



中华人民共和国行政处罚法

Law of the People's Republic of China
on Administrative Penalty

中华人民共和国行政监察法

Law of the People's Republic of China
on Administrative Supervision

(中英对照)

(Chinese-English)

法律出版社
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中华人民共和国主席令

第六十三号

《中华人民共和国行政处罚法》已由中华人民共和国第八届全国人民代表大会第四次会议于1996年3月17日通过,现予公布,自1996年10月1日起施行。

中华人民共和国主席 江泽民

1996年3月17日

Order of the President of the People's Republic of China

No. 63

The Law of the People's Republic of China on Administrative Penalty, adopted at the Fourth Session of the Eighth National People's Congress of the People's Republic of China on March 17, 1996, is hereby promulgated and shall enter into force as of October 1, 1996.

Jiang Zemin

President of the People's Republic of China

March 17, 1996

中华人民共和国行政处罚法

(1996年3月17日第八届全国人民代表大会第四次会议通过)

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Law of the People's Republic of China on Administrative Penalty

(Adopted at the Fourth Session of the Eighth
National People's Congress on March 17, 1996)

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第一章 总 则

第一条 为了规范行政处罚的设定和实施,保障和监督行政机关有效实施行政管理,维护公共利益和社会秩序,保护公民、法人或者其他组织的合法权益,根据宪法,制定本法。

第二条 行政处罚的设定和实施,适用本法。

第三条 公民、法人或者其他组织违反行政管理秩序的行为,应当给予行政处罚的,依照本法由法律、法规或者规章规定,并由行政机关依照本法规定的程序实施。

没有法定依据或者不遵守法定程序的,行政处罚无效。

第四条 行政处罚遵循公正、公开的原则。

设定和实施行政处罚必须以事实为依据,与违法行为的事实、性质、情节以及社会危害程度相当。

对违法行为给予行政处罚的规定必须公布;未经公布的,不得作为行政处罚的依据。

第五条 实施行政处罚,纠正违法行为,应当坚持处罚与教育相结合,教育公民、法人或者其他组织自觉守法。

Chapter I General Provisions

Article 1 Pursuant to the Constitution, this Law is enacted for the purpose of standardizing creation and imposition of administrative penalty, ensuring and supervising the effective exercise of administration by administrative organs, safeguarding public interests and public order, and protecting the lawful rights and interests of citizens, legal persons and other organizations.

Article 2 Creation and imposing of administrative penalty shall be governed by this Law.

Article 3 Where administrative penalty needs to be imposed on citizens, legal persons or other organizations for their violations of the order of administration, it shall be prescribed by laws, rules or regulations pursuant to this Law and imposed by administrative organs in compliance with the procedure prescribed by this Law.

Administrative penalty that is not imposed in accordance with law or in compliance with legal procedures shall be invalid.

Article 4 Administrative penalty shall be imposed in adherence to the principles of fairness and openness.

Creation and imposition of administrative penalty shall be based on facts and shall be in correspondence with the facts, nature and seriousness of the violations of law and damage done to society.

Regulations on administrative penalty to be imposed for violations of law must be published; those which are not published shall not be taken as the basis for administrative penalty.

Article 5 In imposing administrative penalty and setting to rights illegal acts, penalty shall be combined with education, so that citizens, legal persons and other organizations shall become aware of the importance of observing law.

第六条 公民、法人或者其他组织对行政机关所给予的行政处罚,享有陈述权、申辩权;对行政处罚不服的,有权依法申请行政复议或者提起行政诉讼。

公民、法人或者其他组织因行政机关违法给予行政处罚受到损害的,有权依法提出赔偿要求。

第七条 公民、法人或者其他组织因违法受到行政处罚,其违法行为对他人造成损害的,应当依法承担民事责任。

违法行为构成犯罪,应当依法追究刑事责任,不得以行政处罚代替刑事处罚。

第二章 行政处罚的种类和设定

第八条 行政处罚的种类:

- (一)警告;
- (二)罚款;
- (三)没收违法所得、没收非法财物;
- (四)责令停产停业;
- (五)暂扣或者吊销许可证、暂扣或者吊销执照;

Article 6 Citizens, legal persons and other organizations on whom administrative penalty is imposed by administration organs shall have the right to state their cases and the right to defend themselves; those who refuse to accept administrative penalty shall have the right to apply for administrative reconsideration or bring an administrative lawsuit in accordance with law.

Citizens, legal persons and other organizations that have suffered damage due to administrative penalty imposed by administrative organs in violation of law shall have the right to demand compensation in accordance with law.

Article 7 Citizens, legal persons and other organizations that are subjected to administrative penalty because of their violations of law shall, in accordance with law, bear civil liability for damage done to others by their illegal acts.

