

Law of the People's Republic of China on Public Security Administration Punishments

Order of the President (No. 38)

Law of the People's Republic of China on Public Security Administration Punishments (Adopted at the 17th meeting of the Standing Committee of the 10th National People's Congress on August 28, 2005)

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August 28, 2005

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Chapter I

General Provisions

Article 1 This Law is enacted with a view to maintaining the social security order, guaranteeing public safety, protecting the lawful rights and interests of the citizens, legal persons and other organizations, regulating and ensuring the lawful fulfillment of the public security administration duties by the public security organs and the people's policemen.

Article 2 With regard to an act of disrupting public order, encroaching upon the right of the person, the right of property or impairing social administration, if it is of social harmfulness and constitutes any crime as provided for in the Criminal Law of the People's Republic of China, it shall be subject to criminal liabilities. If it is not serious enough to be subject to a criminal punishment, it shall, in accordance with this law, be subject to public security punishment by the public security organ.

Article 3 The provisions of this Law shall apply to the procedures for the public security administration punishments. If any matter is not covered by this Law, the relevant provisions of the Administrative Punishment Law of the People's Republic of China shall apply.

Article 4 This Law shall apply to the acts violating the public security administration within the territory of the People's Republic of China unless it is otherwise provided for in any law.

This Law shall apply to the acts violating the public security administration that occur in the vessels and aircrafts of the People's Republic of China unless it is otherwise provided for in any law.

Article 5 The public security administration punishments shall be based on facts and shall be suitable for the nature and circumstances and extent of harm to the society caused by the act violating the public security administration.

The imposition of public security administration punishments shall be open and impartial, shall respect and guarantee human rights and shall protect the personal dignity of the citizens.

The principle of combining education with punishments shall be observed in tackling security cases.

Article 6 The people's governments at all levels shall strengthen the comprehensive control of social security, shall take effective measures to solve social contradictions, enhance social harmony and maintain social stability.

Article 7 The public security department of the State Council shall be responsible for the public security administration throughout the country. The public security organs of the people's governments above the county levels shall be responsible for the public security administration within their respective administrative division.

The jurisdiction of security cases shall be set forth by the public security department of the State Council.

Article 8 Where an act violating public security administration causes any damage to any other person, the violator or its guardian shall bear civil liabilities under the law.

Article 9 With regard to the acts violating public security administration, such as fight and destroy of property of any other person due to civil disputes, if the circumstances are lenient, the public security organ may solve them by mediation. Upon mediation of the public security organ, if the parties concerned reach an agreement, it shall be exempted from punishment. If no agreement is reached, or if an agreement has been reached but not executed, the public security organ may punish the violator of public security administration in accordance with this Law and inform the parties concerned that they may lodge a civil lawsuit in the people's court for the civil dispute concerned.

Chapter II

Categories and Application of the Punishments Thereto

Article 10 The public security administration punishments are classified into the following categories:

- (1) Warning;
- (2) Pecuniary penalty;
- (3) Administrative detention;
- (4) Revocation of the license issued by the public security organ;

Any foreigner who violates the public security administration may be given an additionally applicable time limit for exiting China or being expelled from China.

Article 11 The drugs, obscene articles and other prohibited articles, gambling tools, gambling stakes, tools for drug injection, and all the tools of the violator directly used for committing a violation of the public security administration that are discovered in a public security case shall be confiscated and disposed of in accordance with the relevant provisions.

The properties gained by violating the public security administration shall be confiscated and returned to the victim. If there is no victim, the properties shall be recorded down and shall be auctioned openly or shall be disposed of in accordance with the relevant provisions of the state, and the proceeds therefrom shall be turned over to the state treasury.

Article 12 Where a person who attains to the age of 14 but is less than 18 years old violates public security administration, he shall be given a lighter or mitigated punishment. Where a person who is less than 14 years old violates public security administration, he shall be immune from punishment, but his guardian shall be ordered to offer him strict custodian education.

Article 13 If a mentally insane patient causes any harmful consequences at a time when he (she) is unable to understand or control his own conduct, he shall be immune from punishment, but his (her) guardian shall be ordered to keep him under strict watch and control and give him medical treatment. An intermittently mentally insane patient shall be punished if he (she) violates the public security administration when he is in a normal mental state.

Article 14 A blind or deaf-and-mute person who violates the administration of public security may be given a lighter or mitigated punishment or may be exempted from punishment.

Article 15 An intoxicated person who violates the administration of public security shall be punished.

As to any intoxicated person who may face danger himself (herself) or cause danger to the body or property of any other person or to the public safety, a protective measure shall be taken to control him (her) until he (she) sobers up.

Article 16 Where a person commits two or more acts violating public security administration, rulings shall be made separately but shall be executed concurrently. The maximum time period for the concurrently executed punishments as administrative detention shall not exceed 20 days.

Article 17 Where 2 or more persons jointly commit a violation of public security administration, they shall be punished separately on the basis of their respective role in the violation.

Any person who instigates, coerces or induces any other person to violate public security administration, he (she) shall be punished according to the act he has instigated, coerced or induced.

Article 18 Where an entity violates public security administration, the directly liable person-in-charge of the entity and other directly liable persons shall be punished in accordance with this Law. Where any other law or administrative regulation prescribes any punishment on the same violation, the other law or administrative regulation shall prevail.

Article 19 Under any of the following circumstances, the violator of public security administration shall be given a mitigated punishment or may be exempted from punishment:

- (1) The circumstances are extremely lenient;
- (2) The violator has eliminated or mitigated the consequences of the illegal act on his own initiative and has obtained the understanding of the victim;
- (3) He (She) committed the violation because he (she) is forced or induced to do so;
- (4) He (She) surrenders himself to justice and faithfully makes a statement about the violation to the public security organ; and
- (5) He (She) has performed meritorious services.

Article 20 Under any of the following circumstances, a violator of public security administration shall be given a heavier punishment:

- (1) Having caused rather serious consequences;
- (2) Instigating, coercing or inducing any other person to violate public security administration;
- (3) Revenging on the person who reported the case to the public security organ, the accuser, informant or witness;
- (4) Having ever been subjected to any public security administration punishment within 6 months.

