

3393--A

2013-2014 Regular Sessions

I N S E N A T E

February 1, 2013

Introduced by Sen. ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- recommitted to the Committee on Labor in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to the calculation of weekly unemployment insurance benefits for workers who are partially unemployed; and to repeal certain provisions of the labor law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Section 522 of the labor law, as amended by chapter 720 of
2 the laws of 1953, is amended to read as follows:
3 S 522. Total unemployment AND PARTIAL UNEMPLOYMENT. "Total unemploy-
4 ment" means the total lack of any employment [on any day] DURING ANY
5 WEEK. "PARTIAL UNEMPLOYMENT" MEANS ANY EMPLOYMENT DURING ANY WEEK THAT
6 IS LESS THAN FULL-TIME EMPLOYMENT SO LONG AS THE COMPENSATION PAID IS
7 LESS THAN THE CLAIMANT'S WEEKLY BENEFIT RATE PLUS THE CLAIMANT'S PARTIAL
8 BENEFIT CREDIT. The term "employment" as used in this section means any
9 employment including that not defined in this title.
10 S 2. Section 523 of the labor law is REPEALED and a new section 523 is
11 added to read as follows:
12 S 523. EFFECTIVE WEEK. "EFFECTIVE WEEK" MEANS (A) A WEEK DURING WHICH
13 A CLAIMANT PERFORMS NO SERVICES FOR WHICH THE CLAIMANT IS PAID COMPEN-
14 SATION, OR (B) A WEEK DURING WHICH A CLAIMANT PERFORMS SERVICES ON A
15 PART-TIME BASIS FOR WHICH THE CLAIMANT IS PAID COMPENSATION THAT IS LESS
16 THAN THE CLAIMANT'S WEEKLY BENEFIT RATE PLUS HIS OR HER PARTIAL BENEFIT
17 CREDIT.
18 S 3. The labor law is amended by adding a new section 514-a to read as
19 follows:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

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1 S 514-A. PARTIAL BENEFIT CREDIT. "PARTIAL BENEFIT CREDIT" MEANS THAT
2 PART OF THE COMPENSATION, IF ANY, PAID TO A CLAIMANT WITH RESPECT TO A
3 WEEK FOR WHICH BENEFITS ARE CLAIMED UNDER THE PROVISIONS OF THIS CHAPTER
4 WHICH IS NOT IN EXCESS OF FORTY PER CENTUM OF THE INDIVIDUAL'S WEEKLY
5 BENEFIT RATE, OR SEVENTY-ONE DOLLARS AND FIFTY CENTS, WHICHEVER IS THE
6 GREATER. SUCH PARTIAL BENEFIT CREDIT, IF NOT A MULTIPLE OF ONE DOLLAR,
7 SHALL BE COMPUTED TO THE NEXT HIGHER MULTIPLE OF ONE DOLLAR.

8 S 4. Subdivision 4 of section 527 of the labor law, as amended by
9 chapter 832 of the laws of 1968 and as renumbered by chapter 381 of the
10 laws of 1984, is amended to read as follows:

11 4. General condition. A valid original claim may be filed only in a
12 week [in which the claimant has at least one effective day of unemploy-
13 ment] THAT QUALIFIES AS AN EFFECTIVE WEEK OF UNEMPLOYMENT FOR THE CLAIM-
14 ANT.

15 S 5. Subparagraph 2 of paragraph (e) of subdivision 1 of section 581
16 of the labor law, as amended by chapter 282 of the laws of 2002, clause
17 (v) as added by chapter 106 of the laws of 2007, is amended to read as
18 follows:

19 (2) Benefits payable to any claimant with respect to the claimant's
20 then current benefit year shall be charged, when paid, to the account of
21 the last employer prior to the filing of a valid original claim in an
22 amount equal to seven times the claimant's benefit rate. Thereafter,
23 such charges shall be made to the account of each employer in the base
24 period used to establish the valid original claim in the same proportion
25 that the remuneration paid by each employer to the claimant during that
26 base period bears to the remuneration paid by all employers to the
27 claimant during that base period except as provided below:

28 (i) In those instances where the claimant may not utilize wages paid
29 to establish entitlement based upon subdivision ten of section five
30 hundred ninety of this article and an educational institution is the
31 claimant's last employer prior to the filing of the claim for benefits,
32 or the claimant performed services in such educational institution in
33 such capacity while employed by an educational service agency which is
34 the claimant's last employer prior to the filing of the claim for bene-
35 fits, such employer shall not be liable for benefit charges for the
36 first [twenty-eight effective days] SEVEN EFFECTIVE WEEKS of benefits
37 paid as otherwise provided by this section. Under such circumstances,
38 benefits paid shall be charged to the general account. In addition,
39 wages paid during the base period by such educational institutions, or
40 for services in such educational institutions for claimants employed by
41 an educational service agency shall not be considered base period wages
42 during periods that such wages may not be used to gain entitlement to
43 benefits pursuant to subdivision ten of section five hundred ninety of
44 this article.

