STATE OF NEW YORK

395

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. KAMINSKY -- 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 establishing crimes relating to official misconduct for obtaining a benefit

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

Section 1. Section 195.00 of the penal law, as amended by chapter 906 of the laws of 1990, is amended to read as follows:

§ 195.00 Official misconduct.

A public servant is guilty of official misconduct when, with intent to obtain a benefit or deprive another person of a benefit:

1. He **or she** commits an act relating to his **or her** office but constituting an unauthorized exercise of his **or her** official functions, knowing that such act is unauthorized; or

2. He **or she** knowingly refrains from performing a duty which is imposed upon him **or her** by law or is clearly inherent in the nature of his **or her** office.

Official misconduct is a class [~~A misdemeanor~~] **E felony**.

§ 2. The penal law is amended by adding two new sections 195.03 and 195.04 to read as follows:

§ 195.03 Official misconduct for obtaining a benefit in the second degree.

A public servant is guilty of official misconduct for obtaining a benefit in the second degree when he or she commits the crime of official misconduct and he or she thereby intentionally obtains any benefit for himself or herself or for another person or intentionally deprives another person of a benefit, and the value of the benefit exceeds one thousand dollars.

Official misconduct for obtaining a benefit in the second degree is a class D felony.

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

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§ 195.04 Official misconduct for obtaining a benefit in the first degree.

A public servant is guilty of official misconduct for obtaining a benefit in the first degree when he or she commits the crime of official misconduct for obtaining a benefit in the second degree, and the value of the benefit exceeds three thousand dollars.

Official misconduct for obtaining a benefit in the first degree is a class C felony.

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