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Wage Theft Now Qualifies as Larceny Under New York Law



New York Governor Kathy Hochul recently signed the Wage Theft Accountability Act (WTPA) into law, which was effective immediately. The law amends New York's criminal larceny statute to include "wage theft" in its definition of "larceny." [NY CLS Penal § 155.05\(2\)\(f\)](#).

Under New York's criminal larceny statute, "[a] person steals property and commits larceny when, with intent to deprive another of property or to appropriate the same to himself or to a third person, he wrongfully takes, obtains or withholds such property from an owner thereof." Penal Law § 155.05(1). The new law adds a subsection to this statute, specifically providing that:

A person obtains property by wage theft when he or she hires a person to perform services and the person performs such services and the person does not pay wages, at the minimum wage rate and overtime, or promised wage, if greater than the minimum wage rate and overtime, to said person for work performed. In a prosecution for wage theft, for the purposes of venue, it is permissible to aggregate all nonpayments or underpayments to one person from one person, into one larceny count, even if the nonpayments or underpayments occurred in multiple counties. It is also permissible to aggregate nonpayments or underpayments from a workforce into one larceny count even if such nonpayments or underpayments occurred in multiple counties.

NY CLS Penal § 155.05(2)(f).

This new law does not reference the current criminal penalties for wage theft under the New York Labor Law. NY CLS Labor § 198-a. Employers with questions about wage payments in New York should contact experienced counsel.

Authors

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