

# 海南省反走私暂行条例

## Provisional Regulations of Hainan Province on Anti-Smuggling

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(2020年1月6日海南省第六届人民代表大会常务委员会第十七次会议通过)

## 第一章 总 则

**第一条** 为了预防和惩治走私，规范和推进反走私工作，维护市场秩序，保护市场公平竞争，根据《中华人民共和国海关法》等有关法律法规，结合本省实际，制定本条例。

**第二条** 本省反走私工作坚持打防结合、标本兼治、权责一致、统筹协调的原则，实行联合缉私、统一处理、综合治理的缉私体制和政府统一领导、部门各尽其责、企业自律配合、群众积极参与、军警民协调联动的综合治理机制，服务海南自由贸易试验区和海南自由贸易港建设。

**第三条** 县级以上人民政府领导本行政区域反走私综合治理工作，建立反走私综合治理工作责任制，将反走私工作纳入政府考核，完善反走私军警民协调联动综合治理机制，将所需经费列入同级财政预算，对反走私综合治理工作成绩突出的单位和个人给予表彰和奖励。

乡镇人民政府、街道办事处应当支持和配合有关部门开展反走私综合治理工作，并指导村民委员会、居民委员会做好反走私综合治理的相关工作。

村民委员会、居民委员会应当在当地人民政府指导下，支持和配合反走私综合治理工作。

# Provisional Regulations of Hainan Province on Anti-Smuggling

(Adopted at the 17th Session of the Standing Committee of the 6th Hainan  
Provincial People’s Congress on January 6, 2020)

## Chapter I General Provisions

**Article 1** In order to prevent and punish smuggling, regulate and promote the work on anti-smuggling, maintain market order and protect fair competition, the Provisional Regulations of Hainan Province on Anti-Smuggling (hereinafter referred to as the “Provisional Regulations”) are enacted pursuant to the Customs Law of the People’s Republic of China and other applicable laws and regulations, and based on the actual circumstances of this Province.

**Article 2** The anti-smuggling enforcement in this Province adheres to the principle of the combining punishment and protection, addressing both the symptoms and root causes, parity of power and responsibility and coordinated plans, and enforces the joint anti-smuggling system, uniform enforcement, and integrated management, and the comprehensive governance mechanism with unified government leadership, agencies performing their respective competent agency power and duties, entities cooperating with self-regulation, active public participation, and military-police-civilian coordination, so as to serve the construction of Hainan Free Trade Zone (hereinafter referred to as the “HFTZ”) and Hainan Free Trade Port.

**Article 3** The people’s governments at or above the county level shall lead the integrated anti-smuggling administration (hereinafter referred to as the “Administration”) in their respective administrative areas, establish the accountability system for the Administration, incorporate the Administration into the government evaluation, improve the military-police-civilian coordination of the Administration, incorporate the required funds into the financial budget at the same level, and commend and reward the organizations and individuals who outstandingly contribute to the Administration.

Township people’s governments and the local subdistrict competent agency shall support and collaborate with appropriate agency to carry out the Administration, and guide villagers’ committees and residents’ committees to make efforts to the Administration.

The villagers’ committees and residents’ committees shall, under the guidance of the local people’s governments, support and cooperate with the Administration.

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**第四条** 县级以上人民政府设立反走私综合治理领导机构。反走私综合治理领导机构负责做好反走私综合治理的组织、指导、协调、指挥、监督和检查等工作，具体履行下列职责：

- （一）制定反走私综合治理工作规划、计划；
- （二）组织、指导、协调有关部门、单位开展预防走私工作，监督、检查、考核反走私综合治理工作；
- （三）组织、指挥、监督有关部门、单位开展反走私综合治理联合执法和专项执法，协调、督促查处跨地区、跨部门的重大、复杂走私案件；
- （四）协调处理海关、海警查缉走私需要地方政府部门、单位配合的有关事项；
- （五）开展反走私综合治理信息化建设，提高反走私综合治理工作智能化水平；
- （六）组织宣传有关反走私综合治理的法律法规和方针政策；
- （七）负责本级人民政府和上级反走私综合治理领导机构交办的其他事项。

**第五条** 海关、海警按照国家规定职责查处走私违法犯罪行为。

公安机关依法查处发生在海关监管区外的非涉税走私犯罪案件，并及时查缉其他发生在海关监管区外的走私行为；在海关等有关部门履行反走私职责遇到抗拒时，公安机关应当予以协助并依法处理。

省人民政府确定的机构负责通过港口、铁路、机场运输出岛货物的查验工作。

市场监督管理、药品监督管理、交通运输、渔业、商务、财政、应急管理、生态环境、烟草专卖、海事、税务、人民银行等有关部门和单位，应当按照各自职责做好反走私综合治理相关工作。

**Article 4** The people’s governments at or above the county level set up a lead agency for the Administration (hereinafter referred to as the “Lead Agency”). The Lead Agency is responsible for the organization, guidance, coordination, command, oversight, and inspection of the Administration, and specifically the following:

- (a) draft the work planning and plan for the Administration;
- (b) organize, guide, and coordinate the appropriate agencies and organization to prevent smuggling, and oversight, inspect, and evaluate the Administration;
- (c) organize, direct, and oversee the appropriate agencies and organizations conducting joint and specific law enforcement for the Administration, and coordinate and oversee the investigation of major and complex smuggling cases across regions or agencies;
- (d) coordinate and manage interdiction of smuggling cases made by customs and the coast guard;
- (e) conduct the informationization of the Administration and promote the digitalization of the Administration;
- (f) organize and publish management laws and regulations, and policies; and
- (g) other matters designated by the people’s government at the corresponding level and the Lead Agencies of the Administration at higher grades.

**Article 5** The customs and coast guard investigate and manage smuggling illegal acts and crimes pursuant to their power and duties as provided by the state.

The public security agency investigates non-tax-related smuggling crime outside the customs supervision area pursuant to law, and promptly interdicts other smuggling outside the customs supervision area. If the customs and other appropriate agencies are refused during enforcement of duties, the public security agency shall assist and punish them pursuant to law.

The offices designated by the Provincial People’s Government are responsible for the inspection of goods departure from the Island through ports, railways and airports.

The market regulation, medical products administration, transportation, fishery, commerce, finance, emergency management, ecological environment, tobacco, maritime affairs, taxation, the people’s bank, and other appropriate agencies and organizations shall make efforts in the Administration pursuant to their respective duties.

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**第六条** 严禁利用国家给予本省的关税优惠政策和便利条件进行走私违法犯罪活动。

**第七条** 省人民政府应当建立反走私省际交流合作和跨境交流合作机制，实现区域间反走私信息共享和执法协作。

## 第二章 预 防

**第八条** 省人民政府应当支持在本省的港口、码头、机场、邮件处理中心和海关监管业务集中的地点设立口岸监管机构，对相关人员、运输工具、货物、物品依法履行监管职责。

海关监管的货物、物品进出本省的，应当通过设立海关的地点或者经批准的地点进出。

**第九条** 省人民政府应当统筹社会管理信息化平台和物流监管平台等信息化平台建设，强化物联网、大数据、人工智能等高新技术对反走私工作的支撑。

**第十条** 县级以上反走私综合治理领导机构应当组织相关部门建立反走私综合治理预警监测机制和信息通报制度，及时收集、汇总、分析涉嫌走私案件信息和数据，促进资源共享、协作联动和监管互认。

**第十一条** 海事、渔业、交通运输等部门应当按照各自职责分工加强对船舶的管理，建立船舶信息搜集跟踪机制。

在海南水域活动的船舶，应当按照规定配备无线电通信设备、船舶定位识别等装置，并保持正常工作状态，不得擅自关闭、拆卸。船舶无线电通信设备、船舶定位识别等装置发生故障的，应当及时报告海事、渔业等主管部门并迅速修复。

**Article 6** Use of preferential tariff policies and other concessions granted by the state to commit the smuggling-related illegal acts and crimes is strictly prohibited.

**Article 7** The Provincial People's Government shall establish inter-provincial and cross-border anti-smuggling communication and cooperation mechanism to realize inter-regional information sharing and law enforcement cooperation.

## **Chapter II Prevention of Smuggling**

**Article 8** The Provincial People's Government shall support the establishment of port oversight agencies in ports, docks, airports, mail processing centers and places where customs supervision is carried out in this Province, and oversee personnel, means of transport, goods, and articles pursuant to law.

The goods and articles under customs supervision shall enter and exit the province through the place where the customs reside, or through the approved place.

**Article 9** The Provincial People's Government shall coordinate the development of information platforms such as the social management information platform and logistics oversight platform, and improve high-tech support such as the Internet of Things, big data, and artificial intelligence for anti-smuggling.

**Article 10** The Lead Agencies for the Administration at or above the county level shall organize appropriate agencies to establish the warning and monitoring system and the information notification system for the Administration, collect, aggregate, and analyze information and data of the suspected smuggling in a timely manner, and promote resource sharing, collaboration and mutual recognition of the results.

**Article 11** The maritime, fishery, transportation, and other agencies shall improve the management of ships pursuant to their respective power and duties, and establish the ship information collection and tracking system.

Ships, in the waters under Hainan's jurisdiction, shall be equipped with radio communication equipment, ship positioning and identification devices pursuant to the rules, and keep them on, and not shut down or dismantle without authorization. In case of the failure of such equipment, ships shall promptly report to the competent agency of maritime affairs, fisheries, or other agencies and promptly repair such.

