



S.621-B (Sanders) / A.4947-B (Bichotte Hermelyn)

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BILL S.621-B (Sanders) / A.4947-B (Bichotte Hermelyn)
SUBJECT Enacts Carlos' Law; Relates to Crimes Involving the Death or Injury of a Worker
DATE June 01, 2022
OPPOSE

This bill is a dangerous and radical over expansion of the penal law that will harm workers rather than helping them. It will put small businesses, including MWBEs, out of business. Those businesses already have difficulty obtaining insurance and this bill will only make it harder if not impossible.

This bill places virtual “strict criminal liability” on an “agent of the corporation while acting within the scope of his employment and on behalf of the corporation.” While making “corporations” liable for “restitution or reparations” of up to \$1 million.

As drafted this bill will make every party – from owners and developers, down through supervisory labor and safety personnel – criminally liable for actions that may not be within their control while doing nothing to ensure a safe worksite. Employers institute and follow strict employee safety procedures as required by state and federal law. Should an “agent of the organization” act in a criminally negligent way, contrary to those safety procedures and protocols, the corporation will be deemed liable and obligated to pay these extreme “restitutions and reparations.” This will have a chilling effect on job growth in New York State.

The bill will also make it harder for injured workers to recover as insurance may become unavailable to the injured worker. Insurance companies will disclaim coverage if a criminal proceeding is brought, ultimately impacting the injured worker’s ability to recover.

This bill is a disproportionate reaction to a perceived problem. The reputable, professional employer community has dedicated countless time and money resources to develop and continuously update state-of-the-art safety policies, procedures, and training. Those safety policies go beyond what is currently required by regulation. Existing criminal statutes – including the penal code

for involuntary manslaughter – provide sufficient protection for serious safety violations that lead to death. Further, as the sponsor acknowledges, OSHA can bring criminal charges and impose financial penalties on the employer when workers are injured through employer negligence.

This bill is duplicative and will not improve worker safety or address any perceived wrongs. Workplace safety is critically important. Each and every person in their place of employment must be able to return home to their families every day. Workplace safety should be the focus, not creating criminal penalties that will impact every person in the workplace, from the owner/developer to the labor supervision.

For these reasons, The Business Council, on behalf of its 3,200 members opposes this bill.