

Presidency of the Republic
Office of the Chief of Staff
Legal Affairs Subsection

Law No. 9605, OF FEBRUARY 12, 1998,

regulates criminal and administrative sanctions
to conducts considered harmful to the
environment and addresses other matters.

Veto Message

I, the **PRESIDENT OF THE REPUBLIC**, hereby make known that the National Congress decrees and I sanction the following Law:

CHAPTER I
GENERAL PROVISIONS

Article 1. (VETOED)

Article 2. Any party participating in the commission of crimes provided for in this Law shall incur the corresponding penalties, to the extent of such party's liability, as shall directors, administrators, members of boards and technical bodies, auditors, managers, agents or representatives of legal entities who, while having knowledge of a criminal behavior, fail to prevent its commission, when action could have been taken to prevent it.

Article 3. Legal entities shall be held liable in the administrative, civil and criminal spheres pursuant to this Law, in cases which the violation is committed at the behest of their legal or contractual representative or their boards, in the interest or to the benefit of their entity.

Sole Paragraph. The liability of legal entities shall not exclude that of natural persons who are participants or co-participants in the same act.

Article 4. The corporate veil may be pierced whenever being a corporation shall mean being an obstacle to reimbursement for harm caused to the quality of the environment.

Article 5. (VETOED)

CHAPTER II
APPLICATION OF PENALTIES

Article 6. For the purposes of applying and setting the level of penalties, the authority of jurisdiction shall note the following:

I – the seriousness of the fact, taking into consideration the reasons for the violation and its consequences to public health and to the environment;

II – the history of the violator with respect to compliance with environmental law;

III – the violator's economic situation, in the case of a fine.

Article 7. Restriction of rights shall be independent and substitute for imprisonment when:

I – the case involves unintentional crimes or the penalty to be applied is imprisonment for less than four years;

II – culpability, history, social behavior and capacity of the convicted, as well as the reasons and circumstances of the crime, indicate that the substitution will be sufficient for purposes of punishing and preventing the crime.

Sole Paragraph. The restrictions of rights to which this Article refers shall have the same duration as the substituted imprisonment.

Article 8. Restrictions of rights shall include the following:

I – community service;

II – temporary suspension of rights;

III – partial or total suspension of activities;

IV – delivery of money;

V – house confinement.

Article 9. Community service shall consist of sentencing the convicted to perform free tasks at public parks, gardens and conservation units, and for cases of damage to private, public property or registered cultural heritage, its restoration, whenever possible.

Article 10. Temporary suspension of rights shall consist of prohibiting the convicted from contracting with the Government, receiving tax incentives or any other benefits, or participating in bids, for a period of five years for intent crimes, and three years for unintentional crimes.

Article 11. Suspension of activities shall be applied when such activities do not comply with the legal requirements.

Article 12. Delivery of money shall consist of payment of money to the victim or to public or private entities with social objectives, in an amount to be set by the judge, of no less than one

minimum wage nor greater than three hundred sixty minimum wages. The sum paid shall be deducted from the value of any civil compensation to which the violator may be sentenced.

Article 13. House confinement shall be based on self-discipline and acknowledgment of responsibility by the convicted, who must, without supervision, work, attend classes or engage in authorized activities, and remain at home during days and periods of rest, or at any location corresponding to their regular residence, as set forth in the court judgment.

Article 14. The following are circumstances which may downgrade the penalty:

I – low level of education or training on the part of the agent;

II – violator's regret, as demonstrated through spontaneous damage compensation, or significant restriction of the environmental damage caused;

III – prior communication by the agent of the imminent danger of the environmental damage;

IV – cooperation with entities responsible for environmental monitoring and control.

Article 15. The following are circumstances that may increase the penalty, when they do not constitute or aggravate a crime:

I – recidivism of crimes of an environmental nature;

II – when the agent commits the violation:

a) for pecuniary benefit;

b) pressuring another party into committing the violation;

c) seriously affecting or exposing public health or the environment to danger;

d) contributing to damage to the property of others;

e) affecting areas of conservation units or areas subject to a special use regime, pursuant to a decree of the Government;

f) affecting urban areas or any human population settlements;

g) during an animal protection period;

h) on Sundays or holidays;

i) at night;

j) during times of drought or flood;

l) within a special protection area of the country;

- m) using cruel methods to eliminate or capture animals;
- n) through fraud or abuse of trust;
- o) through abuse of the right of getting a license, permission or environmental authorization;
- p) in the interest of a legal entity supported, in whole or in part, by public funds or benefiting from tax incentives;
- q) affecting species that are threatened, as listed in official reports of environmental authorities;
- r) facilitated by public officials in the exercise of their duties.

