STATE OF NEW YORK

7403

2021-2022 Regular Sessions

IN SENATE

September 29, 2021

Introduced by Sen. WEIK -- 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 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:

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

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

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

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

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

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

LBD13293-01-1

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

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

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

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

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

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

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

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

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