Article 21 Where a violator of public security administration is under any of the following circumstances, if he should be given a punishment of administrative detention under this Law, the punishment of administrative detention shall not be executed:

- (1) He (She) attains to the age of 14 but is under the age of 16;
- (2) He (She) attains to the age of 16 but less than the age of 18 and violates public security administration for the first time;
- (3) He (She) attains to the age of 70 or more; or
- (4) She (is) pregnant or is breast-feeding her baby of less than 1 year old.

Article 22 Where any violation of public security administration has not been found by the public security organ within 6 months, no punishment may be given thereafter. The time period as provided for in the preceding paragraph shall be counted from the day when the violation is committed. If the violation is continuous or in a state of continuity, the time period shall be counted as of the day when the violation ends.

Chapter III

Acts Violating Public Security Administration and the Punishments Thereto

Section 1 Acts Disrupting Public Order and the Punishments Thereto

Article 23 Where a person commits any of the following acts, he shall be given a warning or a pecuniary penalty. If the circumstances are serious, he (she) shall be detained for not less than 5 days but not more than 10 days and may be fined 500 yuan:

- (1) He (she) disturbs the order of any organ, social organization, enterprise or public institution and makes it impossible for the work, production, business, medical

services, teaching or scientific research to proceed normally, but has not caused any serious loss;

(2) He (She) disturbs the order of any bus station, port, dock, civil airport, emporium, park, exhibition hall or any other public place;

(3) He (She) disturbs the order of any bus, trolleybus, train, ship, aircraft or any other means of public transport;

(4) He (She) illegally stops or board any slowly going motor vehicle, ship, aircraft or any other means of transport and affects the normal operation of the means of transport; or

(5) He (She) disturbs the order of any on-going election.

The principal violator who gathers a crowd to commit any of the acts as mentioned in the preceding paragraph shall be detained for not less than 10 days but not more than 15 days, and may be fined not more than 1, 000 yuan.

Article 24 Where a person commits any of the following acts to disturb the order of a cultural activity, sport or any other large scale mass activity, he (she) shall be given a warning or fined not more than 200 yuan. If the circumstances are serious, he (she) be detained for not less than 5 days but not more than 10 days, and may be fined not more than 500 yuan:

(1) Entering into the venue by force;

(2) Setting off fireworks and firecrackers or other articles in a prohibited area by violating relevant provisions;

(3) Showing any insulting banner, scroll or other article;

(4) Besieging any referee, athlete or other working personnel;

(5) Throwing sundries into the arena and refusing to stop doing so after being ordered to stop; or

(6) Other acts disturbing the order of large scale mass activities.

Where a person is given a punishment of detention due to disturbing the order of a sport game, he (she) may ordered not to enter into gymnasiums to watch games of the same type. If he enters into a gymnasium by violating the provisions, he shall be forced to leave the venue.

Article 25 Anyone who commits any of the following acts shall be detained for not less than 5 days but not more than 10 days, and may be concurrently fined not more than 500 yuan. If the circumstances are relatively lenient, he (she) shall be detained 5 days or less or be fined not more than 500 yuan:

(1) Intentionally disturbing public order by spreading any rumor, giving false information about the situation of any risk, epidemic disease or emergency, or by any other means;

(2) Disturbing public order by throwing any fake explosive, toxic, radioactive or caustic substances, or any fake infectious disease pathogen;

(3) Disturbing public order by threat to set fire, blast or throw dangerous substances.

Article 26 Anyone who commits any of the following acts shall be detained for not less than 5 days but not more than 10 days, and may be fined not more than 500 yuan. If the circumstances are quite serious, he (she) shall be detained for not less than 10 days but not more than 15 days, and may be fined not more than 1,000 yuan:

(1) Gang-fighting;

(2) Chasing or heading off any other person;

(3) Forcibly taking or demanding, willfully damaging, destroying or appropriating any public or private property;

(4) Other acts of picking a quarrel and making trouble.

Article 27 Anyone who commits any of the following acts may be detained for not less than 10 days but not more than 15 days, and may be concurrently fined not more than 1,000 yuan. If the circumstances are relatively lenient, he (she) shall be detained for not less than 5 days but not more than 10 days, and may be concurrently fined not more than 5,000 yuan:

(1) Organizing, instigating, intimidating, inducing or inciting any other person to carry out activities of any cult or superstitious sect or secret society, or disturbing the social order or impairing the health of any other person by using any cult, or superstitious sect or secret society, or superstitious activity; or

(2) Disturbing the social order or impairing the health of any other person in the name of any religion or Qigong.

Article 28 Where anyone, who deliberately interfere with the operation of any normal radio business or produces harmful interference to any normally operating radio station by violating the provisions of the state, fails to adopt effective measures to eliminate the interference after the relevant administrative organ points it out. If the circumstances are serious, he (she) shall be detained for not less than 10 days but not more than 15 days.

Article 29 Anyone who commits any of the following acts shall be detained for not more than 5 days. If the circumstances are relatively serious, he (she) shall be detained for not less than 5 days but not more than 10 days:

(1) Invading a computer information system and causing any damage by violating the provisions of the state;

(2) Deleting, modifying, increasing or interfering with the functions of a computer information system and making the computer information system impossible to operate normally by violating the provisions of the state;

(3) Deleting, modifying or adding the data memorized, processed or transmitted in a computer information system, and the application programs of the computer information system; or

(4) Deliberately making and spreading any destructive programs such as computer virus and affecting the normal operation of a computer information system.

Section 2 Acts Impairing Public Safety and the Punishments Thereto

Article 30 Anyone who produces, buys, sells, preserves, transports, mails, carries, uses, offers or disposes of any dangerous substance, such as explosive, toxic, radioactive or caustic substances or infectious disease pathogens, he (she) shall be detained for not less than 10 days but not more than 15 days. If circumstances are relatively lenient, he (she) shall be detained for not less than 5 days but not more than 10 days.

Article 31 Where any dangerous substance, such as explosive, toxic, radioactive or caustic substances or any infectious disease pathogen, are stolen, robbed or lost, if the liable person fails to report according to the relevant provisions, he (she) shall be

detained for not more than 5 days. If he (she) deliberately conceals the fact so as not to report, he (she) shall be detained for not less than 5 days but not more than 10 days.