Article 16. In crimes covered by this Law, there shall be probation for cases of a sentence of imprisonment not greater than three years.

Article 17. The verification of compensation provided for in Paragraph 2 of Article 78 of the Penal Code shall be carried out by means of a compensation report on the environmental damage, and the conditions to be applied by the judge must be related to the protection of the environment.

Article 18. The fine shall be calculated in accordance with the criteria of the Penal Code; should it prove to be ineffective, even if applied at the maximum level, it may be increased up to threefold, keeping in mind the value of the economic benefit received.

Article 19. The expert evaluating the environmental damage shall, whenever possible, determine a value for the harm caused, for purposes of setting bail and calculating the fine.

Sole Paragraph. The expert opinion prepared in the civil inquiry or the civil judgment may be used in the criminal proceedings, to be included in the adversary proceedings.

Article 20. The judgment conviction shall, whenever possible, set a minimum amount for compensation of the harm caused by the violation, taking into consideration the damage to the harmed party or the environment.

Sole Paragraph. After the final unappealable judgment, enforcement may be in the amount set pursuant to the terms of the head provision of this Article, notwithstanding payments made to cover the damages.

Article 21. Penalties applied separately, cumulatively or alternatively by legal entities, in accordance with the provisions of Article 3, shall include the following:

I – fine;

II – restriction of rights;

III – community service.

Article 22. Restrictions of the rights of legal entities shall include the following:

I – partial or total suspension of activities;

II – temporary suspension of the establishment, work or activity;

III – prohibition from contracting with the Government, as well as from obtaining subsidies, subventions or donations.

Paragraph 1. Suspension of activities shall be applied when such activities are inconsistent with the legal or regulatory provisions relating to the protection of the environment.

Paragraph 2. Closure shall be applied when the establishment, work or activity is carried out without due authorization, or in violation of such issued authorization, or in violation of the legal or regulatory provisions.

Paragraph 3. Prohibitions on contracting with the Government and on obtaining subsidies, subventions or donations may not exceed a period of ten years.

Article 23. Community service rendered by a legal entity shall consist of the following:

I – financing environmental programs and projects;

II – carrying out work for the recovery of damaged areas;

III – maintaining public spaces;

IV – contributing to public environmental or cultural entities.

Article 24. The legal entity incorporated mainly to allow, facilitate or omit the commission of crimes as defined by this Law shall have its liquidation forced, its assets considered proceeds of crimes and their loss in favor of the National Penitentiary Fund.

CHAPTER III

SEIZURE OF THE PRODUCT AND INSTRUMENT OF THE ADMINISTRATIVE OR CRIMINAL VIOLATION

Article 25. Upon verification of a violation, its products and instruments shall be seized, and the respective documentation filled out.

Paragraph 1. Animals shall be primarily released into their habitat or, if that is not a viable measure for sanitary reasons, they shall be sent to zoos, foundations or similar entities, provided that their safekeeping and care are under the responsibility of qualified technicians. (Wording by Law No. 13052, of 2014)

Paragraph 2. Until the animals are sent to the institutions mentioned in Paragraph 1 of this Article, the controlling body shall ensure their physical well-being through proper shelter and transportation. (Wording by Law No. 13052, of 2014)

Paragraph 3. Perishable products or wood shall be evaluated and donated to scientific, hospital, criminal institutions and other institutions with charitable purposes. (New Paragraph number, from 2 to 3, by Law No. 13052, of 2014)

Paragraph 4. Non-perishable animal products and byproducts shall be destroyed or donated to scientific, cultural or educational institutions. (New Paragraph number, from 3 to 4, by Law No. 13052, of 2014)

Paragraph 5. The instruments used to commit the violation shall be sold, and their destruction via recycling means shall be ensured. (New Paragraph number, from 4 to 5, by Law No. 13052, of 2014)

CHAPTER IV CRIMINAL PROCEDURES AND PROCEEDINGS

Article 26. Criminal proceedings involving criminal violations provided for in this Law shall be unconditioned criminal prosecution.

Sole Paragraph. (VETOED)

Article 27. For environmental crimes involving lesser-included offense the immediate application of restrictions of rights or a fine, as provided for in Article 76 of Law No. 9099, September 26, 1995, may only be proposed subject to a prior breakdown of the environmental damage in accordance with Article 74 of the same Law, except when not possible.

