

3380--B

2015-2016 Regular Sessions

I N S E N A T E

February 6, 2015

Introduced by Sen. SAVINO -- 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 -- 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; to amend the executive law, in relation to unlawful hiring discrimination by employers, employment agencies and licensing agencies based upon an individual's unemployment status; to amend the labor law, in relation to increasing unemployment insurance benefits; to amend chapter 831 of the laws of 1981 amending the labor law relating to fees and expenses in unemployment insurance proceedings, in relation to the effectiveness thereof; to amend the labor law, in relation to non-recoverable benefits; and to amend chapter 413 of the laws of 2003 amending the labor law relating to the self-employment assistance program and other matters, in relation to the effectiveness thereof; to amend the labor law, in relation to concurrent payments prohibited; 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

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

LBD08184-04-6

1 BENEFIT CREDIT. The term "employment" as used in this section means any
2 employment including that not defined in this title.

3 S 2. Section 523 of the labor law is REPEALED and a new section 523 is
4 added to read as follows:

5 S 523. EFFECTIVE WEEK. "EFFECTIVE WEEK" MEANS (A) A WEEK DURING WHICH
6 A CLAIMANT PERFORMS NO SERVICES FOR WHICH THE CLAIMANT IS PAID COMPEN-
7 SATION, OR (B) A WEEK DURING WHICH A CLAIMANT PERFORMS SERVICES ON A
8 PART-TIME BASIS FOR WHICH THE CLAIMANT IS PAID COMPENSATION THAT IS LESS
9 THAN THE CLAIMANT'S WEEKLY BENEFIT RATE PLUS HIS OR HER PARTIAL BENEFIT
10 CREDIT.

11 S 3. The labor law is amended by adding a new section 514-a to read as
12 follows:

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

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

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

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

31 (2) Benefits payable to any claimant with respect to the claimant's
32 then current benefit year shall be charged, when paid, to the account of
33 the last employer prior to the filing of a valid original claim in an
34 amount equal to seven times the claimant's benefit rate. Thereafter,
35 such charges shall be made to the account of each employer in the base
36 period used to establish the valid original claim in the same proportion
37 that the remuneration paid by each employer to the claimant during that
38 base period bears to the remuneration paid by all employers to the
39 claimant during that base period except as provided below:

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

1 (ii) In those instances where the claimant may not utilize wages paid
2 to establish entitlement based upon subdivision eleven of section five
3 hundred ninety of this article and an educational institution is the
4 claimant's last employer prior to the filing of the claim for benefits,
5 or the claimant performed services in such educational institution in
6 such capacity while employed by an educational service agency which is
7 the claimant's last employer prior to the filing of the claim for bene-
8 fits, such employer shall not be liable for benefit charges for the
9 first [twenty-eight effective days] SEVEN EFFECTIVE WEEKS of benefits
10 paid as otherwise provided by this section. Under such circumstances,
11 benefits paid will be charged to the general account. In addition, wages
12 paid during the base period by such educational institutions, or for
13 services in such educational institutions for claimants employed by an
14 educational service agency shall not be considered base period wages
15 during periods that such wages may not be used to gain entitlement to
16 benefits pursuant to subdivision eleven of section five hundred ninety
17 of this article. However, in those instances where a claimant was not
18 afforded an opportunity to perform services for the educational institu-
19 tion for the next academic year or term after reasonable assurance was
20 provided, such employer shall be liable for benefit charges as provided
21 for in this paragraph for any retroactive payments made to the claimant.

22 (iii) In those instances where the federal government is the claim-
23 ant's last employer prior to the filing of the claim for benefits and
24 such employer is not a base-period employer, payments equaling the first
25 [twenty-eight effective days] SEVEN EFFECTIVE WEEKS of benefits as
26 otherwise prescribed by this section shall be charged to the general
27 account. In those instances where the federal government is the claim-
28 ant's last employer prior to the filing of the claim for benefits and a
29 base-period employer, such employer shall be liable for charges for all
30 benefits paid on such claim in the same proportion that the remuneration
31 paid by such employer during the base period bears to the remuneration
32 paid by all employers during the base period. In addition, benefit
33 payment charges for the first [twenty-eight effective days] SEVEN EFFEC-
34 TIVE WEEKS of benefits other than those chargeable to the federal
35 government as prescribed above shall be made to the general account.

36 (iv) In those instances where a combined wage claim is filed pursuant
37 to interstate reciprocal agreements and the claimant's last employer
38 prior to the filing of the claim is an out-of-state employer and such
39 employer is not a base-period employer, benefit payments equaling the
40 first [twenty-eight effective days] SEVEN EFFECTIVE WEEKS of benefits as
41 otherwise prescribed by this section shall be charged to the general
42 account. In those instances where the out-of-state employer is the last
43 employer prior to the filing of the claim for benefits and a base-period
44 employer such employer shall be liable for charges for all benefits paid
45 on such claim in the same proportion that the remuneration paid by such
46 employer during the base period bears to the remuneration paid by all
47 employers during the base period. In addition, benefit payment charges
48 for the [twenty-eight effective days] SEVEN EFFECTIVE WEEKS of benefits
49 other than those chargeable to the out-of-state employer as prescribed
50 above shall be made to the general account.