Article 32 Anyone who illicitly carries any gun, ammunition, crossbow, dagger or any other tool controlled by the state shall be detained for not more than 5 days, and may be concurrently fined 500 yuan. If the circumstances are lenient, he (she) shall be given a warning or be fined not more than 200 yuan.

Anyone who illicitly carries any gun, ammunition, crossbow, dagger or any other tool controlled by the state into a public place or public transport tool shall be detained for not less than 5 days but not less than 10 days and may be concurrently fined 500 yuan.

Article 33 Anyone who commits any of the following acts shall be detained for not less than 10 days but not more than 15 days:

(1) Stealing, damaging or destroying any public facilities for oil and gas pipeline, electricity and telecom, radio and television facilities, water conservancy and flood prevention engineering or facilities for hydrological monitoring and measurement, weather observation and forecast, environment monitoring, geographical monitoring or earthquake monitoring;

(2) Removing, damaging or destroying any border mark and facilities such as boundary tablet, boundary marker, or indicating facilities for territorial land or territorial sea; or

(3) Illicitly carrying out any activity that may affect the direction of the border (boundary) line or build any facilities that may hamper the border (boundary) administration.

Article 34 Anyone who steals, damages or illegally moves any aviation facilities in use, or forces into the cockpit of any aircraft shall be detained for not less than 10 days but not more than 15 days.

Where a person uses any device or tool that may affect the normal functions of the navigation system on an aircraft in use, if he (she) refuses to stop its act after being dissuaded from doing so, he (she) shall be detained for not more than 5 days or shall be fined not more than 500 yuan.

Article 35 Where a person commits any of the following acts shall be detained for not less than 5 days but not more than 10 days, and may be concurrently fined 500 yuan. If the circumstances are relatively lenient, he (she) shall be detained for not more than 5 days or shall be fined not more than 500 yuan:

- (1) Stealing, damaging or destroying or illicitly removing any railway facilities, equipment, locomotive fittings and safety signals;
- (2) Placing obstacles on a railway or intentionally throwing any object to a train;
- (3) Digging holes or quarrying or obtaining sand at the location of a railway, bridge or culvert; or
- (4) Illegally establishing any crossway or road junction on a railway.

Article 36 Where a person illegally enters into a railway protection net or walks, sits or lies on a railway or rushes to cross a railway when a train is coming, if he (she) affects the safety of the train, he (she) shall be given a warning or shall be fined not more than 200 yuan.

Article 37 Anyone who commits any of the following acts shall be detained for not more than 5 days or shall be fined not more than 500 yuan. If the circumstances are serious, he (she) shall be detained for not less than 5 days but not more than 10 days, and may be concurrently fined not more than 500 yuan:

- (1) Installing or using any power grid without approval, or installing or using any power grid that doesn't conform to the safety requirements;
- (2) Failing to install any covering, sign or fence for a pit, well, ridge and hole in a construction site where vehicles and pedestrians pass, or intentionally damaging, destroying, or removing any covering, sign and fence;
- (3) Stealing, damaging or destroying any public facilities, such as well lids and lighting devices on a road.

Article 38 Where a large scale mass culture or sport activity is in violation of the relevant provisions, if there is any risk of safety accident, the organizer shall be detained for not less than 5 days but not more than 10 days, and shall be concurrently fined not less than 200 yuan but not more than 500 yuan. If the circumstances are

relatively lenient, he (she) detained for not more than 5 days or shall be fined not more than 500 yuan.

Article 39 Where the business manager of a hotel, restaurant, cinema, theatre, entertainment place, playground, exhibition hall or any other place for public activity causes any safety accident risk in this place by violating the safety provisions, if he/she refuses to make corrections after he (she) has been ordered to make corrections, he (she) shall be detained for not more than 5 days.

Section 3 Acts Infringing upon Personal Rights or Encroaching upon Property

Right and the Punishments Thereto

Article 40 Anyone who commits any of the following acts shall be detained for not less than 10 days but not more than 15 days, and shall be concurrently fined not less than 500 yuan but not more than 1, 000 yuan. If the circumstances are relatively lenient, he (she) shall be detained for not less than 5 days but not more than 10 days, and shall be concurrently fined not less than 200 yuan but not more than 500 yuan:

- (1) Organizing, coercing or inducing any minor who hasn't attained to the age of 16 or a disabled person to make terrific or cruel performances;
- (2) Forcing any other person to work by violence, menace or by any other means; or
- (3) Illegally restricting the personal freedom of any other person, illegally intruding the house of any other person or illegally searching the body of any other person.

Article 41 Anyone who coerces, induces or uses any person to go begging shall be detained for not less than 10 days but not more than 15 days, and may be concurrently fined not more than 1, 000 yuan.

Anyone who goes begging by importuning, forcibly begging or by any other means of annoying any person shall be detained for not more than 5 days or shall be given a warning.

Article 42 Anyone who commits any of the following acts shall be detained for not more than 5 days or shall be fined not more than 500 yuan. If the circumstances are relatively serious, he (she) shall be detained for not less than 5 days but not more than 10 days, and may be concurrently fined not more than 500 yuan:

- (1) Threatening the personal safety of any other person by writing threat letters or by any other means;
- (2) Insulting any other person openly or making up stories to defame any other person;
- (3) Attempting to make any other person subject to criminal punishment or public security administration punishment by making up stories and bringing a false charge against any other person;
- (4) Threatening, insulting, beating or revenging upon the witness and his (her) close relatives;
- (5) Interfering with the normal life of any other person by sending any obscene, insulting, threatening or other information time after time;
- (6) Peeping into, sneaking photos, wiretapping or spreading the privacy of any other person.

Article 43 Anyone who blows any person or intentionally injures the body of any person shall be detained for not less than 5 days but not more than 10 days, and shall be fined not less than 200 yuan but not more than 500 yuan. If the circumstances are lenient, he (she) shall be detained for not more than 5 days or shall be fined not more than 500 yuan.

Anyone who commits any of the following acts shall be detained for not less than 10 days but not more than 15 days, and shall be fined not less than 500 yuan but not more than 1,000 yuan:

- (1) Beating or injuring any person by forming a group;
- (2) Beating or injuring any person who is disabled, pregnant, under the age of 14 or more than 60 years old; or
- (3) Beating or injuring any person for two or more times, or beating or injuring several people at a time.

