

中华人民共和国侵权责任法

Tort Liability Law of P. R. China

*Translated by Zhu WANG **

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* Zhu WANG, *LLD.*, Professor of Sichuan University Law School, Deputy Director of Institute for Chinese Tort Law of Research Center for Civil and Commercial Jurisprudence of Renmin University of China, Researcher of Sino-European Tort Law Institute of Yantai University. Email: wangzhu@scu.edu.cn.

第一章 一般规定

Chapter I. General Provisions

第一条 为保护民事主体的合法权益，明确侵权责任，预防并制裁侵权行为，促进社会和谐稳定，制定本法。

Article 1. This law is formulated in order to protect the legal rights and interests of civilian subjects, clarify tort liability, guard against and impose sanctions for a tortious act, and promote social harmony and stability.

第二条 侵害民事权益，应当依照本法承担侵权责任。

Article 2. [One who] infringes on the civil rights or interests [of another], shall bear tort liability according to this law.

本法所称民事权益，包括生命权、健康权、姓名权、名誉权、荣誉权、肖像权、隐私权、婚姻自主权、监护权、所有权、用益物权、担保物权、著作权、专利权、商标专用权、发现权、股权、继承权等人身、财产权益。

For the purpose of this law, civil rights or interests include personal or property rights or interests, such as right to life, right to health, right to name of natural person, right to reputation, right to honor, right to portrait, right to privacy, right to marital autonomy, right to guardianship, right to ownership, usufructuary rights, rights for security, copyrights, patent rights, exclusive trademark rights, right of discovery, stock right, right of succession.

第三条 被侵权人有权请求侵权人承担侵权责任。

Article 3. A victim has the right to demand the tortfeasor to bear tort liability.

第四条 侵权人因同一行为应当承担行政责任或者刑事责任的，不影响依法承担侵权责任。

Article 4. That a tortfeasor, for the same act also bears administrative liability or criminal liability, does not affect his bearing tort liability according to law.

因同一行为应当承担侵权责任和行政责任、刑事责任，侵权人的财产不足以支付的，先承担侵权责任。

If the same act yields tort, administrative, and criminal liability, and the assets of the tortfeasor are insufficient for payment, the tort liability shall be primary.

第五条 其他法律对侵权责任另有特别规定的，依照其规定。

Article 5. If other laws contain specific tort liability rules, then that law shall govern.

第二章 责任构成和责任方式

Chapter II. The Constitution of Liability and Forms to Bear Liability

第六条 行为人因过错侵害他人民事权益，应当承担侵权责任。

Article 6. An actor, who is at fault in infringing on another's civil rights or interests, shall bear tort liability.

根据法律规定推定行为人有过错，行为人不能证明自己没有过错的，应当承担侵权责任。

If an actor is presumed to be at fault according to provisions of law, and the actor can not prove he had no fault, he shall bear tort liability.

第七条 行为人损害他人民事权益，不论行为人有无过错，法律规定应当承担侵权责任的，依照其规定。

Article 7. If an actor damages another's civil rights or interests, no matter the actor is at fault or not, in case that a provision of law requires him to bear tort liability, then that provision shall govern.

第八条 二人以上共同实施侵权行为，造成他人损害的，应当承担连带责任。

Article 8. If two or more persons together engage in a tortious act, cause harm to another, they shall bear joint and several liability.

第九条 教唆、帮助他人实施侵权行为的，应当与行为人承担连带责任。

Article 9. [One who] instigates or assists another to engage in a tortious act shall bear joint and several liability with the actor.

教唆、帮助无民事行为能力人、限制民事行为能力人实施侵权行为的，应当承担侵权责任；该无民事行为能力人、限制民事行为能力人的监护人未尽到监护责任的，应当承担相应的责任。

[One who] instigates or assists a person without capacity for civil act or with limited capacity for civil act to engage in a tortious conduct, shall bear tort liability; if the guardian of the person without capacity for civil act or the person with limited capacity for civil act fails to fulfill the obligations of guardianship, [the guardian]

shall bear corresponding liability.

第十条 二人以上实施危及他人人身、财产安全的行为，其中一人或者数人的行为造成他人损害，能够确定具体侵权人的，由侵权人承担责任；不能确定具体侵权人的，行为人承担连带责任。

Article 10. If two or more persons engage in acts, which endangers the safety of the person or property of another, acts of one or several of them [actually] causes harm to another, in case that the specific tortfeasor can be identified, the tortfeasor bears tort liability; in case that it is impossible to identify the specific tortfeasor, [each] actor shall bear joint and several liability.

第十一条 二人以上分别实施侵权行为造成同一损害，每个人的侵权行为都足以造成全部损害的，行为人承担连带责任。

Article 11. If two or more persons engage in tortious acts separately, cause a single harm, each person's tortious act is sufficient to cause the harm, [each] actor shall bear joint and several liability.

第十二条 二人以上分别实施侵权行为造成同一损害，能够确定责任大小的，各自承担相应的责任；难以确定责任大小的，平均承担赔偿责任。

Article 12. If two or more persons engage in tortious acts separately, cause a single harm, in case that the extent of responsibility can be determined, [each one] bears corresponding liability; in case that the extent of responsibility can not be determined, [each actor] shall equally bear the compensatory liability.

第十三条 法律规定承担连带责任的，被侵权人有权请求部分或者全部连带责任人承担责任。

Article 13. When the law provides for bearing joint and several liability, the victim has the right to demand part or all of the jointly and severally liable persons to bear liability.

