

ASSEMBLY, No. 4469

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 3, 2024

Sponsored by:

Assemblywoman GARNET R. HALL

District 28 (Essex and Union)

SYNOPSIS

Concerns unemployment benefits for certain individuals.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning unemployment benefits for certain individuals
2 and amending R.S.43:21-5.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. R.S.43:21-5 is amended to read as follows:

8 43:21-5. An individual shall be disqualified for benefits:

9 (a) For the week in which the individual has left work voluntarily
10 without good cause attributable to such work, and for each week
11 thereafter until the individual becomes reemployed and works eight
12 weeks in employment, which may include employment for the
13 federal government, and has earned in employment at least 10 times
14 the individual's weekly benefit rate, as determined in each case. This
15 subsection shall apply to any individual seeking unemployment
16 benefits on the basis of employment in the production and harvesting
17 of agricultural crops, including any individual who was employed in
18 the production and harvesting of agricultural crops on a contract basis
19 and who has refused an offer of continuing work with that employer
20 following the completion of the minimum period of work required to
21 fulfill the contract. This subsection shall not apply to an individual
22 who voluntarily leaves work with one employer to accept from
23 another employer employment which commences not more than
24 seven days after the individual leaves employment with the first
25 employer, if the employment with the second employer has weekly
26 hours or pay not less than the hours or pay of the employment of the
27 first employer, except that if the individual gives notice to the first
28 employer that the individual will leave employment on a specified
29 date and the first employer terminates the individual before that date,
30 the seven-day period will commence from the specified date.

31 (b) For the week in which the individual has been suspended or
32 discharged for misconduct connected with the work, and for the five
33 weeks which immediately follow that week, as determined in each
34 case.

35 "Misconduct" means conduct which is improper, intentional,
36 connected with the individual's work, within the individual's control,
37 not a good faith error of judgment or discretion, and is either a
38 deliberate refusal, without good cause, to comply with the employer's
39 lawful and reasonable rules made known to the employee or a
40 deliberate disregard of standards of behavior the employer has a
41 reasonable right to expect, including reasonable safety standards and
42 reasonable standards for a workplace free of drug and substance use.

43 In the event the discharge should be rescinded by the employer
44 voluntarily or as a result of mediation or arbitration, this subsection
45 (b) shall not apply, provided, however, an individual who is restored
46 to employment with back pay shall return any benefits received under
47 this chapter for any week of unemployment for which the individual
48 is subsequently compensated by the employer.

1 If the discharge was for gross misconduct connected with the work
2 because of the commission of an act punishable as a crime of the first,
3 second, third or fourth degree under the "New Jersey Code of
4 Criminal Justice," N.J.S.2C:1-1 et seq., the individual shall be
5 disqualified in accordance with the disqualification prescribed in
6 subsection (a) of this section and no benefit rights shall accrue to any
7 individual based upon wages from that employer for services
8 rendered prior to the day upon which the individual was discharged.

9 The director shall ensure that any appeal of a determination
10 holding the individual disqualified for gross misconduct in
11 connection with the work shall be expeditiously processed by the
12 appeal tribunal.

13 To sustain disqualification from benefits because of misconduct
14 under this subsection (b), the burden of proof is upon the employer,
15 who shall, prior to a determination by the department of misconduct,
16 provide written documentation demonstrating that the employee's
17 actions constitute misconduct or gross misconduct.

18 Nothing within this subsection (b) shall be construed to interfere
19 with the exercise of rights protected under the "National Labor
20 Relations Act," (29 U.S.C. s.151 et seq.) or the "New Jersey
21 Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et
22 seq.).

23 (c) If it is found that the individual has failed, without good cause,
24 either to apply for available, suitable work when so directed by the
25 employment office or the director or to accept suitable work when it
26 is offered, or to return to the individual's customary self-employment
27 (if any) when so directed by the director. The disqualification shall
28 continue for the week in which the failure occurred and for the three
29 weeks which immediately follow that week, as determined:

30 (1) In determining whether or not any work is suitable for an
31 individual, consideration shall be given to the degree of risk involved
32 to health, safety, and morals, the individual's physical fitness and
33 prior training, experience and prior earnings, the individual's length
34 of unemployment and prospects for securing local work in the
35 individual's customary occupation, and the distance of the available
36 work from the individual's residence. In the case of work in the
37 production and harvesting of agricultural crops, the work shall be
38 deemed to be suitable without regard to the distance of the available
39 work from the individual's residence if all costs of transportation are
40 provided to the individual and the terms and conditions of hire are as
41 favorable or more favorable to the individual as the terms and
42 conditions of the individual's base year employment.

