

# STATE OF NEW YORK

2966--A

2017-2018 Regular Sessions

## IN ASSEMBLY

January 23, 2017

Introduced by M. of A. MOYA, BARNWELL, MOSLEY, MONTESANO, BLAKE, CRESPO, RIVERA, ROZIC, HYNDMAN, NIOU, GOTTFRIED, RICHARDSON, BRINDISI, BRABE-NEC, SANTABARBARA, PAULIN -- Multi-Sponsored by -- M. of A. DE LA ROSA, DenDEKKER, SIMON -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to crimes involving the death or injury of a worker

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 "Carlos's law".

3 § 2. Paragraph (c) of subdivision 2 of section 20.20 of the penal law,  
4 as amended by chapter 671 of the laws of 1986, is amended to read as  
5 follows:

6 (c) The conduct constituting the offense is engaged in by an agent of  
7 the corporation while acting within the scope of his employment and in  
8 behalf of the corporation, and the offense is (i) a misdemeanor or a  
9 violation, (ii) one defined by a statute which clearly indicates a  
10 legislative intent to impose such criminal liability on a corporation,  
11 [~~or~~] (iii) any offense set forth in title twenty-seven of article seven-  
12 ty-one of the environmental conservation law, or (iv) an offense set  
13 forth in section 122.05, 122.10 or 122.15 of this chapter.

14 § 3. Subdivision five of section 60.27 of the penal law is amended by  
15 adding a new paragraph (c) to read as follows:

16 (c) If an employer or person acting in a supervisory role on behalf of  
17 an employer is convicted of violating section 122.10 or 122.15 of this  
18 chapter, the court may order restitution or reparation in excess of the  
19 amounts specified in paragraphs (a) and (b) of this subdivision.

20 § 4. Paragraphs (a) and (b) of subdivision 1 of section 80.10 of the  
21 penal law, as amended by section 28 of subpart A of part H of chapter 55  
22 of the laws of 2014, are amended to read as follows:

23 (a) Ten thousand dollars, when the conviction is of a felony;  
24 provided, however, that when the conviction is of section 122.10 or

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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122.15 of this chapter, such fine may be up to five hundred thousand dollars;

(b) Five thousand dollars, when the conviction is of a class A misdemeanor or of an unclassified misdemeanor for which a term of imprisonment in excess of three months is authorized; provided, however, that when the conviction is of section 122.05 of this chapter, such fine may be up to three hundred thousand dollars;

§ 5. The penal law is amended by adding a new article 122 to read as follows:

ARTICLE 122  
WORKPLACE SAFETY

Section 122.00 Definitions.

122.05 Endangering the welfare of a worker in the third degree.

122.10 Endangering the welfare of a worker in the second degree.

122.15 Endangering the welfare of a worker in the first degree.

§ 122.00 Definitions.

For purposes of this article:

1. "Worker" means a person who is paid or receives any compensation or benefit for labor, whether as an employee, consultant, private contractor or otherwise.

2. "Workplace" means a place of work or work location that is subject to one or more federal, state or local laws, standards, rules, orders or regulations that sets forth a safety protocol or procedure designed to or that may have the effect of protecting a worker.

§ 122.05 Endangering the welfare of a worker in the third degree.

A person is guilty of endangering the welfare of a worker in the third degree when, being the employer of a worker working at a workplace or a person acting in a supervisory role on behalf of an employer of a worker working at a workplace, and acting with criminal negligence, he or she exposes such worker to a risk of physical injury.

Endangering the welfare of a worker in the third degree is a class A misdemeanor.

§ 122.10 Endangering the welfare of a worker in the second degree.

A person is guilty of endangering the welfare of a worker in the second degree when, being the employer of a worker working at a workplace or a person acting in a supervisory role on behalf of an employer of a worker working at a workplace, and acting with criminal negligence, he or she exposes such worker to a risk of physical injury and thereby causes serious physical injury to such worker.

Endangering the welfare of a worker in the second degree is a class E felony.

§ 122.15 Endangering the welfare of a worker in the first degree.

A person is guilty of endangering the welfare of a worker in the first degree when, being the employer of a worker working at a workplace or a person acting in a supervisory role on behalf of an employer of a worker working at a workplace, and acting with criminal negligence, he or she exposes such worker to a risk of physical injury and thereby causes the death of such worker.

Endangering the welfare of a worker in the first degree is a class D felony.

§ 6. This act shall take effect on the thirtieth day after it shall have become a law.