第十四条 连带责任人根据各自责任大小确定相应的赔偿数额；难以确定责任大小的，平均承担赔偿责任。

Article 14. The corresponding amount of compensation of each jointly and severally liable person is determined according to the extent of responsibility; if the extent of responsibility can not be determined, compensatory liability shall be borne equally.

支付超出自己赔偿数额的连带责任人，有权向其他连带责任人追偿。

If a jointly and severally liable person paid more than his share of compensation, he/she has the right to

claim contribution to other jointly and severally liable persons.

第十五条 承担侵权责任的方式主要有：

- (一) 停止侵害；
- (二) 排除妨碍；
- (三) 消除危险；
- (四) 返还财产；
- (五) 恢复原状；
- (六) 赔偿损失；
- (七) 赔礼道歉；
- (八) 消除影响、恢复名誉。

以上承担侵权责任的方式，可以单独适用，也可以合并适用。

Article 15. The principal forms to bear tort liability are to:

- (1) Cease the infringement;
- (2) Remove the obstruction;
- (3) Eliminate the danger;
- (4) Return the property;
- (5) Restore the status quo ante;
- (6) Compensate for the loss;
- (7) Make a full apology;
- (8) Eliminate the ill effects and restore reputation.

The forms to bear tort liability aforementioned may be applied singly, or in combination.

第十六条 侵害他人造成人身损害的，应当赔偿医疗费、护理费、交通费等为治疗和康复支出的合理费用，以及因误工减少的收入。造成残疾的，还应当赔偿残疾生活辅助具费和残疾赔偿金。造成死亡的，还应当赔偿丧葬费和死亡赔偿金。

Article 16. [One who] infringes on another, causes physical injury, shall compensate for the reasonable expenses of medical care, nursing, and transportation, etc. for the purpose of therapy and restoring good health, as well as reduced income due to loss of working time. [One who] causes disability shall also pay expense for prostheses and compensation for disability. [One who] causes death shall also pay funeral expenses and compensation for death.

第十七条 因同一侵权行为造成多人死亡的，可以以相同数额确定死亡赔偿金。

Article 17. If a tortious act causes more than one person dead, compensation for death may be determined in the same amount.

第十八条 被侵权人死亡的，其近亲属有权请求侵权人承担侵权责任。被侵权人为单位，该单位分立、合并的，承继权利的单位有权请求侵权人承担侵权责任。

Article 18. If the victim is dead, his close relatives have the right to demand the tortfeasor to bear tort liability. In case that the victim is an entity, if the entity is separated or merged, the entity that inherits the rights has the right to demand the tortfeasor to bear tort liability.

被侵权人死亡的，支付被侵权人医疗费、丧葬费等合理费用的人有权请求侵权人赔偿费用，但侵权人已支付该费用的除外。

If the victim is dead, those who paid for the victim's medical expenses, funeral expenses, and related reasonable expenses have the right to claim indemnity from the tortfeasor, except that the tortfeasor has already paid such expenses.

第十九条 侵害他人财产的，财产损失按照损失发生时的市场价格或者其他方式计算。

Article 19. [One who] infringes on another's property, the property loss is calculated according to the market price at the time the loss occurred or [calculated by] other ways.

第二十条 侵害他人人身权益造成财产损失的，按照被侵权人因此受到的损失赔偿；被侵权人的损失难以确定，侵权人因此获得利益的，按照其获得的利益赔偿；侵权人因此获得的利益难以确定，被侵权人和侵权人就赔偿数额协商不一致，向人民法院提起诉讼的，由人民法院根据实际情况确定赔偿数额。

Article 20. [One who] infringes on another's personal rights or interests, causes property loss, shall compensate for the victim's loss suffered from the tort; if the victim's loss can not to be determined, and the tortfeasor gains interests from the tort, [the tortfeasor] shall compensate according to the interest he gains; if the tortfeasor's interests gained from the tort can not to be determined, and the victim and the tortfeasor can not reach an agreement on the amount of compensation, and bring lawsuit to a people's court, the people's court shall determine the amount of compensation according to the actual circumstances.

第二十一条 侵权行为危及他人人身、财产安全的，被侵权人可以请求侵权人承担停止侵害、排除妨碍、消除危险等侵权责任。

Article 21. If a tortious act endangers the safety of the person or property of another, the victim can demand the tortfeasor to bear tort liabilities such as cession of infringement, removal of obstruction and elimination of danger.

第二十二条 侵害他人人身权益，造成他人严重精神损害的，被侵权人可以请求精神损害赔偿。

Article 22. If [one] infringes on another's personal rights or interests, causes serious emotional harm, the victim may claim solatium for emotional harm.

第二十三条 因防止、制止他人民事权益被侵害而使自己受到损害的，由侵权人承担责任。侵权人逃逸或者无力承担责任，被侵权人请求补偿的，受益人应当给予适当补偿。

Article 23. If preventing or stopping another's civil rights and interests from suffering harm causes one to himself suffer harm, the tortfeasor shall bear liability. If the tortfeasor flees or is unable to bear liability, and the victim claim indemnity, the beneficiary shall pay for appropriate relief.

第二十四条 受害人和行为人对损害的发生都没有过错的，可以根据实际情况，由双方分担损失。

Article 24. If neither the injured person nor the actor is at fault for the occurrence of harm, they may share loss according to the actual circumstances.