51 (v) In those instances where the last employer prior to the filing of
52 a valid original claim has paid total remuneration to the claimant
53 during the period from the start of the base period used to establish
54 the benefit claim until the date of the claimant's filing of the valid
55 original claim in an amount less than or equal to six times the claim-
56 ant's benefit rate and the last employer has substantiated such amount

1 to the satisfaction of the commissioner within ten days of the commis-
2 sioner's original notice of potential charges to such last employer's
3 account, benefits shall be charged as follows: benefits payable to the
4 claimant with respect to the claimant's then current benefit year shall
5 be charged, when paid, to the account of such last employer prior to the
6 filing of a valid original claim in an amount equal to the lowest whole
7 number (one, two, three, four, five, or six) times the claimant's bene-
8 fit rate where the product of such lowest whole number times the claim-
9 ant's benefit rate is equal to or greater than such total remuneration
10 paid by such last employer to the claimant. Thereafter, such charges
11 shall be made to the account of each employer in the base period used to
12 establish the valid original claim in the same proportion that the
13 remuneration paid by each employer to the claimant during that base
14 period bears to the remuneration paid by all employers to the claimant
15 during that base period. Notice of such recalculation of potential
16 charges shall be given to the last employer and each employer of the
17 claimant in the base period used to establish the valid original claim.

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

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

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

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

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

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

37 S 9. Paragraph (a) of subdivision 5 of section 590 of the labor law,
38 as amended by section 8 of part O of chapter 57 of the laws of 2013, is
39 amended to read as follows:

40 (a) A claimant's weekly benefit amount shall be one twenty-sixth of
41 the remuneration paid during the highest calendar quarter of the base
42 period by employers, liable for contributions or payments in lieu of
43 contributions under this article, provided the claimant has remuneration
44 paid in all four calendar quarters during his or her base period or
45 alternate base period. However, for any claimant who has remuneration
46 paid in all four calendar quarters during his or her base period or
47 alternate base period and whose high calendar quarter remuneration
48 during the base period is three thousand five hundred seventy-five
49 dollars or less, the benefit amount shall be one twenty-fifth of the
50 remuneration paid during the highest calendar quarter of the base period
51 by employers liable for contributions or payments in lieu of contrib-
52 utions under this article. A claimant's weekly benefit shall be one
53 twenty-sixth of the average remuneration paid in the two highest quar-
54 ters paid during the base period or alternate base period by employers
55 liable for contributions or payments in lieu of contributions under this
56 article when the claimant has remuneration paid in two or three calendar

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

1 average weekly wage provided, however, that in no event shall the maxi-
2 mum benefit amount be reduced from the previous year.

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

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

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

11 7. Waiting period. A claimant shall not be entitled to accumulate
12 effective [days] WEEKS for the purpose of benefit payments until he OR
13 SHE has accumulated a waiting period of [four effective days either
14 wholly within the week in which he established his valid original claim
15 or partly within such week and partly within his benefit year initiated
16 by such claim] ONE EFFECTIVE WEEK.

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

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

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

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

38 S 14. Subparagraph (i) of paragraph (b) of subdivision 2 of section
39 591-a of the labor law, as amended by section 14 of part 0 of chapter 57
40 of the laws of 2013, is amended to read as follows:

41 (i) requirements relating to total unemployment AND PARTIAL UNEMPLOY-
42 MENT, as defined in section five hundred twenty-two of this article,
43 availability for work and search for work, as set forth in subdivision
44 two of section five hundred ninety-one of this title and refusal to
45 accept work, as set forth in subdivision two of section five hundred
46 ninety-three of this title, are not applicable to such individuals;

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

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

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

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

20 S 17. Subdivision 2 of section 593 of the labor law, as amended by
21 chapter 415 of the laws of 1983, the opening paragraph as amended by
22 section 15 of part O of chapter 57 of the laws of 2013, paragraph (a) as
23 added by chapter 589 of the laws of 1998, and paragraphs (d) and (e) as
24 amended by chapter 35 of the laws of 2009, is amended to read as
25 follows:

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

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

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

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

54 (d) the wages or compensation or hours or conditions offered are
55 substantially less favorable to the claimant than those prevailing for

1 similar work in the locality, or are such as tend to depress wages or
2 working conditions; or

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

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

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

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

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

32 S 20. Section 594 of the labor law, as amended by section 16 of part 0
33 of chapter 57 of the laws of 2013, is amended to read as follows:

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

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

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

50 (4) A claimant shall refund all moneys received because of such false
51 statement or representation and pay a civil penalty in an amount equal
52 to the greater of one hundred dollars or fifteen percent of the total
53 overpaid benefits determined pursuant to this section. The penalties
54 collected hereunder shall be deposited in the fund. The penalties
55 assessed under this subdivision shall apply and be assessed for any
56 benefits paid under federal unemployment and extended unemployment

1 programs administered by the department in the same manner as provided
2 in this article. The penalties in this section shall be in addition to
3 any penalties imposed under this chapter or any state or federal crimi-
4 nal statute. No penalties or interest assessed pursuant to this section
5 may be deducted or withheld from benefits.

6 (5) (a) Upon a determination based upon a willful false statement or
7 representation becoming final through exhaustion of appeal rights or
8 failure to exhaust hearing rights, the commissioner may recover the
9 amount found to be due by commencing a civil action, or by filing with
10 the county clerk of the county where the claimant resides the final
11 determination of the commissioner or the final decision by an adminis-
12 trative law judge, the appeal board, or a court containing the amount
13 found to be due including interest and civil penalty. The commissioner
14 may only make such a filing with the county clerk when:

15 (i) The claimant has responded to requests for information prior to a
16 determination and such requests for information notified the claimant of
17 his or her rights to a fair hearing as well as the potential conse-
18 quences of an investigation and final determination under this section
19 including the notice required by subparagraph (iii) of paragraph (b) of
20 this subdivision. Additionally if the claimant requested a fair hearing
21 or appeal subsequent to a determination, that the claimant was present
22 either in person or through electronic means at such hearing, or subse-
23 quent appeal from which a final determination was rendered;

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

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

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

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

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

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

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

42 1. Claim filing and certification to unemployment. A claimant shall
43 file a claim for benefits at the local state employment office serving
44 the area in which he OR SHE was last employed or in which he OR SHE
45 resides within such time and in such manner as the commissioner shall
46 prescribe. He OR SHE shall disclose whether he OR SHE owes child support
47 obligations, as hereafter defined. If a claimant making such disclosure
48 is eligible for benefits, the commissioner shall notify the state or
49 local child support enforcement agency, as hereafter defined, that the
50 claimant is eligible.