Article 28. The provisions of Article 89 of Law No. 9099, September 26, 1995, shall apply to crimes of lesser-included offense as defined in this Law, with the following alterations:

I – termination of punishability as discussed in Paragraph 5 of the Article mentioned in the head provision of this Article shall require a verification report regarding compensation for the environmental damage, unless not possible, pursuant to section I, Paragraph 1 of the same Article;

II – if the verification report shows that compensation has not been completely paid, the period for suspension of the proceeding shall be extended up to the maximum period provided for in the Article mentioned in the head provision of this Article, plus one additional year, with a suspension of the statute of limitations period;

III – during the extension period, the conditions of sections II, III and IV of Paragraph 1 of the Article mentioned in the head provision shall not apply;

IV – upon expiration of the extension period, a new verification report of compensation for environmental damage shall be drafted, and depending on its results, the suspension period may again be extended, up to the maximum term provided for in section II of this Article, pursuant to the provisions of section III;

V – upon expiration of the maximum extension period, termination of punishability shall require a verification report showing that the defendant has taken all the necessary measures to achieve full compensation of the damage.

CHAPTER V CRIMES AGAINST THE ENVIRONMENT

Section I Crimes Against Fauna

Article 29. To kill, chase, hunt, capture or use wild animals, whether native or on a migratory route, without proper permission, license or authorization of competent authorities or in violation of the granted authorization:

Penalty: detention from six months to one year, and a fine.

Paragraph 1. The following shall incur the same penalties:

I – those who prevent the procreation of animals, without license or authorization or in violation of the granted authorization;

II – those who change, damage or destroy nests, shelters or natural nurseries;

III – those who sell, display for sale, export or purchase, keep, hold in captivity or store, use or transport birds, larvae or specimens of wild animals, native or on a migratory route, as well as projects and objects related to them, coming from unauthorized nurseries or those without proper permits, licenses or authorization from competent authorities.

Paragraph 2. For cases of wild animals not considered endangered, which are being kept for domestic purposes, the judge may, considering the circumstances, waive the application of the penalty.

Paragraph 3. Wild animals shall be those corresponding to native, migratory and any other aquatic or terrestrial species which spend all or part of their life cycles within the Brazilian boundaries, or in Brazilian territorial waters.

Paragraph 4. The penalty shall be increased by one-half should the crime be committed:

I – against rare species or those considered endangered, even if only in the place of the violation;

II – outside the hunting season;

III – at night;

IV – involving an abuse of license;

V – in a Conservation Unit;

VI – through the use of methods or instruments capable of causing mass destruction.

Paragraph 5. The penalty shall be increased up to a threefold if the crime occurs while engaging in professional hunting activities.

Paragraph 6. The provisions of this Article shall not apply to fishing activities.

Article 30. To export raw animal or reptile skins or leather abroad, without authorization from the competent environmental authorities:

Penalty: detention from three months to one year, and a fine.

Article 31. To import animal specimens into Brazil without a favorable official technical report and license issued by competent authorities:

Penalty: detention from three months to one year, and a fine.

Article 32. To engage in an act of abuse or mistreatment, or injure or mutilate wild, domestic or domesticated animals, native or exotic:

Penalty: detention from three months to one year, and a fine.

Paragraph 1. Those who engage in harmful or cruel experiments with live animals, even for educational or scientific purposes, shall incur the same penalties should alternate methods be available.

Paragraph 1-A When the situation relates to either a dog or a cat, the penalties for the conducts provided for in this Article shall be imprisonment, from 2 (two) to 5 (five) years, a fine and prohibition from having the custody of the animal back. (Included by Law No. 14054, of 2020)

Paragraph 2. The penalty shall be increased by one-sixth to one-third should the animal die.

Article 33. To cause, through the emission of effluent or the transportation of materials, the disappearance of specimens of aquatic fauna living in rivers, lakes, dams, ponds, bays or Brazilian territorial waters:

Penalty: detention from from one to three years, or a fine, or both cumulatively.

Sole Paragraph. The same penalties shall apply to the following:

I – those who cause damage to nurseries, dams or agricultural stations in the public domain;

II – those who exploit natural fields of aquatic invertebrates and algae without license, permission or authorization from competent authorities;

III – those who sink vessels or dispose of waste of any nature over mollusk or coral banks that are duly marked in a nautical chart.

Article 34. Fishing during a period when fishing is prohibited or in areas prohibited by the competent agency:

Penalty: detention of one to three years or a fine, or both penalties cumulatively.

Sole Paragraph. The same penalties shall apply to those who:

I – catch fish species which must be preserved or specimens of size smaller than permitted;

II – catch quantities of fish in excess of those allowed, or through the use of devices, supplies, techniques and methods that are not permitted;

III – transport, sell, benefit from or process specimens deriving from prohibited collection, capture and fishing.