Article 44 Anyone who acts indecently towards any person or deliberately expose his body at a public place shall be detained for not less than 5 days but not more than 10 days if the circumstances are absolutely vile. Anyone who acts indecently towards a disabled person, mentally insane patient, or minor under the age of 14, or who

commits any other severe violation shall be detained for not less than 10 days but not more than 15 days.

Article 45 Anyone who commits any of the following acts shall be detained for not more than 5 days or shall be given a warning:

(1) Maltreating his (her) family member; the maltreated person requests for punishing him or her; or

(2) Abandoning any person who hasn't the abilities of living by himself and shall be supported by him (her).

Article 46 Anyone who forcibly buys and sells any goods, forces any person to provide services or forces any person to accept services shall be detained for not less than 5 days but not more than 10 days, and shall be concurrently fined not less than 200 yuan but not more than 500 yuan. If the circumstances are lenient, he (she) shall be detained for not more than 5 days or shall be fined not more than 500 yuan.

Article 47 Anyone who stir up hatred or discrimination among ethnic groups, or publishes any content discriminating or insulting any minority ethnic group shall be detained for not less than 10 days but not more than 15 days, and may be concurrently fined 1,000 yuan.

Article 48 Anyone who claims any other's mail in the latter's name, concealing, destroying and discarding, opening any other's mail without permission, or illegally inspecting any other's mail shall be detained for not more than 5 days or fined not more than 500 yuan.

Article 49 Anyone who steals, swindles, plunders, pillages, extorts or intentionally damages or destroys any public or private property shall be detained for not less than 5 days but not more than 10 days, and may be concurrently fined 500 yuan. If the circumstances are serious, he (she) shall be detained for not less than 10 days but not more than 15 days, and may be concurrently fined 1,000 yuan.

Section 4 Acts Impairing the Social Administration and the Punishments

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Article 50 Anyone who commits any of the following acts shall be given a warning or shall be fined not less than 200 yuan. If the circumstances are serious, he shall be

detained for not less than 5 days but not more than 10 days, and may be concurrently fined 500 yuan:

- (1) Refusing to execute the decision or order lawfully issued by the people's government in an emergent situation;
- (2) Obstructing any functionaries of the state organ from performing their duties;
- (3) Hindering any fire engine, ambulance, engineering emergency-relief vehicle or police car from passing; or
- (4) Forcibly rushing into the warning area or warning zone delimited by the public organ.

Anyone who prevents the people's policemen from performing their duties shall be given a heavier punishment.

Article 51 Anyone who commits any fraudulent act by impersonating any functionary of the state organ or by using any other false identity shall be detained for not less than 5 days but not more than 10 days, and may be concurrently fined 500 yuan. If the circumstances are relatively lenient, he (she) shall be detained for not more than 5 days or shall be fined not more than 500 yuan.

Anyone who commits any fraudulent act by impersonating any serviceman or policeman shall be given a heavier punishment.

Article 52 Anyone who commits any of the following acts shall be detained for not less than 10 days but not more than 15 days, and may be concurrently fined not more than 1,000 yuan. If the circumstances are relatively lenient, he (she) shall be detained for not less than 5 days but not more than 10 days, and may be concurrently fined not more than 500 yuan:

- (1) Counterfeiting, altering, buying or selling any document, certificate, certification document or seal of any state organ, mass organization, enterprise, public institution or any other organization;
- (2) Buying, selling or using any counterfeited or altered document, certificate, certification document or seal of any state organ, mass organization, enterprise, public institution or any other organization;

(3) Counterfeiting, altering, scalping passengers tickets for vehicles, vessels, airplanes, artistic and cultural performances or sport games, or other negotiable instruments or vouchers; or

(4) Counterfeiting or altering any registration plates of vessels, buying, selling or using any counterfeited or altered registration plates of vessels, or altering the serial number of the engine of a vessel.

Article 53 Where a vessel illegally enters into or moors in an area or island banned or restricted by the state, the person-in-charge and other relevant liable persons of the vessel shall be fined not less than 500 yuan but not more than 1, 000 yuan. If the circumstances are serious, he (she) shall be detained for not more than 5 days, and shall be fined not less than 500 yuan but not more than 1, 000 yuan.

Article 54 Anyone who commits any of the following acts shall be detained for not less than 10 days but not more than 15 days, and shall be concurrently fined not less than 500 yuan but not more than 1, 000 yuan:

(1) Violating the relevant provisions of the state by carrying out activities in the name of an unregistered social organization, and continuing to carry out activities after the social organization is canceled;

(2) A deregistered social organization still carries out activities in the name of the social organization; or

(3) Illegally engaging in any business that shall be subject to the approval of the public organ under the relevant provisions of the state. Any of the acts as mentioned in the preceding paragraph shall be cracked down.

Where a business operator licensed by the public organ violates the relevant provisions of the state, if the circumstances are serious, the public organ may revoke the license.

Article 55 Where a person instigates or schemes any unlawful assembly, parade or demonstration, if he (she) refuses to stop its act after being dissuaded from doing so, he (she) shall be detained for not less than 10 days but not more than 15 days.

Article 56 Where a worker of a hotel fails to register the name, type and number of the identity certificate of any customer, or where the worker of a hotel clearly knows

that a customer is carrying dangerous substances, if he fails to stop him from carrying the dangerous substances into the hotel, he shall be fined not less than 200 yuan but not more than 500 yuan.

Where a worker of a hotel knows any customer is a criminal suspect or is wanted for arrest by the public organ, if he (she) fails to report it to the public organ, he (she) shall be fined not less than 200 yuan but not more than 500 yuan. If the circumstances are serious, he (she) shall be detained for not more than 5 days, and may be concurrently fined not more than 500 yuan.

Article 57 A lessor of a house who rents the house to a person without an identity certificate or who fails to register the name, type and number of the identity certificate of the lessee shall be fined not less than 200 yuan but not more than 500 yuan.

A lessor of a house who knows that the lessee is committing any crime by using the rented house but fails to report it to the public organ shall be fined not less than 200 yuan but not more than 500 yuan. If the circumstances are serious, he (she) shall be not less than 5 days, and may be fined not less than 500 yuan.