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

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

5 4. Registration and reporting for work. A claimant shall register as
6 totally unemployed OR PARTIALLY UNEMPLOYED at a local state employment
7 office serving the area in which he OR SHE was last employed or in which
8 he OR SHE resides in accordance with such regulations as the commission-
9 er shall prescribe. After so registering, such claimant shall report for
10 work at the same local state employment office or otherwise give notice
11 of the continuance of his OR HER unemployment as often and in such
12 manner as the commissioner shall prescribe.

13 S 23. Intentionally omitted.

14 S 24. Intentionally omitted.

15 S 25. The opening paragraph and paragraph (e) of subdivision 2 of
16 section 601 of the labor law, as amended by chapter 35 of the laws of
17 2009, is amended to read as follows:

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

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

27 S 26. Subdivision 3 of section 601 of the labor law, as amended by
28 chapter 35 of the laws of 2009, is amended to read as follows:

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

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

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

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

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

47 S 27. Subdivision 4 of section 601 of the labor law, as amended by
48 chapter 35 of the laws of 2009, is amended to read as follows:

49 4. Charging of extended benefits. The provisions of paragraph (e) of
50 subdivision one of section five hundred eighty-one of this article shall
51 apply to benefits paid pursuant to the provisions of this section, and
52 if they were paid for effective [days occurring in] weeks following the
53 end of a benefit year, they shall be deemed paid with respect to that
54 benefit year. However, except for governmental entities as defined in
55 section five hundred sixty-five and Indian tribes as defined in section
56 five hundred sixty-six of this article, only one-half of the amount of

1 such benefits shall be debited to the employers' account; the remainder
2 thereof shall be debited to the general account, and such account shall
3 be credited with the amount of payments received in the fund pursuant to
4 the provisions of the federal-state extended unemployment compensation
5 act. Notwithstanding the foregoing, where the state has entered an
6 extended benefit period triggered pursuant to subparagraph one of para-
7 graph (a) of subdivision one of this section for which federal law
8 provides for one hundred percent federal sharing of the costs of bene-
9 fits, all charges shall be debited to the general account and such
10 account shall be credited with the amount of payments received in the
11 fund pursuant to the provisions of the federal-state extended unemploy-
12 ment compensation act or other federal law providing for one hundred
13 percent federal sharing for the cost of such benefits.

14 S 28. Paragraph (b) of subdivision 5 of section 601 of the labor law,
15 as amended by chapter 35 of the laws of 2009, is amended to read as
16 follows:

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

27 S 29. Paragraph (e) of subdivision 5 of section 601 of the labor law,
28 as amended by chapter 35 of the laws of 2009, is amended to read as
29 follows:

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

36 S 30. Section 603 of the labor law, as amended by section 21 of part O
37 of chapter 57 of the laws of 2013, is amended to read as follows:

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

48 S 31. The executive law is amended by adding a new section 296-d to
49 read as follows:

50 S 296-D. UNLAWFUL DISCRIMINATORY PRACTICES IN RELATION TO LICENSING OR
51 EMPLOYMENT AGENCIES; UNEMPLOYMENT STATUS. 1. FOR THE PURPOSES OF THIS
52 SECTION, THE TERM "UNEMPLOYMENT STATUS" SHALL MEAN BEING UNEMPLOYED,
53 HAVING ACTIVELY LOOKED FOR EMPLOYMENT DURING THE THEN MOST RECENT FOUR
54 WEEK PERIOD, AND CURRENTLY BEING AVAILABLE FOR EMPLOYMENT.

55 2. IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR AN EMPLOYER OR
56 LICENSING AGENCY, BECAUSE OF AN INDIVIDUAL'S UNEMPLOYMENT STATUS, TO

1 REFUSE TO HIRE OR TO EMPLOY OR TO BAR SUCH INDIVIDUAL OR TO DISCRIMINATE
2 AGAINST SUCH INDIVIDUAL IN COMPENSATION OR IN TERMS, CONDITIONS OR PRIV-
3 ILEGES OF EMPLOYMENT.

4 3. IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR AN EMPLOYER OR
5 AN EMPLOYMENT AGENCY TO DISCRIMINATE AGAINST ANY INDIVIDUAL BECAUSE OF
6 UNEMPLOYMENT STATUS IN RECEIVING, CLASSIFYING, DISPOSING OR OTHERWISE
7 ACTING UPON APPLICATIONS FOR ITS SERVICES OR IN REFERRING AN APPLICANT
8 OR APPLICANTS TO AN EMPLOYER OR EMPLOYERS.