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**第十二条** 市、县、自治县人民政府应当建立基层预防走私工作机制，在容易发生走私的区域设立反走私工作站（点），设置固定的反走私宣传栏、警示牌、监控设施以及其他必要的装备设备。

反走私工作站（点）负责向有关部门反映涉嫌走私的情况和问题，并配合和协助有关部门开展工作。

**第十三条** 县级以上反走私综合治理领导机构应当建立健全反走私应急处理机制，制定应急预案，并报本级人民政府批准。

**第十四条** 各级人民政府及其有关部门应当组织开展反走私宣传教育，通过新闻出版、广播电视、报刊、互联网等媒体，对反走私工作进行公益宣传和舆论引导，增强公众反走私意识。

**第十五条** 县级以上人民政府应当组织有关部门开展反走私领域企业和个人诚信体系建设，建立企业和个人信用管理制度。

**第十六条** 县级以上人民政府应当设立举报奖励资金，制定举报奖励和保密制度，建立健全举报处理机制。

反走私综合治理领导机构、海关、海警、公安机关和市场监督管理等部门应当公布举报电话、通信地址和电子信箱。

**第十七条** 行业协会应当建立健全行业自律机制，指导、监督本行业进出口企业的经营活动，引导企业依法建立和完善进出口经营管理工作制度，提高企业自律管理能力。



**Article 12** The people's governments of cities, counties and autonomous counties shall create community-level anti-smuggling systems, set up anti-smuggling branches (offices), and set up anti-smuggling publicity bulletins, warning signs, monitoring facilities, and other necessary equipment.

The anti-smuggling branches (offices) are responsible for reporting the information of suspected smuggling to appropriate agencies and cooperating with and assisting such agencies.

**Article 13** The Lead Agencies for the Administration at or above the county level shall establish and improve the system for the anti-smuggling emergency response, draft emergency plans, and submit to the people's government at the same level for approval.

**Article 14** The people's governments and their appropriate agencies at all levels shall organize and carry out anti-smuggling education, and advertise in public and guide the public opinion concerning anti-smuggling management through press, radio and television, newspapers, and the internet, so as to enhance public awareness of anti-smuggling.

**Article 15** The people's governments at or above the county level shall organize appropriate agencies to carry out the development of the anti-smuggling credit system for business entities and individuals, and establish the credit management system for business entities and individuals.

**Article 16** The people's governments at or above the county level shall set up reward funds for reporting, enact reward and confidentiality systems for reporting, and establish and improve the reporting system.

The Lead Agency for the Administration, customs, coast guard, public security, and market regulation shall publish their phone number, mailing address, and e-mail for reporting.

**Article 17** The trade associations shall establish and improve the industry self-regulatory system, guide and oversee the business activities of import and export business entities of the industry, guide business entities to establish and improve the import and export management system pursuant to the rules, and improve the self-regulatory capabilities of business entities.

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### 第三章 查 缉

**第十八条** 禁止违反《中华人民共和国海关法》等有关法律、行政法规，逃避海关监管，偷逃应纳税款，逃避国家有关进出境的禁止性或者限制性管理的行为。

禁止违反国家和本省关于海南自由贸易港减免税进口货物、物品监管的有关规定，擅自将减免税进口货物、物品运输、携带、邮寄出岛销售牟利。

海南离岛免税物品按照国家有关规定监管。

海关、海警、公安机关和其他有关部门按照各自职责分工，加强对进口货物、物品的监督管理。

**第十九条** 禁止使用船舶、车辆、航空器等运输工具运输、收购、贩卖国家禁止或者未经许可的限制进出境的货物、物品，或者运输、收购、贩卖没有合法证明的减免税进口货物。

海关、海警、公安机关和海事、渔业等部门应当加强查缉使用无船名船号、无船舶证书、无船籍港的船舶进行走私的行为。

**第二十条** 省人民政府确定的机构在查验出岛货物时，发现涉嫌走私的行为，应当及时移送海关或者公安机关依法处理。具体查验办法由省人民政府制定。

**第二十一条** 禁止从事无合法来源证明进口货物经营行为。

经营进口货物的，应当索要或者复制进口货物的合法来源证明，建立凭证档案以及进货、销售记录制度。进口货物的合法来源证明和相关进货、销售记录保存期限不得少于货物保质期满后六个月，没有明确保质期的，保存期限不得少于二年。进口货物经营者应当建立进口货物追溯制度。

### Chapter III Smuggling Interdiction

**Article 18** It is prohibited, in violation the Customs Law of the People’s Republic of China and other applicable laws and administrative regulations, to refuse customs supervision, evade taxes payable, and avoid the state’s prohibitive or restrictive administration of entry and departure.

It is prohibited, in violation of applicable rules of the state and the Province on the oversight of duty-free imported goods and articles in the HFTZ, to transport, carry and mail the duty-free imported goods and articles departure from the Island for profit.

In respect of the offshore duty-free goods, applicable national rules shall apply.

The customs, coast guard, public security, and other appropriate agencies improve the oversight and administration of imported goods and articles pursuant to their respective duties.

**Article 19** It is prohibited to use ships, vehicles, aircraft, and other means to transport, purchase, or sell goods and articles prohibited by the state or restricted from entering or leaving the state without permission, or to transport, purchase, or sell imported goods without lawful certificates for tax reduction or exemption.

