

8423

I N S E N A T E

June 30, 2010

Introduced by Sen. ONORATO -- (at request of the Governor) -- read twice
and ordered printed, and when printed to be committed to the Committee
on Rules

AN ACT to amend the labor law, in relation to unemployment insurance
benefits, contributions, and partial unemployment; and to repeal
subdivision 4 of section 575-a of such law relating to penalties
relating to wage information

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

1 Section 1. Paragraph (a) of subdivision 1 of section 518 of the labor
2 law, as amended by chapter 589 of the laws of 1998, is amended to read
3 as follows:
4 (a) "Wages" means all remuneration paid, except that such term does
5 not include remuneration paid to an employee by an employer after eight
6 thousand five hundred dollars have been paid to such employee by such
7 employer with respect to employment during any calendar year, EXCEPT
8 THAT SUCH TERM DOES NOT INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN
9 EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR BEGINNING
10 WITH THE FIRST DAY OF JANUARY, TWO THOUSAND ELEVEN WHICH EXCEEDS NINE
11 THOUSAND FIVE HUNDRED DOLLARS, NOR SHALL SUCH TERM INCLUDE REMUNERATION
12 PAID TO AN EMPLOYEE BY AN EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY
13 CALENDAR YEAR BEGINNING WITH THE FIRST DAY OF JANUARY, TWO THOUSAND
14 TWELVE WHICH EXCEEDS TEN THOUSAND FIVE HUNDRED DOLLARS, NOR SHALL SUCH
15 TERM INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN EMPLOYER WITH
16 RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR BEGINNING WITH THE FIRST
17 DAY OF JANUARY, TWO THOUSAND THIRTEEN WHICH EXCEEDS ELEVEN THOUSAND FIVE
18 HUNDRED DOLLARS, NOR SHALL SUCH TERM INCLUDE REMUNERATION PAID TO AN
19 EMPLOYEE BY AN EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR
20 YEAR BEGINNING WITH THE FIRST DAY OF JANUARY, TWO THOUSAND FOURTEEN
21 WHICH EXCEEDS TWELVE THOUSAND DOLLARS, NOR SHALL SUCH TERM INCLUDE
22 REMUNERATION PAID TO AN EMPLOYEE BY AN EMPLOYER WITH RESPECT TO EMPLOY-
23 MENT DURING ANY CALENDAR YEAR BEGINNING WITH THE FIRST DAY OF JANUARY,
24 TWO THOUSAND FIFTEEN WHICH EXCEEDS TWELVE THOUSAND FIVE HUNDRED DOLLARS,
25 NOR SHALL SUCH TERM INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN

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

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1 EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR BEGINNING
2 WITH THE FIRST DAY OF JANUARY, TWO THOUSAND SIXTEEN WHICH EXCEEDS THIR-
3 TEEN THOUSAND DOLLARS, NOR SHALL SUCH TERM INCLUDE REMUNERATION PAID TO
4 AN EMPLOYEE BY AN EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALEN-
5 DAR YEAR BEGINNING WITH THE FIRST DAY OF JANUARY, TWO THOUSAND SEVENTEEN
6 WHICH EXCEEDS THIRTEEN THOUSAND FIVE HUNDRED DOLLARS, NOR SHALL SUCH
7 TERM INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN EMPLOYER WITH
8 RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR BEGINNING WITH THE FIRST
9 DAY OF JANUARY, TWO THOUSAND EIGHTEEN WHICH EXCEEDS FOURTEEN THOUSAND
10 DOLLARS, NOR SHALL SUCH TERM INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY
11 AN EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR BEGIN-
12 NING WITH THE FIRST DAY OF JANUARY, TWO THOUSAND NINETEEN AND THEREAFTER
13 WHICH EXCEEDS EIGHTEEN PERCENT OF THE STATE'S AVERAGE ANNUAL WAGE;
14 PROVIDED, HOWEVER, THAT IN CALCULATING SUCH MAXIMUM AMOUNT OF REMUNERA-
15 TION, THE AMOUNT ARRIVED AT BY MULTIPLYING THE STATE'S AVERAGE WEEKLY
16 WAGE TIMES EIGHTEEN PERCENT SHALL BE ROUNDED UP TO THE NEAREST HUNDRED
17 DOLLARS. The term "employment" includes for the purposes of this subdi-
18 vision services constituting employment under any unemployment compen-
19 sation law of another state or the United States. NOTWITHSTANDING THE
20 FOREGOING, THE MAXIMUM AMOUNT OF REMUNERATION WHICH SHALL CONSTITUTE
21 "WAGES" WITHIN THE MEANING OF THIS SECTION AS OF THE FIRST DAY OF JANU-
22 ARY, TWO THOUSAND TWENTY-ONE, AND ON EACH JANUARY FIRST THEREAFTER,
23 SHALL BE REDUCED BY ONE PERCENT OF THE STATE'S AVERAGE ANNUAL WAGE, WITH
24 THE AMOUNT ARRIVED AT BEING ROUNDED UP TO THE NEAREST HUNDRED DOLLARS,
25 IF ON THE PRECEDING THIRTY-FIRST DAY OF DECEMBER THE COMMISSIONER SHALL
26 HAVE DETERMINED THAT ON SUCH DAY AND THE IMMEDIATELY PRECEDING
27 THIRTY-FIRST DAY OF DECEMBER, THE FUND HAD A BALANCE EQUAL TO OR GREATER
28 THAN 1.7 PERCENT OF AGGREGATE TAXABLE WAGES OF THE PRIOR YEAR, PROVIDED
29 HOWEVER, THAT IF, ON ANY THIRTY-FIRST DAY OF DECEMBER FOLLOWING SUCH
30 REDUCTION IN THE MAXIMUM AMOUNT OF REMUNERATION, THE COMMISSIONER SHALL
31 DETERMINE THAT THE BALANCE OF THE FUND IS LESS THAN 1.25 PERCENT OF
32 AGGREGATE TAXABLE WAGES OF THE PRIOR YEAR, THE MAXIMUM AMOUNT OF REMUN-
33 ERATION FOR THE CALENDAR YEAR BEGINNING WITH THE FIRST DAY OF JANUARY
34 NEXT SUCCEEDING SUCH DATE SHALL INCREASE BY TWO PERCENT OF THE STATE'S
35 AVERAGE ANNUAL WAGE, WITH THE AMOUNT ARRIVED AT BEING ROUNDED UP TO THE
36 NEAREST HUNDRED DOLLARS. IN NO CASE MAY SUCH REDUCTION REDUCE THE MAXI-
37 MUM AMOUNT OF REMUNERATION WHICH SHALL CONSTITUTE WAGES BELOW TEN THOU-
38 SAND DOLLARS.

39 S 2. The labor law is amended by adding a new section 529 to read as
40 follows:

41 S 529. AVERAGE ANNUAL WAGE; AVERAGE WEEKLY WAGE. 1. THE "AVERAGE ANNU-
42 AL WAGE" SHALL BE THE AVERAGE ANNUAL WAGE OF THE STATE OF NEW YORK FOR
43 THE PREVIOUS CALENDAR YEAR DETERMINED BY THE COMMISSIONER NO LATER THAN
44 THE THIRTY-FIRST DAY OF MAY OF EACH YEAR.

45 2. THE "AVERAGE WEEKLY WAGE" SHALL BE THE AVERAGE WEEKLY WAGE OF THE
46 STATE OF NEW YORK FOR THE PREVIOUS CALENDAR YEAR DETERMINED BY THE
47 COMMISSIONER NO LATER THAN THE THIRTY-FIRST DAY OF MAY OF EACH YEAR.

48 S 3. Subdivision 1 of section 560 of the labor law, as amended by
49 chapter 103 of the laws of 1965, is amended to read as follows:

50 1. Liability. Any employer shall become liable for contributions under
51 this article if he has paid remuneration of [three hundred dollars] ONE
52 PERCENT OF AVERAGE ANNUAL WAGE ROUNDED UP TO THE NEAREST TEN DOLLARS, or
53 more in any calendar quarter, except that liability with respect to
54 persons employed in personal or domestic service in private homes shall
55 be considered separately and an employer shall become liable for
56 contributions with respect to such persons only if he has paid to them

remuneration in cash of [five hundred dollars] ONE AND ONE-HALF PERCENT OF AVERAGE ANNUAL WAGE, ROUNDED UP TO THE NEAREST TEN DOLLARS, or more in any calendar quarter. Such liability for contributions shall commence on the first day of such calendar quarter.

