

# STATE OF NEW YORK

3791

2021-2022 Regular Sessions

## IN SENATE

January 30, 2021

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

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:

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

3 § 165.80 Misappropriation of payroll funds.

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

13 Misappropriation of payroll funds is a class E felony.

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

17 (c) The conduct constituting the offense is engaged in by an agent of  
18 the corporation while acting within the scope of his or her employment  
19 and in behalf of the corporation, and the offense is (i) a misdemeanor  
20 or a violation, (ii) one defined by a statute which clearly indicates a  
21 legislative intent to impose such criminal liability on a corporation,  
22 ~~[ex]~~ (iii) any offense set forth in title twenty-seven of article seven-  
23 ty-one of the environmental conservation law, or (iv) misappropriation  
24 of payroll funds as defined in section 165.80 of this chapter.

25 § 3. This act shall take effect immediately.

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

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