Article 35. Fishing through the use of:

I – explosives or substances which, when in contact with water, produce a similar effect;

II – toxic substances or other means prohibited by competent authorities.

Penalty: imprisonment from one to five years.

Article 36. For the purposes of this Law, fishing shall be understood as being any action aiming to remove, extract, collect, catch, apprehend or capture specimens or groups of fish, crustaceans, mollusks and hydro plants, whether or not for purposes of economic exploitation, with the exception of endangered species as listed in the official lists of flora and fauna.

Article 37. Slaughtering is not a crime if:

I – under conditions of need, to satisfy the hunger of the agent or their families;

II – to protect plantations, orchards and herds from the predatory or destructive actions of animals, provided that this is legal and expressly authorized by competent authorities;

III – (VETOED)

IV – the animal is harmful, as so characterized by the competent authority.

Section II

Crimes Against Flora

Article 38. To destroy or harm plants subject to permanent preservation, even while growing, or using them in violation of the protection regulations:

Penalty – detention, from one to three years, or a fine, or both the penalties cumulatively.

Article 38-A. To destroy or damage primary or secondary vegetation, in advanced or intermediate regeneration stages, of the Atlantic Forest Biomass, or using it in violation to protection rules: (Included by Law No. 11428, of 2006)

Penalty – detention, from 1 (one) to 3 (three) years, or a fine, or both the penalties cumulatively. (Included by Law No. 11428, of 2006)

Sole Paragraph – If the crime relates to unintentional crimes, the penalty shall be reduced by one-half. (Included by Law No. 11428, of 2006)

Article 39. To cut forest trees subject to permanent preservation, without permission from competent authorities:

Penalty: detention from one to three years, or a fine, or both penalties cumulatively.

Article 40. To cause direct or indirect harm to the Conservation Units and areas defined in Article 27 of Decree No. 99274 of June 6, 1990, regardless of their location:

Penalty: imprisonment from one to five years.

Paragraph 1. Conservation Units for Full Protection shall be understood as being Ecological Stations, Biological Reserves, National Parks, Natural Monuments and Wildlife Shelters. (Wording by Law No. 9985, of 2000)

Paragraph 2. If damage affects endangered species inside the Conservation Units for Full Protection, it shall be considered an aggravating circumstance for purposes of setting the penalty. (Wording by Law No. 9985, of 2000)

Paragraph 3. If the crime involves unintentional crimes, the penalty shall be reduced by one-half.

Article 40-A. (~~VETOED~~) (Included by Law No. 9985, of 2000)

Paragraph 1. Conservation Units for Sustainable Use shall be understood as Environmental Protection Areas, Relevant Ecological Areas, National Forests, Extraction Reservations, Wildlife

Reservation, Sustainable Development Reservations and Natural Patrimony Private Reservations.
(Included by Law No. 9985, of 2000)

Paragraph 2. If damage affects endangered species inside the Full Conservation Units shall be considered as being an aggravating circumstance for purposes of setting the penalty. (Included by Law No. 9985, of 2000)

Paragraph 3. If the crime relates to unintentional crimes, the penalty shall be reduced by one-half. (Included by Law No. 9985, of 2000)

Article 41. To cause fire to a jungle or forest:

Penalty: imprisonment from two to four years, and a fine.

Sole Paragraph. If the crime involves unintentional crimes, the penalty shall be detention from six months to one year, and a fine.

Article 42. To manufacture, sell, transport or release balloons that may cause fires to forests and other forms of vegetation, in urban areas or any type of human settlement:

Penalty: detention from one to three years or a fine, or both penalties cumulatively.

Article 43. (VETOED)

Article 44. To extract rocks, sand, limestone or any type of minerals from public forests or those considered as being subject to permanent preservation, without prior authorization:

Penalty: detention from six months to one year, and a fine.

Article 45. To cut or process charcoal, as classified by decree of the Government, for industrial, energy-related or any other purposes, economic or otherwise, in violation of legal provisions:

Penalty: imprisonment from one to two years, and fine.

Article 46. To receive or acquire, for commercial or industrial purposes, wood, firewood, charcoal or other products of plant origin, without requiring the display of a license by the vendor, granted by competent authorities, and without obtaining the copy that must accompany the product until its final improvement:

Penalty: detention from six months to one year, and fine.

Sole Paragraph. Parties who sell, display for sale, store, transport or retain wood, firewood, charcoal and other products of plant origin, without a valid license, for the entire duration of the trip or storage, granted by competent authorities, shall incur the same fine.

Article 47. (VETOED)

Article 48. To prevent or impede the natural re-growth of forests and other forms of vegetation:

Penalty: detention of six months to one year, and a fine.

