

# STATE OF NEW YORK

1325

2023-2024 Regular Sessions

## IN SENATE

January 11, 2023

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

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:

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

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

10 § 2. Paragraph (c) of subdivision 2 of section 20.20 of the penal law,  
11 as amended by a chapter of the laws of 2022 amending the penal law  
12 relating to crimes involving the death or injury of a worker, as  
13 proposed in legislative bills numbers S. 621-B and A. 4947-B, is amended  
14 to read as follows:

15 (c) The conduct constituting the offense is engaged in by an agent of  
16 the corporation while acting within the scope of his employment and [~~in~~]  
17 on behalf of the corporation, and the offense is (i) a misdemeanor or a  
18 violation, (ii) one defined by a statute which clearly indicates a  
19 legislative intent to impose such criminal liability on a corporation,  
20 (iii) any offense set forth in title twenty-seven of article seventy-one  
21 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.