An employer who, by operation of law, purchase or otherwise becomes successor to an employer liable for contributions shall become liable for contributions on the day of his succession. This provision shall not affect such successor's liability as otherwise prescribed by law for unpaid contributions due from his predecessor.

S 4. Subparagraph 3 of paragraph (e) of subdivision 1 of section 581 of the labor law, as amended by chapter 589 of the laws of 1998, is amended to read as follows:

(3) An employer's account shall not be charged, and the charges shall instead be made to the general account, for benefits paid to a claimant RESULTING FROM A VOLUNTARY SEPARATION RESULTING FROM DOMESTIC VIOLENCE, THE ILLNESS OR DISABILITY OF A MEMBER OF THE CLAIMANT'S IMMEDIATE FAMILY, OR THE NEED FOR THE CLAIMANT TO ACCOMPANY HIS OR HER SPOUSE DUE TO A CHANGE IN LOCATION OF THE SPOUSE'S EMPLOYMENT TO A PLACE FROM WHICH IT IS IMPRACTICAL FOR SUCH INDIVIDUAL TO COMMUTE, OR after the expiration of a period of disqualification from benefits following a final determination that the claimant lost employment with the employer through misconduct or voluntary separation of employment without good cause within the meaning of section five hundred ninety-three of this article and the charges are attributable to remuneration paid during the claimant's base period of employment with such employer prior to the claimant's loss of employment with such employer through misconduct or voluntary separation of employment without good cause.

S 5. Paragraph (a) of subdivision 2 of section 581 of the labor law, as added by chapter 413 of the laws of 2003, is amended to read as follows:

(a) Each qualified employer's rate of contribution shall be the percentage shown in the column headed by the size of the fund index as of the computation date and on the same line with his or her negative or positive employer's account percentage, except that if within the three payroll years preceding the computation date any part of a negative balance has been transferred from any employer's account as a charge to the general account pursuant to the provisions of paragraph (e) of subdivision one of this section such employer's rate of contribution shall be the maximum contribution rate as shown in the column headed by the size of fund index;

Size of Fund Index

Employer's
Account

Percentage	Less	0%	0.5%	1.0%	1.5%	2.0%	2.5%	3.0%	3.5%	4.0%	4.5%	5.0%
	Than	but	but	but	but	but	but	but	but	but	but	or
	0%	less	less	less	less	less	less	less	less	less	less	more
		than	than	than	than	than	than	than	than	than	than	
		0.5%	1.0%	1.5%	2.0%	2.5%	3.0%	3.5%	4.0%	4.5%	5.0%	

Negative

21.0%

or more	8.90	8.70	8.50	8.30	8.10	7.30	6.90	6.50	6.20	6.10	6.00	5.90
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1														
2	20.5%													
3	or more													
4	but less													
5	than 21.0%	8.80	8.60	8.40	8.20	8.00	7.20	6.80	6.40	6.10	6.00	5.90	5.80	
6														
7	20.0%													
8	or more													
9	but less													
10	than 20.5%	8.70	8.50	8.30	8.10	7.90	7.10	6.70	6.30	6.00	5.90	5.80	5.70	
11														
12	19.5%													
13	or more													
14	but less													
15	than 20.0%	8.60	8.40	8.20	8.00	7.80	7.00	6.60	6.20	5.90	5.80	5.70	5.60	
16														
17	19.0%													
18	or more													
19	but less													
20	than 19.5%	8.50	8.30	8.10	7.90	7.70	6.90	6.50	6.10	5.80	5.70	5.60	5.50	
21														
22	18.5%													
23	or more													
24	but less													
25	than 19.0%	8.40	8.20	8.00	7.80	7.60	6.80	6.40	6.00	5.70	5.60	5.50	5.40	
26														
27	18.0%													
28	or more													
29	but less													
30	than 18.5%	8.30	8.10	7.90	7.70	7.50	6.70	6.30	5.90	5.60	5.50	5.40	5.30	
31														
32	17.5%													
33	or more													
34	but less													
35	than 18.0%	8.20	8.00	7.80	7.60	7.40	6.60	6.20	5.80	5.50	5.40	5.30	5.20	
36														
37	17.0%													
38	or more													
39	but less													
40	than 17.5%	8.10	7.90	7.70	7.50	7.30	6.50	6.10	5.70	5.40	5.30	5.20	5.10	
41														
42	16.5%													
43	or more													
44	but less													
45	than 17.0%	8.00	7.80	7.60	7.40	7.20	6.40	6.00	5.60	5.30	5.20	5.10	5.00	
46														
47	16.0%													
48	or more													
49	but less													
50	than 16.5%	7.90	7.70	7.50	7.30	7.10	6.30	5.90	5.50	5.20	5.10	5.00	4.90	
51														
52	15.5%													
53	or more													
54	but less													
55	than 16.0%	7.80	7.60	7.40	7.20	7.00	6.20	5.80	5.40	5.10	5.00	4.90	4.80	