43 (2) Notwithstanding any other provisions of this chapter, no work
44 shall be deemed suitable and benefits shall not be denied under this
45 chapter to any otherwise eligible individual for refusing to accept
46 new work under any of the following conditions: the position offered
47 is vacant due directly to a strike, lockout, or other labor dispute; the
48 remuneration, hours, or other conditions of the work offered are

1 substantially less favorable to the individual than those prevailing for
2 similar work in the locality; or, the individual, as a condition of being
3 employed, would be required to join a company union or to resign
4 from or refrain from joining any bona fide labor organization.

5 (d) If it is found that this unemployment is due to a stoppage of
6 work which exists because of a labor dispute at the factory,
7 establishment or other premises at which the individual is or was last
8 employed, except as otherwise provided by this subsection (d).

9 (1) No disqualification under this subsection (d) shall apply if it is
10 shown that:

11 (i) The individual is not participating in or financing or directly
12 interested in the labor dispute which caused the stoppage of work;
13 and

14 (ii) The individual does not belong to a grade or class of workers
15 of which, immediately before the commencement of the stoppage,
16 there were members employed at the premises at which the stoppage
17 occurs, any of whom are participating in or financing or directly
18 interested in the dispute; provided that if in any case in which
19 subparagraphs (i) or (ii) of this paragraph (1) applies, separate
20 branches of work which are commonly conducted as separate
21 businesses in separate premises are conducted in separate
22 departments of the same premises, each department shall, for the
23 purpose of this subsection, be deemed to be a separate factory,
24 establishment, or other premises.

25 (2) For any claim for a period of unemployment commencing on
26 or after December 1, 2004 due to a stoppage of work which exists
27 because of a labor dispute at the factory, establishment or other
28 premises at which the individual is or was last employed, no
29 disqualification under this subsection (d) shall apply if it is shown
30 that the individual has been prevented from working by the employer,
31 even though the individual's recognized or certified majority
32 representative has directed the employees in the individual's
33 collective bargaining unit to work under the preexisting terms and
34 conditions of employment, and, if the period of unemployment
35 commenced before January 1, 2022, the employees had not engaged
36 in a strike immediately before being prevented from working, or if
37 the a period of unemployment commenced on or after January 1,
38 2022, whether or not the employees had engaged in a strike
39 immediately before being prevented from working.

40 (3) For any claim for a period of unemployment commencing on
41 or after July 1, 2018 due to a stoppage of work which exists because
42 of a labor dispute at the factory, establishment or other premises at
43 which the individual is or was last employed, no disqualification
44 under this subsection (d) shall apply if an issue in the labor dispute
45 is a failure or refusal of the employer to comply with an agreement
46 or contract between the employer and the claimant, including a
47 collective bargaining agreement with a union representing the

1 claimant, or a failure or refusal to comply with a State or federal law
2 pertaining to hours, wages, or other conditions of work.

3 (4) For any claim for a period of unemployment commencing on
4 or after July 1, 2018 and before January 1, 2022, if the unemployment
5 is caused by a labor dispute, including a strike or other concerted
6 activities of employees at the claimant's workplace, whether or not
7 authorized or sanctioned by a union representing the claimant, but
8 not including a dispute subject to the provisions of paragraph (2) or
9 (3) of this subsection (d), the claimant shall not be provided benefits
10 for a period of the first 30 days following the commencement of the
11 unemployment caused by the labor dispute, except that the period
12 without benefits shall not apply if the employer hires a permanent
13 replacement worker for the claimant's position. A replacement
14 worker shall be presumed to be permanent unless the employer
15 certifies in writing that the claimant will be permitted to return to his
16 or her prior position upon conclusion of the dispute. If the employer
17 does not permit the return, the claimant shall be entitled to recover
18 any benefits lost as a result of the 30-day waiting period before
19 receiving benefits, and the department may impose a penalty upon
20 the employer of up to \$750 per employee per week of benefits lost.
21 The penalty collected shall be paid into the unemployment
22 compensation auxiliary fund established pursuant to subsection (g)
23 of R.S.43:21-14. For any claim for a period of unemployment
24 commencing on or after January 1, 2022 due to a stoppage of work
25 which exists because of a labor dispute at the factory, establishment
26 or other premises at which the individual is or was last employed,
27 including a strike or other concerted activities of employees at the
28 claimant's workplace, whether or not authorized or sanctioned by a
29 union representing the claimant, but not including a dispute subject
30 to the provisions of paragraph (2) or (3) of this subsection (d), the
31 claimant shall not be provided benefits for a period of the first 14
32 days following the commencement of the unemployment caused by
33 the labor dispute, except that the claimant shall be provided benefits
34 during any part of that the 14-day period in which the employer
35 engages the services of a replacement worker for the claimant's
36 position, whether that replacement worker is engaged on a permanent
37 or temporary basis, or is an existing worker reassigned permanently
38 or temporarily from other duties to perform the duties of the
39 claimant's position. For any claim for a period of unemployment
40 commencing on or after January 1, 2022 which exists because of a
41 labor dispute at the factory, establishment or other premises at which
42 the individual is or was last employed, if the labor dispute has not
43 resulted in a stoppage of work, no disqualification under this
44 subsection (d) shall apply, and the 14-day waiting period in this
45 paragraph (4) shall not apply.