45 (ii) In those instances where the claimant may not utilize wages paid
46 to establish entitlement based upon subdivision eleven of section five
47 hundred ninety of this article and an educational institution is the
48 claimant's last employer prior to the filing of the claim for benefits,
49 or the claimant performed services in such educational institution in
50 such capacity while employed by an educational service agency which is
51 the claimant's last employer prior to the filing of the claim for bene-
52 fits, such employer shall not be liable for benefit charges for the
53 first [twenty-eight effective days] SEVEN EFFECTIVE WEEKS of benefits
54 paid as otherwise provided by this section. Under such circumstances,
55 benefits paid will be charged to the general account. In addition, wages
56 paid during the base period by such educational institutions, or for

1 services in such educational institutions for claimants employed by an
2 educational service agency shall not be considered base period wages
3 during periods that such wages may not be used to gain entitlement to
4 benefits pursuant to subdivision eleven of section five hundred ninety
5 of this article. However, in those instances where a claimant was not
6 afforded an opportunity to perform services for the educational institu-
7 tion for the next academic year or term after reasonable assurance was
8 provided, such employer shall be liable for benefit charges as provided
9 for in this paragraph for any retroactive payments made to the claimant.

10 (iii) In those instances where the federal government is the claim-
11 ant's last employer prior to the filing of the claim for benefits and
12 such employer is not a base-period employer, payments equaling the first
13 [twenty-eight effective days] SEVEN EFFECTIVE WEEKS of benefits as
14 otherwise prescribed by this section shall be charged to the general
15 account. In those instances where the federal government is the claim-
16 ant's last employer prior to the filing of the claim for benefits and a
17 base-period employer, such employer shall be liable for charges for all
18 benefits paid on such claim in the same proportion that the remuneration
19 paid by such employer during the base period bears to the remuneration
20 paid by all employers during the base period. In addition, benefit
21 payment charges for the first [twenty-eight effective days] SEVEN EFFEC-
22 TIVE WEEKS of benefits other than those chargeable to the federal
23 government as prescribed above shall be made to the general account.

24 (iv) In those instances where a combined wage claim is filed pursuant
25 to interstate reciprocal agreements and the claimant's last employer
26 prior to the filing of the claim is an out-of-state employer and such
27 employer is not a base-period employer, benefit payments equaling the
28 first [twenty-eight effective days] SEVEN EFFECTIVE WEEKS of benefits as
29 otherwise prescribed by this section shall be charged to the general
30 account. In those instances where the out-of-state employer is the last
31 employer prior to the filing of the claim for benefits and a base-period
32 employer such employer shall be liable for charges for all benefits paid
33 on such claim in the same proportion that the remuneration paid by such
34 employer during the base period bears to the remuneration paid by all
35 employers during the base period. In addition, benefit payment charges
36 for the [twenty-eight effective days] SEVEN EFFECTIVE WEEKS of benefits
37 other than those chargeable to the out-of-state employer as prescribed
38 above shall be made to the general account.

39 (v) In those instances where the last employer prior to the filing of
40 a valid original claim has paid total remuneration to the claimant
41 during the period from the start of the base period used to establish
42 the benefit claim until the date of the claimant's filing of the valid
43 original claim in an amount less than or equal to six times the claim-
44 ant's benefit rate and the last employer has substantiated such amount
45 to the satisfaction of the commissioner within ten days of the commis-
46 sioner's original notice of potential charges to such last employer's
47 account, benefits shall be charged as follows: benefits payable to the
48 claimant with respect to the claimant's then current benefit year shall
49 be charged, when paid, to the account of such last employer prior to the
50 filing of a valid original claim in an amount equal to the lowest whole
51 number (one, two, three, four, five, or six) times the claimant's bene-
52 fit rate where the product of such lowest whole number times the claim-
53 ant's benefit rate is equal to or greater than such total remuneration
54 paid by such last employer to the claimant. Thereafter, such charges
55 shall be made to the account of each employer in the base period used to
56 establish the valid original claim in the same proportion that the

1 remuneration paid by each employer to the claimant during that base
2 period bears to the remuneration paid by all employers to the claimant
3 during that base period. Notice of such recalculation of potential
4 charges shall be given to the last employer and each employer of the
5 claimant in the base period used to establish the valid original claim.

