



## MEMORANDUM IN SUPPORT

### S.326 (Akshar) / A.3737 (McDonald)

**AN ACT** to amend the civil practice law and rules, in relation to damages recoverable when contributory negligence or assumption of risk is established in cases involving building construction demolition and repair work

The Capital Region Chamber, representing 2,900 businesses and organizations from throughout the Capital Region that employ more than 160,000 area residents, strongly supports S.326/A.3737, which would amend CPLR 1411 to apply a standard of comparative negligence with respect to actions for personal injury, property damage or wrongful death brought under article ten of the Labor Law.

New York State Labor Law sections 240/241, commonly known as the Scaffold Law, imposes absolute liability for elevation-related injuries on contractors and property owners engaged in construction, repair, or demolition work. Absolute liability maintains that the contributing fault of an injured worker, such as failure to use provided safety equipment or gross negligence, is virtually irrelevant in court. New York State is the only state in the nation that has retained this antiquated and costly law on the books.

The Scaffold Law costs New York State taxpayers \$785 million and the private sector \$1.4 billion annually. Reform of this law is long overdue. The state must take action and provide relief to taxpayers and businesses alike.

This legislation will 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 for his own conduct. This comparative negligence standard will bring the Scaffold Law in line with all other aspects of the civil justice system without weakening the law's safety provisions.

By reforming the Scaffold Law and thereby reducing insurance premiums for businesses, school districts, county and local governments, the state can provide much needed relief and promote economic growth.

The Chamber is a strong advocate for common sense reforms to the Scaffold Law that will reduce costs for small businesses, municipalities, school districts, and ultimately taxpayers, while continuing to protect workplace safety. For these stated reasons, the Capital Region Chamber recommends the passage of this legislation.

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