

1 thirty working days.

2 For the purpose of this subdivision, an individual has not
3 left his or her most recent work voluntarily without good cause
4 involving fault on the part of the employer, if the individual
5 leaves his or her most recent work with an employer and if he or
6 she in fact, within a fourteen-day calendar period, does return to
7 employment with the last preceding employer with whom he or she was
8 previously employed within the past year prior to his or her return
9 to workday, and which last preceding employer, after having
10 previously employed the individual for thirty working days or more,
11 laid off the individual because of lack of work, which layoff
12 occasioned the payment of benefits under this chapter or could have
13 occasioned the payment of benefits under this chapter had the
14 individual applied for benefits. It is the intent of this
15 paragraph to cause no disqualification for benefits for an
16 individual who complies with the foregoing set of requirements and
17 conditions. Further, for the purpose of this subdivision, an
18 individual has not left his or her most recent work voluntarily
19 without good cause involving fault on the part of the employer, if
20 the individual was compelled to leave his or her work for his or
21 her own health-related reasons and notifies the employer prior to
22 leaving the job or within two business days after leaving the job
23 or as soon as practicable and presents written certification from
24 a licensed physician within thirty days of leaving the job that his

1 or her work aggravated, worsened or will worsen the individual's
2 health problem.

3 (2) For the week in which he or she was discharged from his or
4 her most recent work for misconduct and the six weeks immediately
5 following that week; or for the week in which he or she was
6 discharged from his or her last thirty-day employing unit for
7 misconduct and the six weeks immediately following that week. The
8 disqualification carries a reduction in the maximum benefit amount
9 equal to six times the individual's weekly benefit. However, if
10 the claimant returns to work in covered employment for thirty days
11 during his or her benefit year, whether or not the days are
12 consecutive, the maximum benefit amount is increased by the amount
13 of the decrease imposed under the disqualification; except that:

14 If he or she were discharged from his or her most recent work
15 for one of the following reasons, or if he or she were discharged
16 from his or her last thirty days employing unit for one of the
17 following reasons: Gross misconduct consisting of willful
18 destruction of his or her employer's property; assault upon the
19 person of his or her employer or any employee of his or her
20 employer; if the assault is committed at the individual's place of
21 employment or in the course of employment; reporting to work in an
22 intoxicated condition, or being intoxicated while at work;
23 reporting to work under the influence of any controlled substance,
24 as defined in chapter sixty-a of this code without a valid

1 prescription, or being under the influence of any controlled
2 substance, as defined in said chapter without a valid prescription,
3 while at work; adulterating or otherwise manipulating a sample or
4 specimen in order to thwart a drug or alcohol test lawfully
5 required of an employee; refusal to submit to random testing for
6 alcohol or illegal controlled substances for employees in safety
7 sensitive positions as defined in section two, article one-d,
8 chapter twenty-one of this code; arson, theft, larceny, fraud or
9 embezzlement in connection with his or her work; or any other gross
10 misconduct, he or she is disqualified for benefits until he or she
11 has thereafter worked for at least thirty days in covered
12 employment: *Provided*, That for the purpose of this subdivision,
13 the words "any other gross misconduct" includes, but is not limited
14 to, any act or acts of misconduct where the individual has received
15 prior written warning that termination of employment may result
16 from the act or acts.

17 (3) For the week in which he or she failed without good cause
18 to apply for available, suitable work, accept suitable work when
19 offered, or return to his or her customary self-employment when
20 directed to do so by the commissioner, and for the four weeks which
21 immediately follow for such additional period as any offer of
22 suitable work shall continue open for his or her acceptance. The
23 disqualification carries a reduction in the maximum benefit amount
24 equal to four times the individual's weekly benefit amount.

1 (4) For a week in which his or her total or partial
2 unemployment is due to a stoppage of work which exists because of
3 a labor dispute at the factory, establishment or other premises at
4 which he or she was last employed, unless the commissioner is
5 satisfied that he or she: (1) Was not participating, financing or
6 directly interested in the dispute; and (2) did not belong to a
7 grade or class of workers who were participating, financing or
8 directly interested in the labor dispute which resulted in the
9 stoppage of work. No disqualification under this subdivision is
10 imposed if the employees are required to accept wages, hours or
11 conditions of employment substantially less favorable than those
12 prevailing for similar work in the locality, or if employees are
13 denied the right of collective bargaining under generally
14 prevailing conditions, or if an employer shuts down his or her
15 plant or operation or dismisses his or her employees in order to
16 force wage reduction, changes in hours or working conditions. For
17 the purpose of this subdivision if any stoppage of work continues
18 longer than four weeks after the termination of the labor dispute
19 which caused stoppage of work, there is a rebuttable presumption
20 that part of the stoppage of work which exists after a period of
21 four weeks after the termination of the labor dispute did not exist
22 because of the labor dispute; and in that event the burden is upon
23 the employer or other interested party to show otherwise.

24 (5) For a week with respect to which he or she is receiving or

1 has received:

2 (a) Wages in lieu of notice;

3 (b) Compensation for temporary total disability under the
4 workers' compensation law of any state or under a similar law of
5 the United States; or

6 (c) Unemployment compensation benefits under the laws of the
7 United States or any other state.