6 S 6. Subdivision 1 of section 590 of the labor law, as amended by
7 chapter 645 of the laws of 1951, is amended to read as follows:

8 1. Entitlement to benefits. A claimant shall be entitled to accumulate
9 effective [days] WEEKS for the purpose of benefit rights only if he OR
10 SHE has complied with the provisions of this article regarding the
11 filing of his OR HER claim, including the filing of a valid original
12 claim, registered as totally OR PARTIALLY unemployed, reported his OR
13 HER subsequent employment and unemployment, and reported for work or
14 otherwise given notice of the continuance of his OR HER unemployment.

15 S 7. Subdivision 3 of section 590 of the labor law, as amended by
16 chapter 645 of the laws of 1951, is amended to read as follows:

17 3. Compensable periods. Benefits shall be paid for each [accumulation
18 of] effective [days within a] week.

19 S 8. Subdivision 4 of section 590 of the labor law, as amended by
20 chapter 457 of the laws of 1987, is amended to read as follows:

21 4. Duration. Benefits shall not be paid for more than [one hundred and
22 four effective days] TWENTY-SIX EFFECTIVE WEEKS in any benefit year,
23 except as provided in section six hundred one and subdivision two of
24 section five hundred ninety-nine of this chapter.

25 S 9. Paragraph (a) of subdivision 5 of section 590 of the labor law,
26 as amended by section 8 of part 0 of chapter 57 of the laws of 2013, is
27 amended to read as follows:

28 (a) A claimant's weekly benefit amount shall be one twenty-sixth of
29 the remuneration paid during the highest calendar quarter of the base
30 period by employers, liable for contributions or payments in lieu of
31 contributions under this article, provided the claimant has remuneration
32 paid in all four calendar quarters during his or her base period or
33 alternate base period. However, for any claimant who has remuneration
34 paid in all four calendar quarters during his or her base period or
35 alternate base period and whose high calendar quarter remuneration
36 during the base period is three thousand five hundred seventy-five
37 dollars or less, the benefit amount shall be one twenty-fifth of the
38 remuneration paid during the highest calendar quarter of the base period
39 by employers liable for contributions or payments in lieu of contribu-
40 tions under this article. A claimant's weekly benefit shall be one
41 twenty-sixth of the average remuneration paid in the two highest quar-
42 ters paid during the base period or alternate base period by employers
43 liable for contributions or payments in lieu of contributions under this
44 article when the claimant has remuneration paid in two or three calendar
45 quarters provided however, that a claimant whose high calendar quarter
46 is four thousand dollars or less but greater than three thousand five
47 hundred seventy-five dollars shall have a weekly benefit amount of one
48 twenty-sixth of such high calendar quarter. However, for any claimant
49 who has remuneration paid in two or three calendar quarters during his
50 or her base period or alternate base period and whose high calendar
51 quarter remuneration during the base period is three thousand five
52 hundred seventy-five dollars or less, the benefit amount shall be one
53 twenty-fifth of the remuneration paid during the highest calendar quar-
54 ter of the base period by employers liable for contributions or payments
55 in lieu of contributions under this article. ANY CLAIMANT WHO IS
56 PARTIALLY UNEMPLOYED WITH RESPECT TO ANY EFFECTIVE WEEK SHALL BE PAID,

1 WITH RESPECT TO SUCH EFFECTIVE WEEK, A BENEFIT AMOUNT EQUAL TO HIS OR
2 HER WEEKLY BENEFIT AMOUNT LESS THE TOTAL OF THE REMUNERATION, IF ANY,
3 PAID OR PAYABLE TO HIM OR HER WITH RESPECT TO SUCH WEEK FOR SERVICES
4 PERFORMED WHICH IS IN EXCESS OF HIS OR HER PARTIAL BENEFIT CREDIT. Any
5 claimant whose high calendar quarter remuneration during the base period
6 is more than three thousand five hundred seventy-five dollars shall not
7 have a weekly benefit amount less than one hundred forty-three dollars.
8 The weekly benefit amount, so computed, that is not a multiple of one
9 dollar shall be lowered to the next multiple of one dollar. On the first
10 Monday of September, nineteen hundred ninety-eight the weekly benefit
11 amount shall not exceed three hundred sixty-five dollars nor be less
12 than forty dollars, until the first Monday of September, two thousand,
13 at which time the maximum benefit payable pursuant to this subdivision
14 shall equal one-half of the state average weekly wage for covered
15 employment as calculated by the department no sooner than July first,
16 two thousand and no later than August first, two thousand, rounded down
17 to the lowest dollar. On and after the first Monday of October, two
18 thousand fourteen, the weekly benefit shall not be less than one hundred
19 dollars, nor shall it exceed four hundred twenty dollars until the first
20 Monday of October, two thousand fifteen when the maximum benefit amount
21 shall be four hundred twenty-five dollars, until the first Monday of
22 October, two thousand sixteen when the maximum benefit amount shall be
23 four hundred thirty dollars, until the first Monday of October, two
24 thousand seventeen when the maximum benefit amount shall be four hundred
25 thirty-five dollars, until the first Monday of October, two thousand
26 eighteen when the maximum benefit amount shall be four hundred fifty
27 dollars, until the first Monday of October, two thousand nineteen when
28 the maximum benefit amount shall be thirty-six percent of the average
29 weekly wage until the first Monday of October, two thousand twenty when
30 the maximum benefit amount shall be thirty-eight percent of the average
31 weekly wage, until the first Monday of October, two thousand twenty-one
32 when the maximum benefit amount shall be forty percent of the average
33 weekly wage, until the first Monday of October, two thousand twenty-two
34 when the maximum benefit amount shall be forty-two percent of the aver-
35 age weekly wage, until the first Monday of October, two thousand twen-
36 ty-three when the maximum benefit amount shall be forty-four percent of
37 the average weekly wage, until the first Monday of October, two thousand
38 twenty-four when the maximum benefit amount shall be forty-six percent
39 of the average weekly wage, until the first Monday of October, two thou-
40 sand twenty-five when the maximum benefit amount shall be forty-eight
41 percent of the average weekly wage, until the first Monday of October,
42 two thousand twenty-six and each year thereafter on the first Monday of
43 October when the maximum benefit amount shall be fifty percent of the
44 average weekly wage provided, however, that in no event shall the maxi-
45 mum benefit amount be reduced from the previous year.

