

43:21-4

1/14/88

LEGISLATIVE HISTORY CHECKLIST

NJSA: 43:21-4 (Unemployment compensation-- eligibility requirements-- reduce record rate)

LAWS OF: 1987 CHAPTER: 216

Bill No: S2611

Sponsor(s): Di Francesco

Date Introduced: October 2, 1986

Committee: Assembly: -----

Senate: Labor, Industry, Professions

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: June 4, 1987

Senate: May 18, 1987

Date of Approval: July 29, 1987

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

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SENATE, No. 2611**STATE OF NEW JERSEY**

INTRODUCED OCTOBER 2, 1986

By Senator DiFRANCESCO

Referred to Committee on Labor, Industry and Professions

AN ACT concerning the eligibility requirements for individuals seeking unemployment compensation in successive benefit years and amending R. S. 43:21-4.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. R. S. 43:21-4 is amended to read as follows:

2 43:21-4. Benefit eligibility conditions. An unemployed indi-
3 vidual shall be eligible to receive benefits with respect to any week
4 only if **[it appears that]**:

5 (a) The individual has filed a claim at an unemployment
6 insurance claims office and thereafter continues to report at an
7 employment service office or unemployment insurance claims office,
8 as directed by the division in accordance with such regulations as
9 the division may prescribe, except that the division may, by
10 regulation, waive or alter either or both of the requirements of
11 this subsection as to individuals attached to regular jobs, and as
12 to such other types of cases or situations with respect to which the
13 division finds that compliance with such requirements would be
14 oppressive, or would be inconsistent with the purpose of this act;
15 provided that no such regulation shall conflict with subsection (a)
16 of R. S. 43:21-3.

17 (b) The individual has made a claim for benefits in accordance
18 with the provisions of subsection (a) of R. S. 43:21-6.

19 (c) (1) The individual is able to work, and is available for
20 work, and has demonstrated to be actively seeking work, except
21 as hereinafter provided in this subsection or in subsection (f) of
22 this section.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows.

*—Senate committee amendments adopted December 8, 1986.

23 (2) The director may modify the requirement of actively seeking
24 work if such modification of this requirement is warranted by
25 economic conditions.

26 (3) No individual, who is otherwise eligible, shall be deemed
27 ineligible, or unavailable for work, because the individual is on
28 vacation, without pay, during said week, if said vacation is not the
29 result of the individual's own action as distinguished from any
30 collective action of a collective bargaining agent or other action
31 beyond the individual's control.

32 (4) Subject to such limitations and conditions as the division
33 may prescribe, an individual, who is otherwise eligible, shall not be
34 deemed unavailable for work or ineligible because the individual
35 is attending a training program approved for the individual by
36 the division to enhance the individual's employment opportunities
37 or because the individual failed or refused to accept work while
38 attending such program.

39 (5) An unemployed individual, who is otherwise eligible, shall
40 not be deemed unavailable for work or ineligible solely by reason
41 of the individual's attendance before a court in response to a sum-
42 mons for service on a jury.

43 (d) The individual has been totally or partially unemployed
44 for a waiting period of one week in the benefit year which includes
45 that week. When benefits become payable with respect to the third
46 consecutive week next following the waiting period, the individual
47 shall be eligible to receive benefits as appropriate with respect to
48 the waiting period. No week shall be counted as a week of unem-
49 ployment for the purposes of this subsection:

50 (1) If benefits have been paid, or are payable with respect
51 thereto; provided that the requirements of this paragraph shall
52 be waived with respect to any benefits paid or payable for a
53 waiting period as provided in this subsection;

54 (2) If it has constituted a waiting period week under the tempo-
55 rary disability benefits law;

56 (3) Unless the individual fulfills the requirements of subsections
57 (a) and (c) of this section;

58 (4) If with respect thereto, claimant was disqualified for benefits
59 in accordance with the provisions of subsection (d) of R. S. 43:21-5.

