following provisions:

“（一）走私货物、物品偷逃应缴税额较大或者一年内曾因走私被给予二次行政处罚后又走私的，处三年以下有期徒刑或者拘役，并处偷逃应缴税额一倍以上五倍以下罚金。

"(1) Whoever smuggles goods or articles to evade a relatively large amount of tax payable, or smuggles again after having been given administrative punishment twice for smuggling within a year, shall be sentenced to imprisonment of not more than 3 years or criminal detention and a fine of not less than the evaded amount of tax payable but not more than five times the evaded amount of tax payable.

“（二）走私货物、物品偷逃应缴税额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，并处偷逃应缴税额一倍以上五倍以下罚金。

"(2) Whoever smuggles goods or articles to evade a huge amount of tax payable or with any other serious circumstance shall be sentenced to imprisonment of not less than 3 years but not more than 10 years and a fine of not less than the evaded amount of tax payable but not more than five times the evaded amount of tax payable.

“（三）走私货物、物品偷逃应缴税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，并处偷逃应缴税额一倍以上五倍以下罚金或者没收财产。”

"(3) Whoever smuggles goods or articles to evade an especially huge amount of tax payable or with any other especially serious circumstance shall be sentenced to imprisonment of not less than 10 years or life imprisonment and a fine of not less than the evaded amount of tax payable but not more than five times the evaded amount of tax payable or a forfeiture of property."

二十八、将刑法第一百五十七条第一款修改为：“武装掩护走私的，依照本法第一百五十一条第一款的规定从重处罚。”

28. 1st paragraph of Article 157 is amended as: "Whoever provides armed escort for smuggling shall be given a heavier punishment in accordance with 1st paragraph, Article 151 of this Law."

二十九、将刑法第一百六十四条修改为：“为谋取不正当利益，给予公司、企业或者其他单位的工作人员以财物，数额较大的，处三年以下有期徒刑或者拘役；数额巨大的，处三年以上十年以下有期徒刑，并处罚金。

XXIX、 Article 164 is amended as: "Whoever gives any property to a staff member of a company, an enterprise or any other entity for any improper benefit shall be sentenced to imprisonment of not more than 3 years or criminal detention if the amount of property is relatively large; or be sentenced to imprisonment of not less than 3 years but not more than 10 years and a fine if the amount of property is huge.

“为谋取不正当商业利益，给予外国公职人员或者国际公共组织官员以财物的，依照前款的规定处罚。

"Whoever gives any property to a functionary of a foreign country or an official of an international public organization for any improper commercial benefit shall be punished according to the provision of the preceding paragraph.

“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，依照第一款的规定处罚。

"Where an entity commits a crime as provided for in the preceding two paragraphs, a fine shall be imposed on it, and its directly responsible person and other directly liable persons shall be punished according to the provision of 1st paragraph of this Article.

“行贿人在被追诉前主动交待行贿行为的，可以减轻处罚或者免除处罚。”

"Any briber who, before he is investigated for criminal liability, voluntarily confesses his act of offering bribes may be given a mitigated punishment or be exempted from punishment."

三十、将刑法第一百九十九条修改为：“犯本节第一百九十二条规定之罪，数额特别巨大并且给国家和人民利益造成特别重大损失的，处无期徒刑或者死刑，并处没收财产。”

XXX、 Article 199 is amended as: "Whoever commits a crime as provided for in Article 192 shall be sentenced to life imprisonment or death and a forfeiture of property if the amount involved is especially huge and especially material losses are caused to the interests of the state or public."

三十一、将刑法第二百条修改为：“单位犯本节第一百九十二条、第一百九十四条、第一百九十五条规定之罪的，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，处五年以下有期徒刑或者拘役，可以并处罚金；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，并处罚金。”

XXXI、 Article 200 is amended as: "Where an entity commits a crime as provided for in Article 192, 194 or 195 of this Section, a fine shall be imposed on it, and its directly responsible person and other directly liable persons shall be sentenced to imprisonment of not more than 5 years or criminal detention and may be sentenced to a fine in combination; if the amount involved is huge or there is any other serious circumstance, shall be sentenced to imprisonment of not less than 5 years but not more than 10 years and a fine; or if the amount involved is especially huge or there is any other especially serious circumstance, shall be sentenced to imprisonment of not less than 10 years or life imprisonment and a fine."

三十二、删去刑法第二百零五条第二款。

XXXII、 Paragraph 2 of Article 205 is deleted.