46 S 10. Subdivision 6 of section 590 of the labor law, as added by chap-
47 ter 720 of the laws of 1953 and as renumbered by chapter 675 of the laws
48 of 1977, is amended to read as follows:

49 6. Notification requirement. No effective [day] WEEK shall be counted
50 for any purposes except effective [days] WEEKS as to which notification
51 has been given in a manner prescribed by the commissioner.

52 S 11. Subdivision 7 of section 590 of the labor law, as amended by
53 chapter 415 of the laws of 1983, is amended to read as follows:

54 7. Waiting period. A claimant shall not be entitled to accumulate
55 effective [days] WEEKS for the purpose of benefit payments until he OR
56 SHE has accumulated a waiting period of [four effective days either

1 wholly within the week in which he established his valid original claim
2 or partly within such week and partly within his benefit year initiated
3 by such claim] ONE EFFECTIVE WEEK.

4 S 12. Subdivision 1 of section 591 of the labor law, as amended by
5 chapter 413 of the laws of 2003, is amended to read as follows:

6 1. Unemployment. Benefits, except as provided in section five hundred
7 ninety-one-a of this title, shall be paid only to a claimant who is
8 totally unemployed OR PARTIALLY UNEMPLOYED and who is unable to engage
9 in his OR HER usual employment or in any other for which he OR SHE is
10 reasonably fitted by training and experience. A claimant who is receiv-
11 ing benefits under this article shall not be denied such benefits pursu-
12 ant to this subdivision or to subdivision two of this section because of
13 such claimant's service on a grand or petit jury of any state or of the
14 United States.

15 S 13. Subdivision 1 of section 591 of the labor law, as amended by
16 chapter 446 of the laws of 1981, is amended to read as follows:

17 1. Unemployment. Benefits shall be paid only to a claimant who is
18 totally unemployed OR PARTIALLY UNEMPLOYED and who is unable to engage
19 in his OR HER usual employment or in any other for which he OR SHE is
20 reasonably fitted by training and experience. A claimant who is receiv-
21 ing benefits under this article shall not be denied such benefits pursu-
22 ant to this subdivision or to subdivision two of this section because of
23 such claimant's service on a grand or petit jury of any state or of the
24 United States.

25 S 14. Subparagraph (i) of paragraph (b) of subdivision 2 of section
26 591-a of the labor law, as amended by section 14 of part 0 of chapter 57
27 of the laws of 2013, is amended to read as follows:

28 (i) requirements relating to total unemployment AND PARTIAL UNEMPLOY-
29 MENT, as defined in section five hundred twenty-two of this article,
30 availability for work and search for work, as set forth in subdivision
31 two of section five hundred ninety-one of this title and refusal to
32 accept work, as set forth in subdivision two of section five hundred
33 ninety-three of this title, are not applicable to such individuals;

34 S 15. Subdivision 2 of section 592 of the labor law, as amended by
35 chapter 415 of the laws of 1983, is amended to read as follows:

36 2. Concurrent payments prohibited. No [days] WEEKS of total unemploy-
37 ment OR PARTIAL UNEMPLOYMENT shall be deemed to occur in any week with
38 respect to which [or a part of which] a claimant has received or is
39 seeking unemployment benefits under an unemployment compensation law of
40 any other state or of the United States, provided that this provision
41 shall not apply if the appropriate agency of such other state or of the
42 United States finally determines that he OR SHE is not entitled to such
43 unemployment benefits.