60 (e) (1) With respect to a base year as defined in subsection (c) of
61 R. S. 43:21-19, the individual has established at least 20 base weeks
62 as defined in paragraph (1) of subsection (t) of R. S. 43:21-19, or,
63 in those instances in which the individual has not established
64 20 base weeks, the individual has earned \$2,200.00 for benefit years
65 commencing prior to October 1, 1984; and, except as otherwise

66 provided in paragraph (2) or paragraph (3) of this subsection, for
 67 benefit years commencing on or after October 1, 1984, the individual
 68 has earned 12 times the Statewide average weekly remuneration
 69 paid to workers, as determined under R. S. 43:21-3(c), raised to
 70 the next higher multiple of \$100.00 if not already a multiple thereof,
 71 or more in the individual's base year.

72 (2) Notwithstanding the provisions of paragraph (1) of this
 73 subsection, for benefit years commencing on or after October 1,
 74 1984 and before January 1, 1985, an unemployed individual claiming
 75 benefits on the basis of service performed in the production and
 76 harvesting of agricultural crops shall, subject to the limitations of
 77 subsection (i) of R. S. 43:21-19, be eligible to receive benefits if it
 78 appears that the individual has established at least 20 base weeks as
 79 defined in paragraph (2) of subsection (t) of R. S. 43:21-19, or, in
 80 those instances in which the individual has not established 20 base
 81 weeks, the individual has earned \$2,200.00.

82 (3) Notwithstanding the provisions of paragraph (1) of this
 83 subsection, for benefit years commencing on or after October 1, 1985
 84 and before October 1, 1987, an unemployed individual claiming
 85 benefits on the basis of service performed in the production and
 86 harvesting of agricultural crops shall, subject to the limitations of
 87 subsection (i) of R. S. 43:21-19, be eligible to receive benefits if
 88 during his base year, as defined in subsection (c) of R. S. 43:21-19,
 89 the individual:

90 (A) Has established at least 20 base weeks as defined in
 91 paragraph (1) of subsection (t) of R. S. 43:21-19; or

92 (B) Has earned 12 times the Statewide average weekly
 93 remuneration paid to workers, as determined under R. S.
 94 43:21-3(c), raised to the next higher multiple of \$100.00 if not
 95 already a multiple thereof, or more; or

96 (C) Has performed at least 770 hours of service in the
 97 production and harvesting of agricultural crops.

98 (4) *The individual applying for benefits in any successive benefit*
 99 *year has earned at least six times his previous weekly benefit*
 100 **[amount during his immediately preceding benefit year, has had at*
 101 *least four weeks of employment in that benefit year, and has*
 102 *received sufficient earnings in his base period to meet the require-*
 103 *ments specified in paragraph 1 of this subsection.]* *amount and has*
 103A *had four weeks of employment since the beginning of the imme-*
 103B *diately preceding benefit year. This provision shall be in addition*
 103C *to the earnings requirements specified in paragraph (1), (2), or*
 103D *(3) of this subsection, as applicable.**

104 (f) (1) The individual has suffered any accident or sickness not
 105 compensable under the Workers' Compensation Law (Title 34 of
 106 the Revised Statutes) and resulting in the individual's total dis-
 107 ability to perform any work for remuneration, and would be eligi-
 108 ble to receive benefits under this chapter (R. S. 43:21-1 et seq.)
 109 (without regard to the maximum amount of benefits payable during
 110 any benefit year) except for the inability to work and has furnished
 111 notice and proof of claim to the division, in accordance with its
 112 rules and regulations, and payment is not precluded by the pro-
 113 visions of R. S. 43:21-3 (d); provided, however, that benefits paid
 114 under this subsection (f) shall be computed on the basis of only
 115 those base year wages earned by the claimant as a "covered indi-
 116 vidual," as defined in R. S. 43:21-27 (b); provided further that no
 117 benefits shall be payable under this subsection to any individual:

118 (A) For any period during which such individual is not
 119 under the care of a legally licensed physician, dentist, optom-
 120 etrist, podiatrist or chiropractor;

121 (B) (Deleted by amendment, P. L. 1980, c. 90.)

