STATE OF NEW YORK

4402--A

2023-2024 Regular Sessions

IN SENATE

February 8, 2023

Introduced by Sens. KENNEDY, BRESLIN, BRISPORT, BROUK, CLEARE, FERNANDEZ, GONZALEZ, HARCKHAM, HINCHEY, HOYLMAN-SIGAL, JACKSON, MATTERA, MURRAY, MYRIE, PALUMBO, RAMOS, SALAZAR, SCARCELLA-SPANTON, SKOUFIS, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- recommitted to the Committee on Labor in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. Subdivisions 1 and 3 of section 592 of the labor law, as amended by chapter 20 of the laws of 2020, 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 [~~two consecutive weeks~~] **one week** beginning with the day after such claimant lost [~~his or her~~] **their** 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~~] **such claimant** was employed, except that benefit rights may be accumulated before the expiration of such [~~two~~] **one** 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

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

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unless the employer certifies in writing that the employee will be able to return to [~~his or her~~] **such employee's** 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 [~~two~~] **one** week suspension of benefits, and the department may impose 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~~] **such claimant's** 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~~] **such claimant's** unemployment and is not participating in the industrial controversy.

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

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 **of this section** 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 immediately.