第二十五条 损害发生后，当事人可以协商赔偿费用的支付方式。协商不一致的，赔偿费用应当一次性支付；一次性支付确有困难的，可以分期支付，但应当提供相应的担保。

Article 25. When harm occurs, the parties may agree on how compensation is paid. If they can not reach an agreement, then the payment shall be made in a lump sum. If the lump sum payment proves to be burdensome, installment payments may be made, but with corresponding security.

第三章 不承担责任和减轻责任的情形

Chapter III. Exculpatory or Extenuating Circumstances

第二十六条 被侵权人对损害的发生也有过错的，可以减轻侵权人的责任。

Article 26. If the victim is also at fault for the occurrence of the harm, the tortfeasor's liability may be reduced.

第二十七条 损害是因受害人故意造成的，行为人不承担责任。

Article 27. If the harm is [solely] due to the injured person's intentional [act], the actor shall not bear liability.

第二十八条 损害是因第三人造成的，第三人应当承担侵权责任。

Article 28. If the harm is caused by a third party, the third party shall bear tort liability.

第二十九条 因不可抗力造成他人损害的，不承担责任。法律另有规定的，依照其规定。

Article 29. If the harm to another is caused by force majeure, [the actor] shall not bear liability. If other laws contain [such] rules, then that law shall govern.

第三十条 因正当防卫造成损害的，不承担责任。正当防卫超过必要的限度，造成不应有的损害的，正当防卫人应当承担适当的责任。

Article 30. If [the actor's] justifiable defense causes harm, [the actor] shall not bear liability. If the exercise of justifiable defense exceeds the limits of necessity, causes unnecessary harm, the justifiable defense actor shall bear appropriate liability.

第三十一条 因紧急避险造成损害的，由引起险情发生的人承担责任。如果危险是由自然原因引起的，紧急避险人不承担责任或者给予适当补偿。紧急避险采取措施不当或者超过必要的限度，造成不应有的损害的，紧急避险人应当承担适当的责任。

Article 31. If necessity causes harm, the one who gives rise to the dangerous circumstances shall bear liability. However, if the danger arises from natural causes, one who takes emergent measures shall not bear liability or pay for appropriate relief. If in emergently avoiding danger one takes measures that are inappropriate or exceed the limits of necessity, causes unnecessary harm, the actor shall bear appropriate liability.

第四章 关于责任主体的特殊规定

Chapter IV. Special Provisions on Imposition of Liability

第三十二条 无民事行为能力人、限制民事行为能力人造成他人损害的，由监护人承担侵权责任。监护人尽到监护责任的，可以减轻其侵权责任。

Article 32. If a person without capacity for civil act or a person with limited capacity for civil act causes harm to another, the guardian shall bear tort liability. If the guardian fulfills the obligations of guardianship, his tort liability may be reduced.

有财产的无民事行为能力人、限制民事行为能力人造成他人损害的，从本人财产中支付赔偿费用。不足部分，由监护人赔偿。

If a propertied person without capacity for civil act or with limited capacity for civil act causes harm to another, the compensation shall be paid by his own property. Shortfall shall be compensated for by the guardian.

第三十三条 完全民事行为能力人对自己的行为暂时没有意识或者失去控制造成他人损害有过错的，应当承担侵权责任；没有过错的，根据行为人的经济状况对受害人适当补偿。

Article 33. If a person with full capacity for civil act is at fault for causing harm to another during temporarily loss of consciousness or being out of control of his/her own conduct, [he/she] shall bear tort liability; if without fault, [he/she] shall pay for appropriate relief to the injured person according to the actor's economic status.

完全民事行为能力人因醉酒、滥用麻醉药品或者精神药品对自己的行为暂时没有意识或者失去控制造成他人损害的，应当承担侵权责任。

If a person with full capacity for civil act causes harm to another during temporarily loss of consciousness or being out of control of his/her own conduct due to intoxication, or abuse of anesthetic or psychopathic substance, he/she shall bear tort liability.

第三十四条 用人单位的工作人员因执行工作任务造成他人损害的，由用人单位承担侵权责任。

Article 34. If an employee of an employing entity causes harm to another when performing a task, the employing entity shall bear tort liability.

劳务派遣期间，被派遣的工作人员因执行工作任务造成他人损害的，由接受劳务派遣的用工单位

承担侵权责任；劳务派遣单位有过错的，承担相应的补充责任。

In the course of labor dispatch, if the dispatched employee causes harm to another while performing a task, the employer entity, which receives labor dispatch, shall bear tort liability. If the labor dispatch entity is at fault, [it] shall bear corresponding secondary liability.

第三十五条 个人之间形成劳务关系，提供劳务一方因劳务造成他人损害的，由接受劳务一方承担侵权责任。提供劳务一方因劳务自己受到损害的，根据双方各自的过错承担相应的责任。

Article 35. For individuals under service relation, if the party, which provides service, causes harm to another for the service, the party, which receives the service, shall bear tort liability. The party, which provides service, suffers harm to himself for the service, [the parties] shall bear corresponding liability according to each party's fault.

第三十六条 网络用户、网络服务提供者利用网络侵害他人民事权益的，应当承担侵权责任。

Article 36. If an Internet subscriber or an Internet service provider uses the Internet to infringe on civil rights or interests of another, [he/she/it] shall bear tort liability.