122 (C) For any period of disability due to willfully or inten-
 123 tionally self-inflicted injury, or to injuries sustained in the
 124 perpetration by the individual of a crime of the first, second or
 125 third degree;

126 (D) For any week with respect to which or a part of which
 127 the individual has received or is seeking benefits under any
 128 unemployment compensation or disability benefit law of any
 129 other state or of the United States; provided that if the appro-
 130 priate agency of such other state or of the United States finally
 131 determines that the individual is not entitled to such benefits,
 132 this disqualification shall not apply;

133 (E) For any week with respect to which or part of which
 134 the individual has received or is seeking disability benefits
 135 under the temporary disability benefits law;

136 (F) For any period of disability commencing while such
 137 individual is a "covered individual," as defined in subsection
 138 3 (b) of the temporary disability benefits law (P. L. 1948,
 139 c. 110).

140 (2) Benefit payments under this subsection shall be charged to
 141 and paid from the State disability benefits fund established by the
 142 temporary disability benefits law, and shall not be charged to any
 143 employer account in computing any employer's experience rate
 144 for contributions payable under this chapter.

145 (g) Benefits based on service in employment defined in sub-

146 paragraphs (B) and (C) of R. S. 43:21-19 (i) (1) shall be payable
147 in the same amount and on the terms and subject to the same
148 conditions as benefits payable on the basis of other service subject
149 to the Unemployment Compensation Law; except that, notwith-
150 standing any other provisions of the Unemployment Compensation
151 Law:

152 (1) With respect to service performed after December 31, 1977,
153 in an instructional, research, or principal administrative capacity
154 for an educational institution, benefits shall not be paid based on
155 such services for any week of unemployment commencing during
156 the period between two successive academic years, or during a
157 similar period between two regular terms, whether or not succes-
158 sive, or during a period of paid sabbatical leave provided for in the
159 individual's contract, to any individual if such individual performs
160 such services in the first of such academic years (or terms) and if
161 there is a contract or a reasonable assurance that such individual
162 will perform services in any such capacity for any educational
163 institution in the second of such academic years or terms:

164 (2) With respect to weeks of unemployment beginning after
165 September 3, 1982, on the basis of service performed in any other
166 capacity for an educational institution, benefits shall not be paid on
167 the basis of such services to any individual for any week which
168 commences during a period between two successive academic years
169 or terms if such individual performs such services in the first of
170 such academic years or terms and there is a reasonable assurance
171 that such individual will perform such services in the second of
172 such academic years or terms, except that if benefits are denied
173 to any individual under this paragraph (2) and the individual was
174 not offered an opportunity to perform these services for the edu-
175 cational institution for the second of any academic years or terms,
176 the individual shall be entitled to a retroactive payment of benefits
177 for each week for which the individual filed a timely claim for
178 benefits and for which benefits were denied solely by reason of
179 this clause;

180 (3) With respect to those services described in paragraphs (1)
181 and (2) above, benefits shall not be paid on the basis of such ser-
182 vices to any individual for any week which commences during an
183 established and customary vacation period or holiday recess if such
184 individual performs such services in the period immediately before
185 such vacation period or holiday recess, and there is a reasonable
186 assurance that such individual will perform such services in the
187 period immediately following such period or holiday recess;

188 (4) With respect to any services described in paragraphs (1)
189 and (2) above, benefits shall not be paid as specified in paragraphs
190 (1), (2), and (3) above to any individual who performed those
191 services in an educational institution while in the employ of an
192 educational service agency, and for this purpose the term "educa-
193 tional service agency" means a governmental agency or govern-
194 mental entity which is established and operated exclusively for the
195 purpose of providing those services to one or more educational
196 institutions.

