# Crain’s Gets It Wrong on the Worker Safety Law

On Friday, June 6th, Crain's New York Business attacked Labor Law 240/241, the Worker Safety Law, making a series of baseless claims and advocating for the repeal of this **critical law that saves lives:**

**It is not true that the Scaffold Law automatically “holds property owners and employers liable for all damages when a worker is injured in a gravity-related accident.”** Property owners and contractors can be held liable only when they fail to observe the law – to provide safe equipment necessary for work at heights – causing injury. They can avoid all liability simply by complying with the statute and ensuring workplace safety.

**It is absolutely false that in New York “a worker's negligence is irrelevant, even if his drunkenness or disregard for safety rules led to the injury.”** A worker whose intoxication was the sole cause of their injury cannot recover under the Scaffold Law. A worker who fails to follow safety directions, thereby causing their own injuries, cannot recover either.

**There is no evidence whatsoever that insurance costs have increased,** **nor are there any public statistics on how much contractor’s liability coverage premiums have increased or decreased over the last several years.** Until insurers open their books to substantiate their claims, they’re asking the public to take them at their word to water down safety in the name of profit.

**There is no public profitability data for contractor’s liability coverage.** For all the public knows, insurers are profiteering. Transparency should rule the day before any discussion of watering down safety on construction sites occurs.

**It is not true that repeal of the Illinois Scaffold Law 1995 led to a construction employment increase.**

In fact, Illinois’ employment numbers were worse than those of New York and the nation.From 1995 to 2012, construction employment increased 24% in New York compared to 7% in the US and a *decline* of 16% in Illinois.

**The claim that “fatalities plunged” when Illinois repealed its’ Scaffold Law is misleading and cherry-picking.** Scaffold Law Reform says, “Between 1995 and 2000, construction fatalities **declined** as a percentage of construction workers by 30%.” That’s disingenuous. In 1993 Illinois saw 38 construction deaths and 45 in 1994. However, 1995 was an unusually deadly year – with 63 fatalities. By using this outlying year to support their misleading argument, of course there was a large drop when fatalities returned to normal levels.

Even setting aside the statistics, are the proponents of scaffold law reform actually arguing that the watering down or repeal of a worksite safety statute saved lives?  We who devote our lives to studying and advocating for safety on construction sites would hope no-one would give such an argument any credence whatsoever.

**If it is true that smaller contractors get “shut out of jobs because they can't afford the insurance” the reason may be that they are unjustifiably paying too much for insurance.** As explained above, insurers refuse to open their books so that their profitability can be independently assessed.

Poor safety records, or lack of a safety record for start-up companies, may be one reason some small contractors are reporting substantial increases. One industry report noted that contractors are “severely penalized for poor claims history” and should “focus on preventing job site accidents and claims in the first place.” Contractors need to ensure that proper safety equipment is provided. The answer is not to water down safety but to develop training programs that enable small contractors and start-ups to qualify for reduced rates. There are safe ways of enabling insurance coverage that don’t put hard-working men and women at risk.

**Scaffold law “reformers” throw around big numbers and claim a time-tested law is to blame for high costs – before those who hold power over the safety of those workers who put their lives at risk water down New York’s safety laws, insurers should open their books so the public can understand the issues – safety should not be negotiable.**