



MEMORANDUM IN SUPPORT

S.543 (Gallivan) / A.3209 (Morelle)

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

The Capital Region Chamber, representing 2,800 businesses and organizations from throughout the Capital Region that employ more than 150,000 area residents, supports S.543/A.3209 which would establish a comparative negligence standard for claims under Labor Law sections 240 and 241 with respect to a recalcitrant worker.

The Chamber supports common sense reform of the current Scaffold Law, which imposes absolute liability on employers and property owners when construction workers are injured in elevation-related accidents regardless of whether or not the worker refused to use safety equipment or was impaired by drugs or alcohol.

This legislation attempts to contain the costs of absolute liability in a fair manner by making an employee who directly contributes to his injury liable for the portion of fault assessed by a jury for his own conduct. This comparative negligence standard is applied in circumstances such as commission of a criminal act, use of drugs or alcohol, failure to use safety devices at the job site, failure to comply with employer instructions regarding the use of safety devices at the job site or failure of the employee to comply with safe work practices in accordance with a safety program provided by the employer.

The Chamber is a strong advocate for reform that will reduce costs for small businesses, municipalities, school districts, and ultimately taxpayers. For these stated reasons, the Capital Region Chamber recommends the passage of this legislation.

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