S T A T E O F N E W Y O R K

2870

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. SCHIMMINGER -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to eligibility for unemployment benefits

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

Section 1. The labor law is amended by adding a new section 529 to read as follows:

S 529. NOTICE-DISCHARGE PERIOD. A CLAIMANT'S NOTICE-DISCHARGE PERIOD IS THAT PERIOD BETWEEN THE DATE WHICH A CLAIMANT HAS NOTIFIED HIS OR HER EMPLOYER THAT HE OR SHE INTENDS TO BE HIS OR HER FINAL DAY IN THE EMPLOYER'S EMPLOYMENT AND THE DAY ON WHICH THE EMPLOYER DISCHARGES THE EMPLOYEE FROM EMPLOYMENT.

S 2. Subdivision 1 of section 527 of the labor law, as amended by chapter 413 of the laws of 2003, is amended to read as follows:

1. Basic condition. "Valid original claim" is a claim filed by a claimant who meets the following qualifications:

(a) is able to work, and available for work;

(b) is not subject to any disqualification or suspension under this article; A NOTICE-DISCHARGE PERIOD SHALL BE DEEMED A DISQUALIFICATION FOR THE DURATION OF THE PERIOD;

(c) his previously established benefit year, if any, has expired;

(d) has been paid remuneration by employers liable for contributions or for payments in lieu of contributions under this article, other than employers from whom the claimant lost employment under conditions which would be disqualifying pursuant to subdivision three of section five hundred ninety-three of this article, for employment during at least two calendar quarters of the base period, with remuneration of one and one-half times the high calendar quarter earnings within the base period and with at least one thousand six hundred dollars of such remuneration being paid during the high calendar quarter of such base period.

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

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For purposes of this section, the earnings in the high calendar quarter of the base period used in determining a valid original claim shall not exceed an amount equal to twenty-two times the maximum benefit rate as set forth in subdivision five of section five hundred ninety of this article for all individuals.

S 3. Subdivisions 1 and 4 of section 590 of the labor law, subdivision 1 as amended by chapter 645 of the laws of 1951 and subdivision 4 as amended by chapter 457 of the laws of 1987, are amended to read as follows:

1. Entitlement to benefits. A claimant shall be entitled to accumulate effective days for the purpose of benefit rights only if he has complied with the provisions of this article regarding the filing of his claim, including the filing of a valid original claim, registered as totally unemployed, reported his subsequent employment and unemployment, and reported for work or otherwise given notice of the continuance of his unemployment. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, EXCEPT FOR THE CLOSING PARAGRAPH OF PARAGRAPH (A) AND PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION FIVE HUNDRED NINETY-THREE OF THIS TITLE, A CLAIMANT SHALL NOT BE ENTITLED TO ACCUMULATE EFFECTIVE DAYS FOR THE PURPOSE OF BENEFIT RIGHTS, NOR SHALL A CLAIMANT BE ENTITLED TO THE PAYMENT OF BENEFITS, FOR A PERIOD OF TIME EQUAL TO THE CLAIMANT'S NOTICE-DISCHARGE PERIOD, IF THE CLAIMANT HAS ONE.

4. Duration. Benefits shall not be paid for more than one hundred [and] four effective days in any benefit year, except as provided in section six hundred one and subdivision two of section five hundred ninety-nine of this [chapter] TITLE; AND PROVIDED FURTHER THAT BENEFITS SHALL NOT BE PAID FOR THE CLAIMANT'S NOTICE-DISCHARGE PERIOD, IF THE CLAIMANT HAS ONE, AND THE MAXIMUM NUMBER OF EFFECTIVE DAYS SHALL BE REDUCED BY THE NUMBER OF DAYS IN THE NOTICE-DISCHARGE PERIOD.

S 4. Section 591 of the labor law is amended by adding a new subdivision 6 to read as follows:

6. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, EXCEPT FOR THE CLOSING PARAGRAPH OF PARAGRAPH (A) AND PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION FIVE HUNDRED NINETY-THREE OF THIS TITLE, NO BENEFITS SHALL BE PAYABLE TO A CLAIMANT FOR ANY DAY DURING A NOTICE-DISCHARGE PERIOD, NOR SHALL ANY SUCH DAY BE CONSIDERED A DAY OF TOTAL UNEMPLOYMENT UNDER SECTION FIVE HUNDRED TWENTY-TWO OF THIS ARTICLE.

S 5. The opening paragraph of paragraph (a) of subdivision 1 of section 593 of the labor law, as amended by chapter 268 of the laws of 1999, is amended to read as follows:

No days of total unemployment shall be deemed to occur after a claimant's voluntary separation without good cause from employment until he or she has subsequently worked in employment and earned remuneration at least equal to five times his or her weekly benefit rate. In addition to other circumstances that may be found to constitute good cause, voluntary separation from employment shall not in itself disqualify a claimant if circumstances have developed in the course of such employment that would have justified the claimant in refusing such employment in the first instance under the terms of subdivision two of this section or if the claimant, pursuant to an option provided under a collective bargaining agreement or written employer plan which permits waiver of his right to retain the employment when there is a temporary layoff because of lack of work, has elected to be separated for a temporary period and the employer has consented thereto. ANY NOTICE-DISCHARGE PERIOD SHALL BE DEEMED TO BE VOLUNTARY SEPARATION FROM EMPLOYMENT WITHOUT GOOD CAUSE.

S 6. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately the commissioner of labor is authorized to promulgate any and all rules and regulations and take any other measures necessary to implement this act on its effective date on or before such date.