Article 58 Anyone who makes noises and disturbs the normal life of any other person by violating the legal provisions on the prevention and control of pollution of social life noises shall be given a warning. If he (she) fails to make corrections after he (she) has been given a warning, he (she) shall be fined not less than 200 yuan but not more than 500 yuan.

Article 59 Anyone who commits any of the following acts shall be fined not less than 500 yuan but not more than 1, 000 yuan. If the circumstances are serious, he (she) shall be detained for not less than 5 days but not more than 10 days, and shall be concurrently fined 1, 000 yuan.

(1) If a pawnbroking worker fails to check the relevant certifications or to perform the register formalities for any pawn accepted by him (her), or if a he (she) clearly knows that the pawner is a criminal suspect or the pawn is a booty, he (she) fails to report it to the public organ;

(2) Purchasing any discarded equipment and device specifically used for railways, oil fields, power supply, telecommunications, mines, water conservancy or urban public utilities;

(3) Purchasing any of booties or articles suspected to be booties that are being searched by the public organ; or

(4) Purchasing any other articles as prohibited by the state from being purchased.

Article 60 Anyone who commits any of the following acts shall be detained for not less than 5 days but not more than 10 days, and shall be concurrently fined not less than 200 yuan but not more than 500 yuan:

(1) Concealing, removing, selling off, damaging or destroying any property detained, sealed up or frozen by any administrative law enforcement organ;

(2) Affecting the administrative law enforcement organ's handling of a case by counterfeiting, concealing or destroying any evidence, or providing any false testimonies, giving any false information about the cases in question;

(3) Harboring, removing or selling on behalf of any other person any booties which he (she) obviously knows;

(4) A criminal who is under control, is deprived of political rights, is during the period of suspension of execution, or is on a medical parole or is serving any other sentence outside prison, or a person under compulsory criminal measures according to law commits an act in violation of any law, administrative regulation, or relevant supervision and administration provisions of the public security department of the State Council.

Article 61 Anyone who helps to organize or transport any other person(s) to illegally cross the national border (frontier) shall be detained for not less than 10 days but not more than 15 days, and shall be concurrently fined not less than 1, 000 yuan but not more than 5, 000 yuan.

Article 62 Anyone who knowingly facilitates any other person to illegally cross the national border (frontier) shall be detained for not less than 5 days but not more than 10 days, and shall be fined not less than 500 yuan but not more than 2, 000 yuan.

Anyone who illegally crosses the national border (frontier) shall be detained for not more than 5 days or shall be fined not more than 500 yuan.

Article 63 Anyone who commits any of the following acts shall be given a warning or shall be fined not more than 200 yuan. If any circumstances are serious, he (she) shall be detained for not less than 5 days but not more than 10 days, and shall be concurrently fined not less than 200 yuan but not more than 500 yuan:

- (1) Destroying any cultural relics or historical sites of interest under national protection by carving on, smearing them or by any other means;
- (2) Endangering the safety of cultural relics by carrying out any activities of blasting, excavation or otherwise in violation of the provisions of the state.

Article 64 Anyone who commits any of the following acts shall be fined not less than 500 yuan but not more than 1, 000 yuan. If the circumstances are serious, he (she) shall be detained for not less than 10 days but not more than 15 days, and shall be concurrently fined not less than 500 yuan but not more than 1, 000 yuan:

- (1) Driving the motor vehicle of any other person without permission; or
- (2) Driving any aircraft or motor vessel without a driving license or driving the aircraft or motor vessel of any other person without permission.

Article 65 Anyone who commits any of the following acts shall be detained for not less than 5 days but not more than 10 days. If the circumstances are serious, he shall be detained for not less than 10 days but not more than 15 days, and may be concurrently fined 1, 000 yuan:

- (1) Deliberately destroying or defiling the tomb of any other person or destroying, throwing away the skeleton or bone ashes of any other person; or
- (2) Parking any corpse at a public place or affecting the normal life or work order of any other person for parking a corpse, and refusing to stop his (her) act after being dissuaded from doing so.

Article 66 Anyone who whores or goes whoring shall be detained for not less than 10 days but not more than 15 days, and may be concurrently fined not more than 5, 000 yuan. If the circumstances are relatively lenient, he (she) shall be detained for not more than 5 days or shall be fined not more than 500 yuan.

Anyone who finds customers for any prostitute at a public place shall be detained for not more than 5 days or shall be fined not less than 500 yuan.

Article 67 Anyone who induces, shelters, introduces any other person to prostitute shall be detained for not less than 10 days but not more than 15 days, and may be concurrently fined 5, 000 yuan. If the circumstances are relatively lenient, he (she) shall be detained for not more than 5 days or shall be fined not 500 yuan.

Article 68 Anyone who produces, transports, copies, sells or rents any obscene book and periodical, picture, film, audio and visual product, etc. or transmitting any obscene information through the computer network, telephone or other telecommunication tools shall be detained for not less than 10 days but not more than 15 days and may be concurrently fined 3, 000 yuan. If the circumstances are relatively lenient, he (she) shall be detained for not more than 5 days or shall be fined not more than 500 yuan.

Article 69 Anyone who commits any of the following acts shall be detained for not less than 10 days but not more than 15 days, and may be concurrently fined not less than 500 yuan but not more than 1, 000 yuan:

- (1) Organizing the broadcasting of any obscene audio and video program;
- (2) Organizing or making any obscene performance; or
- (3) Joining people in licentious activities.

Anyone who knowingly facilitates any other person to engage in any of the activities as mentioned in the preceding paragraph shall be punished in accordance with the preceding paragraph.

Article 70 Anyone who facilitates gambling for the purpose of making profits, or participates in any gambling activity on a relatively large sum of gambling stakes shall be detained for not more than 5 days or shall be fined not more than 500 yuan. If the circumstances are serious, he (she) shall be detained for not less than 10 days but not more than 15 days, and shall be concurrently fined not less than 500 yuan but not more than 3, 000 yuan.

