

Frequently Asked Questions - Scaffold Law

1. What is New York's Scaffold Law and why is it unique?

New York's Scaffold Law imposes an absolute liability standard on employers and property owners for gravity-related injuries at construction sites. This means that employers are held fully responsible for any gravity-related injury. No other state in the country applies this kind of legal standard, as all 49 other states impose a comparative liability standard. New York stands alone, creating a legal environment that significantly increases risk and cost for construction.

2. How much does the Scaffold Law cost New Yorkers each year?

The Scaffold Law adds approximately \$785 million in additional annual costs to public construction projects in New York State. These inflated costs are passed on to taxpayers and increase the price of building and maintaining essential infrastructure such as schools, transit systems, and housing. The law also reduces the number of projects that can be completed within fixed budgets.

3. Why are construction insurance premiums so high in New York?

Because of the absolute liability rule, insurers face significantly higher and unpredictable legal exposure in New York than in any other state. Many national insurance carriers have chosen to exit the New York construction market entirely, creating a near-monopoly among a small number of providers. Less competition leads to higher costs. In fact, liability insurance costs in New York are two to five times higher than in states with comparative liability standards. These inflated premiums ultimately drive up costs for everyone.

4. Does the Scaffold Law make construction sites in New York safer?

There is no reliable evidence that the Scaffold Law has improved safety outcomes. Injury claims on infrastructure projects like the Goethals bridge that connects New York and New Jersey are twice as high on the New York side, despite the same work conditions, materials, and labor force. The Scaffold Law has not made workers safer; in fact, construction site injury and fatality rates in New York State are higher than in most other states today. After Illinois repealed its own absolute liability law in 1995, construction fatalities actually declined, suggesting that reform can improve both accountability and safety.

5. What are the broader impacts of the law on New York’s economy and workforce?

New York’s construction employment remains down 6% from pre-pandemic levels, and the cost of building continues to rise. The Scaffold Law increases the cost of doing business, slows down critical infrastructure development, and reduces job creation. Reforming the law would remove a key barrier to economic growth and allow more efficient use of taxpayer funds.

6. Why hasn't the New York State Legislature acted on this issue?

Political pressure from deep-rooted interest groups has blocked reform efforts for years, even as costs to taxpayers and communities continue to rise. This law was passed in the late 1800s, making it outdated and no longer relevant to current economic realities. The failure to modernize the law has become a barrier to progress on housing, transit, and public works projects.

7. What is the Infrastructure Expansion Act and how would it help?

The Infrastructure Expansion Act was introduced by Rep. Nick Langworthy on May 21, 2025. It is officially designated as H.R. 3548 in the House of Representatives. This bill seeks to preempt New York State's absolute liability Scaffold Law on federally funded projects. With significant federal capital investments expected over the next five years, this legislation would substantially reduce construction costs for state and local governments. This bill would allow federally funded infrastructure to proceed under the same legal standards used in all other states, significantly reducing legal and insurance costs. This approach would protect federal taxpayers from wasteful spending and encourage safer, more accountable construction practices without imposing excessive legal costs.

8. Can the federal government preempt state law in this way?

Yes, federal law can preempt state laws that conflict with federal rules. There is precedent for this kind of preemption. For example, in 2005, Congress passed the Graves Amendment which blocked New York’s “vicarious liability” law for automobile leasing. Only after federal preemption did the auto leasing market open in New York State. Similar federal actions tied to funding conditions have been upheld by courts and show how federal rules can apply to state laws.