



The Honorable Andrew M. Cuomo
Governor of New York State
Executive Chamber
State Capitol
Albany, New York 12224

Dear Governor Cuomo,

Thanks to your leadership, New York is weathering the COVID-19 public health crisis. However, a new budget crisis looms, exacerbated by the loss of revenues due to the pandemic. State and municipal budgets have been decimated, and the financial outlook is bleak. Our infrastructure, once the envy of the world, is saddled with the twin crises of higher costs for sanitation and lower revenues from ridership and tolls. Our schools, many already in need of repair, must now shift their facility and maintenance dollars to manage the new reality of the pandemic.

Fortunately, there is an easy fix to a state law that would annually free up millions of dollars in state and municipal budgets, save hundreds of millions in infrastructure costs, and release an estimated two hundred million a year in education budgets across the state.

The fix is simple. Put New York's liability laws in line with every other state and every other country in the world. Fix Labor Law 240, also known as the Scaffold Law. Use the budget process to change the standard from the current, outdated absolute liability standard to a more equitable and modern comparative negligence standard.

There are oceans of data supporting this fix. There is no data supporting the current broken system.

You have expressed support for reform. We, the over 75 member organizations of the Scaffold Law Reform Coalition urge you to put those words into action. Put Scaffold Law reform into your 2021 Executive Budget. Now is the time. We cannot let special interests hold our state and municipal budgets hostage any longer. We stand behind you and urge you to finally fix this law and bring New York into the 21st Century and help us recover and heal from this terrible pandemic.

Sincerely,

Allied Building Metal Industries
American Council of Engineering Companies of New York
American Property Casualty Insurance Association

American Rental Association

Associated Builders and Contractors of New York State

Associated General Contractors of New York State

Association for a Better Long Island

Big I NY

Buffalo Niagara Partnership

Builders Exchange of Rochester

Builders Exchange of the Southern Tier

Building Contractors Association

Building Trades Employers Association of New York

Business Council of New York State

Business Council of Westchester

Capital Region Chamber of Commerce

Chamber Alliance of New York State

Chemung County Chamber of Commerce

Construction Exchange of Buffalo

Construction Industry Council of Westchester & Hudson Valley

Eastern Contractors Association

Empire State Subcontractors Association

General Contractors Association of New York

Greater Binghamton Chamber of Commerce

Home Builders & Remodelers of Central New York

Lawsuit Reform Alliance of New York

Long Island Builders Institute

Manufacturers Association of New York

Minority & Women Contractors & Developers Association

National Federation of Independent Business New York

New York Conference of Mayors

New York Farm Bureau

New York State Association for Affordable Housing

New York State Builders Association

Northeastern Retail Lumber Association

Northeastern Subcontractors Association

Partnership for New York City

Real Estate Board of New York

Rochester Home Builders

Rome Chamber of Commerce

Special Riggers Association on New York City

Subcontractors Trade Association

Tompkins/Cortland Builders and Remodelers Association

Trucking Association of New York



June 30, 2020

Mr. Edward Steinberg
President
NYS Trial Lawyers Association
132 Nassau St, Suite 200
New York, NY 10038

Re: “Legal loopholes”

Dear Mr. Steinberg,

We write in response to your statement in Newsday on June 26, 2020 regarding legal liability protection for businesses in relation to Covid-19. Specifically, you were quoted as stating, “Legal loopholes to avoid accountability have never been the answer and, in fact, they are invariably a step in the wrong direction. Rather, we should focus on reasonable precautions to keep all businesses safe for both consumers and workers.”

We wish then to bring to your attention one of the most important “legal loopholes” already incorporated within New York State law and one which significantly reduces the accountability which you desire.

This regulation we refer to is Labor Law 240/241, commonly known as the “Scaffold Law,” which enforces almost total liability upon a contractor or sub-contractor for legal damages created by an accident off of the ground, regardless of the amount of negligence by the contractor or sub-contractor and which does not even permit the defendant to offer any defense in the litigation. What this statute creates is the absence of any accountability upon the employee or the person injured in almost all situations, which is exactly what your Newsday statement indicated you do NOT support.

One is compelled to ask, where is the accountability on all parties when the law does not allow for both parties to provide information about the accident and, instead, imposes almost total liability without the need for evidence to be reviewed by a judge or jury?

With your quote in hand, we can only infer that you and your organization now support the reform of the current Scaffold Law that dismisses shared accountability. If this is not the case, one must argue that your association does not stand for any legal position that fails to financially benefit your members. Either legal accountability is important in both situations or it should not be important in either situation. Ethics should not be defined as a matter of convenience.

We believe there is a need for “reasonable precautions to keep all businesses safe” and this same legal reasoning should take place both in the imposition of New York’s “Scaffold Law” and in any discussion of a COVID-19 business liability shield. If you and your organization firmly believe that “legal loopholes to avoid accountability have never been the answer,” then we call upon you and the New York State Trial Lawyers Association to work with us to amend Labor Law 240/241 so that it requires comparative negligence standards rather than the absolute liability standard which is currently imposed. This new standard will eliminate a “legal loophole to avoid accountability.”

If justice is to be blind then it must see all the salient facts. As our state, and the law, seek a pathway through this historic pandemic let us all be consistent in our actions and beliefs.

Sincerely,



Mitch Pally, CEO
Long Island Builders Institute



Kyle Strober, Executive Director
Association for a Better Long Island

cc: Hon. Andrew Cuomo, Governor, NYS
Hon. Andrea Stewart-Cousins, Majority Leader, NYS Senate
Hon. Carl Heastie, Speaker, NYS Assembly
Hon. Neil Breslin, Chairman, NYS Senate Committee on Insurance
Hon. Kevin Cahill, Chairman, NYS Assembly Committee on Insurance
Long Island NYS Senate Delegation
Long Island NYS Assembly Delegation



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