网络用户利用网络服务实施侵权行为的，被侵权人有权通知网络服务提供者采取删除、屏蔽、断开链接等必要措施。网络服务提供者接到通知后未及时采取必要措施的，对损害的扩大部分与该网络用户承担连带责任。

If an Internet subscriber uses the Internet service to engage in tortious acts, the victim has the right to inform the Internet service provider to take necessary measures such as removing, blocking [the tortious content] or disconnecting the interlink. After receiving the request, if the Internet service provider does not timely take necessary measures, [it] is jointly and severally liable with the Internet subscriber for the aggravated harm.

网络服务提供者知道网络用户利用其网络服务侵害他人民事权益，未采取必要措施的，与该网络用户承担连带责任。

If an Internet service provider has the knowledge that an Internet subscriber uses its Internet service to infringe on another's civil rights or interests, but fails to take necessary measures, [it] is joint and several liable with the Internet subscriber.

第三十七条 宾馆、商场、银行、车站、娱乐场所等公共场所的管理人或者群众性活动的组织者，未尽到安全保障义务，造成他人损害的，应当承担侵权责任。

Article 37. If an administrator of public places, such as hotel, store, bank, station, entertainment place, or an organizer of mass activities fails to fulfill the duty of safety protection, causes harm to another, [it] shall bear tort liability.

因第三人的行为造成他人损害的，由第三人承担侵权责任；管理人或者组织者未尽到安全保障义务的，承担相应的补充责任。

If a third party's act causes another's harm, the third party shall bear tort liability; If the administrator or organizer fails to fulfill its duty of safety protection, [it] shall bear corresponding secondary liability.

第三十八条 无民事行为能力人在幼儿园、学校或者其他教育机构学习、生活期间受到人身损害的，幼儿园、学校或者其他教育机构应当承担责任，但能够证明尽到教育、管理职责的，不承担责任。

Article 38. If a person without capacity for civil act, while studying or living in a kindergarten, school or other educational institutions, suffers physical injury, the kindergarten, school or other educational institution shall bear liability, but if [it] can prove that [it] has fulfilled its educational and supervisory obligations, [it] shall not bear liability.

第三十九条 限制民事行为能力人在学校或者其他教育机构学习、生活期间受到人身损害，学校或者其他教育机构未尽到教育、管理职责的，应当承担责任。

Article 39. If a person with limited capacity for civil act, while studying or living in a school or other educational institutions suffers physical injury, [but] the school or other educational institution fails to fulfill its educational and supervisory obligations, [it] shall bear liability.

第四十条 无民事行为能力人或者限制民事行为能力人在幼儿园、学校或者其他教育机构学习、生活期间，受到幼儿园、学校或者其他教育机构以外的人员人身损害的，由侵权人承担侵权责任；幼儿园、学校或者其他教育机构未尽到管理职责的，承担相应的补充责任。

Article 40. If a person without capacity for civil act or a person with limited capacity for civil act, while studying or living in a kindergarten, school or other educational institutions, suffers physical injury caused by anyone other than [the employee of] the kindergarten, school or other educational institution, the tortfeasor shall bear tort liability; If the kindergarten, school or other educational institution fails to fulfill its supervisory obligation, [it] shall bear corresponding secondary liability.

第五章 产品责任

Chapter V. Products Liability

第四十一条 因产品存在缺陷造成他人损害的，生产者应当承担侵权责任。

Article 41. If a product defect causes harm to another, the producer shall bear tort liability.

第四十二条 因销售者的过错使产品存在缺陷，造成他人损害的，销售者应当承担侵权责任。

Article 42. If due to seller's fault a product defect exists, causes harm to another, the seller shall bear tort liability.

销售者不能指明缺陷产品的生产者也不能指明缺陷产品的供货者的，销售者应当承担侵权责任。

If a seller can not identify the defective product's producer and can not identify the defective product's supplier, the seller shall bear tort liability.

第四十三条 因产品存在缺陷造成损害的，被侵权人可以向产品的生产者请求赔偿，也可以向产品的销售者请求赔偿。

Article 43. If a product defect causes harm, the victim may claim compensation from the product producer, and may claim compensation from the seller.

产品缺陷由生产者造成的，销售者赔偿后，有权向生产者追偿。

If the product defect is caused by the producer, after the seller paid compensation [to the victim], it has the right to claim indemnity from the producer.

因销售者的过错使产品存在缺陷的，生产者赔偿后，有权向销售者追偿。

If the seller's fault causes the product defect, after the producer paid compensation [to the victim], it has the right to claim indemnity from the seller.

第四十四条 因运输者、仓储者等第三人的过错使产品存在缺陷，造成他人损害的，产品的生产者、销售者赔偿后，有权向第三人追偿。

Article 44. If a carrier, warehouseman, or other third party's fault causes a product defect, [which] causes harm to another, after the producer or seller of the product paid compensation [to the victim], it has the right to claim indemnity from the third party.

第四十五条 因产品缺陷危及他人人身、财产安全的，被侵权人有权请求生产者、销售者承担排除

妨碍、消除危险等侵权责任。

Article 45. If a product defect endangers the safety of the person or property of another, the victim has the right to demand the producer and seller to bear tort liabilities such as removal of obstruction and elimination of danger.