Article 49. To destroy, damage, injure or mistreat ornamental plants in public spaces or in the private property of third parties, by any method or means:

Penalty: detention from three months to one year, or a fine, or both penalties cumulatively.

Sole Paragraph. For crimes involving unintentional crimes, the penalty shall be from one to six months, or a fine.

Article 50. To destroy or damage native forests or vegetation to protect dunes, mangroves, or in unsettled lands or public domain land, under special preservation:

Penalty: detention from three months to one year, and a fine.

Article 50-A. To deforest, economically explore or damage a forest, native or planted, public domain land or unsettled lands, without permission of the competent body: (Included by Law No. 11284, of 2006)

Penalty – imprisonment from 2 (two) to 4 (four) years and a fine. (Included by Law No. 11284, of 2006)

Paragraph 1. The conduct that takes place due to necessary immediate personal subsistence of the agent or their families is not considered a crime. (Included by Law No. 11284, of 2006)

Paragraph 2. If the explored area surpasses 1,000 ha (one thousand hectares), the penalty shall be increased to 1 (one) year for each thousand hectare. (Included by Law No. 11284, of 2006)

Article 51. To sell chainsaws or use them in forests and other forms of vegetation, without a license or registration issued by competent authorities:

Penalty: detention from three months to one year, and a fine.

Article 52. To enter Conservation Units using substances or instruments appropriate for hunting or for the exploitation of forestry products or byproducts, without a license issued by competent authorities:

Penalty: detention from six months to one year, and a fine.

Article 53. For the crimes provided for in this Section, the penalty shall be increased from one-sixth to one-third if:

I – the action results in decrease in natural waters, erosion of the soil or a change in weather patterns;

II – the crime is committed:

- a) during the seed dropping period;
- b) during the vegetation growing period;
- c) against rare or endangered species, even if considered so only in the place of violation;
- d) during drought or floods;
- e) at night, on Sundays or holidays.

Section III

Pollution and Other Environmental Crimes

Article 54. To cause pollution of any nature at levels that result or which may result in harm to human health, or which cause the death of animals or significant destruction of plants:

Penalty: imprisonment from one to four years, and a fine.

Paragraph 1. If the crime involves unintentional crimes:

Penalty: detention from six months to one year, and a fine.

Paragraph 2. If the crime:

I – involves improper occupation of an urban or rural area for human settlement;

II – causes atmospheric pollution resulting in the removal, even if temporarily, of the inhabitants of the affected areas, or causes direct harm to the health of the population;

III – causes water pollution that makes it necessary to interrupt the public supply and consumption of water;

IV – impedes or prevents the public use of beaches;

V – occurs as a consequence of solid, liquid or gaseous waste, or residue, oils or oily substances, in violation of the requirements established by law or regulation;

Penalty: imprisonment from one to five years.

Paragraph 3: The same penalties of the preceding Paragraph shall apply to those who fail to adopt precautionary measures, when so required by competent authorities, should there be risk of serious or irreversible environmental damage.

Article 55. To carry out research, work or extraction of mineral resources without the corresponding authorization, permission, concession or license, or in violation of those that have been issued:

Penalty: detention from six months to one year, and a fine.

Sole Paragraph. Parties who fail to restore explored or exploited areas pursuant to the terms of the authorization, permission, license, concession or ruling of the competent agency shall incur the same penalties.

Article 56. To produce, process, package, import, export, sell, supply, transport, store, safe keep, store or use toxic products or substances hazardous or harmful to human health or to the environment, in violation of the requirements set forth by law or regulation:

Penalty: imprisonment from one to four years, and a fine.

Paragraph 1. The same penalty shall incur to those who:

I – abandon the products or substances mentioned in the head provision of this Article, or use them in violation of environmental and safety regulations; (Included by Law No. 12305, of 2010);

II – manipulate, pack, store, collect, transport, reuse, recycle or give a final destination to dangerous waste in a manner different from that established by law or regulation. (Included by Law No. 12305, of 2010)

Paragraph 2. Should the product or substance be nuclear or radioactive, the penalty shall be increased from one-sixth to one-third.

Paragraph 3. If the crime involves unintentional crimes:

Penalty: detention from six months to one year, and a fine.

Article 57. (VETOED)

Article 58. For cases involving fraudulent crimes provided for in this Section, the penalties shall be increased:

I – from one-sixth to one-third, if they result in irreversible damage to flora or to the environment in general;

II – from one-third to one-half, if they result in serious bodily injury;

III – up to double, if they result in the death of another party.

Sole Paragraph. The penalties provided for in this Article shall only apply when no other more serious crime results from the event.