1													
2	15.0%												
3	or more												
4	but less												
5	than 15.5%	7.70	7.50	7.30	7.10	6.90	6.10	5.70	5.30	5.00	4.90	4.80	4.70
6													
7	14.5%												
8	or more												
9	but less												
10	than 15.0%	7.60	7.40	7.20	7.00	6.80	6.00	5.60	5.20	4.90	4.80	4.70	4.60
11													
12	14.0%												
13	or more												
14	but less												
15	than 14.5%	7.50	7.30	7.10	6.90	6.70	5.90	5.50	5.10	4.80	4.70	4.60	4.50
16													
17	13.5%												
18	or more												
19	but less												
20	than 14.0%	7.40	7.20	7.00	6.80	6.60	5.80	5.40	5.00	4.70	4.60	4.50	4.40
21													
22	13.0%												
23	or more												
24	but less												
25	than 13.5%	7.30	7.10	6.90	6.70	6.50	5.70	5.30	4.90	4.60	4.50	4.40	4.30
26													
27	12.5%												
28	or more												
29	but less												
30	than 13.0%	7.20	7.00	6.80	6.60	6.40	5.60	5.20	4.80	4.50	4.40	4.30	4.20
31													
32	12.0%												
33	or more												
34	but less												
35	than 12.5%	7.10	6.90	6.70	6.50	6.30	5.50	5.10	4.70	4.40	4.30	4.20	4.10
36													
37	11.5%												
38	or more												
39	but less												
40	than 12.0%	7.00	6.80	6.60	6.40	6.20	5.40	5.00	4.60	4.30	4.20	4.10	4.00
41													
42	11.0%												
43	or more												
44	but less												
45	than 11.5%	6.90	6.70	6.50	6.30	6.10	5.30	4.90	4.50	4.20	4.10	4.00	3.90
46													
47	10.5%												
48	or more												
49	but less												
50	than 11.0%	6.80	6.60	6.40	6.20	6.00	5.20	4.80	4.40	4.10	4.00	3.90	3.80
51													
52	10.0%												
53	or more												
54	but less												
55	than 10.5%	6.70	6.50	6.30	6.10	5.90	5.10	4.70	4.30	4.00	3.90	3.80	3.70