三十三、在刑法第二百零五条后增加一条，作为第二百零五条之一：“虚开本法第二百零五条规定以外的其他发票，情节严重的，处二年以下有期徒刑、拘役或者管制，并处罚金；情节特别严重的，处二年以上七年以下有期徒刑，并处罚金。

XXXIII、 One article is added after Article 205 as Article 205A: "Whoever falsely issues any invoice other than those as mentioned in Article 205 of this Law shall be sentenced to imprisonment of not more than 2 years, criminal detention or control and a fine if the circumstances are serious; or be sentenced to imprisonment of not less than 2 years but not more than 7 years and a fine if the circumstances are especially serious.

“单位犯前款罪的，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，依照前款的规定处罚。”

"Where an organization commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons directly in charge of the organization and other persons directly liable shall be punished in accordance with the provisions of the preceding paragraph."

三十四、删去刑法第二百零六条第二款。

XXXIV、 Paragraph 2 of Article 206 is deleted.

三十五、在刑法第二百一十条后增加一条，作为第二百一十条之一：“明知是伪造的发票而持有，数量较大的，处二年以下有期徒刑、拘役或者管制，并处罚金；数量巨大的，处二年以上七年以下有期徒刑，并处罚金。

XXXV、 One article is added after Article 210 as Article 210A: "Whoever knowingly holds counterfeit invoices shall be sentenced to imprisonment of not more than 2 years, criminal detention or control and a fine if the quantity is relatively large; or be sentenced to imprisonment of not less than 2 years but not more than 7 years and a fine if the quantity is huge.

“单位犯前款罪的，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，依照前款的规定处罚。”

"Where an organization commits the crime mentioned in the preceding paragraph, it shall be fined, and the persons directly in charge of the organization and other persons directly liable shall be punished in accordance with the provisions of the preceding paragraph."

三十六、将刑法第二百二十六条修改为：“以暴力、威胁手段，实施下列行为之一，情节严重的，处三年以下有期徒刑或者拘役，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：

XXXVI、 Article 226 is amended as: "Whoever commits any of the following acts by violence or threat shall be sentenced to imprisonment of not more than 3 years or criminal detention and/or a fine if the circumstances are serious; or be sentenced to imprisonment of not less than 3 years but not more than 7 years and a fine if the circumstances are especially serious:

“（一）强买强卖商品的；

1. Buying or selling commodities by force;

“（二）强迫他人提供或者接受服务的；

(2) Forcing any other person to provide or accept services;

“（三）强迫他人参与或者退出投标、拍卖的；

"3. forcing any other person to participate in or withdraw from a bidding or auction;

“（四）强迫他人转让或者收购公司、企业的股份、债券或者其他资产的；

(4) Forcing any other person to transfer or acquire stocks or bonds of a company or enterprise or any other asset; or

“（五）强迫他人参与或者退出特定的经营活动的。”

(5) Forcing any other person to participate in or withdraw from a certain business operation. "

三十七、在刑法第二百三十四条后增加一条，作为第二百三十四条之一：“组织他人出卖人体器官的，处五年以下有期徒刑，并处罚金；情节严重的，处五年以上有期徒刑，并处罚金或者没收财产。

XXXVII、 One article is added after Article 234 as Article 234A: "Whoever organizes others to sell human organs shall be sentenced to imprisonment of not more than 5 years and a fine; or if the circumstances are serious, be sentenced to imprisonment of not less than 5 years and a fine or forfeiture of property.

“未经本人同意摘取其器官，或者摘取不满十八周岁的人的器官，或者强迫、欺骗他人捐献器官的，依照本法第二百三十四条、第二百三十二条的规定定罪处罚。

Whoever removes any other person's organ without such other person's consent, removes any organ of a person under the age of 18 or forces or deceives any other person into donating any organ shall be convicted and punished according to the provisions of Articles 234 and 232 of this Law.

“违背本人生前意愿摘取其尸体器官，或者本人生前未表示同意，违反国家规定，违背其近亲属意愿摘取其尸体器官的，依照本法第三百零二条的规定定罪处罚。”

Whoever removes a dead person's organ against the person's will before his death or removes a dead person's organ against the will of the person's close relatives in violation of the provisions of the state provided that there is no consent from the person before his death shall be convicted and punished according to the provision of Article 302 of this Law. "

三十八、将刑法第二百四十四条修改为：“以暴力、威胁或者限制人身自由的方法强迫他人劳动的，处三年以下有期徒刑或者拘役，并处罚金；情节严重的，处三年以上十年以下有期徒刑，并处罚金。

XXXVIII、 Article 244 is amended as: "Whoever forces any other person to work by violence, threat or restriction of personal freedom shall be sentenced to imprisonment of not more than 3 years or criminal detention and a fine; or if the circumstances are serious, be sentenced to imprisonment of not less than 3 years but not more than 10 years and a fine.