9 4. IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR AN EMPLOYER OR
10 AN EMPLOYMENT AGENCY TO PRINT OR CIRCULATE OR CAUSE TO BE PRINTED OR
11 CIRCULATED ANY STATEMENT, ADVERTISEMENT OR PUBLICATION, OR TO USE ANY
12 FORM OF APPLICATION FOR EMPLOYMENT OR TO MAKE ANY INQUIRY IN CONNECTION
13 WITH PROSPECTIVE EMPLOYMENT, WHICH EXPRESSES DIRECTLY OR INDIRECTLY, ANY
14 LIMITATION, SPECIFICATION OR DISCRIMINATION AS TO UNEMPLOYMENT STATUS,
15 OR ANY INTENT TO MAKE ANY SUCH LIMITATION, SPECIFICATION OR DISCRIMI-
16 NATION, UNLESS BASED UPON A BONA FIDE OCCUPATIONAL QUALIFICATION;
17 PROVIDED, HOWEVER, THAT NEITHER THIS SECTION NOR ANY PROVISION OF THIS
18 CHAPTER OR OTHER LAW SHALL BE CONSTRUED TO PROHIBIT THE DEPARTMENT OF
19 CIVIL SERVICE OR THE DEPARTMENT OF PERSONNEL OF ANY CITY CONTAINING MORE
20 THAN ONE COUNTY FROM REQUESTING INFORMATION FROM APPLICANTS FOR CIVIL
21 SERVICE EXAMINATIONS CONCERNING THE AFOREMENTIONED CHARACTERISTIC, OTHER
22 THAN SEXUAL ORIENTATION, FOR THE PURPOSE OF CONDUCTING STUDIES TO IDEN-
23 TIFY AND RESOLVE POSSIBLE PROBLEMS IN RECRUITMENT AND TESTING OF MEMBERS
24 OF MINORITY GROUPS TO ENSURE THE FAIREST POSSIBLE AND EQUAL OPPORTU-
25 NITIES FOR EMPLOYMENT IN THE CIVIL SERVICE FOR ALL PERSONS.

26 5. ANY EMPLOYER, EMPLOYMENT AGENCY, OR LICENSING AGENCY WHO VIOLATES
27 THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY IN AN AMOUNT NOT TO
28 EXCEED FIVE THOUSAND DOLLARS FOR THE FIRST VIOLATION AND TEN THOUSAND
29 DOLLARS FOR EACH SUBSEQUENT VIOLATION.

30 S 32. Paragraph (c) of subdivision 1 of section 593 of the labor law,
31 as amended by chapter 35 of the laws of 2009, is amended to read as
32 follows:

33 [(c) A disqualification as provided in this subdivision shall also
34 apply after a claimant's voluntary separation from employment if such
35 voluntary separation was due to claimant's marriage.]

36 S 33. Paragraph (d) of subdivision 11 of section 590 of the labor law
37 is relettered paragraph (e) and a new paragraph (d) is added to read as
38 follows:

39 (D) IN THE CASE OF A CLAIMANT WHO WAS EMPLOYED IN OTHER THAN AN
40 INSTRUCTIONAL, RESEARCH OR PRINCIPAL ADMINISTRATIVE CAPACITY BY AN
41 EDUCATIONAL INSTITUTION, OR PERFORMED SERVICES IN SUCH AN INSTITUTION IN
42 SUCH CAPACITY WHILE EMPLOYED BY AN EDUCATIONAL SERVICE AGENCY, SUCH
43 CLAIMANT IS PRESUMED NOT TO HAVE REASONABLE ASSURANCE UNDER AN OFFER
44 THAT IS CONDITIONED ON ENROLLMENT, FUNDING OR PROGRAMMATIC CHANGES. IT
45 IS THE COLLEGE'S BURDEN TO PROVIDE SUFFICIENT DOCUMENTATION TO OVERCOME
46 THIS PRESUMPTION. REASONABLE ASSURANCE MUST BE DETERMINED ON A CASE-BY-
47 CASE BASIS BY THE TOTAL WEIGHT OF EVIDENCE RATHER THAN THE EXISTENCE OF
48 ANY ONE FACTOR. PRIMARY WEIGHT MUST BE GIVEN TO THE CONTINGENT NATURE OF
49 AN OFFER OF EMPLOYMENT BASED ON ENROLLMENT, FUNDING AND PROGRAM CHANGES.
50 PROVIDED, HOWEVER, THAT IN ANY UNEMPLOYMENT INSURANCE PROCEEDING A WRIT-
51 TEN LETTER FROM AN EMPLOYER TO AN EMPLOYEE WHICH MAKES EMPLOYMENT CONDI-
52 TIONAL SHALL NOT BE PRIMA FACIE EVIDENCE OF REASONABLE ASSURANCE TO BE
53 USED TO DENY A CLAIM FOR UNEMPLOYMENT.

54 S 34. Subdivision 10 of section 590 of the labor law is amended by
55 adding a new paragraph (d) to read as follows:

1 (D) IN THE CASE OF COLLEGES OR UNIVERSITIES ASSIGNED THE NORTH AMERI-
2 CAN INDUSTRY CLASSIFICATION CODE 611310 OR 611210 FOR SERVICES PERFORMED
3 IN A PRINCIPAL, ADMINISTRATIVE, RESEARCH OR INSTRUCTIONAL CAPACITY A
4 PERSON IS PRESUMED NOT TO HAVE REASONABLE ASSURANCE UNDER AN OFFER THAT
5 IS CONDITIONED ON ENROLLMENT, FUNDING OR PROGRAMMATIC CHANGES. IT IS THE
6 EMPLOYER'S BURDEN TO PROVIDE SUFFICIENT DOCUMENTATION TO OVERCOME THIS
7 PRESUMPTION. REASONABLE ASSURANCE MUST BE DETERMINED ON A CASE-BY-CASE
8 BASIS BY THE TOTAL WEIGHT OF EVIDENCE RATHER THAN THE EXISTENCE OF ANY
9 ONE FACTOR. PRIMARY WEIGHT MUST BE GIVEN TO THE CONTINGENT NATURE OF AN
10 OFFER OF EMPLOYMENT BASED ON ENROLLMENT, FUNDING AND PROGRAM CHANGES.
11 PROVIDED, HOWEVER, THAT IN ANY UNEMPLOYMENT INSURANCE PROCEEDING A WRIT-
12 TEN LETTER FROM AN EMPLOYER TO AN EMPLOYEE WHICH MAKES EMPLOYMENT CONDI-
13 TIONAL SHALL NOT BE PRIMA FACIE EVIDENCE OF REASONABLE ASSURANCE TO BE
14 USED TO DENY A CLAIM FOR UNEMPLOYMENT.