44 S 16. Paragraph (a) of subdivision 1 of section 593 of the labor law,
45 as amended by section 15 of part 0 of chapter 57 of the laws of 2013, is
46 amended to read as follows:

47 (a) No [days] WEEKS of total unemployment OR PARTIAL UNEMPLOYMENT
48 shall be deemed to occur after a claimant's voluntary separation without
49 good cause from employment until he or she has subsequently worked in
50 employment and earned remuneration at least equal to ten times his or
51 her weekly benefit rate. In addition to other circumstances that may be
52 found to constitute good cause, including a compelling family reason as
53 set forth in paragraph (b) of this subdivision, voluntary separation
54 from employment shall not in itself disqualify a claimant if circum-
55 stances have developed in the course of such employment that would have
56 justified the claimant in refusing such employment in the first instance

1 under the terms of subdivision two of this section or if the claimant,
2 pursuant to an option provided under a collective bargaining agreement
3 or written employer plan which permits waiver of his or her right to
4 retain the employment when there is a temporary layoff because of lack
5 of work, has elected to be separated for a temporary period and the
6 employer has consented thereto.

7 S 17. Subdivision 2 of section 593 of the labor law, as amended by
8 chapter 415 of the laws of 1983, the opening paragraph as amended by
9 section 15 of part 0 of chapter 57 of the laws of 2013, paragraph (a) as
10 added by chapter 589 of the laws of 1998, paragraphs (d) and (e) as
11 amended by chapter 35 of the laws of 2009, is amended to read as
12 follows:

13 2. Refusal of employment. No [days] WEEKS of total unemployment OR
14 PARTIAL UNEMPLOYMENT shall be deemed to occur beginning with the [day
15 on] WEEK IN which a claimant, without good cause, refuses to accept an
16 offer of employment for which he or she is reasonably fitted by training
17 and experience, including employment not subject to this article, until
18 he or she has subsequently worked in employment and earned remuneration
19 at least equal to ten times his or her weekly benefit rate. Except that
20 claimants who are not subject to a recall date or who do not obtain
21 employment through a union hiring hall and who are still unemployed
22 after receiving ten weeks of benefits shall be required to accept any
23 employment proffered that such claimants are capable of performing,
24 provided that such employment would result in a wage not less than
25 eighty percent of such claimant's high calendar quarter wages received
26 in the base period and not substantially less than the prevailing wage
27 for similar work in the locality as provided for in paragraph (d) of
28 this subdivision. No refusal to accept employment shall be deemed with-
29 out good cause nor shall it disqualify any claimant otherwise eligible
30 to receive benefits if:

31 (a) a refusal to accept employment which would interfere with a claim-
32 ant's right to join or retain membership in any labor organization or
33 otherwise interfere with or violate the terms of a collective bargaining
34 agreement shall be with good cause;

35 (b) there is a strike, lockout, or other industrial controversy in the
36 establishment in which the employment is offered; or

37 (c) the employment is at an unreasonable distance from his OR HER
38 residence, or travel to and from the place of employment involves
39 expense substantially greater than that required in his OR HER former
40 employment unless the expense be provided for; or

41 (d) the wages or compensation or hours or conditions offered are
42 substantially less favorable to the claimant than those prevailing for
43 similar work in the locality, or are such as tend to depress wages or
44 working conditions; or

45 (e) the claimant is seeking part-time work as provided in subdivision
46 five of section five hundred ninety-six of this title and the offer of
47 employment is not comparable to his or her part-time work as defined in
48 such subdivision.

49 S 18. Subdivision 3 of section 593 of the labor law, as amended by
50 section 15 of part 0 of chapter 57 of the laws of 2013, is amended to
51 read as follows:

52 3. Misconduct. No [days] WEEKS of total unemployment OR PARTIAL UNEM-
53 PLOYMENT shall be deemed to occur after a claimant lost employment
54 through misconduct in connection with his or her employment until he or
55 she has subsequently worked in employment and earned remuneration at
56 least equal to ten times his or her weekly benefit rate.

1 S 19. Subdivision 4 of section 593 of the labor law, as amended by
2 chapter 589 of the laws of 1998, is amended to read as follows:

3 4. Criminal acts. No [days] WEEKS of total unemployment OR PARTIAL
4 UNEMPLOYMENT shall be deemed to occur during a period of twelve months
5 after a claimant loses employment as a result of an act constituting a
6 felony in connection with such employment, provided the claimant is duly
7 convicted thereof or has signed a statement admitting that he or she has
8 committed such an act. Determinations regarding a benefit claim may be
9 reviewed at any time. Any benefits paid to a claimant prior to a deter-
10 mination that the claimant has lost employment as a result of such act
11 shall not be considered to have been accepted by the claimant in good
12 faith. In addition, remuneration paid to the claimant by the affected
13 employer prior to the claimant's loss of employment due to such criminal
14 act may not be utilized for the purpose of establishing entitlement to a
15 subsequent, valid original claim. The provisions of this subdivision
16 shall apply even if the employment lost as a result of such act is not
17 the claimant's last employment prior to the filing of his or her claim.