“明知他人实施前款行为，为其招募、运送人员或者有其他协助强迫他人劳动行为的，依照前款的规定处罚。

"Whoever knowingly recruits or transports a workforce for any other person to commit the act as mentioned in the preceding paragraph or otherwise assists in forcing any other person to work shall be punished according to the provision of the preceding paragraph.

“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，依照第一款的规定处罚。”

"Where an entity commits a crime as provided for in the preceding two paragraphs, a fine shall be imposed on it, and its directly responsible person and other directly liable persons shall be punished according to the provision of 1st paragraph of this Article."

三十九、将刑法第二百六十四条修改为：“盗窃公私财物，数额较大的，或者多次盗窃、入户盗窃、携带凶器盗窃、扒窃的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；数额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，并处罚金或者没收财产。”

XXXIX、 The Article 264 of the Criminal Law is revised to read: "Whoever steals a relatively large amount of public or private property, commits thefts many times, commits a burglary or carries a lethal weapon to steal or pick pockets 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 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; if the amount 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 or be sentenced to confiscation of property."

四十、将刑法第二百七十四条修改为：“敲诈勒索公私财物，数额较大或者多次敲诈勒索的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；数额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，并处罚金。”

XL、 Article 274 is amended as: "Whoever extorts a relatively large amount of public or private property or extorts public or private property many times shall be sentenced to imprisonment of not more than three years, criminal detention or control and/or a fine; if the amount is huge or there is any other serious circumstance, shall be sentenced to imprisonment of not less than three years but not more than 10 years and a fine; or if the amount is especially huge or there is any other especially serious circumstance, shall be sentenced to imprisonment of not less than 10 years and a fine."

四十一、在刑法第二百七十六条后增加一条，作为第二百七十六条之一：“以转移财产、逃匿等方法逃避支付劳动者的劳动报酬或者有能力支付而不支付劳动者的劳动报酬，数额较大，经政府有关部门责令支付仍不支付的，处三年以下有期徒刑或者拘役，并处或者单处罚金；造成严重后果的，处三年以上七年以下有期徒刑，并处罚金。

41、 One article is added after Article 276 as Article 276A: "Whoever evades payment of a relatively large amount of labor remunerations by transferring property or escaping and hiding or refuses to pay a relatively large amount of labor remunerations though capable, and still refuses to pay even after being ordered by the relevant government department to pay, shall be sentenced to imprisonment of not more than 3 years or criminal detention and/or a fine; and if there are serious consequences, shall be sentenced to imprisonment of not less than 3 years but not more than 7 years and a fine.

“单位犯前款罪的，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，依照前款的规定处罚。

"Where an entity commits the crime as provided for in the preceding paragraph, a fine shall be imposed on it, and its directly responsible person and other directly liable persons shall be punished according to the provision of the preceding paragraph.

“有前两款行为，尚未造成严重后果，在提起公诉前支付劳动者的劳动报酬，并依法承担相应赔偿责任的，可以减轻或者免除处罚。”

"Whoever commits an act as mentioned in the preceding two paragraphs without serious consequences but pays labor remunerations before a public prosecution is instituted and assumes the corresponding compensatory liability according to law may be given a mitigated penalty or exempted from penalty."

四十二、将刑法第二百九十三条修改为：“有下列寻衅滋事行为之一，破坏社会秩序的，处五年以下有期徒刑、拘役或者管制：

42、 Article 293 is amended as: "Whoever disrupts the social order by committing any of the following provocative and disturbing acts shall be sentenced to imprisonment of not more than 5 years, criminal detention or control:

“（一）随意殴打他人，情节恶劣的；

1. Beating another person at will and to a flagrant extent;

“（二）追逐、拦截、辱骂、恐吓他人，情节恶劣的；

"2. chasing, intercepting, reviling or intimidating any other person, with execrable circumstances;

“（三）强拿硬要或者任意损毁、占用公私财物，情节严重的；

"3. forcibly taking or demanding, willfully damaging, destroying or occupying public or private property to a serious extent; or

“（四）在公共场所起哄闹事，造成公共场所秩序严重混乱的。

"4. making trouble in a public place, which causes a serious disorder of the public place.