第四十六条 产品投入流通后发现存在缺陷的，生产者、销售者应当及时采取警示、召回等补救措施。未及时采取补救措施或者补救措施不力造成损害的，应当承担侵权责任。

Article 46. If a defect is discovered after the product is put in circulation, the producer and seller should take timely measures to warn, recall or take other remedial measures. [The producer or the seller] who fails to take timely or adequate remedial measures, causes harm, shall bear tort liability.

第四十七条 明知产品存在缺陷仍然生产、销售，造成他人死亡或者健康严重损害的，被侵权人有权请求相应的惩罚性赔偿。

Article 47. Despite knowledge that a product is defective, [the producer or the seller] still produces or sells [the product], causes death or serious harm to the health of another, the victim has the right to claim corresponding punitive damages.

第六章 机动车交通事故责任

Chapter VI. Liability for Motor Vehicle Traffic Accidents

第四十八条 机动车发生交通事故造成损害的，依照道路交通安全法的有关规定承担赔偿责任。

Article 48. If a motor vehicle causes harm in a traffic accident, [the tortfeasors] shall bear compensatory liability according to related rules in the Law on Road Traffic Safety.

第四十九条 因租赁、借用等情形机动车所有人与使用人不是同一人时，发生交通事故后属于该机动车一方责任的，由保险公司在机动车强制保险责任限额范围内予以赔偿。不足部分，由机动车使用人承担赔偿责任；机动车所有人对损害的发生有过错的，承担相应的赔偿责任。

Article 49. If a motor vehicle is rented or borrowed or in other circumstances, [and therefore] the owner is not the user [at the time of the accident], a traffic accident occurs and liability is assigned to the motor vehicle party, its insurance company shall pay compensation up to the extent of limits of the compulsory motor vehicle liability insurance. Shortfall shall be compensated for by the user of the motor vehicle; if the owner of

the motor vehicle is at fault in causing harm, he/she shall bear corresponding compensatory liability

第五十条 当事人之间已经以买卖等方式转让并交付机动车但未办理所有权转移登记，发生交通事故后属于该机动车一方责任的，由保险公司在机动车强制保险责任限额范围内予以赔偿。不足部分，由受让人承担赔偿责任。

Article 50. If the parties have transferred by sale or other means and delivered the motor vehicle [to the purchaser], but the transfer of ownership of the motor vehicle has not been registered, a traffic accident occurs and liability is assigned to the motor vehicle party, its insurance company shall pay compensation up to the extent of limits of the compulsory motor vehicle liability insurance. Shortfall shall be compensated for by the purchaser.

第五十一条 以买卖等方式转让拼装或者已达到报废标准的机动车，发生交通事故造成损害的，由转让人和受让人承担连带责任。

Article 51. If an [illegally] assembled motor vehicle or a motor vehicle that has reached the discarding standard is transferred by sale or other means, a traffic accident occurs and causes the harm, the seller and the purchaser shall bear joint and several liability.

第五十二条 盗窃、抢劫或者抢夺的机动车发生交通事故造成损害的，由盗窃人、抢劫人或者抢夺人承担赔偿责任。保险公司在机动车强制保险责任限额范围内垫付抢救费用的，有权向交通事故责任人追偿。

Article 52. If a stolen, robbed or seized motor vehicle causes harm in a traffic accident, the thief, robber or seizer shall bear compensatory liability. The insurance company, which paid vicariously for the emergency treatment expense up to the extent of limits of the compulsory motor vehicle liability insurance, has the right to claim indemnity from the liable person for the traffic accident.

第五十三条 机动车驾驶人发生交通事故后逃逸，该机动车参加强制保险的，由保险公司在机动车强制保险责任限额范围内予以赔偿；机动车不明或者该机动车未参加强制保险，需要支付被侵权人人身伤亡的抢救、丧葬等费用的，由道路交通事故社会救助基金垫付。道路交通事故社会救助基金垫付后，其管理机构有权向交通事故责任人追偿。

Article 53. When the driver of the motor vehicle flees after causing the traffic accident, if the motor vehicle join the compulsory insurance, its insurance company shall pay compensation up to the extent of limits

of the compulsory motor vehicle liability insurance; If the motor vehicle is unidentified or it did not join the compulsory insurance, but the expenses for emergency treatment, funeral, etc. for injury or death to the victim shall be paid, the social assistance fund for road traffic accidents shall pay vicariously. After the social assistance fund for road traffic accidents paid vicariously, its administrative institution has the right to claim indemnity from the liable person for the traffic accident.

第七章 医疗损害责任

Chapter VII. Liability for Injury in Medical Treatment

第五十四条 患者在诊疗活动中受到损害，医疗机构及其医务人员有过错的，由医疗机构承担赔偿责任。

Article 54. If a patient suffers injury in the course of diagnosis and medical treatment activities, and the medical institution or its medical personnel are at fault, the medical institution shall bear compensatory liability.

第五十五条 医务人员在诊疗活动中应当向患者说明病情和医疗措施。需要实施手术、特殊检查、特殊治疗的，医务人员应当及时向患者说明医疗风险、替代医疗方案等情况，并取得其书面同意；不宜向患者说明的，应当向患者的近亲属说明，并取得其书面同意。

Article 55. Medical personnel shall explain the state of illness and medical measures to the patient in diagnosis and medical treatment activities. If surgery, special examination, or special therapy needs to be carried out, medical personnel shall timely explain medical treatment risk, alternative medical treatment plans and other conditions to the patient and get his written permission. If it is not appropriate to explain to the patient, [medical personnel] shall explain to the close relatives of the patient and get their written permission.