The customs, coast guard, public security, maritime affairs, fisheries, and other agencies shall strengthen the interdiction of smuggling by using ships without name, number, certificate and port of registry.

**Article 20** The agencies designated by the Provincial People’s Government in the inspection of goods departure from the Island shall promptly transfer it to the customs or public security agency if they find any smuggling involved. The specific inspection rules are enacted by the Provincial People’s Government.

**Article 21** It is prohibited to engage in the business of import without a lawfully issued certificate of origin.

The lawfully issued certificate of origin for the imported goods shall be required or provided with a copy for engaging in the business of import, and the archive and records system for import shall also be established. The lawfully issued certificate of origin of imported goods and appropriate purchases and sales records shall be preserved for no less than 6 months after the expiration of the shelf-life. If the shelf-life is not specified, the preservation period shall not be less than 2 years. The operators of imported goods shall establish the traceability system for the imported goods.

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市场监督管理、药品监督管理、生态环境、烟草专卖等部门应当按照各自职责分工，加强对进口货物经营行为的监督检查；对经营无合法来源证明进口货物、涉嫌走私的，应当及时移送海关或者公安机关依法处理，对不属于走私的，依照相关法律法规和本条例的规定予以查处。

**第二十二条** 禁止任何单位和个人为走私违法犯罪行为和无合法来源证明进口货物经营行为提供贷款、资金、帐号、发票、证明、海关单证，或者提供运输、保管、邮寄以及其他便利。

**第二十三条** 县级以上反走私综合治理领导机构应当协调和推动海关、海警、公安机关和其他有关部门加强沟通协作，建立完善案件协查制度，构建常态化的职能优势互补、执法信息共享的反走私联合机制。

海关、海警、公安机关和其他有关部门对查获的走私案件情况应当及时通报本级反走私综合治理领导机构。反走私综合治理领导机构应当将反走私综合治理的有关情况报告本级人民政府，并通报相关部门。

海关、海警、公安机关和其他有关部门应当建立健全反走私监督工作机制，确保执法活动规范、高效。

**第二十四条** 反走私综合治理领导机构、海关、海警、公安机关和其他有关部门应当利用社会管理信息化平台、物流监管平台等信息化平台，对走私活动开展态势感知、预警预测、综合研判，发现涉嫌走私线索和行为，及时组织核查处置。

**第二十五条** 县级以上反走私综合治理领导机构应当组织协调海关、海警、公安机关和其他有关部门，对走私高发区域、重点渠道、走私相对集中的运输工具、货物、物品集散地和经营场所，开展反走私联合执法或者专项执法。

The agencies responsible for regulatory activities including without limitation market regulation, medical products administration, ecological environment, and tobacco shall improve oversight and inspection of import pursuant to their respective powers and duties; the imported goods which have no lawfully issued certificate of origin and may constitute smuggling shall be promptly transferred to the customs or public security agencies, the imported goods not involved in smuggling shall be investigated and dealt with pursuant to applicable laws and regulations, and these Provisional Regulations.

**Article 22** Any entity or individual is prohibited from providing loans, funds, account numbers, tax receipts, certificates, customs documents, or providing other conveniences including transportation, storage, mailing for smuggling-related illegal acts and crimes and business of imported goods without legally issued certificate of origin.

**Article 23** The Lead Agency for the Administration at or above the county level shall coordinate and promote the customs, coast guard, public security, and other appropriate agencies to improve communication and collaboration, establish and improve the investigation system, and develop a regular joint anti-smuggling system that complements each other's advantages and law enforcement information sharing.

The customs, coast guard, public security, and other appropriate agencies shall promptly inform the Lead Agency for the Administration at the same level of the seizures. The Lead Agency for the Administration shall report the appropriate situation to the people's government at the corresponding level and inform the appropriate agencies.

The customs, coast guard, public security, and other appropriate agencies shall establish and improve the anti-smuggling oversight system to ensure the regulated and efficient law enforcement.

**Article 24** The Lead Agency for the Administration, customs, coast guard, public security, and other appropriate agencies shall make use of information platforms such as social management information platform and logistics oversight platform to carry out situational awareness, prior warning and prediction, coordinated consideration and with regard to the smuggling, discover suspected indications and activities related to smuggling, and promptly organize verification and processing.

**Article 25** The Lead Agency for the Administration at or above the county level shall organize and coordinate the customs, coast guard, public security, and other appropriate agencies to carry out joint or special law enforcement against smuggling in areas prone to smuggling, key channels, transportation tools, distribution centers of goods and articles and business places where smuggling are relatively concentrated.