“纠集他人多次实施前款行为，严重破坏社会秩序的，处五年以上十年以下有期徒刑，可以并处罚金。”

"Whoever assembles other people to commit the acts as mentioned in the preceding paragraph many times, which seriously disrupt the social order, shall be sentenced to imprisonment of not less than 5 years but not more than 10 years and may be fined in addition."

四十三、将刑法第二百九十四条修改为：“组织、领导黑社会性质的组织的，处七年以上有期徒刑，并处没收财产；积极参加的，处三年以上七年以下有期徒刑，可以并处罚金或者没收财产；其他参加的，处三年以下有期徒刑、拘役、管制或者剥夺政治权利，可以并处罚金。

43、 Article 294 is amended as: "Whoever organises or leads an organisation of a gangland nature shall be sentenced to imprisonment of not less than seven years and a forfeiture of property; whoever actively participates in an organisation of a gangland nature shall be sentenced to imprisonment of not less than three years but not more than seven years and may be sentenced to a fine or forfeiture of property in addition; other participants shall be sentenced to imprisonment of not more than three years, criminal detention, control or deprivation of political rights and a fine may be imposed in addition.

“境外的黑社会组织的人员到中华人民共和国境内发展组织成员的，处三年以上十年以下有期徒刑。

"Members of Mafia abroad who recruit members within the territory of the People's Republic of China shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

“国家机关工作人员包庇黑社会性质的组织，或者纵容黑社会性质的组织进行违法犯罪活动的，处五年以下有期徒刑；情节严重的，处五年以上有期徒刑。

Any state functionary who harbors an organization of a gangland nature or connives at such an organization's illegal or criminal activities shall be sentenced to imprisonment of not more than 5 years; or if the circumstances are serious, be sentenced to imprisonment of not less than 5 years.

“犯前三款罪又有其他犯罪行为的，依照数罪并罚的规定处罚。

"Whoever also commits any other crime while committing a crime as mentioned in the preceding three paragraphs shall be punished according to the provisions on the joinder of penalties for plural crimes.

“黑社会性质的组织应当同时具备以下特征：

An organization of a gangland nature shall have all of the following characteristics:

“（一）形成较稳定的犯罪组织，人数较多，有明确的组织者、领导者，骨干成员基本固定；

1. A relatively stable criminal organization is formed with a relatively large number of members, and there are specific organizers or leaders and basically fixed core members.

“（二）有组织地通过违法犯罪活动或者其他手段获取经济利益，具有一定的经济实力，以支持该组织的活动；

2. Economic interests are gained by organized illegal or criminal activities or other means, and it has certain economic strength to support its activities.

“（三）以暴力、威胁或者其他手段，有组织地多次进行违法犯罪活动，为非作恶，欺压、残害群众；

3. By violence, threat or other means, it commits organized illegal or criminal activities many times to do evil, bully and cruelly injure or kill people.

“（四）通过实施违法犯罪活动，或者利用国家工作人员的包庇或者纵容，称霸一方，在一定区域或者行业内，形成非法控制或者重大影响，严重破坏经济、社会生活秩序。”

(4) It dominates a certain area by committing illegal or criminal activities or taking advantage of the harboring or connivance by the state functionaries, forming an illegal control or significant influence in a certain area or sector, which seriously disrupts the economic and social order. "

四十四、将刑法第二百九十五条修改为：“传授犯罪方法的，处五年以下有期徒刑、拘役或者管制；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或者无期徒刑。”

44、 Article 295 is amended as: "Whoever teaches methods for committing a crime shall be sentenced to imprisonment of not more than 5 years, criminal detention or control; if the circumstances are serious, be sentenced to imprisonment of not less than 5 years but not more than 10 years; or if the circumstances are especially serious, be sentenced to imprisonment of not less than 10 years or life imprisonment."