Article 59. (VETOED)

Article 60. To build, remodel, expand, instal or perform duties, in any part of the country, of facilities, works or services that are potentially polluting, without a license or authorization from competent environmental agencies, or in violation of the relevant legal and regulatory standards:

Penalty: detention from one to six months, or a fine, or both penalties cumulatively.

Article 61. To spread disease or plague or species that may cause harm to agriculture, fishing, fauna or flora or to the ecosystems;

Penalty: imprisonment from one to four years, or a fine.

Section IV

Crimes Against the Urban Order and Cultural Heritage

Article 62. To destroy, misuse or damage:

I – assets specifically protected by law, administrative decree or judicial ruling;

II – files, records, museums, libraries, galleries, scientific facilities or similar facilities protected by law, administrative decree or judicial ruling;

Penalty: imprisonment from one to three years, and a fine.

Sole Paragraph. If the crime involves unintentional crimes, the penalty shall be from six months to one year of detention, and a fine.

Article 63. To change the appearance or structure of a building or site specifically protected by law, administrative decree or judicial ruling by reason of its appearance, ecological, tourism, artistic, historic, cultural, religious, ethnographic or monumental value, without authorization from competent authorities or in violation of the granted authorization:

Penalty: imprisonment from one to three years, and a fine.

Article 64. To encourage construction on non buildable soil, or in its vicinity, as well as in areas esteemed for their landscape, ecological, artistic, touristic, historic, cultural, religious, archaeological, ethnographic or monumental value, without authorization from competent authorities or in violation of the authorization:

Penalty: detention, from six months to one year, and a fine.

Article 65. To graffiti or by any other means damage a building or urban monument:
(Wording by Law No. 12408, of 2011);

Penalty – detention, from 3 (three) months to 1 (one) year, and a fine (Wording by Law 12408, of 2011)

Paragraph 1. If the act is carried out in a monument or thing declared a national monument due to its artistic, archaeological or historical value, the penalty shall be from 6 (six) to 1 (one) year detention and a fine. (New number from sole Paragraph of Law No. 12408, of 2011)

Paragraph 2. It is not considered a crime to graffiti aiming to make the public or private property more valuable upon artistic expression, as long as it is authorized by the owner and, whenever the case might be, by the tenant or landlord of the private property and, in the case of public property, upon authorization of the competent body, following municipal rules and rules of governmental bodies responsible for the preservation and conservation of the national historic and artistic heritage. (Included by Law No. 12408, of 2011)

Section V

Crimes Against the Environmental Administration

Article 66. To make a false or deceitful statement to a public official, omitting the truth, or unlawfully withholding information or technical-scientific data in authorization or environmental licensing procedures:

Penalty: imprisonment from one to three years, and a fine.

Article 67. Issuance by a public official of a license, authorization or permit in violation of environmental regulations, for activities, works or services, or performance which requires authorization by the Government:

Penalty: detention from one to three years, and a fine.

Sole Paragraph. If the crime involves unintentional crimes, the penalty shall be from three months to one year of detention, and a fine.

Article 68. Parties with the legal or contractual duty to ensure compliance with obligations of significant environmental interest and which fail to do so shall be subject to the following:

Penalty: detention from one to three years, and a fine.

Sole Paragraph. If the crime involves unintentional crimes, the penalty shall be from three months to one year, and a fine.

Article 69. To prevent or impede monitoring activities by the Government involving environmental matters:

Penalty: detention from one to three years, and a fine.

Article 69-A. To prepare or provide, during the licensing process, a forest concession or any other administrative procedure, study, report or environmental report, totally or partially false or misleading, including by omission: (Included by Law No. 11284, of 2006)

Penalty – imprisonment, from 3 (three) to 6 (six) years, and a fine. (Included by Law No. 11284, of 2006)

Paragraph 1. If the crime involves unintentional crimes: (Included by Law No. 11284, of 2006)

Penalty – detention, from 1 (one) to 3 (three) years. (Included by Law No. 11284, of 2006)

Paragraph 2. The penalty shall be increased from 1/3 (one third) to 2/3 (two thirds), if there is significant damage to the environment, resulted from false, incomplete or misleading information. (Included by Law No. 11284, of 2006)

CHAPTER VI ADMINISTRATIVE VIOLATIONS

Article 70. Administrative environmental violation shall be any action or omission that violates the legal rules for the use, enjoyment, promotion, protection and recovery of the environment.

Paragraph 1. Agents of the environmental agencies members of the National Environmental System (SISNAMA), appointed to activities involving monitoring, as well as agents of the Ministry of the Navy shall be competent authorities to file environmental violation notices and to file administrative proceedings.