8 (6) For the week in which an individual has voluntarily quit
9 employment to marry or to perform any marital, parental or family
10 duty, or to attend to his or her personal business or affairs and
11 until the individual returns to covered employment and has been
12 employed in covered employment at least thirty working days:
13 *Provided*, That an individual who has voluntarily quit employment to
14 accompany a spouse serving in active military service who has been
15 reassigned from one military assignment to another is not
16 disqualified for benefits pursuant to this subdivision: *Provided*
17 *however*, That the account of the employer of an individual who
18 leaves the employment to accompany a spouse reassigned from one
19 military assignment to another may not be charged.

20 (7) Benefits may not be paid to any individual on the basis of
21 any services, substantially all of which consist of participating
22 in sports or athletic events or training or preparing to so
23 participate, for any week which commences during the period between
24 two successive sport seasons (or similar periods) if the individual

1 performed the services in the first of the seasons (or similar
2 periods) and there is a reasonable assurance that the individual
3 will perform the services in the later of the seasons (or similar
4 periods).

5 (8) (a) Benefits may not be paid on the basis of services
6 performed by an alien unless the alien is an individual who was
7 lawfully admitted for permanent residence at the time the services
8 were performed, was lawfully present for purposes of performing the
9 services or was permanently residing in the United States under
10 color of law at the time the services were performed (including an
11 alien who is lawfully present in the United States as a result of
12 the application of the provisions of Section 203(a)(7) or Section
13 212(d)(5) of the Immigration and Nationality Act): *Provided*, That
14 any modifications to the provisions of Section 3304(a)(14) of the
15 federal Unemployment Tax Act as provided by Public Law 94-566 which
16 specify other conditions or other effective date than stated in
17 this subdivision for the denial of benefits based on services
18 performed by aliens and which modifications are required to be
19 implemented under state law as a condition for full tax credit
20 against the tax imposed by the federal Unemployment Tax Act are
21 applicable under the provisions of this section.

22 (b) Any data or information required of individuals applying
23 for benefits to determine whether benefits are not payable to them
24 because of their alien status shall be uniformly required from all

1 applicants for benefits.

2 (c) In the case of an individual whose application for
3 benefits would otherwise be approved, no determination that
4 benefits to the individual are not payable because of his or her
5 alien status may be made except upon a preponderance of the
6 evidence.

7 (9) For each week in which an individual is unemployed
8 because, having voluntarily left employment to attend a school,
9 college, university or other educational institution, he or she is
10 attending that school, college, university or other educational
11 institution, or is awaiting entrance thereto or is awaiting the
12 starting of a new term or session thereof, and until the individual
13 returns to covered employment.

14 (10) For each week in which he or she is unemployed because of
15 his or her request, or that of his or her duly authorized agent,
16 for a vacation period at a specified time that would leave the
17 employer no other alternative but to suspend operations.

18 (11) In the case of an individual who accepts an early
19 retirement incentive package, unless he or she: (i) Establishes a
20 well-grounded fear of imminent layoff supported by definitive
21 objective facts involving fault on the part of the employer; and
22 (ii) establishes that he or she would suffer a substantial loss by
23 not accepting the early retirement incentive package.

24 (12) For each week with respect to which he or she is

1 receiving or has received benefits under Title II of the Social
2 Security Act or similar payments under any Act of Congress, or
3 remuneration in the form of an annuity, pension or other retirement
4 pay from a base period employer or chargeable employer or from any
5 trust or fund contributed to by a base period employer or
6 chargeable employer or any combination of the above, the weekly
7 benefit amount payable to the individual for that week shall be
8 reduced (but not below zero) by the prorated weekly amount of those
9 benefits, payments or remuneration: *Provided*, That if the amount
10 of benefits is not a multiple of \$1, it shall be computed to the
11 next lowest multiple of \$1: *Provided, however*, That there is no
12 disqualification if in the individual's base period there are no
13 wages which were paid by the base period employer or chargeable
14 employer paying the remuneration, or by a fund into which the
15 employer has paid during the base period: *Provided further*, That
16 notwithstanding any other provision of this subdivision to the
17 contrary, the weekly benefit amount payable to the individual for
18 that week may not be reduced by any retirement benefits he or she
19 is receiving or has received under Title II of the Social Security
20 Act or similar payments under any Act of Congress. A claimant may
21 be required to certify as to whether or not he or she is receiving
22 or has been receiving remuneration in the form of an annuity,
23 pension or other retirement pay from a base period employer or
24 chargeable employer or from a trust fund contributed to by a base

1 period employer or chargeable employer.

2 (13) For each week in which and for fifty-two weeks
3 thereafter, beginning with the date of the decision, if the
4 commissioner finds the individual who within twenty-four calendar
5 months immediately preceding the decision, has made a false
6 statement or representation knowing it to be false or knowingly
7 fails to disclose a material fact, to obtain or increase any
8 benefit or payment under this article: *Provided, That*
9 disqualification under this subdivision does not preclude
10 prosecution under section seven, article ten of this chapter.

11 (14) For any week or portion thereof in which he or she did
12 not work as a result of a strike.

NOTE: The purpose of this bill is clarify that an individual is disqualified from unemployment benefits for any week or portion therefore in which he or she did not work as a result of a strike.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.