

A RESOLUTION TO BE SUBMITTED BY  
LEGISLATORS HARDWICK, LORIGO, MILLS, MORTON, RATH & LOUGHRAN

Re: Supporting Necessary Reforms to New York Labor Law §240 and §241

WHEREAS, New York Labor Law §240 and §241, commonly known as the “Scaffold Law,” outlines liability for injuries caused by an employee’s fall from a height; and

WHEREAS, the laws impose strict liability on employers and owners of buildings if a worker falls from any height; and

WHEREAS, the law was first imposed in 1885 at a time when worker safety was largely neglected in New York State and at a time when modern safety equipment and scaffolding techniques did not exist; and

WHEREAS, the Scaffold Law has caused a dramatic increase in construction costs due to increased insurance required for employers in the construction business, causing New York State to have the highest general liability insurance costs in the nation; and

WHEREAS, the Scaffold Law is a boon to personal injury lawyers as half of the 30 largest law suits in the state stem from Scaffold Law issues and while scaffold related injuries have decreased in the past 20 years the number of Scaffold Law claims has increased 500 percent; and

WHEREAS, New York is the only state in the country to impose a construction law like the Scaffold law that imposes strict liability on the employer; further it is one of a very few laws that mandate strict liability in the State of New York; and

WHEREAS, the increase in costs in New York drives away investment in our infrastructure when developers and contractors can get better rates in other states; and

WHEREAS, not only does the law drive away out-of-state investment in infrastructure but the lost investment to other states also serves to decrease the number new construction jobs created every year, making it more difficult for many of New York’s skilled laborers to find appropriate employment; and

WHEREAS, recent studies by SUNY’s Nelson Rockefeller Institute of Government suggests that workers are more likely to be injured due to the current version of the Scaffold Law; and

WHEREAS, this was based off statistics on construction injuries in Illinois that show a decrease in work related injuries since the 1995 repeal of its Scaffold Law at a much quicker pace than here in New York, and

WHEREAS, following the removal of the Illinois Scaffold Law, the state also found an increase in the number of construction jobs created on an annual basis; and

WHEREAS, comparative negligence standards would help maintain worker safety while decreasing some of the insurance costs related to implementation of the current Scaffold Law; and

WHEREAS, this negligence standard under the Scaffold Law would not ban recovery for an injured worker due to their own negligence, but would allow the employer to bring issues with employee culpability to mitigate the damages in cases where the worker's actions contributed to his or her injury; and

WHEREAS, federal regulations have been enacted that attempt to protect workers from injury to falls by requiring certain precautions to be in place for people working at height and allows an outlet for workers concerned about their safety to engage federal review of any worksite for compliance with these regulations.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature is strongly in support of Scaffold Law reform as well as meaningful protection of construction workers; and be it further

RESOLVED, that the Erie County Legislature supports the New York Legislature's bills S111 (Gallivan) and A03104 (Morelle) which seek to impose comparative liability standards for work place accidents involving falls from height; and be it further

RESOLVED, that a certified copy of this resolution be forwarded to Governor Andrew Cuomo, Assembly Speaker Sheldon Silver, Senate Majority Leaders Dean Skelos and Jeffrey Klein and the local delegation to the New York State Legislature.

Fiscal Impact: None.

**S00111 Summary:**

BILL NO S00111

SAME AS SAME AS

SPONSOR GALLIVAN

COSPNSR BALL, LARKIN, LIBOUS, MARCHIONE, SEWARD, YOUNG

MLTSPNSR

Add S1414, CPLR

Relates to the applicability of certain provisions with respect to persc  
injured in the use of scaffolding and other devices for use by employees

**S00111 Actions:**

BILL NO S00111

01/09/2013 REFERRED TO JUDICIARY

01/08/2014 REFERRED TO JUDICIARY

**S00111 Text:**

S T A T E O F N E W Y O R K

111

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. GALLIVAN -- read twice and ordered printed, a  
printed to be committed to the Committee on Judiciary

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

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND  
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The civil practice law and rules is amended by addir

Intro. 5-2

Page 3 of 6

2 section 1414 to read as follows:

3 S 1414. APPLICABILITY TO CERTAIN ACTIONS. 1. IN ANY ACT  
 4 PROCEEDING TO RECOVER DAMAGES FOR PERSONAL INJURY, INJURY TO PF  
 5 OR WRONGFUL DEATH PURSUANT TO SECTION TWO HUNDRED FORTY, SUBDI  
 6 ONE THROUGH FIVE OF SECTION TWO HUNDRED FORTY-ONE, OR SECT  
 7 HUNDRED FORTY-ONE-A OF THE LABOR LAW, WHERE SAFETY EQUIPMENT OR  
 8 HAVE BEEN MADE AVAILABLE, AND A PERSON EMPLOYED OR OTHERWISE ENTI  
 9 THE PROTECTION OF THE PROVISIONS OF SUCH SECTION HAS FAILED TC  
 10 SAFETY INSTRUCTION OR SAFE WORK PRACTICES IN ACCORDANCE WITH T  
 11 PROVIDED, OR FAILED TO UTILIZE PROVIDED SAFETY EQUIPMENT OR DEVI  
 12 ENGAGED IN A CRIMINAL ACT OR WAS IMPAIRED BY THE USE OF DRUGS OF  
 13 HOL, AND SUCH FAILURE, ACT OR IMPAIRMENT IS A PROXIMATE CAUS  
 14 INJURY TO SUCH PERSON, THE CONDUCT ATTRIBUTABLE TO SUCH PERSON SH  
 15 BAR RECOVERY, BUT THE AMOUNT OF DAMAGES OTHERWISE RECOVERABLE SH  
 16 DETERMINED IN ACCORDANCE WITH SECTION FOURTEEN HUNDRED ELEVEN  
 17 ARTICLE TO THE EXTENT THAT SUCH CONDUCT RELATES TO THE COMMISSION  
 18 CRIMINAL ACT, IMPAIRMENT CAUSED BY THE USE OF DRUGS OR ALCOH  
 19 FAILURE TO USE SAFETY EQUIPMENT OR DEVICES, THE FAILURE TO COMPI  
 20 INSTRUCTIONS OR TRAINING REGARDING THE USE OF SAFETY EQUIP  
 21 DEVICES OR THE FAILURE TO OTHERWISE COMPLY WITH SAFE WORK PRACTI  
 22 ACCORDANCE WITH SAFETY TRAINING PROGRAMS PROVIDED TO SUCH PERSC  
 23 TRAINING PROGRAMS SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, COU

