



THE LATEST ENVIRONMENTAL CRIMES IN PUERTO RICO

Law number 149, ratified on June 18th, 2004, amended the 1974 Puerto Rico Penal Code. Among the new articles included, environmental crime is featured. This is a type of crime that has been on the rise in the Island.

Before discussing the crimes, we need to make it clear that the Law in Puerto Rico establishes what is known as the Principle of Legality. This principle does not allow the Judicial Branch to criminally process a person if the act committed is not described as a crime in the Penal Code or as part of a special law. It further establishes that the imposed fine has to be in proportion to the crime and not threaten human dignity and civil rights.

The Penal Code also establishes that the imposed penalty can be in response to the attempt or completion of the crime within the territorial area of Puerto Rico, including: the main island territory, the Municipal Islands Culebra and Vieques, the uninhabited islands, the sea and the air.

Furthermore, if it is proven that a person attempted or successfully committed a crime in Puerto Rico, this person is then reported to the police and processed by a judge. The person will be penalized if found guilty, and the punishment can include a fine and/or a prison term. Depending on the penalty imposed by the judge, the fee can include the restoration of the affected place to its original state, damage mitigation or any type of environmental repair.

I. What is a Crime?

A crime is an act or omission that is in direct violation of the law which protects or emits an order, and, if proven, merits a fine or security measure. Crimes are classified through their severity. A misdemeanor results in a fine of up to \$5,000 and/or 90 days' imprisonment. On the other hand, felonies are those criminal offenses included in the Penal Code.

Felonies are classified from first to fourth degrees. The difference between them is the amount fined and the time incarcerated. Environmental crimes are classified as felonies in the second, third and fourth degrees. A felony in the second degree involves a prison sentence of between eight (8) months to one (1) year. A felony in the third degree involves a prison sentence of between three (3) years and one (1) day to a maximum of eight (8) years, and a felony in the fourth degree carries a prison term of between six (6) months and one (1) day to a maximum of three (3) years.

II. How is a Crime Committed?

Crimes are actions or omissions that act against the law. They are the result of an action if the perpetrator has the intent to perform the criminal action and manages to do so. Also, there is attempted action, which means that a person has the intent to commit a crime but due to circumstances beyond the criminal's control, the action remains undone. When crimes are of omission, it means that a person does nothing to prevent a crime from taking place.

III. Environmental Crimes

Environmental crimes, among others, are classified in the First and Second Sections of Chapter I (Fires and Catastrophic Risks) of Title III (Crimes Against Collective Safety). In this short paper, we will list each environmental crime, its corresponding article number in the 2004 Penal Code, and its description, along with the matching sentence.

If you observe anyone committing any of these crimes, you should notify the Police through an official complaint. This is the first step in initializing the process which makes a person comply with the law.

238. Forest Fire

Any person who sets fire to hills, fields, pastures, forests or plantations belonging to another person incurs in a crime in the third degree.

239. Negligent Fire

Any person who causes, through personal negligence, a fire in a building, hill, field, pasture, forest or plantation, and by doing so, endangers the life, health or physical integrity of people, incurs in a felony in the fourth degree.

240. Ravage

Every person who endangers the life, health, physical integrity or safety of one or more persons, or causes harm to the environment by provoking an explosion, a flood or a landslide, by causing the demolition of real estate, or using a toxic or a suffocating gas, nuclear energy, ionizing elements or radioactive material, microorganisms or any other substance that is harmful to human health or possesses destructive capabilities, incurs in a felony in the second degree. If the harms incurred in this crime are done out of negligence, the crime is considered a felony in the third degree. The court can also order a restitution penalty.

241. Poisoning of Public Use Waters

Any person who endangers the life or health of one or more persons by poisoning, polluting, or spilling substances which destroy human health, into wells, reservoirs, bodies of water or waterways that serve human communities, incurs in a felony in the third degree. If the harms incurred in this crime are done out of negligence, the crime is considered a felony in the third degree. The court can also order a restitution penalty.

242. Environmental Pollution

Any person who provokes, directly or indirectly, emissions, radiations or spillages of any nature on the soil, atmosphere, or superficial, subterranean or marine waters, in violation of the law, and by doing so gravely endangers the people's health or the natural balance of ecosystems or the environment, incurs in a felony in the fourth degree. The court can also order a restitution penalty.

243. Aggravated Environmental Pollution

If the crime of environmental Pollution, typified in Article 242, is done by a legal entity¹ without the proper permits, endorsements, certifications, franchises or environmental concessions, or done clandestinely, or has violated the express dispositions of the environmental authorities in the correction or suspension of acts in violation of the law, or who has provided false information or omitted information required for the obtainment of said permits, endorsements, certifications, franchises or environmental concessions, or who impeded or obstructed inspections performed by a competent authority, incurs in a felony in the third degree. The court may also suspend the license, permit or authorization, and impose a restitution penalty.

References

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¹Legal entity – Being or entity capable of rights and obligations despite not having an individual, physical presence, such as corporations, associations, societies, foundations, etc.