1													
2	9.5%												
3	or more												
4	but less												
5	than 10.0%	6.60	6.40	6.20	6.00	5.80	5.00	4.60	4.20	3.90	3.80	3.70	3.60
6													
7	9.0%												
8	or more												
9	but less												
10	than 9.5%	6.50	6.30	6.10	5.90	5.70	4.90	4.50	4.10	3.80	3.70	3.60	3.50
11													
12	8.5%												
13	or more												
14	but less												
15	than 9.0%	6.40	6.20	6.00	5.80	5.60	4.80	4.40	4.00	3.70	3.60	3.50	3.40
16													
17	8.0%												
18	or more												
19	but less												
20	than 8.5%	6.30	6.10	5.90	5.70	5.50	4.70	4.30	3.90	3.60	3.50	3.40	3.30
21													
22	7.0%												
23	or more												
24	but less												
25	than 8.0%	6.20	6.00	5.80	5.60	5.40	4.60	4.20	3.80	3.50	3.40	3.30	3.20
26													
27	6.0%												
28	or more												
29	but less												
30	than 7.0%	6.10	5.90	5.70	5.50	5.30	4.50	4.10	3.70	3.40	3.30	3.20	3.10
31													
32	5.0%												
33	or more												
34	but less												
35	than 6.0%	6.00	5.80	5.60	5.40	5.20	4.40	4.00	3.60	3.30	3.20	3.10	3.00
36													
37	4.0%												
38	or more												
39	but less												
40	than 5.0%	5.90	5.70	5.50	5.30	5.10	4.30	3.90	3.50	3.20	3.10	3.00	2.90
41													
42	3.0%												
43	or more												
44	but less												
45	than 4.0%	5.60	5.40	5.20	5.00	4.80	4.20	3.80	3.40	3.10	3.00	2.90	2.80
46													
47	2.0%												
48	or more												
49	but less												
50	than 3.0%	5.50	5.30	5.10	4.90	4.70	4.10	3.70	3.30	3.00	2.90	2.80	2.70
51													
52	1.0%												
53	or more												
54	but less												
55	than 2.0%	5.40	5.20	5.00	4.80	4.60	4.00	3.60	3.20	2.90	2.80	2.70	2.60

[illegible]

1 S 6. Subdivision 5 of section 590 of the labor law, as amended by
2 chapter 413 of the laws of 2003, is amended to read as follows:

3 5. Benefit rate. A claimant's weekly benefit amount shall be one twen-
4 ty-sixth of the remuneration paid during the highest calendar quarter of
5 the base period by employers, liable for contributions or payments in
6 lieu of contributions under this article. However, for claimants whose
7 high calendar quarter remuneration during the base period is three thou-
8 sand five hundred seventy-five dollars or less, the benefit amount shall
9 be one twenty-fifth of the remuneration paid during the highest calendar
10 quarter of the base period by employers liable for contributions or
11 payments in lieu of contributions under this article. Any claimant
12 whose high calendar quarter remuneration during the base period is more
13 than three thousand five hundred seventy-five dollars shall not have a
14 weekly benefit amount less than one hundred forty-three dollars. The
15 weekly benefit amount, so computed, that is not a multiple of one dollar
16 shall be lowered to the next multiple of one dollar. On the first Monday
17 of September, nineteen hundred ninety-eight the weekly benefit amount
18 shall not exceed three hundred sixty-five dollars nor be less than forty
19 dollars, until the first Monday of September, two thousand, at which
20 time the maximum benefit payable pursuant to this subdivision shall
21 equal one-half of the state average weekly wage for covered employment
22 as calculated by the department no sooner than July first, two thousand
23 and no later than August first, two thousand, rounded down to the lowest
24 dollar. ON THE FIRST MONDAY OF JANUARY, TWO THOUSAND ELEVEN, THE WEEKLY
25 BENEFIT SHALL NOT BE LESS THAN SEVENTY-FIVE DOLLARS NOR SHALL IT EXCEED
26 FOUR HUNDRED SEVENTY-FIVE DOLLARS. ON THE FIRST MONDAY OF JULY, TWO
27 THOUSAND TWELVE, THE MAXIMUM BENEFIT RATE SHALL BE FORTY-THREE PERCENT
28 OF THE AVERAGE WEEKLY WAGE UNTIL THE FIRST MONDAY OF JULY, TWO THOUSAND

1 THIRTEEN WHEN THE MAXIMUM BENEFIT RATE SHALL BE FORTY-FIVE PERCENT OF
2 THE AVERAGE WEEKLY WAGE UNTIL THE FIRST MONDAY OF JULY, TWO THOUSAND
3 SEVENTEEN WHEN THE MAXIMUM BENEFIT RATE SHALL BE FORTY-SEVEN PERCENT OF
4 THE AVERAGE WEEKLY WAGE UNTIL THE FIRST MONDAY OF JULY, TWO THOUSAND
5 EIGHTEEN WHEN THE MAXIMUM BENEFIT RATE SHALL BE FIFTY PERCENT OF THE
6 AVERAGE WEEKLY WAGE. EACH YEAR THEREAFTER, THE MAXIMUM BENEFIT RATE
7 SHALL BE FIFTY PERCENT OF THE AVERAGE WEEKLY WAGE.