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in *b*  
 [ ] is old law to be omitted.

LBD019

S. 111

2

1 CONSTRUCTION SAFETY AND HEALTH CERTIFIED BY THE UNITED STATES  
 2 TIONAL SAFETY AND HEALTH ADMINISTRATION OR THE DEPARTMENT OF LABO  
 3 2. NOTHING CONTAINED IN THIS SECTION SHALL BE DEEMED TO IM  
 4 CREATE LIABILITY UNDER SUCH SECTIONS OF THE LABOR LAW REFERRED  
 5 SUBDIVISION ONE OF THIS SECTION, WHERE A PERSON EMPLOYED OR OT  
 6 ENTITLED TO THE PROTECTION OF THE PROVISIONS OF SUCH SECTIONS HAS  
 7 TO FOLLOW SAFETY INSTRUCTIONS OR SAFE WORK PRACTICES IN ACCORDANC  
 8 TRAINING PROVIDED, OR FAILED TO UTILIZE PROVIDED SAFETY EQUIP  
 9 DEVICES, OR ENGAGED IN A CRIMINAL ACT OR WAS IMPAIRED BY THE  
 10 DRUGS OR ALCOHOL, AND SUCH FAILURE, ACT OR IMPAIRMENT IS THE SOLE  
 11 MATE CAUSE OF AN INJURY TO SUCH PERSON.

12 S 2. This act shall take effect immediately and shall apply  
 13 causes of actions accruing on or after such date.

**A03104 Summary:**

BILL NO A03104  
SAME AS SAME AS  
SPONSOR Morelle (MS)  
COSPNSR Schimminger, Magee, Galef, Robinson, Stirpe, McDonald, Goodel  
Markey  
MLTSPNSR Corwin, Duprey, Hawley, Lupardo, McDonough, McLaughlin, Oaks,  
Tenney, Walter  
Add S1414, CPLR

Relates to the applicability of certain provisions with respect to persc  
injured in the use of scaffolding and other devices for use by employees

**A03104 Actions:**

BILL NO A03104  
01/23/2013 referred to judiciary  
01/08/2014 referred to judiciary

**A03104 Text:**

S T A T E O F N E W Y O R K

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3104

2013-2014 Regular Sessions

I N A S S E M B L Y

January 23, 2013

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Introduced by M. of A. MORELLE, SCHIMMINGER, V. LOPEZ, MAGEE,  
ROBINSON, GABRYSZAK, HEVESI, ROSENTHAL, TITONE -- Multi-Sponsc  
-- M. of A. HAWLEY, JORDAN, LUPARDO, McDONOUGH, McLAUGHLIN,  
TENNEY, WALTER -- read once and referred to the Committee on Ju

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Page 5 of 6

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2 section 1414 to read as follows:

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6 ONE THROUGH FIVE OF SECTION TWO HUNDRED FORTY-ONE, OR SECT  
7 HUNDRED FORTY-ONE-A OF THE LABOR LAW, WHERE SAFETY EQUIPMENT OR  
8 HAVE BEEN MADE AVAILABLE, AND A PERSON EMPLOYED OR OTHERWISE ENTITLED  
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10 SAFETY INSTRUCTION OR SAFE WORK PRACTICES IN ACCORDANCE WITH THAT  
11 PROVIDED, OR FAILED TO UTILIZE PROVIDED SAFETY EQUIPMENT OR DEVICES  
12 ENGAGED IN A CRIMINAL ACT OR WAS IMPAIRED BY THE USE OF DRUGS OR ALCOHOL,  
13 AND SUCH FAILURE, ACT OR IMPAIRMENT IS A PROXIMATE CAUSE OF  
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20 INSTRUCTIONS OR TRAINING REGARDING THE USE OF SAFETY EQUIPMENT OR  
21 DEVICES OR THE FAILURE TO OTHERWISE COMPLY WITH SAFE WORK PRACTICES  
22 ACCORDANCE WITH SAFETY TRAINING PROGRAMS PROVIDED TO SUCH PERSONS

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in *[ ]*  
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A. 3104

2

LBD019

1 TRAINING PROGRAMS SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, COURSE  
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