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联合执法和专项执法应当将减免税进口货物、物品走私出岛的行为作为查处重点，加强对逃避海关监管的单位和人员，以及为其提供运输、仓储等服务的单位和人员的查处。

有关部门应当对有从事走私和经营无合法来源证明进口货物违法行为等不良信用记录的企业和个人进行重点检查，并通过企业信用信息系统或者政务网站等其他信息平台，及时公开其违法行为的查处结果。

**第二十六条** 沿海市、县、自治县人民政府应当建立基层反走私巡查工作机制，对沿海岸线实行岸长制、网格化管理，加强对辖区内港口、码头和海湾、堤岸、滩涂等区域的日常巡查。

市、县、自治县人民政府应当在反走私重点地区组建巡查队伍，协助配合海关、海警、公安机关和其他有关部门，加强重点巡查。

**第二十七条** 有关部门履行反走私职责时，可以行使以下职权：

（一）询问当事人或者有关人员；

（二）查阅、复制或者登记保存与违法行为有关的合同、票据、账簿以及其他资料；

（三）检查有违法嫌疑的运输工具、货物、物品和经营场所。检查时，有关当事人应当到场；当事人未到场的，在有见证人的情况下，可以径行检查；

（四）查封、扣押涉嫌走私或者无合法来源证明的进口货物、物品、运输工具、设备以及有关合同、票据、账簿等资料；

（五）法律法规规定的其他职权。

单位和个人应当配合有关部门行使职权，并如实提供相关资料。

The joint and special law enforcement shall take the smuggling of imported goods and articles with tax reduction and exemption departure from the Island as the key target, and strengthen the investigation and punishment of organization and personnel who avoid customs supervision, and who provide transportation, warehousing and other services.

The appropriate agencies shall prioritize the inspection of business entities and individuals with negative credit records such as ever engaged in smuggling or business without a lawfully issued certificate of origin, and disclose the results in a timely manner via other information platforms such as the business credit information system or government websites.

**Article 26** The people's governments of coastal cities, counties and autonomous counties shall establish the community-level anti-smuggling inspection system, enforce shore master system and grid management on coastline, and strengthen daily inspections on ports, docks, bays, embankments and tidal flats within their respective jurisdictions.

The cities, counties, autonomous county people's governments shall set up inspection teams in key areas of the anti-smuggling, assist with customs, coast guard, public security, and other appropriate agencies to strengthen key inspections.

**Article 27** The appropriate agencies may exercise the following functions and powers when enforcing anti-smuggling duties:

- (a) examine the party concerned or appropriate personnel;
- (b) consult, copy, register, or preserve contracts, bills, account books, and other materials related to the illegal acts;
- (c) check the suspected illegal means of transport, goods, articles, and business places. During the inspection, the party concerned shall be present; if not, they may conduct a spot inspection with the presence of a witness;
- (d) seize and detain imported goods, articles, means of transport, equipment, appropriate contracts, bills, account books, and other materials under the suspicion of smuggling or without a lawfully issued certificate of origin; and
- (e) others as provided by the laws and regulations.

The entity and individual shall cooperate with appropriate agencies to exercise their functions and powers and provide the true information.



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## 第四章 处 理

**第二十八条** 有关部门查获的走私案件，依法应当给予行政处罚的，移送海关、海警依法处理；涉嫌犯罪的，应当移送海关、海警或者公安机关依据案件管辖分工和法定程序依法处理。海关查获的属于公安机关、市场监督管理部门等管辖的案件，移送有管辖权的公安机关、市场监督管理等部门依法处理。

有关部门对案件移送或者管辖有异议的，由同级反走私综合治理领导机构协调处理。

接受移送部门应当及时将案件移送情况和处理结果，报告同级反走私综合治理领导机构，处理结果同时反馈原移送部门。

**第二十九条** 对当事人逃逸或者所有人不明，导致违法事实无法查清、处理有争议或者需要有关部门配合的，由查获地市、县、自治县反走私综合治理领导机构协调处理；跨地域移送的，报省反走私综合治理领导机构协调处理。

**第三十条** 市场监督管理、药品监督管理、生态环境、烟草专卖等部门查获涉嫌无合法来源证明的进口货物以及涉案运输工具、设备，当事人无法查清的，应当在本级人民政府门户网站或者当地主要新闻媒体上发布协助调查公告，公告期限为二十日。公告期满无当事人接受调查的，查获部门应当对涉嫌无合法来源证明的进口货物以及涉案运输工具、设备予以没收。



## Chapter IV Treatment

**Article 28** In respect of the seizure by appropriate agencies, if the party concerned shall be given administrative punishment pursuant to law, such party shall be transferred to the customs or coast guard; if it constitutes a crime, the party concerned shall be transferred to the customs, coast guard, or public security agencies pursuant to the jurisdiction and legal procedures. In respect of the seizure by the customs under the jurisdiction of public security agencies or market regulation agency, the party concerned shall be transferred to the competent public security agency or market regulation agency.

If the appropriate agencies raise any objection to the transfer or jurisdiction, it shall be coordinated by the Lead Agency for the Administration at the same level.

The agency to which the transfer is made shall promptly report such transfer case and its result to the Lead Agency for the Administration at the same level and report to the agency from which the transfer is made.

