

STATE OF NEW YORK

8130

IN SENATE

January 25, 2022

Introduced by Sen. KENNEDY -- 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 decreasing 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:

1 Section 1. Subdivisions 1 and 3 of section 592 of the labor law, as
2 amended by chapter 20 of the laws of 2020, are amended to read as
3 follows:

4 1. Industrial controversy. (a) The accumulation of benefit rights by a
5 claimant shall be suspended during a period of [~~two consecutive weeks~~]
6 one week beginning with the day after such claimant lost his or her
7 employment because of a strike or other industrial controversy except
8 for lockouts, including concerted activity not authorized or sanctioned
9 by the recognized or certified bargaining agent of the claimant, and
10 other concerted activity conducted in violation of any existing collec-
11 tive bargaining agreement, in the establishment in which he or she was
12 employed, except that benefit rights may be accumulated before the expi-
13 ration of such [~~two~~] one week period beginning with the day after such
14 strike or other industrial controversy was terminated.

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

16 (i) The employer hires a permanent replacement worker for the employ-
17 ee's position. A replacement worker shall be presumed to be permanent
18 unless the employer certifies in writing that the employee will be able
19 to return to his or her prior position upon conclusion of the strike, in
20 the event the strike terminates prior to the conclusion of the employ-
21 ee's eligibility for benefit rights under this chapter. In the event the
22 employer does not permit such return after such certification, the
23 employee shall be entitled to recover any benefits lost as a result of
24 the [~~two~~] one week suspension of benefits, and the department may impose
25 a penalty upon the employer of up to seven hundred fifty dollars per
26 employee per week of benefits lost. The penalty collected shall be paid

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

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1 into the unemployment insurance control fund established pursuant to
2 section five hundred fifty-two-b of this article; or

3 (ii) The commissioner determines that the claimant:

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

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

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

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

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

18 § 2. This act shall take effect immediately.