15 S 35. Section 599 of the labor law, as amended by chapter 593 of the
16 laws of 1991, is amended to read as follows:

17 S 599. Career and related training; preservation of eligibility. 1.
18 Notwithstanding any other provision of this article, a claimant shall
19 not become ineligible for benefits because of the claimant's regular
20 attendance in a program of training which the commissioner has approved.
21 The commissioner shall give due consideration to existing and prospec-
22 tive conditions of the labor market in the state, taking into account
23 present and anticipated supply and demand regarding the occupation or
24 skill to which the training relates, and to any other relevant factor. A
25 DETERMINATION OF POTENTIAL ELIGIBILITY FOR BENEFITS UNDER THIS ARTICLE
26 SHALL BE ISSUED TO AN UNEMPLOYED INDIVIDUAL IF THE COMMISSIONER FINDS
27 THAT THE TRAINING IS AUTHORIZED BY THE FEDERAL WORKFORCE INVESTMENT ACT,
28 THE STATE DIVISION OF VETERANS' AFFAIRS, THE DEPARTMENT, THE NEW YORK
29 STATE DEPARTMENTS OF EDUCATION, CORRECTIONAL SERVICES, HEALTH, OR THE
30 OFFICE OF MENTAL HEALTH, THE EMPIRE STATE DEVELOPMENT CORPORATION, OR
31 THE STATE UNIVERSITY OF NEW YORK EDUCATIONAL OPPORTUNITY CENTER. Howev-
32 er, in no event shall the commissioner approve [such] training for a
33 claimant NOT AUTHORIZED BY SUCH LEGISLATIVE ACT OR STATE OR QUASI-STATE
34 ENTITY LISTED ABOVE unless:

35 (a) (1) the training will upgrade the claimant's existing skill or
36 train the claimant for an occupation likely to lead to more regular long
37 term employment; ENABLE THE CLAIMANT TO OBTAIN EMPLOYMENT THAT ACHIEVES
38 WAGE PRESERVATION OR MAKES PROGRESS TOWARD A FAMILY-SUSTAINING WAGE; or

39 (2) employment opportunities for the claimant are or may be substan-
40 tially impaired because of:

41 (i) existing or prospective conditions of the labor market in the
42 locality or in the state or reduced opportunities for employment in the
43 claimant's occupation or skill; or

44 (ii) technological change, plant closing or plant removal, discontin-
45 uance of specific plant operations, or similar reasons; or

46 (iii) limited opportunities for employment throughout the year due to
47 the seasonal nature of the industry in which the claimant is customarily
48 employed; or

49 (iv) the claimant's personal traits such as physical or mental hand-
50 icap; and

51 (b) the training, INCLUDING REMEDIAL EDUCATION WHICH IS INTEGRAL TO
52 CAREER ADVANCEMENT OR REQUIRED FOR COMPLETING CAREER-RELATED TRAINING,
53 relates to an occupation or skill for which there are, or are expected
54 to be in the immediate future, reasonable employment opportunities in
55 the state; and

(c) the training is offered by a competent and reliable agency and does not require more than twenty-four months to complete; and

(d) the claimant has the required qualifications and aptitudes to complete the training successfully.

2. (a) Notwithstanding any other provision of this chapter, a claimant attending an approved training course or program under this section may receive additional benefits of up to [one hundred four] TWENTY-SIX effective [days] WEEKS following exhaustion of regular and, if in effect, any other extended benefits, provided that entitlement to a new benefit claim cannot be established. Certification of continued satisfactory participation and progress in such training course or program must be submitted to the commissioner prior to the payment of any such benefits. [The duration of such additional benefits shall in no case exceed twice the number of effective days of regular benefits to which the claimant is entitled at the time the claimant is accepted in, or demonstrates application for appropriate training.] ANY UNEMPLOYED INDIVIDUAL RECEIVING UNEMPLOYMENT INSURANCE BENEFITS PAYABLE UNDER THIS SUBDIVISION, WHO NOTIFIES THE DEPARTMENT WITH THE INTENT TO SEEK TRAINING OPPORTUNITIES UNDER THIS ARTICLE NO LATER THAN THE SIXTEENTH WEEK OF HIS OR HER RECEIVING BENEFITS, AND IS DETERMINED ELIGIBLE FOR BENEFITS UNDER THIS ARTICLE, IS ENTITLED TO A TRAINING EXTENSION OF THE FULL TWENTY-SIX EFFECTIVE WEEKS ON HIS OR HER UNEMPLOYMENT COMPENSATION CLAIM, IF NECESSARY, TO COMPLETE APPROVED TRAINING.

(b) No more than [twenty] FIFTY million dollars of benefits per year shall be made available for payment to claimants participating in such courses or programs.

(c) Participation in such training course or program shall not be limited to any selected areas or localities of the state but subject to the availability of funds, shall be available to any claimant otherwise eligible to participate in training courses or programs pursuant to this section.

(d) The additional benefits paid to a claimant shall be charged to the general account.

3. Notwithstanding any other provision of this article, a claimant who is in training approved under the federal trade act of nineteen hundred seventy-four shall not be disqualified or become ineligible for benefits because he OR SHE is in such training or because he OR SHE left employment which is not suitable employment to enter such training. For purposes hereof, "suitable employment" means work of a substantially equal or higher skill level than the claimant's past adversely affected employment and for which the remuneration is not less than eighty percent of the claimant's average weekly wage.