Article 71 Anyone who commits any of the acts shall be detained for not less than 10 days but not more than 15 days, and may be concurrently fined not more than 3, 000

yuan. If the circumstances are relatively lenient, he (she) shall be detained for not more than 5 days or shall be fined not more than 500 yuan:

- (1) Illegally planting 500 opium poppies or less or a small number of original plants for narcotics;
- (2) Illegally buying, selling, transporting, carrying or holding a small number of seeds or seedlings of mother plants of narcotic drugs; or
- (3) Illegally transporting, buying, selling, storing or selling a small number of poppy capsules.

If a person stops committing the acts as mentioned in the Item (1) of the preceding paragraph on his (her) initiative before it is mature, he (she) shall not be punished.

Article 72 Anyone who commits any of the following acts shall be detained for not less than 10 days but not more than 15 days, and may be concurrently fined not more than 2,000 yuan. If the circumstances are relatively lenient, he (she) shall be detained for not more than 5 days or shall be fined not more than 500 yuan:

- (1) Illegally holding less than 200 grams of opium, heroin or methyl amphetamine, or a small quantity of other drugs;
- (2) Providing any drug to any other person;
- (3) Taking or injecting any drug; or
- (4) Coercing or cheating any medical worker to prescribe any narcotic or psychotropic drug.

Article 73 Anyone who instigates, induces or cheats any other person to take or inject any drug shall be detained for not less than 10 days but not more than 15 days, and shall be fined not less than 500 yuan but not more than 2,000 yuan.

Article 74 Where a staff member of an entity of the hotel industry, catering industry, culture and entertainment industry or taxi industry divulges the secret information to a violator or criminal when the public security organ investigates into or punishes an activity, i.e. drug addiction, gambling, whoring or going whoring, he (she) shall be detained for not less than 10 days but not more than 15 days.

Article 75 Anyone who interferes with the normal life of any other person due to animal breeding shall be given a warning. If he fails to make corrections after the

warning, or if he indulges his animal to frighten any other person, he (she) shall be fined not less than 200 yuan but not more than 500 yuan.

Anyone who provokes an animal to injure any other person shall be punished in accordance with the first paragraph of Article 43

Article 76 Where a person commits any of the acts as mentioned in Article 67, 68 or 70, if he (she) refuses to make corrections despite of repeated warning, he (she) may be subject to a mandatory education measure as provided for by the state.

Chapter IV

Punishment Procedures

Section 1 Investigation

Article 77 A public security organ shall timely accept and record any case involving a violation of the public security administration, which is reported, charged or tipped off by any person or entity, or any case in which the violator of public security administration gives himself up to the police, or transferred by any other administrative department or by a judicial organ.

Article 78 After the public security organ accepts a case reported, charged, tipped off by any person or entity, or voluntarily confessed by the violator (s), if it considers that it falls within the category of violation of public security administration, it shall immediately begin to investigate into it. If it considers that it doesn't fall within the category of violation of public security administration, it shall notify the person or entity who reports, charges or tips off the case, or the violator who gives himself up to police of the relevant information and shall make an explanation.

Article 79 The public security organs and the people's policemen shall investigate into the public security cases in compliance with the law. It is strictly prohibited for anyone to collect evidence by illegal methods, such as making an interrogation by torture or extorting a confession from the interrogated, or threatening, enticing or cheating the interrogated.

Any proof gathered by illegal means shall not be the basis for punishment.

Article 80 The public security organs and the people's policemen shall keep confidential the state secrets and business secrets to which they access when handling the public security cases.

Article 81 When the people's policemen confront with any of the following circumstances when handling a case, they shall disqualify themselves. The violators of public security administration, victims or their statutory agents may also have the right to request them to disqualify themselves:

- (1) Being partied concerned or being close relatives of any party concerned in the case in question;
- (2) They themselves or their close relatives have any interest in the case in question;
- (3) Having any other relationship with any party concerned in this case that may affect the impartial handling of the case.

The disqualification of the people's policeman shall be decided by the public organ they work for. The person-in-charge of a public security organ shall be decided by the superior public security organ.

Article 82 Where it is necessary to summon a violator of public security administration to accept investigation, upon approval the person-in-charge of the case-handling department of the public security organ, a summon certificate shall be used for summoning him (her). With regard to a violator of public security administration found on the spot, the people's policeman may, after presenting his work certificate, orally summon him (her), but shall give explanatory notes in the interrogatory transcripts.

Public security organs shall inform the summoned of the reasons and grounds for summoning. Anyone who refuses to accept the summon without sufficient reasons or evades the summon may be summoned by force.

Article 83 For anyone who violates the rules of public security administration, the public security organ shall make a timely interrogation after summoning him, and the interrogation may not last more than eight hours at most. Where the circumstances are complicated and the punishment of administrative detention may apply according to the present Law, the time for interrogation may not exceed twenty four hours.

The public security organ shall inform a family member of the summoned of the reason of summon and his whereabouts in a timely manner.

Article 84 The interrogatory transcripts shall be presented to the interrogated for verification. If the interrogated cannot read, the transcripts shall be read out to him. Where there is any omission or mistake in the transcripts, the interrogated may suggest a supplement or correction. When the interrogated assures that there is no error or mistake in the transcripts, he shall affix his signature or seal to the transcripts, to which the people's policeman who effects the interrogation shall also affix his own signature.

Where the interrogated requests for providing written materials by himself regarding the matters he is interrogated of, such request shall be permitted; where necessary, the people's policeman may also demand the interrogated to produce written materials by himself.

To interrogate any violator of public security administration who is under the age of sixteen, the parents or any other guardian of the violator shall be informed to be present.

Article 85 To interrogate a victim or any other witness, the people's policeman may make the interrogation at the entity where the victim or the witness works or the abode where the victim or witness lives; where necessary, the victim or witness may also be informed to bear witness at the public security organ.

To interrogate the victim or any other witness at any place other than the public security organ, the people's policeman shall show his working certificate.

The interrogation of victims and witnesses shall be simultaneously governed by the provisions of Article 85 of the present Law.

Article 86 To interrogate a violator of public security administration, a victim or any other witness who is deaf or dumb, someone who is home at sign language shall be present to provide assistance, and it shall be remarked on the transcripts.

To interrogate a violator of public security administration, a victim or any other witness who does not understand the language which is commonly used in the local place, an interpreter shall be equipped, which shall be remarked on the transcripts.

