# STATE OF NEW YORK

7310

# IN SENATE

January 17, 2020

Introduced by Sen. KENNEDY -- 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 increasing the length of the suspension period applicable to certain striking workers who seek to obtain unemployment insurance benefits

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

Section 1. Subdivisions 1 and 3 of section 592 of the labor law, as amended by a chapter of the laws of 2019 amending the labor law relating to decreasing the length of the suspension period applicable to certain striking workers who seek to obtain unemployment insurance benefits, as proposed in legislative bills numbers S.4573 and A.6592, are amended to read as follows:

1. Industrial controversy. (a) The accumulation of benefit rights by a claimant shall be suspended during a period of [~~one week~~] **two consecutive weeks** beginning with the day after such claimant lost his or her employment because of a strike or other industrial controversy except for lockouts, including concerted activity not authorized or sanctioned by the recognized or certified bargaining agent of the claimant, and other concerted activity conducted in violation of any existing collective bargaining agreement, in the establishment in which he or she was employed, except that benefit rights may be accumulated before the expiration of such [~~one~~] **two** week period beginning with the day after such strike or other industrial controversy was terminated.

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

(i) The employer hires a permanent replacement worker for the employee's position. A replacement worker shall be presumed to be permanent unless the employer certifies in writing that the employee will be able to return to his or her prior position upon conclusion of the strike, in the event the strike terminates prior to the conclusion of the employee's eligibility for benefit rights under this chapter. In the event the employer does not permit such return after such certification, the employee shall be entitled to recover any benefits lost as a result of the [~~one~~] **two** week suspension of benefits, and the department may impose

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

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a penalty upon the employer of up to seven hundred fifty dollars per employee per week of benefits lost. The penalty collected shall be paid into the unemployment insurance control fund established pursuant to section five hundred fifty-two-b of this article; or

(ii) The commissioner determines that the claimant:

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

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

3. Terms of suspension. [~~The~~] **No** waiting period may be served during a suspension period.

The suspension of accumulation of benefit rights shall not be terminated by subsequent employment of the claimant irrespective of when the claim is filed except as provided in subdivision one and shall not be confined to a single benefit year.

A "week" as used in subdivision one of this section means any seven consecutive calendar days.

§ 2. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2019 amending the labor law relating to decreasing the length of the suspension period applicable to certain striking workers who seek to obtain unemployment insurance benefits, as proposed in legislative bills numbers S.4573 and A.6592, takes effect.