

STATE OF NEW YORK

1322

2023-2024 Regular Sessions

IN ASSEMBLY

January 17, 2023

Introduced by M. of A. BICHOTTE HERMELYN -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to crimes involving the death or serious physical injury of an employee; and to amend a chapter of the laws of 2022 amending the penal law relating to crimes involving the death or injury of a worker, as proposed in legislative bills numbers S. 621-B and A. 4947-B, in relation to the effectiveness thereof

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

Section 1. Section 10.00 of the penal law is amended by adding a new subdivision 22 to read as follows:

22. For the purposes of section 20.20 of this part and section 60.27 of this chapter, the term "employee" shall mean any person providing labor or services for remuneration for a private entity or business within New York state, without regard to an individual's immigration status, and shall include part-time workers, independent contractors, apprentices, domestic workers, home care and personal care workers, day laborers, farmworkers, and other temporary and seasonal workers.

§ 2. Paragraph (c) of subdivision 2 of section 20.20 of the penal law, as amended by a chapter of the laws of 2022 amending the penal law relating to crimes involving the death or injury of a worker, as proposed in legislative bills numbers S. 621-B and A. 4947-B, 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 employment and [~~in~~] on 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, (iii) any offense set forth in title twenty-seven of article seventy-one of the environmental conservation law, or (iv) is in relation to a crime

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

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1 involving the death or serious physical injury of [~~a worker~~] an employee
2 where the corporation acted negligently, recklessly, intentionally, or
3 knowingly.

4 § 3. Paragraph (c) of subdivision 5 of section 60.27 of the penal law,
5 as added by a chapter of the laws of 2022 amending the penal law relat-
6 ing to crimes involving the death or injury of a worker, as proposed in
7 legislative bills numbers S. 621-B and A. 4947-B, is amended to read as
8 follows:

9 (c) If a corporation is found guilty of an offense involving the death
10 or serious physical injury of [~~a worker~~] an employee in violation of
11 subparagraph (iv) of paragraph [~~(a), (b), or~~] (c) of subdivision two of
12 section 20.20 of this chapter, the court may order restitution or repa-
13 ration in excess of the amounts specified in paragraphs (a) and (b) of
14 this subdivision.

15 § 4. Paragraphs (a) and (b) of subdivision 1 of section 80.10 of the
16 penal law, as amended by a chapter of the laws of 2022 amending the
17 penal law relating to crimes involving the death or injury of a worker,
18 as proposed in legislative bills numbers S. 621-B and A. 4947-B, are
19 amended to read as follows:

20 (a) Ten thousand dollars, when the conviction is of a felony;
21 provided, however, that when the conviction is pursuant to subparagraph
22 (iv) of paragraph [~~(a), (b), or~~] (c) of subdivision two of section 20.20
23 of this chapter, such fine shall be fixed by the court and shall [~~not~~]
24 be [~~less~~] no more than five hundred thousand dollars [~~nor more than one~~
25 ~~million dollars~~];

26 (b) Five thousand dollars, when the conviction is of a class A misde-
27 meanor or of an unclassified misdemeanor for which a term of imprison-
28 ment in excess of three months is authorized; provided, however, that
29 when the conviction is pursuant to subparagraph (iv) of paragraph [~~(a),~~
30 ~~(b), or~~] (c) of subdivision two of section 20.20 of this chapter, such
31 fine shall be fixed by the court and shall [~~not~~] be [~~less~~] no more than
32 three hundred thousand dollars [~~nor more than five hundred thousand~~
33 ~~dollars~~];

34 § 5. Section 5 of a chapter of the laws of 2022 amending the penal law
35 relating to crimes involving the death or injury of a worker, as
36 proposed in legislative bills numbers S. 621-B and A. 4947-B, is amended
37 to read as follows:

38 § 5. This act shall take effect on the [~~thirtieth~~] ninetieth day after
39 it shall have become a law and shall apply to proceedings commencing on
40 or after such date.

41 § 6. This act shall take effect immediately; provided, however, that
42 sections one, two, three and four of this act shall take effect on the
43 same date and in the same manner as a chapter of the laws of 2022 amend-
44 ing the penal law relating to crimes involving the death or injury of a
45 worker, as proposed in legislative bills numbers S. 621-B and A.
46 4947-B, takes effect.