18 S 20. Section 594 of the labor law, as amended by section 16 of part
19 O of chapter 57 of the laws of 2013, is amended to read as follows:

20 S 594. Reduction and recovery of benefits and penalties for wilful
21 false statement. (1) A claimant who has wilfully made a false statement
22 or representation to obtain any benefit under the provisions of this
23 article shall forfeit benefits for at least the first [four] ONE but not
24 more than the first [eighty] TWENTY effective [days] WEEKS following
25 discovery of such offense for which he or she otherwise would have been
26 entitled to receive benefits. Such penalty shall apply only once with
27 respect to each such offense.

28 (2) For the purpose of subdivision four of section five hundred ninety
29 of this [article] TITLE, the claimant shall be deemed to have received
30 benefits for such forfeited effective [days] WEEKS.

31 (3) The penalty provided in this section shall not be confined to a
32 single benefit year but shall no longer apply in whole or in part after
33 the expiration of two years from the date of the final determination.
34 Such two-year period shall be tolled during the time period a claimant
35 has an appeal pending.

36 (4) A claimant shall refund all moneys received because of such false
37 statement or representation and pay a civil penalty in an amount equal
38 to the greater of one hundred dollars or fifteen percent of the total
39 overpaid benefits determined pursuant to this section. The penalties
40 collected hereunder shall be deposited in the fund. The penalties
41 assessed under this subdivision shall apply and be assessed for any
42 benefits paid under federal unemployment and extended unemployment
43 programs administered by the department in the same manner as provided
44 in this article. The penalties in this section shall be in addition to
45 any penalties imposed under this chapter or any state or federal crimi-
46 nal statute. No penalties or interest assessed pursuant to this section
47 may be deducted or withheld from benefits.

48 (5) (a) Upon a determination based upon a willful false statement or
49 representation becoming final through exhaustion of appeal rights or
50 failure to exhaust hearing rights, the commissioner may recover the
51 amount found to be due by commencing a civil action, or by filing with
52 the county clerk of the county where the claimant resides the final
53 determination of the commissioner or the final decision by an adminis-
54 trative law judge, the appeal board, or a court containing the amount
55 found to be due including interest and civil penalty. The commissioner
56 may only make such a filing with the county clerk when:

1 (i) The claimant has responded to requests for information prior to a
2 determination and such requests for information notified the claimant of
3 his or her rights to a fair hearing as well as the potential conse-
4 quences of an investigation and final determination under this section
5 including the notice required by subparagraph (iii) of paragraph (b) of
6 this subdivision. Additionally if the claimant requested a fair hearing
7 or appeal subsequent to a determination, that the claimant was present
8 either in person or through electronic means at such hearing, or subse-
9 quent appeal from which a final determination was rendered;

10 (ii) The commissioner has made efforts to collect on such final deter-
11 mination; and

12 (iii) The commissioner has sent a notice, in accordance with paragraph
13 (b) of this subdivision, of intent to docket such final determination by
14 first class or certified mail, return receipt requested, ten days prior
15 to the docketing of such determination.

16 (b) The notice required in subparagraph (iii) of paragraph (a) of this
17 subdivision shall include the following:

18 (i) That the commissioner intends to docket a final determination
19 against such claimant as a judgment;

20 (ii) The total amount to be docketed; and

21 (iii) Conspicuous language that reads as follows: "Once entered, a
22 judgment is good and can be used against you for twenty years, and your
23 money, including a portion of your paycheck and/or bank account, may be
24 taken. Also, a judgment will hurt your credit score and can affect your
25 ability to rent a home, find a job, or take out a loan."

26 S 21. Subdivision 1 of section 596 of the labor law, as amended by
27 chapter 204 of the laws of 1982, is amended to read as follows:

28 1. Claim filing and certification to unemployment. A claimant shall
29 file a claim for benefits at the local state employment office serving
30 the area in which he OR SHE was last employed or in which he OR SHE
31 resides within such time and in such manner as the commissioner shall
32 prescribe. He OR SHE shall disclose whether he OR SHE owes child support
33 obligations, as hereafter defined. If a claimant making such disclosure
34 is eligible for benefits, the commissioner shall notify the state or
35 local child support enforcement agency, as hereafter defined, that the
36 claimant is eligible.

