# STATE OF NEW YORK

4188

2025-2026 Regular Sessions

# IN SENATE

February 3, 2025

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:**

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 such person 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 61 of the laws of 2023, 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~~] **their** employment and 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 involving the death or serious physical injury of an employee where the corporation acted negligently, recklessly, intentionally, or knowingly**, or (v) misappropriation of payroll funds as defined in section 165.80 of this chapter**.

§ 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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