8 S 7. Paragraph (a) of subdivision 1, the opening paragraph of subdivi-
9 sion 2 and subdivision 3 of section 593 of the labor law, paragraph (a)
10 of subdivision 1 as amended by chapter 35 of the laws of 2009, the open-
11 ing paragraph of subdivision 2 as amended by chapter 5 of the laws of
12 2000 and subdivision 3 as amended by chapter 589 of the laws of 1998,
13 are amended to read as follows:

14 (a) No days of total unemployment shall be deemed to occur after a
15 claimant's voluntary separation without good cause from employment until
16 he or she has subsequently worked in employment and earned remuneration
17 at least equal to [five] TEN times his or her weekly benefit rate. In
18 addition to other circumstances that may be found to constitute good
19 cause, including a compelling family reason as set forth in paragraph
20 (b) of this subdivision, voluntary separation from employment shall not
21 in itself disqualify a claimant if circumstances have developed in the
22 course of such employment that would have justified the claimant in
23 refusing such employment in the first instance under the terms of subdivi-
24 sion two of this section or if the claimant, pursuant to an option
25 provided under a collective bargaining agreement or written employer
26 plan which permits waiver of his right to retain the employment when
27 there is a temporary layoff because of lack of work, has elected to be
28 separated for a temporary period and the employer has consented thereto.

1 No days of total unemployment shall be deemed to occur beginning with
2 the day on which a claimant, without good cause, refuses to accept an
3 offer of employment for which he is reasonably fitted by training and
4 experience, including employment not subject to this article, until he
5 has subsequently worked in employment and earned remuneration at least
6 equal to [five] TEN times his or her weekly benefit rate. Except that
7 claimants who are not subject to a recall date or who do not obtain
8 employment through a union hiring hall and who are still unemployed
9 after receiving thirteen weeks of benefits shall be required to accept
10 any employment proffered that such claimants are capable of performing,
11 provided that such employment would result in a wage not less than
12 eighty percent of such claimant's high calendar quarter wages received
13 in the base period and not substantially less than the prevailing wage
14 for similar work in the locality as provided for in paragraph (d) of
15 this subdivision. No refusal to accept employment shall be deemed with-
16 out good cause nor shall it disqualify any claimant otherwise eligible
17 to receive benefits if:

18 3. Misconduct. No days of total unemployment shall be deemed to occur
19 after a claimant lost employment through misconduct in connection with
20 his or her employment until he or she has subsequently worked in employ-
21 ment and earned remuneration at least equal to [five] TEN times his or
22 her weekly benefit rate.

23 S 8. Section 594 of the labor law, as amended by chapter 728 of the
24 laws of 1952, the opening paragraph as amended by chapter 139 of the
25 laws of 1968, is amended to read as follows:

26 S 594. Reduction of benefits for false statement. A claimant who has
27 wilfully made a false statement or representation to obtain any benefit
28 under the provisions of this article shall forfeit benefits for at least

1 the first four but not more than the first eighty effective days follow-
2 ing discovery of such offense for which he otherwise would have been
3 entitled to receive benefits. Such penalty shall apply only once with
4 respect to each such offense.

5 For the purpose of subdivision four of section five hundred ninety of
6 this [article] TITLE, the claimant shall be deemed to have received
7 benefits for such forfeited effective days.

8 The penalty provided in this section shall not be confined to a single
9 benefit year but shall no longer apply in whole or in part after the
10 expiration of two years from the date [on which the offense was commit-
11 ted] OF THE FINAL DETERMINATION. SUCH TWO YEAR PERIOD SHALL BE EXTENDED
12 DURING THE TIME PERIOD A CLAIMANT HAS AN APPEAL PENDING.

