STATE OF NEW YORK

6725--A

Cal. No. 63

2019-2020 Regular Sessions

IN SENATE

September 18, 2019

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the penal law, in relation to the misappropriation of payroll funds

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

Section 1. The penal law is amended by adding a new section 165.80 to read as follows:

§ 165.80 Misappropriation of payroll funds.

A person is guilty of misappropriation of payroll funds when he or she knows that funds are designated for use as employee payroll funds or as payment of payroll taxes, and intentionally prevents the funds from being used for their designated purpose. A delayed transfer of funds, in accordance with an agreement between a payroll processing company and an employer for the purpose of investigating potentially fraudulent or incorrect transactions, shall not constitute misappropriation of payroll funds. A payroll processing company shall not be responsible for an employer's failure to provide sufficient funds.

Misappropriation of payroll funds is a class E felony.

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

(c) The conduct constituting the offense is engaged in by an agent of the corporation while acting within the scope of his **or her** employment and in behalf of the corporation, and the offense is (i) a misdemeanor or a violation, (ii) one defined by a statute which clearly indicates a legislative intent to impose such criminal liability on a corporation,

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

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[~~or~~] (iii) any offense set forth in title twenty-seven of article seventy-one of the environmental conservation law**, or (iv) misappropriation of payroll funds as defined in section 165.80 of this chapter**.

§ 3. This act shall take effect immediately.