医务人员未尽到前款义务，造成患者损害的，医疗机构应当承担赔偿责任。

If the medical personnel fail to fulfill the duties in the preceding paragraph, cause injury to the patient, its medical institution shall bear compensatory liability.

第五十六条 因抢救生命垂危的患者等紧急情况，不能取得患者或者其近亲属意见的，经医疗机构负责人或者授权的负责人批准，可以立即实施相应的医疗措施。

Article 56. Due to the emergency such as saving a patient on the verge of death, if it is impossible to get opinions from the patient or his/her close relatives, appropriate medical measures can be taken immediately after approved by the principal of the medical institution or any person in charge [authorized by the principal

of the medical institution].

第五十七条 医务人员在诊疗活动中未尽到与当时的医疗水平相应的诊疗义务，造成患者损害的，医疗机构应当承担赔偿责任。

Article 57. If medical personnel fail to fulfill the duty of diagnosis and medical treatment corresponding to the state of the medical treatment then and there in the course of diagnosis and medical treatment activities, cause injury to the patient, its medical institution shall bear compensatory liability.

第五十八条 患者有损害，因下列情形之一的，推定医疗机构有过错：

- (一) 违反法律、行政法规、规章以及其他有关诊疗规范的规定；
- (二) 隐匿或者拒绝提供与纠纷有关的病历资料；
- (三) 伪造、篡改或者销毁病历资料。

Article 58. If a patient is injured, for any of the following circumstances, fault of medical institution is presumed:

- (1) Violation of provisions of laws, administrative regulations, ministerial rules, other standards regarding diagnosis and medical treatment;
- (2) Concealing or refusing to provide medical record materials related to the dispute;
- (3) Falsifying, distorting or destroying medical record materials.

第五十九条 因药品、消毒药剂、医疗器械的缺陷，或者输入不合格的血液造成患者损害的，患者可以向生产者或者血液提供机构请求赔偿，也可以向医疗机构请求赔偿。患者向医疗机构请求赔偿的，医疗机构赔偿后，有权向负有责任的生产者或者血液提供机构追偿。

Article 59. If defect in drugs, sterilizing drugs or medical equipment, or substandard blood transfusion causes injury to a patient, the patient may claim compensation from the producer or the blood supplying institution, and may claim compensation from the medical institution. If the patient claims compensation from the medical institution, after the medical institution paid compensation [to the patient], it has the right to claim indemnity from the liable producer or blood supplying institution.

第六十条 患者有损害，因下列情形之一的，医疗机构不承担赔偿责任：

- (一) 患者或者其近亲属不配合医疗机构进行符合诊疗规范的诊疗；
- (二) 医务人员在抢救生命垂危的患者等紧急情况下已经尽到合理诊疗义务；

(三) 限于当时的医疗水平难以诊疗。

前款第一项情形中，医疗机构及其医务人员也有过错的，应当承担相应的赔偿责任。

Article 60. If a patient is injured, for any of the following circumstances, the medical institution shall not bear compensatory liability:

(1) The patient or his/her close relatives fail to cooperate with medical institution for diagnosis and medical treatment in accordance with standards regarding diagnosis and medical treatment;

(2) If the medical personnel have fulfilled the reasonable duty of diagnosis and medical treatment in the emergency such as saving a patient on the verge of death.

(3) Limited to the state of the medical treatment then and there, can not diagnose and cure.

In the circumstances of item (1) of the preceding paragraph, if the medical institution or its medical personnel are also at fault, [the medical institution] shall bear corresponding compensatory liability.

第六十一条 医疗机构及其医务人员应当按照规定填写并妥善保管住院志、医嘱单、检验报告、手术及麻醉记录、病理资料、护理记录、医疗费用等病历资料。

Article 61. The medical institution and its medical personnel shall, according to provisions, fill out and properly maintain medical record materials such as in-hospital records, doctor's advice, testing reports, surgery and anesthesia records, pathological materials, nursing records, expense of medical treatment.

患者要求查阅、复制前款规定的病历资料的，医疗机构应当提供。

If the patient demands to review or copy the medical record materials stipulated in the preceding paragraph, the medical institution shall provide.

第六十二条 医疗机构及其医务人员应当对患者的隐私保密。泄露患者隐私或者未经患者同意公开其病历资料，造成患者损害的，应当承担侵权责任。

Article 62. The medical institution and its medical personnel shall maintain the privacy of patients secretly. [One who] reveals the privacy of a patient or makes public medical record materials of a patient without his/her permission, causes harm to the patient, shall bear tort liability.

第六十三条 医疗机构及其医务人员不得违反诊疗规范实施不必要的检查。

Article 63. The medical institution and its medical personnel shall not violate standards regarding diagnosis and medical treatment to carry out unnecessary examinations.

第六十四条 医疗机构及其医务人员的合法权益受法律保护。干扰医疗秩序，妨害医务人员工作、生活的，应当依法承担法律责任。

Article 64. The legal rights and interests of medical institution and its medical personnel are protected by law. [One who] upsets the medical order, disturbs the work or life of medical personnel, shall bear legal liability according to law.

第八章 环境污染责任

Chapter VIII. Liability for Environmental Pollution

第六十五条 因污染环境造成损害的，污染者应当承担侵权责任。

Article 65. If environmental pollution causes harm, the polluter shall bear tort liability.

