

# STATE OF NEW YORK

8335

2021-2022 Regular Sessions

## IN ASSEMBLY

October 20, 2021

Introduced by M. of A. GANDOLFO -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to allowing employees that refuse a coronavirus vaccine to be eligible for unemployment insurance

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

1 Section 1. Subdivision 1 of section 591 of the labor law, as amended  
2 by chapter 413 of the laws of 2003, is amended to read as follows:

3 1. Unemployment. Benefits, except as provided in section five hundred  
4 ninety-one-a of this title, shall be paid only to a claimant who is  
5 totally unemployed and who is unable to engage in his usual employment,  
6 including unemployment due to such employee's choice not to receive a  
7 coronavirus vaccine, or in any other for which he is reasonably fitted  
8 by training and experience. A claimant who is receiving benefits under  
9 this article shall not be denied such benefits pursuant to this subdivi-  
10 sion or to subdivision two of this section because of such claimant's  
11 service on a grand or petit jury of any state or of the United States.

12 § 2. Subdivision 1 of section 591 of the labor law, as amended by  
13 section 4 of chapter 305 of the laws of 2021, is amended to read as  
14 follows:

15 1. Unemployment. Benefits, except as provided in section five hundred  
16 ninety-one-a of this title, shall be paid only to a claimant who is  
17 totally unemployed or partially unemployed, including unemployment due  
18 to such employee's choice not to receive a coronavirus vaccine. A  
19 claimant who is receiving benefits under this article shall not be  
20 denied such benefits pursuant to this subdivision or to subdivision two  
21 of this section because of such claimant's service on a grand or petit  
22 jury of any state or of the United States.

23 § 3. Subdivision 1 of section 591 of the labor law, as amended by  
24 section 5 of chapter 305 of the laws of 2021, is amended to read as  
25 follows:

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

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1 1. Unemployment. Benefits shall be paid only to a claimant who is  
2 totally unemployed or partially unemployed, including unemployment due  
3 to such employee's choice not to receive a coronavirus vaccine. A  
4 claimant who is receiving benefits under this article shall not be  
5 denied such benefits pursuant to this subdivision or to subdivision two  
6 of this section because of such claimant's service on a grand or petit  
7 jury of any state or of the United States.

8 § 4. Paragraph (a) of subdivision 1 of section 593 of the labor law,  
9 as amended by section 15 of part 0 of chapter 57 of the laws of 2013, is  
10 amended to read as follows:

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

28 § 5. Paragraph (a) of subdivision 1 of section 593 of the labor law,  
29 as amended by chapter 277 of the laws of 2021, is amended to read as  
30 follows:

31 (a) No weeks of total unemployment or partial unemployment shall be  
32 deemed to occur after a claimant's voluntary separation without good  
33 cause from employment until he or she has subsequently worked in employ-  
34 ment and earned remuneration at least equal to ten times his or her  
35 weekly benefit rate. In addition to other circumstances that may be  
36 found to constitute good cause, including a compelling family reason as  
37 set forth in paragraph (b) of this subdivision, or choosing not to  
38 receive a coronavirus vaccine as set forth in paragraph (d) of this  
39 subdivision, voluntary separation from employment shall not in itself  
40 disqualify a claimant if circumstances have developed in the course of  
41 such employment that would have justified the claimant in refusing such  
42 employment in the first instance under the terms of subdivision two of  
43 this section or if the claimant, pursuant to an option provided under a  
44 collective bargaining agreement or written employer plan which permits  
45 waiver of his or her right to retain the employment when there is a  
46 temporary layoff because of lack of work, has elected to be separated  
47 for a temporary period and the employer has consented thereto.

48 § 6. Subdivision 1 of section 593 of the labor law is amended by  
49 adding a new paragraph (d) to read as follows:

50 (d) A claimant shall not be disqualified from receiving benefits for  
51 separation from employment due to choosing not to receive a coronavirus  
52 vaccine, which shall include, but not be limited to, choosing not to  
53 receive a mandatory coronavirus vaccination pursuant to (i) an order,  
54 executive order, directive, regulation, policy or other similar measure  
55 mandated by the department of health that healthcare employees be vacci-  
56 nated by September twenty-seventh, two thousand twenty-one; or (ii) any

1 policy issued by an employer to its employees that mandates the employee  
2 receive the coronavirus vaccine by a date certain or be terminated.

3 § 7. This act shall take effect immediately; provided, however, that  
4 section two of this act shall take effect on the same date and in the  
5 same manner as chapter 277 of the laws of 2021 takes effect; provided,  
6 further, that the amendments to subdivision 1 of section 591 of the  
7 labor law made by sections one and two of this act shall be subject to  
8 the expiration and reversion of such subdivision pursuant to section 10  
9 of chapter 413 of the laws of 2003, as amended, when upon such date the  
10 provisions of section three of this act shall take effect; provided,  
11 further, that section five of this act shall take effect on the same  
12 date and in the same manner as chapter 277 of the laws of 2021 takes  
13 effect.