**Article 29** If the party escapes or the owner is unknown, resulting in failure to ascertain the truth and disputed treatment or the cooperation of appropriate agencies is required, it shall be coordinated by the Lead Agency for the Administration in the cities, counties and autonomous counties where the seizure is conducted; if the transfer is made across regions, the provincial Lead Agency for the Administration shall coordinate such transfer after approval.

**Article 30** The agencies responsible for regulatory activities including without limitation market regulation, medical products administration, ecological environment, and tobacco, upon seizing the suspected imported goods without a lawfully issued certification of origin and transportation but with no discovered responsible party, shall issue a notice of request for assistance on the people's government website portal at the corresponding level or the local major news media, and the notice shall be on for 20 days. If no party is subject to investigation at the expiration, the seizure agency shall confiscate the imported goods, the transportation vehicles, and the equipment involved.

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**第三十一条** 依法查封、扣押的涉嫌无合法来源证明的进口货物，属于危险化学品或者鲜活、易腐、易失效等不宜长期保存的，有关部门可以依法先行变卖、销毁。

**第三十二条** 县级以上反走私综合治理领导机构应当协调和推动海关、海警、公安机关和其他有关部门建立完善走私案件涉案货物、物品处理机制。

## 第五章 法律责任

**第三十三条** 违反本条例第十一条第二款，船舶未按规定配备无线电通信设备、船舶定位识别等装置，或者配备后擅自关闭、拆卸的，或者发生故障不及时报告、不修复的，由海事、渔业等主管部门或者海警、公安机关责令改正，处五千元以上三万元以下罚款。

**第三十四条** 违反本条例第十八条的，依照《中华人民共和国海关法》等法律、行政法规的规定处罚。

**第三十五条** 违反本条例第十九条第一款，使用船舶、车辆、航空器等运输工具运输、收购、贩卖国家禁止或者未经许可的限制进出境的货物、物品的，依照《中华人民共和国海关法》等法律、行政法规的规定处罚；运输、收购、贩卖没有合法证明的减免税进口货物的，由海关、海警、公安机关按照各自职责分工，没收非法运输、收购、贩卖的减免税进口货物、违法所得、专门用于掩护违法活动的货物、物品以及专门用于违法活动的运输工具、设备，并处货值金额等额以下罚款。

**Article 31** If the imported goods, having been seized or detained pursuant to law and suspected of lacking a lawfully issued certificate of origin, are dangerous chemicals or not suitable for long-term preservation, such as being fresh, perishable, and ineffective, the appropriate agency may sell or destroy them pursuant to law.

**Article 32** The Lead Agency for the Administration at or above the county level shall coordinate and promote the customs, coast guard, public security agencies, and other appropriate agencies to establish and improve the processing system for goods and articles involved smuggling.

## **Chapter V Legal Liability**

**Article 33** If, in violation of Paragraph 2 of Article 11 of these Regulation, the vessel is not equipped with radio communication equipment, ship positioning and identification devices pursuant to the rules or which is closed or dismantled without authorization, or fails to promptly report or repair the malfunction, the competent agencies of maritime affairs and fisheries, the coast guard, or public security agencies shall demand it to correct such, and impose a fine of not less than 5,000 Yuan and not more than 30,000 Yuan.

**Article 34** Anyone in violation of Article 18 of these Regulations shall be punished pursuant to the Customs Law of the People's Republic of China, and other applicable laws and administrative regulations.

**Article 35** Anyone who uses ships, vehicles, aircraft, and others to transport, purchase, or sell goods and articles prohibited by the state or restricted from entering or leaving the state without permission in violation of Paragraph 1 of Article 19 of these Regulations shall be punished pursuant to the Customs Law of the People's Republic of China, other applicable laws and administrative regulations; in case of transporting, purchasing, or selling imported goods with tax reduction or exemption without legal proof, the customs, coast guard, and public security agencies shall, pursuant to their respective functions and duties, confiscate the illegally transported, purchased, or sold imported goods with tax reduction or exemption, illegal income, goods and articles specifically used to conceal the illegal activity, and transportation and equipment specifically used for the violation, and impose a fine equal to or less than the value of the goods.

