



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

1 a licensed physician within thirty days of leaving the job that his  
2 or her work aggravated, worsened or will worsen the individual's  
3 health problem.

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

15 If he or she were discharged from his or her most recent work  
16 for one of the following reasons, or if he or she were discharged  
17 from his or her last thirty days employing unit for one of the  
18 following reasons: Gross misconduct consisting of willful  
19 destruction of his or her employer's property; assault upon the  
20 person of his or her employer or any employee of his or her  
21 employer; if the assault is committed at the individual's place of  
22 employment or in the course of employment; reporting to work in an  
23 intoxicated condition, or being intoxicated while at work;

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

19       (3) For the week in which he or she failed without good cause  
20 to apply for available, suitable work, accept suitable work when  
21 offered, or return to his or her customary self-employment when  
22 directed to do so by the commissioner, and for the four weeks which  
23 immediately follow for such additional period as any offer of

1 suitable work shall continue open for his or her acceptance. The  
2 disqualification carries a reduction in the maximum benefit amount  
3 equal to four times the individual's weekly benefit amount.

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

1 four weeks after the termination of the labor dispute did not exist  
2 because of the labor dispute; and in that event the burden is upon  
3 the employer or other interested party to show otherwise.

4 (5) For a week with respect to which he or she is receiving or  
5 has received:

6 (a) Wages in lieu of notice;

7 (b) Compensation for temporary total disability under the  
8 workers' compensation law of any state or under a similar law of  
9 the United States; or

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

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

1           (7) Benefits may not be paid to any individual on the basis of  
2 any services, substantially all of which consist of participating  
3 in sports or athletic events or training or preparing to so  
4 participate, for any week which commences during the period between  
5 two successive sport seasons (or similar periods) if the individual  
6 performed the services in the first of the seasons (or similar  
7 periods) and there is a reasonable assurance that the individual  
8 will perform the services in the later of the seasons (or similar  
9 periods).

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

1 implemented under state law as a condition for full tax credit  
2 against the tax imposed by the federal Unemployment Tax Act are  
3 applicable under the provisions of this section.

4       (b) Any data or information required of individuals applying  
5 for benefits to determine whether benefits are not payable to them  
6 because of their alien status shall be uniformly required from all  
7 applicants for benefits.

8       (c) In the case of an individual whose application for  
9 benefits would otherwise be approved, no determination that  
10 benefits to the individual are not payable because of his or her  
11 alien status may be made except upon a preponderance of the  
12 evidence.

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

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



1           (11) In the case of an individual who accepts an early  
2 retirement incentive package, unless he or she: (I) Establishes a  
3 well-grounded fear of imminent layoff supported by definitive  
4 objective facts involving fault on the part of the employer; and  
5 (ii) establishes that he or she would suffer a substantial loss by  
6 not accepting the early retirement incentive package.

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

1 contrary, the weekly benefit amount payable to the individual for  
2 that week may not be reduced by any retirement benefits he or she  
3 is receiving or has received under Title II of the Social Security  
4 Act or similar payments under any Act of Congress. A claimant may  
5 be required to certify as to whether or not he or she is receiving  
6 or has been receiving remuneration in the form of an annuity,  
7 pension or other retirement pay from a base period employer or  
8 chargeable employer or from a trust fund contributed to by a base  
9 period employer or chargeable employer.

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

19 (14) For any week or portion thereof in which he or she did  
20 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.