第六十六条 因污染环境发生纠纷，污染者应当就法律规定的不承担责任或者减轻责任的情形及其行为与损害之间不存在因果关系承担举证责任。

Article 66. When a dispute arises about an environmental pollution, the polluter shall bear the burden of proving exculpatory or extenuating circumstances stipulated in laws and the lack of causal relation between its act and the harm.

第六十七条 两个以上污染者污染环境，污染者承担责任的大小，根据污染物的种类、排放量等因素确定。

Article 67. If two or more polluters pollute the environment, each polluter's extent of responsibility is determined based on sort, amount of discharged pollutant and other factors.

第六十八条 因第三人的过错污染环境造成损害的，被侵权人可以向污染者请求赔偿，也可以向第三人请求赔偿。污染者赔偿后，有权向第三人追偿。

Article 68. If the environmental pollution is caused by a third party's fault, causes harm, the victim may claim compensation from the polluter, and may claim compensation from the third party. After the polluter paid compensation [to the victim], it has the right to claim indemnity from the third party.

第九章 高度危险责任

Chapter IX. Liability for Ultra-hazardous Activities

第六十九条 从事高度危险作业造成他人损害的，应当承担侵权责任。

Article 69. [One who] engages in an ultra-hazardous activity, causes harm to another, shall bear tort liability.

第七十条 民用核设施发生核事故造成他人损害的，民用核设施的经营者应当承担侵权责任，但能够证明损害是因战争等情形或者受害人故意造成的，不承担责任。

Article 70. If a nuclear accident occurs to a civilian nuclear facility, causes harm to another, the operator of the civilian nuclear facility shall bear tort liability, except it can prove that the harm is caused by force majeure such as war or is intentionally caused by the injured person.

第七十一条 民用航空器造成他人损害的，民用航空器的经营者应当承担侵权责任，但能够证明损害是因受害人故意造成的，不承担责任。

Article 71. If a civilian aircraft cause harm to another, the operator of the civilian aircraft shall bear tort liability, except it can prove that the harm is intentionally caused by the injured person.

第七十二条 占有或者使用易燃、易爆、剧毒、放射性等高度危险物造成他人损害的，占有人或者使用人应当承担侵权责任，但能够证明损害是因受害人故意或者不可抗力造成的，不承担责任。被侵权人对损害的发生有重大过失的，可以减轻占有人或者使用人的责任。

Article 72. If possessing or using combustible, explosive, virulent, radioactive or other sorts of ultra-hazardous materials causes harm to another, the possessor or the user shall bear tort liability, except it can prove that the harm is intentionally caused by the injured person or caused by force majeure. If the victim is of gross negligence for the occurrence of the harm, the possessor's or the user's liability may be reduced.

第七十三条 从事高空、高压、地下挖掘活动或者使用高速轨道运输工具造成他人损害的，经营者应当承担侵权责任，但能够证明损害是因受害人故意或者不可抗力造成的，不承担责任。被侵权人对损害的发生有过失的，可以减轻经营者的责任。

Article 73. If operating conducts high above the ground, of high voltage, underground excavating, or using high-speed track conveyance causes harm to another, the operator shall bear tort liability, except it can

prove that the harm is intentionally caused by the injured person or caused by force majeure. If the victim is at fault for the occurrence of the harm, the operator's liability may be reduced.

第七十四条 遗失、抛弃高度危险物造成他人损害的，由所有人承担侵权责任。所有人将高度危险物交由他人管理的，由管理人承担侵权责任；所有人有过错的，与管理人承担连带责任。

Article 74. If lost or abandoned ultra-hazardous material causes harm to another, the owner shall bear tort liability. If the owner delivers the ultra-hazardous material to the another keeper, the keeper shall bear tort liability; if the owner is at fault, [it] shall bear joint and several liability with the keeper.

第七十五条 非法占有高度危险物造成他人损害的，由非法占有人承担侵权责任。所有人、管理人不能证明对防止他人非法占有尽到高度注意义务的，与非法占有人承担连带责任。

Article 75. If unlawful possession of ultra-hazardous materials causes harm to another, the unlawful possessor shall bear tort liability. If the owner or the keeper can not prove that it fulfills the high degree of duty of care to prevent another's unlawful possession, [it] shall bear joint and several liability with the unlawful possessor.

第七十六条 未经许可进入高度危险活动区域或者高度危险物存放区域受到损害，管理人已经采取安全措施并尽到警示义务的，可以减轻或者不承担责任。

Article 76. If an unauthorized [trespasser] is harmed while entering area of ultra-hazardous activities or storage area of ultra-hazardous materials, the liability of the administrator/ keeper may be reduced or exempted, if it has taken safety measures and fulfilled the instruction and warning duties.

第七十七条 承担高度危险责任，法律规定赔偿限额的，依照其规定。

Article 77. To bear liability for ultra-hazardous activities, if any law provides limitation of compensation, then that law shall govern.

第十章 饲养动物损害责任

Chapter X. Liability for Harm Caused by Domesticated Animals

第七十八条 饲养的动物造成他人损害的，动物饲养人或者管理人应当承担侵权责任，但能够证明损害是因被侵权人故意或者重大过失造成的，可以不承担或者减轻责任。

Article 78. If a domesticated animal causes harm to another, the animal breeder or keeper shall bear tort liability, but if it can prove that the harm is caused by victim's intention or gross negligence, the liability may be exempted or reduced.