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**第三十六条** 违反本条例第二十一条第一款，经营无合法来源证明进口货物，构成走私的，依照《中华人民共和国海关法》等法律、行政法规的规定处罚；不构成走私的，由市场监督管理、药品监督管理、生态环境、烟草专卖等部门按照各自职责分工，没收违法所得、违法经营的进口货物和专门用于违法活动的运输工具、设备，处三千元以上三万元以下罚款；情节严重的，处三万元以上三十万元以下罚款，货值金额超过三十万元的，处货值金额等额罚款，并责令停业整顿，直至依法吊销营业执照、相关许可证；经营无合法来源证明进口货物，同时违反食品安全、药品、烟草专卖、动物防疫、野生动植物及其制品管理以及固体废物污染环境防治等法律法规规定的，由市场监督管理、药品监督管理、生态环境、农业农村、烟草专卖等部门依照法律法规的规定处罚。

违反本条例第二十一条第二款，未按规定建立并遵守进口货物凭证档案以及进货、销售记录制度的，由市场监督管理、药品监督管理、生态环境、烟草专卖等部门按照各自职责分工，责令改正，给予警告；拒不改正的，处三千元以上三万元以下罚款，法律法规另有规定的，从其规定。

**第三十七条** 违反本条例第二十二条，与走私人通谋为走私人提供贷款、资金、帐号、发票、证明、海关单证，或者提供运输、保管、邮寄以及其他便利的，依照《中华人民共和国海关法》等法律、行政法规的规定处罚。

**Article 36** The people's governments at or above the county level shall draft development plans for big data talents, train and introduce high-end leading talents and talents in urgent need, and facilitate big data talents to carry out teaching, scientific research, entrepreneurial innovation, and other activities; anyone who engages in importing goods without a lawfully issued certificate of origin which amounts to smuggling in violation of Paragraph 1 of Article 21 of these Regulations shall be punished pursuant to the Customs Law of the People's Republic of China and other applicable laws and administrative regulations; if not, the market regulation, medical products administration, ecological environment, tobacco, and other departments shall, pursuant to their respective functions and duties, confiscate the illegal income, illegally operated imported goods and transportation and equipment specially used for the violation, and impose a fine of not less than 3,000 Yuan and not more than 30,000 Yuan; if the circumstances are serious, a fine of not less than 30,000 Yuan and not more than 300,000 Yuan shall be imposed. If the value exceeds 300,000 Yuan, a fine equal to the value of the goods shall be imposed, and the party concerned shall be required to suspend for correction until its business license and appropriate licenses are voided pursuant to law; anyone, engaging in imported goods without a lawfully issued certificate and in violation of the law such as food safety, drugs, tobacco, animal epidemic prevention, management of wild animals and plants and their products, and prevention and control of environmental pollution by solid waste, shall be punished by the market regulation, medical products administration, ecological environment, agriculture and rural affairs, and tobacco agencies pursuant to law.

Anyone who fails to prepare and comply with import goods record and the purchase and sales record-keeping requirements in violation of Paragraph 2 of Article 21 of these Regulations, the market regulation, medical products administration, ecological environment, tobacco, and other agencies shall, pursuant to their respective functions and duties, require them to correct and issue a warning; if the correction is refused, a fine of not less than 3,000 Yuan and not more than 30,000 Yuan shall be imposed, unless otherwise provided by laws and regulations.

**Article 37** Anyone who conspires with smugglers to provide loans, funds, account numbers, receipts, certificates, customs documents, or provide transportation, storage, mailing, and other conveniences in violation of Article 22 of these Regulations shall be punished pursuant to the Customs Law of the People's Republic of China and other applicable laws and administrative regulations.

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违反本条例第二十二條，知道或者应当知道他人经营无合法来源证明进口货物，仍为其提供贷款、资金、帐号、发票、证明、海关单证，或者提供运输、保管、邮寄以及其他便利的，由市场监督管理、药品监督管理、生态环境、烟草专卖等部门按照各自职责分工，责令停止违法行为，没收违法所得和专门用于违法活动的运输工具、设备，处三千元以上三万元以下罚款；情节严重的，处三万元以上三十万元以下罚款，货值金额超过三十万元的，处货值金额等额罚款，并责令停业整顿，直至依法吊销营业执照、相关许可证。

**第三十八條** 违反本条例第二十七條第二款，单位或者个人拒绝配合有关部门检查，拒绝提供检查资料或者提供虚假资料的，有关部门可以责令其改正，给予警告；逾期不改正的，可以处三千元以上三万元以下罚款；情节严重的，处三万元以上二十万元以下罚款；构成违反治安管理行为的，由公安机关依法给予治安管理处罚。

**第三十九條** 有本条例规定的违法行为的，依照有关规定记入信用档案，予以公示；对严重失信企业和个人，由有关部门采取取消通关便利、取消减免税进口货物买卖资格等措施予以联合惩戒；联合惩戒严重失信企业时，对其相关责任人员同时采取相应的惩戒措施。

**第四十條** 各级人民政府、有关部门及其工作人员有下列情形之一的，由有权机关按照管理权限责令改正，对直接负责的主管人员和其他直接责任人员依法给予处分：

- （一）未按照规定履行反走私综合治理职责的；
- （二）对走私案件应当依法移送其他有关部门处理而不移送的；
- （三）包庇、纵容走私或者本条例规定的禁止性行为的；

If anyone, in violation of Article 22 of these Regulations, knows or should have known that another person is engaged in the import of goods without a lawfully issued certificate of origin, still provides loans, funds, account numbers, invoices, certificates, customs documents, or provides transportation, storage, mailing and other conveniences, the agency responsible for activities including without limitation market regulation, medical products administration, ecological environment, and tobacco, shall intervene to stop such illegal acts pursuant to their respective functions and duties, confiscate the illegal income and the transportation and equipment specifically used for the violation, and impose a fine of more than 3,000 Yuan and less than 30,000 Yuan; if the circumstances are serious, a fine of not less than 30,000 Yuan and not more than 300,000 Yuan shall be imposed; if the value exceeds 300,000 Yuan, a fine equal to the value shall be imposed, and the party concerned shall be ordered to suspend for remediation until its business license and appropriate licenses are voided pursuant to law.