S 36. Section 3 of chapter 831 of the laws of 1981, amending the labor law relating to fees and expenses in unemployment insurance proceedings, as amended by chapter 115 of the laws of 2014, is amended to read as follows:

S 3. This act shall take effect January 1, 1982, provided, however, that paragraphs (a) and (c) of subdivision 3 of section 538 of the labor law as added by section one of this act shall remain in full force and effect until December 31, [2016] 2019.

S 37. Article 18 of the labor law is amended by adding a new title 7-B to read as follows:

TITLE 7-B

UNEMPLOYMENT INSURANCE FOR DOMESTIC VIOLENCE SURVIVORS
SECTION 615. DEFINITIONS.

616. ELIGIBILITY FOR UNEMPLOYMENT INSURANCE FOR DOMESTIC
VIOLENCE SURVIVORS.

617. TRAINING PROGRAM.

S 615. DEFINITIONS. FOR PURPOSES OF THIS TITLE:

1. "DOMESTIC VIOLENCE" MEANS ABUSE COMMITTED AGAINST AN EMPLOYEE OR AN
EMPLOYEE'S DEPENDENT CHILD BY:

(A) A CURRENT OR FORMER SPOUSE OF THE EMPLOYEE; OR

(B) A PERSON WITH WHOM THE EMPLOYEE SHARES PARENTAGE OF A CHILD IN
COMMON; OR

(C) A PERSON WHO IS COHABITING WITH, OR HAS COHABITED WITH, THE
EMPLOYEE; OR

(D) A PERSON WHO IS RELATED BY BLOOD OR MARRIAGE; OR

(E) A PERSON WITH WHOM THE EMPLOYEE HAS OR HAD A DATING OR ENGAGEMENT
RELATIONSHIP.

2. "ABUSE" MEANS:

(A) CAUSING, OR ATTEMPTING TO CAUSE, PHYSICAL HARM; OR

(B) PLACING ANOTHER PERSON IN FEAR OF IMMINENT SERIOUS PHYSICAL HARM;
OR

(C) CAUSING ANOTHER PERSON TO ENGAGE INVOLUNTARILY IN SEXUAL RELATIONS
BY FORCE, THREAT OR DURESS, OR THREATENING TO DO SO; OR

(D) ENGAGING IN MENTAL ABUSE, WHICH INCLUDES THREATS, INTIMIDATION,
STALKING AND ACTS DESIGNED TO INDUCE TERROR; OR

(E) DEPRIVING ANOTHER PERSON OF MEDICAL CARE, HOUSING, FOOD OR OTHER
NECESSITIES OF LIFE; OR

(F) RESTRAINING THE LIBERTY OF ANOTHER.

S 616. ELIGIBILITY FOR UNEMPLOYMENT INSURANCE FOR DOMESTIC VIOLENCE
SURVIVORS. 1. A CLAIMANT SHALL NOT BE DISQUALIFIED FROM RECEIVING UNEM-
PLOYMENT INSURANCE BENEFITS IF THE CLAIMANT ESTABLISHES TO THE SATISFAC-
TION OF THE COMMISSIONER THAT THE REASON THE CLAIMANT LEFT WORK WAS DUE
TO DOMESTIC VIOLENCE, INCLUDING:

(A) THE CLAIMANT'S REASONABLE FEAR OF FUTURE DOMESTIC VIOLENCE AT OR
EN ROUTE TO OR FROM THE CLAIMANT'S PLACE OF EMPLOYMENT.

(B) THE CLAIMANT'S NEED TO RELOCATE TO ANOTHER GEOGRAPHIC AREA IN
ORDER TO AVOID FUTURE DOMESTIC VIOLENCE.

(C) THE CLAIMANT'S NEED TO ADDRESS THE PHYSICAL, PSYCHOLOGICAL AND
LEGAL IMPACTS OF DOMESTIC VIOLENCE.

(D) THE CLAIMANT'S NEED TO LEAVE EMPLOYMENT AS A CONDITION OF RECEIV-
ING SERVICES OR SHELTER FROM AN AGENCY WHICH PROVIDES SUPPORT SERVICES
OR SHELTER TO VICTIMS OF DOMESTIC VIOLENCE.

(E) ANY OTHER SITUATION IN WHICH DOMESTIC VIOLENCE CAUSES THE CLAIMANT
TO REASONABLY BELIEVE THAT TERMINATION OF EMPLOYMENT IS NECESSARY FOR
THE FUTURE SAFETY OF THE CLAIMANT OR THE CLAIMANT'S FAMILY.

2. A CLAIMANT MAY DEMONSTRATE THE EXISTENCE OF DOMESTIC VIOLENCE BY
PROVIDING ONE OF THE FOLLOWING:

(A) A RESTRAINING ORDER OR OTHER DOCUMENTATION OF EQUITABLE RELIEF
ISSUED BY A COURT OF COMPETENT JURISDICTION;

(B) A POLICE RECORD DOCUMENTING THE ABUSE;

(C) DOCUMENTATION THAT THE ABUSER HAS BEEN CONVICTED OF ONE OR MORE
CRIMINAL OFFENSES ENUMERATED IN THE PENAL LAW AGAINST THE CLAIMANT;

(D) MEDICAL DOCUMENTATION OF THE ABUSE;

(E) A STATEMENT PROVIDED BY A COUNSELOR, SOCIAL WORKER, HEALTH WORKER,
MEMBER OF THE CLERGY, SHELTER WORKER, LEGAL ADVOCATE, OR OTHER PROFES-
SIONAL WHO HAS ASSISTED THE CLAIMANT IN ADDRESSING THE EFFECTS OF THE
ABUSE ON THE CLAIMANT OR THE CLAIMANT'S FAMILY; OR

(F) A SWORN STATEMENT FROM THE CLAIMANT ATTESTING TO THE ABUSE.