Where an illegal act constitutes a crime, criminal responsibility shall be investigated in accordance with law; no administrative penalty shall be imposed in place of criminal penalty.

Chapter II Types and Creation of Administrative Penalty

Article 8 Types of administrative penalty shall include:

- (1) disciplinary warning;
- (2) fine;
- (3) confiscation of illegal gains or confiscation of unlawful property or things of value;
- (4) ordering for suspension of production or business;
- (5) temporary suspension or rescission of permit or temporary suspension or rescission of license;

(六)行政拘留；

(七)法律、行政法规规定的其他行政处罚。

第九条 法律可以设定各种行政处罚。

限制人身自由的行政处罚，只能由法律设定。

第十条 行政法规可以设定除限制人身自由以外的行政处罚。

法律对违法行为已经作出行政处罚规定，行政法规需要作出具体规定的，必须在法律规定的给予行政处罚的行为、种类和幅度的范围内规定。

第十一条 地方性法规可以设定除限制人身自由、吊销企业营业执照以外的行政处罚。

法律、行政法规对违法行为已经作出行政处罚规定，地方性法规需要作出具体规定的，必须在法律、行政法规规定的给予行政处罚的行为、种类和幅度的范围内规定。

第十二条 国务院部、委员会制定的规章可以在法律、行政法规规定的给予行政处罚的行为、种类和幅度的范围内作出具体规定。

尚未制定法律、行政法规的，前款规定的国务院部、委

- (6) administrative detention; and
- (7) others as prescribed by laws and administrative rules and regulations.

Article 9 Different types of administrative penalty may be created by law.

Administrative penalty involving restriction of freedom of person shall only be created by law.

Article 10 Administrative penalties, with the exception of restricting freedom of person, may be created by administrative rules and regulations.

Where it is necessary to formulate specific provisions, in administrative rules and regulations, regarding violations of law for which administrative penalties have been formulated in laws, it must be done within the limits of the acts subject to administrative penalty and the types and range of such penalty as prescribed by laws.

Article 11 Administrative penalties, with the exception of restriction of freedom of person and rescission of business license of an enterprise, may be created in local regulations.

Where it is necessary to formulate specific provisions, in local regulations, regarding violations of law for which administrative penalties have been formulated in laws and administrative rules and regulations, it must be done within the limits of the acts subject to administrative penalty and the types and range of such penalty as prescribed by laws and administrative rules and regulations.

Article 12 The ministries and commissions under the State Council may, in the rules they enact, formulate specific provisions within the limits of the acts subject to administrative penalty and the types and range of such penalty as prescribed by laws and administrative rules and regulations.

With regard to violations of administration order against which no

员会制定的规章对违反行政管理秩序的行为,可以设定警告或者一定数量罚款的行政处罚。罚款的限额由国务院规定。

国务院可以授权具有行政处罚权的直属机构依照本条第一款、第二款的规定,规定行政处罚。

第十三条 省、自治区、直辖市人民政府和省、自治区人民政府所在地的市人民政府以及经国务院批准的较大的市人民政府制定的规章可以在法律、法规规定的给予行政处罚的行为、种类和幅度的范围内作出具体规定。

尚未制定法律、法规的,前款规定的人民政府制定的规章对违反行政管理秩序的行为,可以设定警告或者一定数量罚款的行政处罚。罚款的限额由省、自治区、直辖市人民代表大会常务委员会规定。

第十四条 除本法第九条、第十条、第十一条、第十二条以及第十三条的规定外,其他规范性文件不得设定行政处罚。

laws or administrative rules and regulations have been enacted, the ministries and commissions under the State Council may create administrative penalty of disciplinary warning or a certain amount of fine in the rules they enact, as stipulated in the preceding paragraph. The specific amounts of fine shall be laid down by the State Council.

The State Council may authorize the departments directly under it that have the power of administrative penalty to formulate provisions on administrative penalty in accordance with the first and second paragraph of this Article.

Article 13 The people's governments of provinces, autonomous regions, and municipalities directly under the Central Government, of the cities where the people's governments of provinces and autonomous regions are located, and of the larger cities approved as such by the State Council may, within the limits of the acts subject to administrative penalty and the types and range of such penalty as prescribed by laws and regulations, formulate specific provisions in the rules they enact.

With regard to violations of administration order against which no laws or regulations have been enacted, the people's governments may create administrative penalty of disciplinary warning or certain amount of fine in the rules they enact, as stipulated in the preceding paragraph. The specific amounts of fine shall be laid down by the standing committees of the people's congresses of provinces, autonomous regions, and municipalities directly under the Central Government.

Article 14 No administrative penalties shall be created in any other regulatory documents in addition to the ones as stipulated in Articles 9, 10, 11, 12 and 13 of this Law.