第七十九条 违反管理规定，未对动物采取安全措施造成他人损害的，动物饲养人或者管理人应当承担侵权责任。

Article 79. If [an animal breeder or keeper] violates administrative provisions, fails to take safety measures to the animal, causes harm to another, the animal breeder or keeper shall bear tort liability.

第八十条 禁止饲养的烈性犬等危险动物造成他人损害的，动物饲养人或者管理人应当承担侵权责任。

Article 80. If dangerous animals which are forbidden to be bred, such as a fierce dog, causes harm to another, the animal breeder or keeper shall bear tort liability.

第八十一条 动物园的动物造成他人损害的，动物园应当承担侵权责任，但能够证明尽到管理职责的，不承担责任。

Article 81. If a zoo animal causes harm to another, the zoo shall bear tort liability, except the fulfillment of administrative obligation can be proved.

第八十二条 遗弃、逃逸的动物在遗弃、逃逸期间造成他人损害的，由原动物饲养人或者管理人承担侵权责任。

Article 82. If an abandoned or escaping animal causes harm to another in the period of abandonment or escape, its original breeder or keeper of the animal shall bear tort liability.

第八十三条 因第三人的过错致使动物造成他人损害的，被侵权人可以向动物饲养人或者管理人请求赔偿，也可以向第三人请求赔偿。动物饲养人或者管理人赔偿后，有权向第三人追偿。

Article 83. If a third party's fault results in an animal causing harm to another, the victim may claim compensation from the animal breeder or keeper, and may claim compensation from the third party. After the animal breeder or keeper paid the compensation [to the victim], he/she has the right to claim indemnity from the third party.

第八十四条 饲养动物应当遵守法律，尊重社会公德，不得妨害他人生活。

Article 84. Breeding animals shall be in compliance with the law, respect for the social ethics, shall not disturb the life of others.

第十一章 物件损害责任

Chapter XI. Liability for Harm Caused by Objects

第八十五条 建筑物、构筑物或者其他设施及其搁置物、悬挂物发生脱落、坠落造成他人损害，所有人、管理人或者使用人不能证明自己没有过错的，应当承担侵权责任。所有人、管理人或者使用人赔偿后，有其他责任人的，有权向其他责任人追偿。

Article 85. If a building, construction or any other facilities, or any fixture to it or thing hung on it falls off or falls down, causes harm to another, [but] the owner, administrator or user can not prove he had no fault, [the owner, administrator or user] shall bear tort liability. After the owner, administrator or user compensated [to the victim], if there are any other liable persons, [the owner, administrator or user] has the right to claim indemnity from the other liable person.

第八十六条 建筑物、构筑物或者其他设施倒塌造成他人损害的，由建设单位与施工单位承担连带责任。建设单位、施工单位赔偿后，有其他责任人的，有权向其他责任人追偿。

Article 86. If a building, structure or any other facilities collapses, causes harm to another, the builder and the constructor shall bear joint and several liability. After the builder or constructor compensated [to the victim], if there are any other liable persons, [the builder or constructor] has the right to claim indemnity from the other liable person.

因其他责任人的原因，建筑物、构筑物或者其他设施倒塌造成他人损害的，由其他责任人承担侵权责任。

For the reason of any other liable persons, a building, construction or any other facilities collapses, causes harm to another, the other liable person shall bear tort liability.

第八十七条 从建筑物中抛掷物品或者从建筑物上坠落的物品造成他人损害，难以确定具体侵权人的，除能够证明自己不是侵权人的外，由可能加害的建筑物使用人给予补偿。

Article 87. If an object is thrown from within a building or something hanging on a building falls off, causes harm to another, and if the specific tortfeasor can not be identified, those occupants of the building who

may cause the harm shall pay for relief, except those who can prove that they are not tortfeasors.

第八十八条 堆放物倒塌造成他人损害，堆放人不能证明自己没有过错的，应当承担侵权责任。

Article 88. If the collapse of a stack of goods causes harm to another, [but] the person who stacks the goods can not prove that he had no fault, [he] shall bear tort liability.

第八十九条 在公共道路上堆放、倾倒、遗撒妨碍通行的物品造成他人损害的，有关单位或者个人应当承担侵权责任。

Article 89. If [one] heaps, dumps, spills things that obstruct passage on public road, causes harm to another, the entities or individuals involved shall bear tort liability.

第九十条 因林木折断造成他人损害，林木的所有人或者管理人不能证明自己没有过错的，应当承担侵权责任。

Article 90. If a tree or a branch breaks, causes harm to another, [but] the owner or the administrator of the tree who can not prove that he had no fault, [the owner or the administrator] shall bear tort liability.

第九十一条 在公共场所或者道路上挖坑、修缮安装地下设施等，没有设置明显标志和采取安全措施造成他人损害的，施工人应当承担侵权责任。

Article 91. If [one] digs holes, repairs or installs underground facilities, etc. in public place or on public road, without setting up clear signs and taking safety precaution measures, causes harm to another, the constructor shall bear tort liability.

窨井等地下设施造成他人损害，管理人不能证明尽到管理职责的，应当承担侵权责任。

If underground facilities such as inspection shaft, cause harm to another, [but] the administrator can not prove that it fulfilled its administrative obligations, [the administrator] shall bear tort liability.

第十二章 附 则

Chapter XII. Supplementary Provisions

第九十二条 本法自 2010 年 7 月 1 日起施行。

Article 92. This law shall take effect as of July 1st, 2010.