四十五、将刑法第三百二十八条第一款修改为：“盗掘具有历史、艺术、科学价值的古文化遗址、古墓葬的，处三年以上十年以下有期徒刑，并处罚金；情节较轻的，处三年以下有期徒刑、拘役或者管制，并处罚金；有下列情形之一的，处十年以上有期徒刑或者无期徒刑，并处罚金或者没收财产：

45、 1st paragraph of Article 328 is amended as: "Whoever robs any site of ancient culture or ancient tomb of a historical, artistic or scientific value shall be sentenced to imprisonment of not less than 3 years but not more than 10 years and a fine; if the circumstances are minor, be sentenced to imprisonment of not more than 3 years, criminal detention or control and a fine; or under any of the following circumstances, be sentenced to imprisonment of not less than 10 years or life imprisonment and a fine or forfeiture of property:

“（一）盗掘确定为全国重点文物保护单位和省级文物保护单位的古文化遗址、古墓葬的；

(1) Excavating and robbing a site of ancient culture or ancient tomb which is designated as major sites to be protected for their historical and cultural value at the national level or at the provincial level;

“（二）盗掘古文化遗址、古墓葬集团的首要分子；

2. being a ringleader of a gang engaged in excavating and robbing sites of ancient culture or ancient tombs;

“（三）多次盗掘古文化遗址、古墓葬的；

3. Having robbed sites of ancient culture and ancient tombs many times; or

“（四）盗掘古文化遗址、古墓葬，并盗窃珍贵文物或者造成珍贵文物严重破坏的。”

(4) Excavating a site of ancient culture or ancient tomb and robbing valuable cultural relics therein, or causing serious damage to such relics. "

四十六、将刑法第三百三十八条修改为：“违反国家规定，排放、倾倒或者处置有放射性的废物、含传染病病原体的废物、有毒物质或者其他有害物质，严重污染环境的，处三年以下有期徒刑或者拘役，并处或者单处罚金；后果特别严重的，处三年以上七年以下有期徒刑，并处罚金。”

46、 Article 338 is amended as: "Whoever, in violation of the state provisions, discharges, dumps or disposes of any radioactive waste, any waste containing pathogens of any infectious disease, any toxic substance or any other harmful substance, which has caused serious environmental pollution, shall be sentenced to imprisonment of not more than 3 years or criminal detention and/or a fine; or if there are especially serious consequences, be sentenced to imprisonment of not less than 3 years but not more than 7 years and a fine."

四十七、将刑法第三百四十三条第一款修改为：“违反矿产资源法的规定，未取得采矿许可证擅自采矿，擅自进入国家规划矿区、对国民经济具有重要价值的矿区和他人矿区范围采矿，或者擅自开采国家规定实行保护性开采的特定矿种，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。”

47、 1st paragraph of Article 343 is amended as: "Whoever, in violation of the Mineral Resources Law, mines without a mining license, enters and mines in a mining area that is embraced in State plans or a mining area that is of great value to the national economy or a mining area of any other person without authorization, or mines specified minerals of which protective mining is prescribed by the State, if the circumstances are serious, shall be sentenced to imprisonment of not more than three years, criminal detention or control and/or a fine; or if the circumstances are especially serious, be sentenced to imprisonment of not less than three years but not more than seven years and a fine."

四十八、将刑法第三百五十八条第三款修改为：“为组织卖淫的人招募、运送人员或者有其他协助组织他人卖淫行为的，处五年以下有期徒刑，并处罚金；情节严重的，处五年以上十年以下有期徒刑，并处罚金。”

48、 Paragraph 3 of Article 358 of the Criminal Law is amended as: "Persons who recruit, transport or otherwise assist the organisation of prostitution shall be sentenced to fixed-term imprisonment of no more than 5 years, in combination of fines; if the circumstances are serious, the sentence shall be fixed-term imprisonment from 5 to 10 years, in combination of fines."

四十九、在刑法第四百零八条后增加一条，作为第四百零八条之一：“负有食品安全监督管理职责的国家机关工作人员，滥用职权或者玩忽职守，导致发生重大食品安全事故或者造成其他严重后果的，处五年以下有期徒刑或者拘役；造成特别严重后果的，处五年以上十年以下有期徒刑。

49、 One article is added after Article 408 as Article 408A: "Where a state functionary with food safety supervision and management functions abuses his powers or neglects his duties, if any serious food safety accident or other serious consequence is caused, he shall be sentenced to imprisonment of not more than 5 years or criminal detention; or if any especially serious consequence is caused, be sentenced to imprisonment of not less than 5 years but not more than 10 years.

“徇私舞弊犯前款罪的，从重处罚。”

Whoever commits the crime as mentioned in the preceding paragraph by practicing favoritism shall be given a heavier punishment. "

五十、本修正案自2011年5月1日起施行。

50、 This Amendment shall come into effect as of May 1, 2011.