13 A claimant shall refund all moneys received because of such false
14 statement or representation made by him AND PAY A CIVIL PENALTY IN AN
15 AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF THE TOTAL AMOUNT OF SUCH OVERPAID
16 BENEFITS. WHEN A DETERMINATION, BASED UPON A WILFUL FALSE STATEMENT OR
17 REPRESENTATION OR BASED UPON THE WILLFUL CONCEALMENT OF A PERTINENT FACT
18 IN CONNECTION WITH THE CLAIM FOR BENEFITS, BECOMES FINAL THROUGH
19 EXHAUSTION OF APPEAL RIGHTS OR FAILURE TO EXHAUST HEARING RIGHTS, THE
20 COMMISSIONER MAY FILE WITH THE COUNTY CLERK OF THE COUNTY WHERE THE
21 CLAIMANT RESIDES, THE FINAL DETERMINATION OF THE COMMISSIONER, OR THE
22 FINAL DECISION BY AN ADMINISTRATIVE LAW JUDGE, THE APPEAL BOARD OR A
23 COURT, CONTAINING THE AMOUNT FOUND TO BE DUE, INCLUDING INTEREST AND
24 PENALTY. THE FILING OF SUCH FINAL DETERMINATION OR DECISION SHALL HAVE
25 THE FULL FORCE AND EFFECT OF A JUDGMENT DULY DOCKETED IN THE OFFICE OF
26 SUCH CLERK. THE FINAL DETERMINATION OR DECISION MAY BE ENFORCED BY AND
27 IN THE SAME MANNER, AND WITH LIKE EFFECT AS THAT PRESCRIBED BY THE CIVIL
28 PRACTICE LAW AND RULES FOR THE RECOVERY OF A MONEY JUDGMENT, INCLUDING

1 ACCRUAL OF INTEREST. PENALTIES ASSESSED BECAUSE OF SUCH FALSE STATEMENT
2 OR REPRESENTATION OR WILLFUL CONCEALMENT MAY ALSO BE RECOVERED THROUGH
3 COMMON LAW OR STATUTORY RIGHTS OF OFFSET AND SHALL BE DEPOSITED IN THE
4 UNEMPLOYMENT INSURANCE CONTROL FUND ESTABLISHED PURSUANT TO SUBDIVISION
5 TWO OF SECTION FIVE HUNDRED FIFTY-TWO-B OF THIS ARTICLE.

6 S 9. Subdivision 1 of section 596 of the labor law, as amended by
7 chapter 204 of the laws of 1982, is amended to read as follows:

8 1. Claim filing and certification to unemployment. A claimant shall
9 file a claim for benefits [at] WITH the [local state employment office
10 serving the area in which he was last employed or in which he resides]
11 DEPARTMENT'S UNEMPLOYMENT INSURANCE DIVISION within such time and in
12 such manner as the commissioner shall prescribe. He shall disclose
13 whether he owes child support obligations, as hereafter defined. If a
14 claimant making such disclosure is eligible for benefits, the commis-
15 sioner shall notify the state or local child support enforcement agency,
16 as hereafter defined, that the claimant is eligible.

17 A claimant shall correctly report any days of employment and any
18 compensation he received for such employment, including employments not
19 subject to this article, and the days on which he was totally unemployed
20 and shall make such reports in accordance with such regulations as the
21 commissioner shall prescribe.

22 S 10. Section 575 of the labor law is amended by adding a new subdivi-
23 sion 2 to read as follows:

24 2. PENALTIES. IF ANY EMPLOYER FAILS TO COMPLY WITH THE PROVISIONS IN
25 SUBDIVISION ONE OF THIS SECTION, THE COMMISSIONER MAY IMPOSE A PENALTY
26 OF NOT LESS THAN FIFTY DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS FOR
27 EACH DAY'S FAILURE TO KEEP THE RECORDS AND/OR FURNISH THE RECORDS
28 REQUIRED UNDER SUBDIVISION ONE OF THIS SECTION. EACH DAY'S FAILURE TO

1 KEEP AND/OR FURNISH THE RECORDS REQUIRED UNDER SUBDIVISION ONE OF THIS
2 SECTION SHALL CONSTITUTE A SEPARATE OFFENSE. IN ASSESSING THE AMOUNT OF
3 THE PENALTY, OR THE PERIOD FOR WHICH THE PENALTY SHALL APPLY, THE
4 COMMISSIONER SHALL GIVE DUE CONSIDERATION TO THE SIZE OF THE EMPLOYER'S
5 BUSINESS, THE GOOD FAITH OF THE EMPLOYER, THE GRAVITY OF THE VIOLATION,
6 THE HISTORY OF PREVIOUS VIOLATIONS AND FAILURE TO COMPLY WITH THE
7 PAYMENT, RECORDKEEPING, AUDIT AND REPORTING REQUIREMENTS OF THIS ARTI-
8 CLE.

