

# STATE OF NEW YORK

4992

2019-2020 Regular Sessions

## IN SENATE

April 3, 2019

Introduced by Sen. RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to penalties for wilful false statements for unemployment purposes

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 594 of the labor law, as amended by section 16 of  
2 part O of chapter 57 of the laws of 2013, is amended to read as follows:

3 § 594. [~~Reduction and recovery~~] Recovery of benefits and penalties for  
4 wilful false statement. (1) A claimant or employer who has wilfully made  
5 a false statement or representation to obtain or avoid any benefit under  
6 the provisions of this article shall [~~forfeit benefits for at least the~~  
7 ~~first four but not more than the first eighty effective days following~~  
8 ~~discovery of such offense for which he or she otherwise would have been~~  
9 ~~entitled to receive benefits. Such penalty shall apply only once with~~  
10 ~~respect to each such offense.~~

11 ~~(2) For the purpose of subdivision four of section five hundred ninety~~  
12 ~~of this article, the claimant shall be deemed to have received benefits~~  
13 ~~for such forfeited effective days.~~

14 ~~(3) The penalty provided in this section shall not be confined to a~~  
15 ~~single benefit year but shall no longer apply in whole or in part after~~  
16 ~~the expiration of two years from the date of the final determination.~~  
17 ~~Such two year period shall be tolled during the time period a claimant~~  
18 ~~has an appeal pending.~~

19 ~~(4)]~~ be subject to the penalties set forth in this section.

20 (2) A claimant shall refund all moneys received because of such false  
21 statement or representation and pay a civil penalty in an amount equal  
22 to the greater of one hundred dollars or fifteen percent of the total  
23 overpaid benefits determined pursuant to this section. An employer who  
24 wilfully made a false statement or representation to avoid payment of  
25 any benefit under the provisions of this article shall pay a civil

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

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1 penalty in an amount equal to the greater of one hundred dollars or  
2 fifteen percent of the total benefit determined pursuant to this  
3 section. The penalties collected hereunder shall be deposited in the  
4 fund. The penalties assessed under this subdivision shall apply and be  
5 assessed for any benefits paid under federal unemployment and extended  
6 unemployment programs administered by the department in the same manner  
7 as provided in this article. The penalties in this section shall be in  
8 addition to any penalties imposed under this chapter or any state or  
9 federal criminal statute. No penalties or interest assessed pursuant to  
10 this section may be deducted or withheld from benefits.

11 ~~[(5)]~~ (3) (a) Upon a determination based upon a willful false state-  
12 ment or representation becoming final through exhaustion of appeal  
13 rights or failure to exhaust hearing rights, the commissioner may  
14 recover the amount found to be due by commencing a civil action, or by  
15 filing with the county clerk of the county where the claimant resides  
16 the final determination of the commissioner or the final decision by an  
17 administrative law judge, the appeal board, or a court containing the  
18 amount found to be due including interest and civil penalty. The commis-  
19 sioner may only make such a filing with the county clerk when:

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

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

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

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

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

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

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

45 § 2. Section one of this act shall apply to all false statements and  
46 representations determined on or after the effective date of this act  
47 and all forfeited effective days determined prior to such effective date  
48 shall remain in full force and effect for two years from the expiration  
49 of the initial determination. For purposes of applying such forfeited  
50 benefits, each effective day shall be considered twenty-five percent of  
51 a claimant's weekly benefit rate.

52 § 3. This act shall take effect on the sixtieth day after it shall  
53 have become a law.