Article 87 The public security organ may search the places, articles, and persons involved in a violation of public security administration. To conduct the search, there shall be no less than two people's policemen present, who shall show their working certificates and the proof of search as issued by the public security organ of the people's government at the county level or above. Where it is necessary to make an immediate search, the people's policemen may carry out an onsite search, with the exception of searching a citizen's abode when a proof of search as issued by the public security organ of the people's government at the county level of above shall be produced.

The search of the body of a woman shall be conducted by a female worker.

Article 88 Transcripts shall be made for the searches conducted, to which the searchers, the searched and witnesses shall affix their signatures or seals. Where the searched refuses to affix his signature, it shall be remarked on the transcripts by the people's policemen.

Article 89 When handling a public security administration case, the public security organ may detain the articles which are to be used as evidence relating to the case in question, with the exception of the property lawfully occupied by the victim or bone fide third party which shall not be detained but shall be recorded down. Anything that is irrelevant to the case in question shall not be detained.

For the detained articles, the people's policemen shall make a check jointly with the witnesses on the spot and the holder of the detained articles and shall produce a checklist in duplicate, which shall bear the signature or seal of the searchers, witnesses, and holder, with one copy kept by the holder and the other kept in the case files for future reference.

The detained articles shall be properly preserved and may not be used for any other purposes. For those articles that are not suitable for longtime keeping, they shall be dealt with according to relevant provisions. Where it is found that any of the detained articles is irrelevant to the case in question, it shall be returned in a timely manner. Where it is verified that it is the lawful property of any other person, it shall be returned after being recorded down. Where no person claims right to the said property

or where it is impossible to find out the right holder after six month expires, it shall be publicly auctioned or dealt with according to the relevant provisions of the state, and the proceeding arising therefrom shall be turned over to the state treasury.

Article 90 Where it is necessary to solve any controversial issue involved in the case in question for the purpose of clarifying the facts involved, a person with the corresponding professional knowledge may be designated or hired to conduct an authentication. After making the authentication, the authenticator shall produce his opinions of authentication, to which he shall affix his signature.

Section 2 Decision

Article 91 A public security punishment shall be decided by the public security organ of the people's government on the county level or above; in particular, a warning or a fine of less than 500 yuan may be decided by a local police station.

Article 92 For anyone to whom it is decided to give the punishment of administrative detention, the time for restricting his personal freedom by coercive means taken prior to the punishment shall be counted into the administrative detention, with one day of personal freedom restriction counting as one day of administrative detention.

Article 93 The public security organ may, in the handling of a public security administration case, make a public security punishment decision where there is no statement of the violator but there are sufficient evidence to prove the facts of the case in question. However, where there are statements of the violator without the support of other evidences, no public security punishment decision may be made.

Article 94 The public security organ shall, before making a public security punishment decision, inform the violator of public security administration of the facts, reasons, and grounds, and shall inform him of the rights that he may enjoy according to law.

The violator of public security administration shall have the right to make statements and defend himself. The public security organ shall fully listen to the thoughts of the violator of public security administration, and shall check the facts, reasons and evidences as presented by the violator; where any of the facts, reasons and evidences

as presented by the violator is found to hold water, it shall be accepted by the public security organ.

The public security organ may not aggravate the punishment as a result of the violator's making a statement or defense.

Article 95 The public security organ shall, after finishing the investigation of a public security administration case, make the following decisions according to the different situations:

- (1) Where there is any act to which a public security punishment shall be given according to law, a punishment decision shall be made according to the severity and the specific situation of the circumstances concerned;
- (2) Where no punishment is to be given according to law or where the facts of breaking the law cannot establish, a decision of no punishment shall be made;
- (3) Where the violation is suspected to constitute any crime, it shall be transferred to the competent organ to subject the violator to criminal liabilities;
- (4) Where it is found that the violator of public security administration has committed any other law-breaking acts, the public security organ shall inform the competent organ to deal with it when it makes the decision of punishment for the violation of public security administration.

Article 96 Where the public security organ makes a decision of public security punishment, it shall make a written decision of public security punishment, which shall specify the following contents:

- (1) The name, gender, and age of the person to be punished, the name and number of the identity certificate as well as the address of residence thereof;
- (2) The facts and evidences of violation;
- (3) The type of punishment and the grounds thereof;
- (4) The way and term of executing the punishment;
- (5) How to request for administrative reconsideration or how to lodge an administrative lawsuit and the time limit thereof in case the person to be punished refuses to accept the punishment decision;

(6) The name of the public security that makes the punishment decision and the date when the punishment decision is made.

The written decision shall bear the seal of the public security organ that makes the said decision.

Article 97 The public security organ shall announce the written decision of public security punishment to the person to be punished and shall deliver it to him on the spot. Where it is impossible to deliver to him the written decision on the spot, the written decision shall be served to him within two days. Where it is decided to give him an administrative punishment, the public security organ that makes the decision shall inform a family member of the person to be punished.

Where there is any victim, the public security organ shall send a reproduction of the written decision to the victim concerned.

Article 98 The public security organ shall, before making the public security punishment decision of canceling the license of the violator or impose upon the violator a fine of 2,000 yuan or more, inform the violator of the right to request for holding a hearing. Where the violator requests for holding a hearing, the public security organ shall hold a hearing according to law in a timely manner.

Article 99 The time limit for the public security organs to handle public security cases shall not be any more than thirty days as of the day when it accepts the case in question; where the case is very difficult or complicated, the time limit may be prolonged for thirty days, subject to the approval of the public security organ on the next higher level.

The time required by authentication for the purpose of clarifying the facts concerned shall not be included in the time limit for handling the case in question.

Article 100 For a violation of public security administration with clear facts and exact evidence to which a warning or a fine of not more than 200 yuan shall apply, a public security punishment decision may be made on the spot.

Article 101 To make a public security punishment decision on the spot, the people's policemen shall show their working certificates to the violator of public security administration and shall fill out a punishment decision. The punishment decision shall

be delivered to the punished on the spot. If there is any victim, a copy of the decision shall be given to the victim.

The punishment decision as mentioned in the preceding paragraph shall state the name and violation of the punished, the basis for punishment, amount of the fine, the time, venue as well as the name of the public security organ, and shall bear the signature or seal of the people's policemen who make the punishment decision.