**Article 38** If the entity or individual, in violation of Paragraph 2 of Article 27 of these Regulations, refuses to cooperate with the inspection of an appropriate agency, to provide inspection data or false information, the appropriate agency may require it to correct and issue the warning; if overdue, a fine of not less than 3,000 Yuan and not more than 30,000 Yuan shall be imposed; if the circumstances are serious, a fine of not less than 30,000 Yuan and not more than 200,000 Yuan shall be imposed; if in violation of public safety requirements, the party concerned shall be punished by the public security agency pursuant to law.

**Article 39** Anyone, in violation of these Regulations, shall be filed in the credit records pursuant to the rules and published. In respect of the business entities' and individuals' serious dishonesty, the appropriate agencies shall take action including without limitation terminating the customs clearance conveniences and the qualifications for the purchase and sale of imported goods for tax reduction and exemption. Where jointly and several liability is imposed on business entities with serious dishonesty, the employees liable shall be subject to corresponding disciplinary measures.

**Article 40** If the people's governments, appropriate agencies, and their staff members at all levels are under any of the following circumstances, the competent agencies shall require correction pursuant to their administrative functions and duties, and the person directly in charge and other employees directly liable shall be punished pursuant to law:

- (a) failure to perform the duties of the Administration pursuant to the rules;
- (b) failure to transfer the smuggling cases to other appropriate agencies pursuant to law, which shall be transferred;
- (c) providing shelter or conniving with smuggling or prohibited matters as provided in these Regulations;



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(四) 泄露举报人、投诉人信息的；

(五) 违法处理涉案财物的；

(六) 其他滥用职权、玩忽职守、徇私舞弊的行为。

**第四十一条** 违反本条例的行为，根据国务院相对集中行政处罚权的规定已经确定集中由市、县、自治县综合执法部门处理的，从其规定。

**第四十二条** 违反本条例规定的行为，本条例未设定处罚而法律法规另有处罚规定的，从其规定。

违反本条例规定的行为，构成犯罪的，依法追究刑事责任。

## 第六章 附 则

**第四十三条** 本条例下列用语的含义：

(一) 出岛，是指从海南岛到其他省、自治区、直辖市，或者从海南岛到本省其他行政区域。

(二) 无合法来源证明进口货物经营行为，是指从事经营活动的单位或者个人，对其所运输、储存、销售的进口货物，在被有关部门检查之日起七个工作日内或者有关部门同意的延长期限内，不能提供进口货物合法来源证明的行为。有关部门同意延长的期限最长不得超过二十日。

进口货物合法来源证明，包括进口货物报关单、进口关税及进口环节海关代征税纳税凭证、进货发票、商业单证、运输单证、依法拍卖成交确认书或者其他可以证明合法来源的材料。

**第四十四条** 本条例自 2020 年 4 月 1 日起施行。



- (d) leaking the information of the reporter and complainant;
- (e) illegally processing the property involved; or
- (f) others including abuse of position, dereliction of duty or playing favoritism and committing irregularities.

**Article 41** If any violation of these Regulations is subject to the comprehensive law enforcement agency at the city, county or autonomous county level according to the rules of the State Council concerning the power to impose administrative penalty in a centralized manner, such rules shall prevail.

**Article 42** Where there are rules provided by other laws and regulations concerning the acts that violate these Regulations, such rules shall control.

Where the violation of these Regulations amounts to a crime, criminal liability shall be imposed pursuant to law.

## Chapter VI Supplementary Provisions

**Article 43** The terms of these Regulations shall be subject to the following meaning:

(a) “Leaving the Island” refers to travelling from Hainan Island to other provinces, autonomous regions and municipalities directly under the Central Government, or from Hainan Island to other administrative areas of this Province.

(b) “The business of imported goods without a lawfully issued certification of origin” refers to that the entity or individual, engaged in business activities, fails to provide a lawfully issued certification of origin of the imported goods within 7 business days of the date of inspection by appropriate agencies or within the extended period granted by appropriate agencies. The extension granted by the appropriate agencies shall not exceed 20 days.

The lawfully issued certification of origin of the imported goods, including customs declaration form of imported goods, import duties, tax payment document issued by customs at import, purchase invoice, commercial document, transport document, confirmation of lawful auction or other materials that can evidence the origin pursuant to law.

**Article 44** These Regulations shall come into force as of April 1, 2020.