37 A claimant shall correctly report any [days] WEEKS of employment and
38 any compensation he OR SHE received for such employment, including
39 employments not subject to this article, and the [days on] WEEKS DURING
40 which he OR SHE was totally unemployed OR PARTIALLY UNEMPLOYED and shall
41 make such reports in accordance with such regulations as the commission-
42 er shall prescribe.

43 S 22. Subdivision 4 of section 596 of the labor law, as added by chap-
44 ter 705 of the laws of 1944 and as renumbered by section 148-a of part B
45 of chapter 436 of the laws of 1997, and such section as renumbered by
46 chapter 663 of the laws of 1946, is amended to read as follows:

47 4. Registration and reporting for work. A claimant shall register as
48 totally unemployed OR PARTIALLY UNEMPLOYED at a local state employment
49 office serving the area in which he OR SHE was last employed or in which
50 he OR SHE resides in accordance with such regulations as the commission-
51 er shall prescribe. After so registering, such claimant shall report for
52 work at the same local state employment office or otherwise give notice
53 of the continuance of his OR HER unemployment as often and in such
54 manner as the commissioner shall prescribe.

1 S 23. Paragraph (a) of subdivision 2 of section 599 of the labor law,
2 as amended by chapter 593 of the laws of 1991, is amended to read as
3 follows:

4 (a) Notwithstanding any other provision of this chapter, a claimant
5 attending an approved training course or program under this section may
6 receive additional benefits of up to [one hundred four] TWENTY-SIX
7 effective [days] WEEKS following exhaustion of regular and, if in
8 effect, any other extended benefits, provided that entitlement to a new
9 benefit claim cannot be established. Certification of continued satis-
10 factory participation and progress in such training course or program
11 must be submitted to the commissioner prior to the payment of any such
12 benefits. The duration of such additional benefits shall in no case
13 exceed twice the number of effective [days] WEEKS of regular benefits to
14 which the claimant is entitled at the time the claimant is accepted in,
15 or demonstrates application for appropriate training.

16 S 24. Subdivision 2 of section 601 of the labor law, as amended by
17 chapter 35 of the laws of 2009, paragraph (d) as amended by section 3 of
18 part Z of chapter 57 of the laws of 2013, is amended to read as follows:

19 2. Eligibility conditions. Extended benefits shall be payable to a
20 claimant for effective [days] WEEKS occurring [in any week] within an
21 eligibility period, provided the claimant

22 (a) has exhausted his or her rights to regular benefits under this
23 article in his or her current benefit year or, his or her benefit year
24 having expired prior to such week, he or she does not have the required
25 weeks of employment or earnings to establish a new benefit year, and he
26 or she has no rights to benefits under the unemployment insurance law of
27 any other state;

28 (b) has no rights to unemployment benefits or allowances under the
29 railroad unemployment insurance act, the trade expansion act of nineteen
30 hundred sixty-two, the automotive products trade act of nineteen hundred
31 sixty-five, or such other federal laws as are specified in regulations
32 issued by the secretary of labor of the United States;

33 (c) has not received and is not seeking unemployment benefits under
34 the unemployment compensation law of the Virgin Islands or of Canada
35 unless, if he or she is seeking such benefits, the appropriate agency
36 finally determines that he or she is not entitled to benefits under such
37 law;

38 (d) has satisfied the conditions of this article, required to render a
39 claimant eligible for regular benefits, which are applicable to extended
40 benefits, including not being subject to a disqualification or suspen-
41 sion, or has satisfied the conditions of this article required to render
42 a claimant eligible to participate in the self-employment assistance
43 program pursuant to section five hundred ninety-one-a of this title and
44 the Federal-State Extended Unemployment Compensation Act of 1970;

45 (e) is not claiming benefits pursuant to an interstate claim filed
46 under the interstate benefit payment plan in a state where an extended
47 benefit period is not in effect, except that this condition shall not
48 apply with respect to the first [eight] TWO effective [days] WEEKS for
49 which extended benefits shall otherwise be payable pursuant to an inter-
50 state claim filed under the interstate benefit payment plan; and

51 (f) in his or her base period has remuneration of one and one-half
52 times the high calendar quarter earnings in accordance with section five
53 hundred twenty-seven of this article.

54 S 25. Subdivision 3 of section 601 of the labor law, as amended by
55 chapter 35 of the laws of 2009, is amended to read as follows:

1 3. Extended benefit amounts; rate and duration. Extended benefits
2 shall be paid to a claimant

3 (a) at a rate equal to his or her rate for regular benefits during his
4 or her applicable benefit year but

5 (b) for not more than [fifty-two] THIRTEEN effective [days] WEEKS with
6 respect to his or her applicable benefit year, with a total maximum
7 amount equal to fifty percentum of the total maximum amount of regular
8 benefits payable in such benefit year, and

9 (c) if a claimant's benefit year ends within an extended benefit peri-
10 od, the remaining balance of extended benefits to which he or she would
11 be entitled, if any, shall be reduced by the number of effective [days]
12 WEEKS for which he or she was entitled to receive trade readjustment
13 allowances under the federal trade act of nineteen hundred seventy-four
14 during such benefit year, and

15 (d) for periods of high unemployment for not more than eighty effec-
16 tive days with respect to the applicable benefit year with a total maxi-
17 mum amount equal to eighty percent of the total maximum amount of regu-
18 lar benefits payable in such benefit year.

