



## Let's set the record straight on New York's Scaffold Law

A lot of misinformation is being disseminated about New York's landmark worker protection legislation, the Scaffold Law. Here's the real story.

**New York's Scaffold Law makes construction safer.** According to U.S. Bureau of Labor Statistics, from 2000 to 2010 New York had the nation's fifth-lowest construction injury rate.

**The Scaffold Law applies *only* to height-related accidents.** An owner or contractor is *not* held strictly liable for such accidents unless their failure to provide proper safety equipment proximately caused a worker's injury. **Liability can be avoided simply by having the proper safety equipment in place.**

**The Scaffold Law does *not* apply to workers injured solely because they failed to follow instructions, failed to use available safety equipment, misused or incorrectly set up safety equipment, or were injured because of their own actions such as being intoxicated.**

**Weakening the Scaffold Law would shift safety responsibility from owners and general contractors, who control the site, to workers, who do not control the site and are in a subordinate position.** Construction workers commonly are ordered to perform tasks without any safety equipment or with defective or improperly installed or secured equipment. For example, an unscrupulous contractor may order a worker to climb a ladder that does not have safety legs or is not secured by another worker. Refusal could mean being sent home and losing a day's wages or outright firing. If the worker complies and is injured, a weakened Scaffold Law that applies comparative negligence would actually encourage the contractor to falsely assert in court that the worker refused to follow proper safety protocols. To prove his or her case, the worker would have to convince witnesses to testify who either heard or saw the worker being directed to use the ladder despite the danger.

**OSHA *cannot* be relied on to keep construction sites safe.** OSHA acknowledges that it can inspect only about one construction site a day in the entire New York metro area. And the New York Committee for Occupational Safety & Health has reported, "OSHA's penalty structure is insufficient to serve as a deterrent. Fines are reduced, and unsafe workplaces remain. In New York State... many employers fail to prioritize safety and contribute further to the dangers." No wonder studies have shown that in more than one-third of OSHA construction site inspections in New York inspectors found serious violations of OSHA fall-prevention safety standards and that employers violated these standards in 80% of the accidents where a worker fell and was killed.

**The Scaffold Law has *not* hindered construction or cost construction jobs in areas where the economy has been strong.** The number of housing units permitted in NYC soared from 5,100 in 1995 to 34,000 in 2008. Saratoga County added more than 10,000 new homes over the last decade alone. In the 15 years from 1996 to 2011 construction employment increased 20.3% in New York but declined 0.5% in the US and in the five years from 2006 to 2011 construction employment declined only 9.1% in New York but fell 28.4% in the US. Construction employment has suffered only in areas of the state where employment and population has lagged or declined. For more on this, read NYSTLA's white paper, "It's the economy, not the Scaffold Law," available at [www.nystla.org](http://www.nystla.org).