



May 16, 2012

RE: AN ACT to amend the civil practice law and rules, in relation to the applicability of certain provisions with respect to persons injured in the use of scaffolding and other devices for use by employees

A. 2835 (Morelle)
S. 6816 (Gallivan)

MEMORANDUM IN SUPPORT

Unshackle Upstate, a non-partisan, pro-taxpayer, pro-economic growth, education and advocacy coalition made up of business and trade organizations from all parts of Upstate New York, support the enactment of the aforementioned bill. This bill would amend the civil practice law and rules to include a new section of law that would greatly aid the Upstate construction industry by providing them with increased protections from negligent workers who have sustained injury.

This bill addresses sections 240 and 241 of the state's labor law, otherwise known as the Scaffold Law, by replacing the absolute-liability standard with a fairer negligence-based standard. More specifically, this bill increases the responsibility of workers by outlining comparative negligence standard for workers if conduct is related to: a criminal act; the use of drugs or alcohol, failure to use appropriate safety devices at the job site; and, failure to comply with the employers' safety training program.

New York is the only state in the nation with a scaffold law imposing strict liability on contractors for worker injuries resulting from falls. The law was enacted in 1885 to protect people working at great heights in the skyscrapers of New York City. Employers are often held liable for falls despite any misconduct or mistakes by workers, from failure to use a safety device or even showing up for work intoxicated. The question is not whether employers will pay but how much.

The state Builders Association estimates that higher liability insurance costs related to the Scaffold Law add \$10,000 to the cost of a house in Buffalo, \$7,000 to one on Long Island and \$6,000 to one in Albany. Many insurance companies have stopped providing contractors with liability insurance, and those that still do have increased premiums by 300 to 600 percent. It's yet another high cost of doing business in New York that makes us uncompetitive with other states.

For these reasons, Unshackle Upstate supports the enactment of this legislation.