Paragraph 2. Any party finding evidence of an environmental violation may notify the authorities listed in the preceding Paragraph, for purposes of the exercise of their police powers.

Paragraph 3. Environmental authorities who obtain knowledge of an environmental violation shall be required to order its immediate investigation thereof, through the appropriate administrative proceedings, under penalty of being declared co-liable.

Paragraph 4. Environmental violations shall be subject to the appropriate administrative proceedings, ensuring the right of broad defense under the adversary system, pursuant to the provisions of this Law.

Article 71. Administrative proceedings for investigation of an environmental violation must comply with the following deadlines:

I – twenty days for the violator to offer defense against or contest the violation notice, from the date the violator is notified;

II – thirty days for competent authorities to decide on the violation notice, as of the date of its recording, regardless of whether a defense or objection has been filed;

III – twenty days for the violator to appeal the adverse ruling to the higher courts of the National Environmental System (SISNAMA) or to the Ports and Coasts Office of the Ministry of the Navy, in accordance with the type of proceeding;

IV – five days for the payment of a fine, as of the date of receipt of the notification.

Article 72. Administrative violations shall be punished with the following penalties, pursuant to the provisions of Article 6:

I – warning;

II – single fine;

III – daily fine;

IV – seizure of animals, products and byproducts of fauna and flora, instruments, supplies, equipment or vehicles of any nature used in the violation;

V – destruction of the product;

VI – suspension from selling or manufacturing the product;

VII – embargo of works or activity;

VIII – demolition of the works;

IX – partial or total suspension of activities;

X – (VETOED)

XI – restrictions of rights.

Paragraph 1. Should the violator simultaneously commit two or more violations, the corresponding penalties shall be applied cumulatively.

Paragraph 2. A warning shall be applied for failure to comply with the provisions of this Law and current legislation, or the regulatory norms, notwithstanding other penalties provided for in this Article.

Paragraph 3. A single fine shall be applied when the agent, by reason of unintentional crimes or fraud:

I – after being warned of the irregularities committed, fails to correct them within the deadline specified by the competent SISNAMA agency or by the Port Authority of Ministry of the Navy;

II – obstructs the monitoring of the SISNAMA agencies or the Port Authority of the Ministry of the Navy.

Paragraph 4. A single fine may be converted to services involving the preservation, improvement and restoration of the quality of the environment.

Paragraph 5. A daily fine shall be applied when commission of the violation takes place over an extended period of time.

Paragraph 6. The seizure and destruction mentioned in sections IV and V of the head provision of this Article shall comply with the provisions of Article 25 of this Law.

Paragraph 7. The penalties specified in sections VI to IX of the head provision of this Article shall be applied when the product, work, activity or establishment fail to comply with the legal or regulatory norms.

Paragraph 8. Penalties involving restrictions of rights shall be the following:

I – suspension of registration, license or authorization;

II – cancellation of registration, license or authorization;

III – loss or restriction of tax incentives and benefits;

IV – loss or suspension of participation in lines of credit at official credit establishments;

V – prohibition of contracting with the Government, for a period of up to three years.

Article 73. The sums collected in payment of fines for environmental violations shall be paid to the National Environmental Fund, created by Law No. 7797, of July 10, 1989, the Naval Fund, created by Decree No. 20923, of January 8, 1932, state or municipal environmental funds, or similar funds, as provided for by the collecting agency.

Article 74. The fine shall be based on the unit, hectare, cubic meter, kilogram or other relevant measure, in accordance with the harmed legal object.

Article 75. The value of the fine provided for in this Chapter shall be set according to this Law and shall be periodically adjusted, based on rates established in the corresponding legislation,

within the minimum amount of BRL 50.00 (fifty Brazilian reais) and the maximum of BRL 50,000,000.00 (fifty million Brazilian reais)

Article 76. The payment of fines imposed by the States, the Municipalities, the Federal District or the territories shall replace the federal fine in the same case for application.

CHAPTER VII

INTERNATIONAL COOPERATION FOR PRESERVATION OF THE ENVIRONMENT

Article 77. Consistent with maintaining national sovereignty, public order and good practices with respect to the environment, the Brazilian government shall provide the necessary cooperation to other countries, at no charge, when requested to:

I – produce evidence;

II – analyze objects and places;

III – provide information on individuals and things;

IV – arrange for the temporary presence of the arrested individual, whose statements are relevant for the ruling in a case;

V – provide other forms of assistance permitted by current law or by treaties to which Brazil is a member.

Paragraph 1. The request mentioned in this Article shall be sent to the Ministry of Justice, which shall forward it, when applicable, to the legal body of jurisdiction to rule in this regard, or to the authority capable of attending to it.