1 3. NO EVIDENCE OF DOMESTIC VIOLENCE EXPERIENCED BY A CLAIMANT, INCLUD-
2 ING THE CLAIMANT'S STATEMENT AND CORROBORATING EVIDENCE, SHALL BE
3 DISCLOSED BY THE DEPARTMENT UNLESS CONSENT FOR DISCLOSURE IS GIVEN BY
4 THE CLAIMANT.

5 4. FOR A CLAIMANT WHO LEFT WORK DUE TO DOMESTIC VIOLENCE, REQUIREMENTS
6 TO PURSUE SUITABLE WORK MUST REASONABLY ACCOMMODATE THE CLAIMANT'S NEED
7 TO ADDRESS THE PHYSICAL, PSYCHOLOGICAL, LEGAL AND OTHER EFFECTS OF THE
8 DOMESTIC VIOLENCE.

9 S 617. TRAINING PROGRAM. 1. THE COMMISSIONER SHALL IMPLEMENT A TRAIN-
10 ING CURRICULUM FOR EMPLOYEES OF THE DEPARTMENT WHO INTERACT WITH CLAIM-
11 ANTS APPLYING FOR UNEMPLOYMENT INSURANCE DUE TO THEIR DOMESTIC VIOLENCE
12 STATUS.

13 2. ALL SENIOR MANAGEMENT PERSONNEL OF THE DEPARTMENT THAT SUPERVISE
14 THE TRAINING OF EMPLOYEES INVOLVED IN HANDLING UNEMPLOYMENT CLAIMS SHALL
15 BE TRAINED IN THIS CURRICULUM NOT LATER THAN SIXTY DAYS FROM THE EFFEC-
16 TIVE DATE OF THIS TITLE. THE COMMISSIONER SHALL DEVELOP AN ONGOING PLAN
17 FOR EMPLOYEES OF THE DEPARTMENT WHO INTERACT WITH CLAIMANTS TO BE
18 TRAINED IN THE NATURE AND DYNAMICS OF DOMESTIC VIOLENCE, SO THAT EMPLOY-
19 MENT SEPARATIONS STEMMING FROM DOMESTIC VIOLENCE ARE RELIABLY SCREENED
20 AND ADJUDICATED, AND SO THAT VICTIMS OF DOMESTIC VIOLENCE ARE ABLE TO
21 TAKE ADVANTAGE OF THE FULL RANGE OF JOB SERVICES PROVIDED BY THE DEPART-
22 MENT.

23 S 38. The opening paragraph of subdivision 1 of section 560 of the
24 labor law, as amended by chapter 103 of the laws of 1965, is amended to
25 read as follows:

26 Any employer shall become liable for contributions under this article
27 if he has paid remuneration of [three hundred] ONE THOUSAND dollars or
28 more in any calendar quarter, except that liability with respect to
29 persons employed in personal or domestic service in private homes shall
30 be considered separately and an employer shall become liable for
31 contributions with respect to such persons only if he has paid to them
32 remuneration in cash of five hundred dollars or more in any calendar
33 quarter. Such liability for contributions shall commence on the first
34 day of such calendar quarter.

35 S 39. Paragraph (c) of subdivision 1 of section 538 of the labor law,
36 as amended by chapter 831 of the laws of 1981, is amended to read as
37 follows:

38 (c) Claims of representatives for services rendered to a claimant in
39 connection with any claim arising under this article shall not be
40 enforceable unless approved by the appeal board and shall in no event
41 exceed the benefit allowed, INCLUDING BENEFITS THAT ARE NON-RECOVERABLE
42 PURSUANT TO SUBDIVISION FOUR OF SECTION FIVE HUNDRED NINETY-SEVEN OF
43 THIS ARTICLE, except as provided in paragraph (d) of this subdivision.
44 In approving any fee requested by a representative pursuant to this
45 section, the appeal board shall consider the following factors: (i) the
46 total benefit allowed; (ii) the time spent in providing representation;
47 (iii) the legal and factual complexities involved; and (iv) such other
48 factors as the appeal board may deem relevant.

49 S 40. Subdivision 4 of section 597 of the labor law, as amended by
50 chapter 61 of the laws of 1998, is amended to read as follows:

51 4. Effect of review. Whenever a new determination in accordance with
52 [the preceding] subdivision THREE OF THIS SECTION or a decision by a
53 referee, the appeal board, or a court results in a decrease or denial of
54 benefits previously allowed, such new determination or decision, unless
55 it shall be based upon a retroactive payment of remuneration, shall not
56 affect the rights to any benefits already paid under the authority of

the prior determination or decision provided they were accepted by the claimant in good faith and the claimant did not make any false statement or representation and did not wilfully conceal any pertinent fact in connection with his or her claim for benefits. NON-RECOVERABLE BENEFITS PURSUANT TO THIS SECTION SHALL BE CONSIDERED TO HAVE BEEN ALLOWED BENEFITS FOR PURPOSES OF SECTION FIVE HUNDRED THIRTY-EIGHT OF THIS ARTICLE.

S 41. Section 10 of chapter 413 of the laws of 2003 amending the labor law relating to the self-employment assistance program and other matters, as amended by chapter 457 of the laws of 2015, is amended to read as follows:

S 10. This act shall take effect immediately; provided, however, that sections eight and nine of this act shall expire December 7, [2017] 2019 when upon such date the provisions of such sections shall be deemed repealed.