46 (e) For any week with respect to which the individual is receiving
47 or has received remuneration in lieu of notice.

1 (f) For any week with respect to which or a part of which the
2 individual has received or is seeking unemployment benefits under
3 an unemployment compensation law of any other state or of the
4 United States; provided that if the appropriate agency of the other
5 state or of the United States finally determines that the individual is
6 not entitled to unemployment benefits, this disqualification shall not
7 apply.

8 (g) (1) For a period of one year from the date of the discovery by
9 the division of the illegal receipt or attempted receipt of benefits
10 contrary to the provisions of this chapter, as the result of any false or
11 fraudulent representation; provided that any disqualification may be
12 appealed in the same manner as any other disqualification imposed
13 hereunder; and provided further that a conviction in the courts of this
14 State arising out of the illegal receipt or attempted receipt of these
15 benefits in any proceeding instituted against the individual under the
16 provisions of this chapter or any other law of this State shall be
17 conclusive upon the appeals tribunal and the board of review.

18 (2) A disqualification under this subsection shall not preclude the
19 prosecution of any civil, criminal or administrative action or
20 proceeding to enforce other provisions of this chapter for the
21 assessment and collection of penalties or the refund of any amounts
22 collected as benefits under the provisions of R.S.43:21-16, or to
23 enforce any other law, where an individual obtains or attempts to
24 obtain by theft or robbery or false statements or representations any
25 money from any fund created or established under this chapter or any
26 negotiable or nonnegotiable instrument for the payment of money
27 from these funds, or to recover money erroneously or illegally
28 obtained by an individual from any fund created or established under
29 this chapter.

30 (h) (1) Notwithstanding any other provisions of this chapter
31 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied
32 benefits for any week because the individual is in training approved
33 under section 236(a)(1) of the "Trade Act of 1974," Pub.L.93-618 (19
34 U.S.C. s.2296 (a)(1)) nor shall the individual be denied benefits by
35 reason of leaving work to enter this training, provided the work left
36 is not suitable employment, or because of the application to any week
37 in training of provisions in this chapter (R.S.43:21-1 et seq.), or any
38 applicable federal unemployment compensation law, relating to
39 availability for work, active search for work, or refusal to accept
40 work.

41 (2) For purposes of this subsection (h), the term "suitable"
42 employment means, with respect to an individual, work of a
43 substantially equal or higher skill level than the individual's past
44 adversely affected employment, as defined for purposes of the "Trade
45 Act of 1974," Pub.L.93-618 (19 U.S.C. s.2101 et seq.) and wages for
46 this work at not less than 80 percent of the individual's average
47 weekly wage, as determined for the purposes of the "Trade Act of
48 1974."

1 (i) For benefit years commencing after June 30, 1984, for any
2 week in which the individual is a student in full attendance at, or on
3 vacation from, an educational institution, as defined in subsection (y)
4 of R.S.43:21-19; except that this subsection shall not apply to any
5 individual attending a training program approved by the division to
6 enhance the individual's employment opportunities, as defined under
7 subsection (c) of R.S.43:21-4; nor shall this subsection apply to any
8 individual who, during the individual's base year, earned sufficient
9 wages, as defined under subsection (e) of R.S.43:21-4, while
10 attending an educational institution during periods other than
11 established and customary vacation periods or holiday recesses at the
12 educational institution, to establish a claim for benefits. For purposes
13 of this subsection, an individual shall be treated as a full-time student
14 for any period:

15 (1) During which the individual is enrolled as a full-time student
16 at an educational institution, or

17 (2) Which is between academic years or terms, if the individual
18 was enrolled as a full-time student at an educational institution for
19 the immediately preceding academic year or term.