197 (h) Benefits shall not be paid to any individual on the basis of
198 any services, substantially all of which consist of participating in
199 sports or athletic events or training or preparing to so participate,
200 for any week which commences during the period between two
201 successive sports seasons (or similar periods) if such individual
202 performed such services in the first of such seasons (or similar
203 periods) and there is a reasonable assurance that such individual
204 will perform such services in the later of such seasons (or similar
205 periods).

206 (i) (1) Benefits shall not be paid on the basis of services per-
207 formed by an alien unless such alien is an individual who was
208 lawfully admitted for permanent residence at the time the services
209 were performed and was lawfully present for the purpose of per-
210 forming the services or otherwise was permanently residing in the
211 United States under color of law at the time the services were
212 performed (including an alien who is lawfully present in the
213 United States as a result of the application of the provisions of
214 section 203 (a) (7) or section 212 (d) (5) of the Immigration and
215 Nationality Act); provided that any modifications of the provisions
216 of section 3304 (a) (14) of the federal Unemployment Tax Act, as
217 provided by Public Law 94-566, which, specify other conditions or
218 other effective dates than stated herein for the denial of benefits
219 based on services performed by aliens and which modifications are
220 required to be implemented under State law as a condition for full
221 tax credit against the tax imposed by the federal Unemployment
222 Tax Act, shall be deemed applicable under the provisions of this
223 section.

224 (2) Any data or information required of individuals applying
225 for benefits to determine whether benefits are not payable to them
226 because of their alien status shall be uniformly required from all
227 applicants for benefits.

228 (3) In the case of an individual whose application for benefits
229 would otherwise be approved, no determination that benefits to

230 such individual are not payable because of alien status shall be
231 made except upon a preponderance of the evidence.

232 (j) Notwithstanding any other provision of this chapter, the
233 director may, to the extent that it may be deemed efficient and
234 economical, provide for consolidated administration by one or
235 more representatives or deputies of claims made pursuant to sub-
236 section (f) of this section with those made pursuant to Article III
237 (State plan) of the Temporary Disability Benefits Law.

1 2. This act shall take effect ***[immediately]*** *on the 180th day*
2 *following enactment*.*

WORKERS' AND UNEMPLOYMENT COMPENSATION
Increases eligibility requirements for certain UI claims in succes-
sive benefit years.

STATEMENT

This bill alters the benefit eligibility conditions for claimants seeking unemployment compensation in successive benefit years when the claimant's base periods for each benefit year overlap. A claimant seeking unemployment compensation in successive benefit years is required under the bill: (1) to earn at least six times his previous weekly benefit amount in his preceding benefit year; (2) to be employed for at least four weeks in that benefit year before the claimant receives benefits in his second benefit year; and (3) to meet the other standard earnings and work requirements for collecting unemployment compensation. The purpose of the legislation is to ensure that the recent expansion of the base period from four to five calendar quarters does not allow claimants who have not worked during an entire benefit year to file a claim at the start of another benefit year and draw benefits solely on their employment during the last quarter of the preceding base period.

WORKERS' AND UNEMPLOYMENT COMPENSATION

Increases eligibility requirements for certain UI claims in successive benefit years.

S2611 (1987)

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

SENATE, No. 2611

with Senate committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 8, 1986

This bill, as amended, increases the eligibility requirements for claimants who seek unemployment compensation in successive benefit years. The bill requires a claimant in this category to earn at least six times his previous weekly benefit amount in his preceding benefit year, to be employed for at least four weeks in that benefit year before his claim for benefits in the second benefit year is approved, and to fulfill all other standard earnings and work requirements for collecting unemployment compensation, as defined in subsection e. of R. S. 43:21-4.

The committee amendments emphasize that the earnings and work required for the claimant's eligibility in a successive benefit year are to be received and performed after the beginning of the first benefit year. The amendments also stress that the new earnings and work requirements supplement existing earnings requirements. Finally, the committee amendments postpone the effective date to 180 days after the enactment date.