Paragraph 2. The request must contain the following:

I – the name and identification of the requesting authority;

II – the objective and reason for it;

III – a summary description of the procedure under way in the requesting country;

IV – a description of the assistance requested;

V – the documentation necessary for clarifications, as the case may be.

Article 78. In order to achieve the purposes intended by this Law, and specifically with a view to reciprocity in international cooperation, an appropriate communications system shall be maintained for facilitating the fast and safe exchange of information with agencies from other countries.

CHAPTER VIII

FINAL PROVISIONS

Article 79. The provisions of the Penal Code and the Code of Criminal Procedure shall also apply to this Law.

Article 79-A. For compliance with this Law, environmental bodies members of SISNAMA, responsible for the execution of programs and projects and for the control and supervision of the institutions and activities susceptible to damaging environmental quality, shall be authorized to enter into agreements, extrajudicially enforceable instruments, with natural persons or legal entities responsible for the construction, installation, expansion and operations of the institutions and activities making use of environmental resources, considered to be effectively or potentially polluting (Wording by Provisional Measure No. 2163-41, of 2001)

Paragraph 1. The deed of undertaking mentioned in this Article refers to, exclusively, allowing the natural persons and legal entities mentioned in the head provision of this Article to carry out the necessary adjustments of their activities, in order to comply with the requirements set by the competent environmental authorities, and it is mandatory that the respective document include: (Wording by Provisional Measure No. 2163-41, of 2001)

I – name, information and address of the parties and their respective legal representatives: (Wording by Provisional Measure No. 2163-41, of 2001)

II – The expiration date of the commitment which, due to the complexity of the obligations set, shall vary between a minimum of ninety days and a maximum from three years, with the possibility of renewal for an equal period; (Wording by Provisional Measure No. 2163-41, of 2001)

III – The detailed description of the objective, the investment amount and the schedule for the execution and implementation of the construction and the required services, with quarter targets to be reached: (Wording by Provisional Measure No. 2163-41, of 2001)

IV – fines that may be applied to the natural person or legal entity who made the commitment and the situations for termination, in case of non-compliance with the obligation set; (Wording by Provisional Measure No. 2163-41, of 2001)

V – the amount of the fine described in item IV shall not be higher than the amount of the anticipated investment; (Wording by Provisional Measure No. 2163-41, of 2001)

VI – the court of jurisdiction to settle any disputes between the parties. (Included by Provisional Measure No. 2163-41, of 2001)

Paragraph 2. Regarding projects underway until March 30, 1996, involving the construction, installation, expansion and operations of the institutions and activities making use of environmental resources, which are considered effectively or potentially polluting, the signing of the deed of

undertaking shall be required by the interested natural person or legal entity, until December 31, 1998, upon a written application filed before the competent bodies of SISNAMA, which shall be signed by the head of the institution. (Wording by Provisional Measure No. 2163-41, of 2001)

Paragraph 3. From the date the application provided for in Paragraph 2 is filed and as long as the corresponding deed of undertaking is valid, the administrative sanctions against the natural persons and legal entities who sign it shall be suspended concerning the facts which led to the signing of the instrument. (Wording by Provisional Measure No. 2163-41, of 2001)

Paragraph 4. The signing of the deed of undertaking described in this Article does not impede the enforcement of occasional fines applied before the filing of the application. (Wording by Provisional Measure No. 2163-41, of 2001)

Paragraph 5. The deed of undertaking shall be considered terminated when any of its clauses is violated, except for an act of God or force majeure. (Included by Provisional Measure No. 2163-41, of 2001)

Paragraph 6. The deed of undertaking shall be signed within ninety days, from the filing of the application. (Included by Provisional Measure No. 2163-41, of 2001)

Paragraph 7. The application for signing the deed of undertaking shall comprise the information necessary for verifying its technical and legal viability, under penalty of not granting the plan. (Included by Provisional Measure No. 2163-41, of 2001)

Paragraph 8. Under penalty of inefficacy, deeds of undertaking shall be published in a competent official body, via a summary. (Included by Provisional Measure No. 2163-41, of 2001)

Article 80. The Executive Branch shall implement this Law within a period of ninety days after its publication.

Article 81. (VETOED)

Article 82. All provisions to the contrary are hereby revoked.

Brasília, February 12, 1998; the 177th Anniversary of the Independence and the 110th Anniversary of the Republic.

FERNANDO HENRIQUE CARDOSO

Gustavo Krause

This text does not replace the one published in the Official Gazette of February 13, 1998 and altered on February 17, 1998