S 42. The opening paragraph of paragraph (a) of subdivision 6 of section 511 of the labor law, as amended by chapter 675 of the laws of 1977, is amended to read as follows:

The term "employment" [does not include] INCLUDES agricultural labor [unless it is covered pursuant to section five hundred sixty-four]. The term "agricultural labor" includes all service performed:

S 43. Section 564 of the labor law, as added by chapter 675 of the laws of 1977, is amended to read as follows:

S 564. Agricultural labor CREW LEADERS. [1. Coverage. (a) Notwithstanding the provisions of section five hundred sixty of this article, an employer of persons engaged in agricultural labor shall become liable for contributions under this article if the employer:

(1) has paid cash remuneration of twenty thousand dollars or more in any calendar quarter to persons employed in agricultural labor, and such liability shall commence on the first day of such quarter, or

(2) has employed in agricultural labor ten or more persons on each of twenty days during a calendar year or the preceding calendar year, each day being in a different calendar week, and the liability shall in such event commence on the first day of the calendar year, or

(3) is liable for the tax imposed under the federal unemployment tax act as an employer of agricultural labor and the liability shall in such event commence on the first day of the calendar quarter in such calendar year when he first paid remuneration for agricultural labor in this state.

(b) An employer who becomes liable for contributions under paragraph (a) of this subdivision shall cease to be liable as of the first day of a calendar quarter next following the filing of a written application provided the commissioner finds that the employer:

(1) has not paid to persons employed in agricultural labor cash remuneration of twenty thousand dollars or more in any of the eight calendar quarters preceding such day, and

(2) has not employed in agricultural labor ten or more persons on each of twenty days during the current or the preceding calendar year, each day being in a different week, and

(3) is not liable for the tax imposed under the federal unemployment tax act as an employer of agricultural labor.

2. Crew leader.] Whenever a person renders services as a member of a crew which is paid and furnished by the crew leader to perform services in agricultural labor for another employer, such other employer shall, for the purpose of this article, be deemed to be the employer of such person, unless:

1 [(a)] 1. the crew leader holds a valid certificate of registration
2 under the federal farm labor contractor registration act of nineteen
3 hundred sixty-three or substantially all the members of the crew operate
4 or maintain tractors, mechanized harvesting or cropdusting machinery or
5 any other mechanized equipment which is provided by the crew leader, and

6 [(b)] 2. the crew leader is not an employee of such other employer and
7 has not entered into a written agreement with such employer under which
8 he is designated as an employee.

9 S 44. Section 592 of the labor law, as amended by chapter 415 of the
10 laws of 1983, subdivision 1 as amended by chapter 177 of the laws of
11 2010, is amended to read as follows:

12 S 592. [Suspension of accumulation of benefit rights. 1. Industrial
13 controversy. (a) The accumulation of benefit rights by a claimant shall
14 be suspended during a period of seven consecutive weeks beginning with
15 the day after such claimant lost his or her employment because of a
16 strike or other industrial controversy except for lockouts, including
17 concerted activity not authorized or sanctioned by the recognized or
18 certified bargaining agent of the claimant, and other concerted activity
19 conducted in violation of any existing collective bargaining agreement,
20 in the establishment in which he or she was employed, except that bene-
21 fit rights may be accumulated before the expiration of such seven weeks
22 beginning with the day after such strike or other industrial controversy
23 was terminated.

24 (b) Benefits shall not be suspended under this section if:

25 (i) The employer hires a permanent replacement worker for the employ-
26 ee's position. A replacement worker shall be presumed to be permanent
27 unless the employer certifies in writing that the employee will be able
28 to return to his or her prior position upon conclusion of the strike, in
29 the event the strike terminates prior to the conclusion of the employ-
30 ee's eligibility for benefit rights under this chapter. In the event the
31 employer does not permit such return after such certification, the
32 employee shall be entitled to recover any benefits lost as a result of
33 the seven week suspension of benefits, and the department may impose a
34 penalty upon the employer of up to seven hundred fifty dollars per
35 employee per week of benefits lost. The penalty collected shall be paid
36 into the unemployment insurance control fund established pursuant to
37 section five hundred fifty-two-b of this article; or

38 (ii) The commissioner determines that the claimant:

39 (A) is not employed by an employer that is involved in the industrial
40 controversy that caused his or her unemployment and is not participating
41 in the industrial controversy; or

42 (B) is not in a bargaining unit involved in the industrial controversy
43 that caused his or her unemployment and is not participating in the
44 industrial controversy.

45 2.] Concurrent payments prohibited. No days of total unemployment
46 shall be deemed to occur in any week with respect to which or a part of
47 which a claimant has received or is seeking unemployment benefits under
48 an unemployment compensation law of any other state or of the United
49 States, provided that this provision shall not apply if the appropriate
50 agency of such other state or of the United States finally determines
51 that he is not entitled to such unemployment benefits.

52 [3. Terms of suspension. No waiting period may be served during a
53 suspension period.

54 The suspension of accumulation of benefit rights shall not be termi-
55 nated by subsequent employment of the claimant irrespective of when the

1 claim is filed except as provided in subdivision one and shall not be
2 confined to a single benefit year.
3 A "week" as used in subdivision one of this section means any seven
4 consecutive calendar days.]
5 S 45. This act shall take effect immediately; provided, however, that
6 the amendments to subdivision 1 of section 591 of the labor law made by
7 section twelve of this act shall be subject to the expiration and rever-
8 sion of such subdivision pursuant to section 10 of chapter 413 of the
9 laws of 2003, as amended, when upon such date the provisions of section
10 thirteen of this act shall take effect; provided, further, that the
11 amendment to section 591-a of the labor law made by section fourteen of
12 this act shall not affect the repeal of such section and shall be deemed
13 repealed therewith.