19 S 26. Subdivision 4 of section 601 of the labor law, as amended by
20 chapter 35 of the laws of 2009, is amended to read as follows:

21 4. Charging of extended benefits. The provisions of paragraph (e) of
22 subdivision one of section five hundred eighty-one of this article shall
23 apply to benefits paid pursuant to the provisions of this section, and
24 if they were paid for effective [days occurring in] weeks following the
25 end of a benefit year, they shall be deemed paid with respect to that
26 benefit year. However, except for governmental entities as defined in
27 section five hundred sixty-five and Indian tribes as defined in section
28 five hundred sixty-six of this article, only one-half of the amount of
29 such benefits shall be debited to the employers' account; the remainder
30 thereof shall be debited to the general account, and such account shall
31 be credited with the amount of payments received in the fund pursuant to
32 the provisions of the federal-state extended unemployment compensation
33 act. Notwithstanding the foregoing, where the state has entered an
34 extended benefit period triggered pursuant to subparagraph one of para-
35 graph (a) of subdivision one of this section for which federal law
36 provides for one hundred percent federal sharing of the costs of bene-
37 fits, all charges shall be debited to the general account and such
38 account shall be credited with the amount of payments received in the
39 fund pursuant to the provisions of the federal-state extended unemploy-
40 ment compensation act or other federal law providing for one hundred
41 percent federal sharing for the cost of such benefits.

42 S 27. Paragraph (b) of subdivision 5 of section 601 of the labor law,
43 as amended by chapter 35 of the laws of 2009, is amended to read as
44 follows:

45 (b) No [days] WEEKS of total unemployment OR PARTIAL UNEMPLOYMENT
46 shall be deemed to occur [in any week] within an eligibility period
47 during which a claimant fails to accept any offer of suitable work or
48 fails to apply for suitable work to which he or she was referred by the
49 commissioner, who shall make such referral if such work is available, or
50 during which he or she fails to engage actively in seeking work by
51 making a systematic and sustained effort to obtain work and providing
52 tangible evidence of such effort, and until he or she has worked in
53 employment during at least four subsequent weeks and earned remuneration
54 of at least four times his or her benefit rate.

1 S 28. Paragraph (e) of subdivision 5 of section 601 of the labor law,
2 as amended by chapter 35 of the laws of 2009, is amended to read as
3 follows:

4 (e) No [days] WEEKS of total unemployment OR PARTIAL UNEMPLOYMENT
5 shall be deemed to occur [in any week] within an eligibility period
6 under section five hundred ninety-three of this [article] TITLE, until
7 he or she has subsequently worked in employment in accordance with the
8 requirements set forth in section five hundred ninety-three of this
9 [article] TITLE.

10 S 29. Section 603 of the labor law, as amended by section 21 of part
11 O of chapter 57 of the laws of 2013, is amended to read as follows:

12 S 603. Definitions. For purposes of this title: "Total unemployment"
13 shall mean the total lack of any employment [on any day] DURING ANY WEEK
14 AND "PARTIAL UNEMPLOYMENT" SHALL MEAN ANY EMPLOYMENT DURING ANY WEEK
15 THAT IS LESS THAN FULL-TIME EMPLOYMENT SO LONG AS THE COMPENSATION PAID
16 IS LESS THAN THE CLAIMANT'S WEEKLY BENEFIT RATE PLUS THE CLAIMANT'S
17 PARTIAL BENEFIT CREDIT, other than with an employer applying for a
18 shared work program. "Work force" shall mean the total work force, a
19 clearly identifiable unit or units thereof, or a particular shift or
20 shifts. The work force subject to reduction shall consist of no less
21 than two employees.

22 S 30. This act shall take effect immediately; provided, however, that
23 the amendments to subdivision 1 of section 591 of the labor law made by
24 section twelve of this act shall be subject to the expiration and rever-
25 sion of such subdivision pursuant to section 10 of chapter 413 of the
26 laws of 2003, as amended, when upon such date the provisions of section
27 thirteen of this act shall take effect; provided, further, however, that
28 the amendment to section 591-a of the labor law made by section fourteen
29 of this act shall not affect the repeal of such section and shall be
30 deemed repealed therewith.