

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:

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 such
5 person knows that funds are designated for use as employee payroll funds
6 or as payment of payroll taxes, and intentionally prevents the funds
7 from being used for their designated purpose. A delayed transfer of
8 funds, in accordance with an agreement between a payroll processing
9 company and an employer for the purpose of investigating potentially
10 fraudulent or incorrect transactions, shall not constitute misappropri-
11 ation of payroll funds. A payroll processing company shall not be
12 responsible for an 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 61 of the laws of 2023, 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~~] their employment
19 and on 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 (iii) any offense set forth in title twenty-seven of article seventy-one
23 of the environmental conservation law, [~~or~~] (iv) is in relation to a
24 crime involving the death or serious physical injury of an employee
25 where the corporation acted negligently, recklessly, intentionally, or
26 knowingly, or (v) misappropriation of payroll funds as defined in
27 section 165.80 of this chapter.

28 § 3. This act shall take effect immediately.

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

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