

**The Analysis of the Amendment of Section 190-1 of Criminal
Code:
Correlation with Criminal Sanctions in Environmental
Administrative Law**

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Abstract

In recent years, environmental pollution problem has attracted the attention of public opinion. In 2018, the Legislative Yuan passed the Amendment of Section 190-1 of Criminal Code, in which the element of “endanger concrete public safety” was removed. It means offenders who emit toxic substance or any other substance that may harm health to pollute the air, soil, or rivers or other bodies of water “without leading any public hazard” should be prosecuted. Also, according to the new section 190-1, A factory or business proprietor, supervisor, agent, employee or other personnel who commits the offense above in the performance of his occupation would be punished more severely. Besides, the penalties for attempted offenses and criminal offenses committed by manufacturer’s negligence were added. On the other hand, the unclear and ambiguous clause called “slightly impunity” was placed. This amendment of Criminal Code has led to lots of discussions in the academic, industrial and practical circles. However, there is still an important issue that has not been fully discussed, which the correlation between the new section 190-1 of Criminal Code and the criminal sanctions in environmental administrative law needs to be further clarified. This article firstly takes a preliminary review of these offenses. Secondly, while trying to take an integrative point of view, the author reviews and classifies all current supplementary criminal sanctions in environmental administrative

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codes. Finally, this article suggests that we shall draw up a more appropriate guideline for criminal legislation from the perspective of environmental regulations and policy. Criminal penalties can only be adopted to maintain the impartiality and correctness of environmental administration. We shall not overestimate the general preventive effect of the criminalization. And besides we shall enhance public awareness and corporate compliance of environmental protection, not through using tools of criminal punishment, but through making compliance incentives truly effective.

Keywords: direct punishment, criminalization, administrative effectiveness, administrative subordination, pollution, industry