20 (j) Notwithstanding any other provisions of this chapter
21 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied
22 benefits because the individual left work or was discharged due to
23 circumstances resulting from the individual being a victim of
24 domestic violence as defined in section 3 of P.L.1991, c.261
25 (C.2C:25-19). No employer's account shall be charged for the
26 payment of benefits to an individual who left work due to
27 circumstances resulting from the individual being a victim of
28 domestic violence.

29 For the purposes of this subsection (j), the individual shall be
30 treated as being a victim of domestic violence if the individual
31 provides one or more of the following:

32 (1) A restraining order or other documentation of equitable relief
33 issued by a court of competent jurisdiction;

34 (2) A police record documenting the domestic violence;

35 (3) Documentation that the perpetrator of the domestic violence
36 has been convicted of one or more of the offenses enumerated in
37 section 3 of P.L.1991, c.261 (C.2C:25-19);

38 (4) Medical documentation of the domestic violence;

39 (5) Certification from a certified Domestic Violence Specialist or
40 the director of a designated domestic violence agency that the
41 individual is a victim of domestic violence; or

42 (6) Other documentation or certification of the domestic violence
43 provided by a social worker, member of the clergy, shelter worker or
44 other professional who has assisted the individual in dealing with the
45 domestic violence.

46 For the purposes of this subsection (j):

47 "Certified Domestic Violence Specialist" means a person who has
48 fulfilled the requirements of certification as a Domestic Violence

1 Specialist established by the New Jersey Association of Domestic
2 Violence Professionals; and "designated domestic violence agency"
3 means a county-wide organization with a primary purpose to provide
4 services to victims of domestic violence, and which provides services
5 that conform to the core domestic violence services profile as defined
6 by the Division of Child Permanency and Protection in the
7 Department of Children and Families and is under contract with the
8 division for the express purpose of providing such services.

9 (k) Notwithstanding any other provisions of this chapter
10 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied
11 benefits for any week in which the individual left work voluntarily
12 and without good cause attributable to the work, if the individual left
13 work to accompany his or her spouse who is an active member of the
14 United States Armed Forces, as defined in N.J.S.38A:1-1(g), to a new
15 place of residence outside the State, due to the armed forces member's
16 transfer to a new assignment in a different geographical location
17 outside the State, and the individual moves to the new place of
18 residence not more than nine months after the spouse is transferred,
19 and upon arrival at the new place of residence the individual was in
20 all respects available for suitable work. No employer's account shall
21 be charged for the payment of benefits to an individual who left work
22 under the circumstances contained in this subsection (k), except that
23 this shall not be construed as relieving the State of New Jersey and
24 any other governmental entity or instrumentality or nonprofit
25 organization electing or required to make payments in lieu of
26 contributions from its responsibility to make all benefit payments
27 otherwise required by law and from being charged for those benefits
28 as otherwise required by law.

29 (l) Notwithstanding any other provisions of this chapter
30 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied
31 benefits for any week in which the individual is regarded as having
32 left work voluntarily and without good cause attributable to the work,
33 if the department determines that the individual was unavailable that
34 week for work solely because the individual was being detained for
35 charges which were subsequently dismissed by a decision not to
36 prosecute, a decision of a grand jury not to indict, or a finding of not
37 guilty after a trial. No employer's account shall be charged for the
38 payment of benefits to an individual who was unavailable for work
39 due to the circumstances contained in this subsection.

40 (cf: P.L.2023, c.177, s.126)

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42 2. This act shall take effect immediately.

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STATEMENT

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47 This bill provides that no otherwise eligible individual shall be
48 denied unemployment benefits for any week in which the individual

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1 is regarded as having left work voluntarily and without good cause
2 attributable to the work, if the Department of Labor and Workforce
3 Development determines that the individual was unavailable that
4 week for work solely because the individual was being detained for
5 charges which were subsequently dismissed by a decision not to
6 prosecute, a decision of a grand jury not to indict, or a finding of not
7 guilty after a trial. No employer's account is to be charged for the
8 payment of benefits paid under those circumstances.