9 S 11. Subdivision 4 of section 575 of the labor law, as amended by
10 chapter 634 of the laws of 1952 and as renumbered by chapter 639 of the
11 laws of 1954, is amended to read as follows:

12 [4] 3. Collection and disposition of penalties. Any penalty pursuant
13 to the provisions of this section AND SECTION FIVE HUNDRED
14 SEVENTY-FIVE-A OF THIS TITLE shall be assessed, collected, and paid into
15 the [fund] UNEMPLOYMENT INSURANCE CONTROL FUND ESTABLISHED PURSUANT TO
16 SECTION FIVE HUNDRED FIFTY-TWO-B OF THIS ARTICLE in the same manner as
17 if it were a deficiency, in accordance with the provisions of this
18 title.

19 S 12. Subdivision 4 of section 575-a of the labor law is REPEALED.

20 S 13. Section 630 of the labor law, as added by chapter 705 of the
21 laws of 1944, is amended to read as follows:

22 S 630. Penalties. Any misdemeanor defined in this title shall be
23 punishable by a fine of not more than [five hundred] ONE THOUSAND
24 dollars or imprisonment for not more than one year, or both.

25 The penalties and misdemeanors imposed by this title are in addition
26 to those otherwise prescribed in this entire article.

27 S 14. Section 605 of the labor law, as amended by section 2 of chapter
28 81 of the laws of 1992, is amended to read as follows:

1 S 605. Qualified employers; application. An employer who has at least
2 [five] TWO full time employees may apply to participate in a shared work
3 program. The application shall be made according to such forms and
4 procedures as the commissioner may specify and shall include such infor-
5 mation as the commissioner may require. The commissioner shall not
6 approve such application unless the employer (1) agrees that for the
7 duration of the program it will not eliminate or diminish health insur-
8 ance, medical insurance, or any other fringe benefits provided to
9 employees immediately prior to the application; (2) certifies that the
10 collective bargaining agent for the employees, if any, has agreed to
11 participate in the program; (3) certifies that if not for the shared
12 work program to be initiated the employer would reduce or would have
13 reduced its work force to a degree equivalent to the total number of
14 working hours proposed to be reduced or restricted for all included
15 employees; (4) certifies that it will not hire additional part time or
16 full time employees for the affected work force while the program is in
17 operation; and (5) agrees that no participant of the program shall
18 receive, in the aggregate, more than twenty weeks of benefits exclusive
19 of the waiting week.

20 S 15. Severability. If any amendment contained in a clause, sentence,
21 paragraph, section or part of this act shall be adjudged by the United
22 States Department of Labor to violate requirements for maintaining bene-
23 fit standards required of the state in order to be eligible for any
24 financial benefit offered through federal law or regulation including,
25 but not limited to, the waiver of interest on advances or the waiver of
26 obligations to repay such advances to the state unemployment insurance
27 fund, such amendments shall be severed from this act and shall not
28 affect, impair or invalidate the remainder thereof.

1 S 16. This act shall take effect immediately, except that:

2 a. sections one, three and five of this act shall take effect January
3 1, 2011 and shall apply to all wages payable in the taxable year begin-
4 ning with such date;

5 b. section four of this act shall take effect ninety days after this
6 act shall have become a law and shall apply to charges related to all
7 full weeks of benefits paid on or after the effective date of such
8 section;

9 c. section seven of this act shall take effect one hundred twenty days
10 after this act shall have become a law and shall apply only to valid
11 original claims filed on or after the effective date of such section;

12 d. section six of this act shall take effect January 1, 2011 and shall
13 apply to all persons receiving regular unemployment insurance benefits
14 on such date and to new benefit claims payable after such date;

15 e. section eight of this act shall take effect sixty days after this
16 act shall have become a law and shall apply to all willful false state-
17 ments or misrepresentations made on or after the effective date of such
18 section and determinations and penalties arising therefrom; and

19 f. sections ten and eleven of this act shall take effect sixty days
20 after this act shall have become a law and shall apply to all violations
21 committed on or after the effective date of such sections.