



Understanding the Scaffold Law in New York

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The Scaffold Law holds contractors and/or owners responsible for elevation-related accidents, even if they were not responsible in any way for the accident. This law has been enforced in New York since the late 1800s, even before we had the Occupational Safety and Health Administration and workers' compensation. When the law was developed, the intent was to protect the workers; however, as site safety has evolved, the law has not, leaving the contractor/owner with very little opportunity to defend themselves in accidents of this nature. The contractor/owner is absolutely liable for gravity related injuries, even if the worker was grossly negligent. Currently, New York State is the only state still carrying this law.

It has been acknowledged there are tremendous costs associated with the Scaffold Law. These costs are passed along to the end user of a construction project. With very little, if any, defense against a potential scaffold law suit, the cost of general liability insurance for a New York contractor is high and borderline unaffordable. The butterfly effect is that construction costs increase, the workforce numbers are impacted and skills are conceded as the contractor/owner will look to alternative labor pools. Taxpayers in public works forums end up paying higher prices which often times can lead to the economy suffering.

From a job cost standpoint, it is further argued that reforming the Scaffold Law would stimulate the economy. By reducing the cost of construction and capital budgets, the number of projects would expand which leads to the creation of jobs and economic development.

When dealing with scaffolding, it is almost impossible to prevent worker injuries due to the nature of the work. The law currently does not allow the contractor/owner any defense when it comes to scaffold-related injuries (even if the worker is at fault). The platform to reform the Scaffold Law would allow a New York contractor/owner the chance to defend themselves in instances where the injuries caused are due to the worker's own negligence or intoxication.

The proponents for the Scaffold Law have a simple message: It saves lives. In instances where the contractor/owner has failed to follow mandated safety requirements, the law acts as recourse for the injured party, providing a venue for recovery for incurred medical costs, loss of wages, impairment of abilities, etc. It ensures there is no ambiguity as to who is ultimately responsible for job site safety, especially for those with dangerous occupations. Furthermore, the advocates will argue that the increase in job costs as a result of the law is a burden that the contractor/owner should carry as it pales in comparison to the loss of life or permanent disability of a worker.

Another argument for the law is that immigrant workers generally take on the undesirable/dangerous jobs. The Scaffold Law helps to deter the opportunity to take advantage of a labor pool that is unaware of their rights. In the end, for this contingent, it is about ensuring worker's protection.

Both sides have compelling arguments. No one wants to weigh the value of human life against the financial onus placed on owner and/or contractor; but, as the only state left in the country with this

law on the books, there is obvious need for this issue to be re-evaluated. Governor Cuomo has mentioned this issue over his tenure and as he proved with the Tappan Zee Bridge revitalization, he addresses the issues. If you are unfamiliar with the Scaffold Law and all it entails, contact your trusted business advisor for more information. It is always important to be proactive in times like this, rather than reactive.

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