Where a public security punishment decision is made on the spot, the people's policemen who make it shall, within 24 hours, report it to public security organ where they work for archival purposes.

Article 102 If the punished refuses to accept the public security punishment decision, he (she) may apply for administrative reconsideration or lodge an administrative lawsuit.

Section 3 Execution

Article 103 For a person to whom it is decided to give the punishment of administrative detention, he shall be sent to the detention house by the public security organ that makes the decision for executing the decision.

Article 104 A person who is given a punishment of fine shall, within 15 days after he (she) receives a punishment decision, pay the fine to the designated bank. However, the people's policemen may collect the fine under any of the following circumstances:

- (1) The fine is not more than 50 yuan and the punished raises no objection to the fine;
- (2) In a remote, on-water or inaccessible area, after the public security organ and its policemen makes a decision of fine in accordance with this Law, it is really difficult for the punished to pay the fine to the designated bank and the punished states his difficulty; or
- (3) The punished has no fixed abode in the local area and it is difficult to execute the fine in the future if the fine is not collected on the spot.

Article 105 The people's policemen shall, within 2 days after collecting a fine, turn the fine over to the public security organ where they work. An on-site fine collected on water or passenger train shall be turned over to the public security organ within 2

days after the vessel reaches the land or arrives at a station. The public security organ shall put the fine into the designated bank within 2 days after it receives it.

Article 106 To collect a fine on the spot, the policemen shall issue to the punished a receipt of fine uniformly produced by the public finance department of the people's government of the province, autonomous region or municipality directly under the Central Government. If they fail to do so, the punished may refuse to pay the fine.

Article 107 If the punished refuses to accept the administrative punishment detention decision and if he (she) applies for an administrative reconsideration or lodge an administrative lawsuit, he (she) may file an application with the public security organ for suspending the execution of the administrative detention. If the public security organ believes that there will be no danger as a result of the suspension of administrative detention, after the punished or his (her) close relative proposes a guarantor who meets the requirements as specified in Article 108 of this Law or pays a bail of 200 per day, the execution of punishment decision of administrative detention may be suspended.

Article 108 A guarantor may meet the following conditions:

- (1) He (She) is not involved in this case;
- (2) He (She) enjoys the political rights and his (her) personal freedom is not restricted;
- (3) He (She) has a registered permanent residence or fixed abode in the local area; and
- (4) He (She) is able to perform his (her) the obligations of a guarantor.

Article 109 The guarantor shall guarantee that the guaranteed will not evade the execution of punishment of administrative detention.

If the guarantor fails to perform the obligations of a guarantor, which leads to the guaranteed's evading the execution of punishment of administrative detention, the public security organ shall fine him (her) not more than 3,000 yuan.

Article 110 Where a person to whom it is decided to give a punishment of administrative detention evades the execution thereof after a bail is paid and the administrative detention is suspended, the security shall be confiscated and shall be turned over to the state treasury and the decision of administrative detention shall be still executed.

Article 111 After a punishment decision of administrative detention is revoked or after an administrative detention punishment begins to be executed, the bail collected by the public security organ shall be refunded to the payer in a timely manner.

Chapter V

Supervision over Law Enforcement

Article 112 The public security organs and the policemen shall deal with the public security cases impartially, strictly and efficiently in accordance with the law. None of them may seek any private benefits therefrom.

Article 113 During the process of handling a public security administration case, the public security organ and the people's policemen are prohibited from beating, scolding, maltreating or insulting any violator of public security administration.

Article 114 A public security organ and their policemen thereof shall be ready to accept the supervision of the general public and citizens in handling public security cases.

Where, in the process of handling any public security case, a public security organ or any of its people's policemen fails to enforce the law strictly or violate any law or discipline, any entity or individual shall be entitled to expose or charge against them in the public security organ or administrative supervision organ, which shall timely deal with the case according to its functions.

Article 115 To execute a fine in accordance with the law, the public security organ shall, in accordance with the relevant law or administrative regulation, separate the decision of a fine from the collection of fine. All the fines it has collected shall be turned over to the state treasury.

Article 116 Where a people's policeman conducts any of the following acts when handling a public security case, he (she) shall be given an administrative sanction. If any crime is constituted, he (she) shall be subject to criminal liabilities:

- (1) Making an interrogation by torture or extorting a confession from the interrogated, inflicting physical suffering on, maltreating or insulting any other person;
- (2) Restricting the personal freedom by exceeding the time limit for interrogation;

- (3) Failing to execute the system with the decision of a fine separated from the collection of fine, failing to turn any confiscated property over to the state treasury according to relevant provisions, or illegally disposing of any confiscated property;
- (4) Illegally dividing, occupying, misappropriating or deliberately destroying any confiscated or detained property;
- (5) Using the property of a victim or failing to return the property of a victim in a timely manner by violating the relevant provisions;
- (6) Failing to return the security in a timely manner by violating the relevant provisions;
- (7) Accepting the property of any other person or seeking other benefits by taking the advantages of his (her) position;
- (8) Failing to issue a receipt of fine or failing to faithfully fill in the amount of a fine after collecting the fine on the spot;
- (9) Failing to deal with the case in a timely manner after being requested to stop a violation of public security administration;
- (10) Divulging the secret information to the suspect of a violation or crime when punishing and investigating a violation of public security administration; or
- (11) Seeking private benefits, abusing his (her) power, or other circumstances in which he (she) fails to perform the statutory duties.

Where the public security organ commits any of the acts as mentioned in the preceding paragraph, the directly liable person-in-charge and other directly liable persons shall be given an administrative sanction accordingly.

Article 117 Where a public security organ or any of the people's policeman encroaches upon the lawful rights and interests of any citizen, legal person or any other organization due its (his) exercise of power, it (he) shall make an apology. If it (he) causes any damage, it (he) shall liable for compensation.

Chapter VI

Supplementary Provisions

Article 118 The terms "not less than", "not more than" and "within" as mentioned in this Law include the said figure.

Article 119 This Law shall come into force as of March 1, 2006. The Regulation of the on the Administrative Penalties for Public Security which was promulgated on September 5, 1986 and was amended and promulgated on May 12, 1994 shall be abolished simultaneously.