

Uncovering the Mysteries of New York's Labor Laws

Many specific regulations make up the New York Industrial Code. These laws apply equally to owners of properties where construction is taking place and general contractors managing the work on those sites. Both can be held liable for negligent acts of a subcontractor, even if they did not control the work being performed on any given day and were not aware of a subcontractor's employees' actions on a day-to-day basis.

In this article, we explore the basics of several of New York's labor laws, including Labor Laws 240 and 241, as well as Labor Law 200. We also discuss the types of claims that can be filed under the laws and what to look out for when placing coverage for your clients.

CONTACT

To learn more about how Amwins can help you place coverage for your clients, reach out to your local Amwins broker.

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New York Labor Laws 240 and 241

Labor Law 240 is a crucial piece of New York state law enacted in 1938 to ensure that workers in the construction and building industries are not injured due to inadequate safety measures. Also known as the “Scaffolding Law,” the law has been revised and updated several times over the years, with the most recent revisions occurring in 2018.

Designed to help protect workers from workplace injuries resulting from dangerous heights and falling objects, Labor Law 240 requires all owners/contractors completing construction projects in New York state to:

- Implement appropriate safety measures and provide appropriate safety equipment designed to protect workers erecting, demolishing, repairing or altering a building or structure. This equipment includes:



Blocks



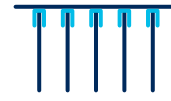
Pulleys



Braces



Ropes



Hangers



Scaffolding



Hoists



Slings



Irons



Stays



Ladders

- Provide training on how to properly use safety equipment (e.g., scaffolding, ladders, harnesses, and other equipment designed to prevent workplace injuries).
- Inspect safety equipment regularly to ensure it is functioning properly and appropriate for the job.

The law applies to employers in the construction and building industries, as well as employers in other industries such as manufacturing and retail. These employers must take reasonable steps to ensure that the workplace is free from hazards that could cause injury, including providing safety guards, safety devices and other safety measures to protect workers from potential injuries.

Labor Law 241 specifically addresses construction, excavation and demolition work. It recognizes the unique risks involved at a building or construction site and requires all owners/contractors to provide safeguards at these sites, holding the owners/contractors accountable if they violate certain regulations. This includes anyone hired by the owner/contractor to hire others. If the person violates a labor law regulation, the owner/contractor can be held responsible if something goes wrong.





New York Labor Laws 240 and 241 (continued)

Coverage matters

Labor Laws 240 and 241 apply to all employees, regardless of the size of their employer or the type of work they perform and does not replace a claim for workers' compensation. Workers may report violations of the law, resulting in three main types of claims:

- **Negligence:** Claims based on an employer's failure to provide reasonable safety measures to keep the workplace free from hazards.
- **Strict Liability:** Claims based on an employer's failure to provide proper safety equipment and/or training.
- **Intentional Torts:** Claims based on an employer's intentional act that resulted in an employee's injury.

Penalties for violating these laws can be steep, including fines, jail time and the revocation of the employer's business license. Employers found in violation of the law may also be held liable for any workplace injuries that are the result of their negligence.

In 2022, the New York Court of Appeals decided [three cases related to Labor Law 240](#), reversing initial findings for the plaintiff in cases involving falls from a ladder. While these decisions are widely expected to produce changes in a judicial environment prone to dismissal or judgements for the plaintiff, we continue to see large [settlements for plaintiffs](#) in cases brought against employers. For example, a \$4M settlement for a worker who fell 20 feet from a scaffold and a \$1.25M settlement for a worker hit when a partially constructed cinder block wall was knocked over in the wind.

Risk transfer can impact claims

Most construction projects are not managed and completed by the owner. Typically, the owner works with a construction manager or general contractor, who then hires the trades necessary to complete the project. The trades then often hire subcontractors, creating a chain of parties responsible for the actual construction of the project.

Contractual indemnity – when the downstream party agrees to indemnify the upstream party from project-related losses – can help avoid potential gaps in coverage and claims between parties. In addition, owners may want to consider requiring all downstream parties to purchase coverage that names them as an “additional insured.”

At the same time, it's important to watch for exclusions to this type of coverage. Look for policies that include:

- Labor law exclusion endorsements, eliminating coverage for claims, losses, liabilities or obligations arising from Labor Law 240 and 241
- Exclusions of employee injuries and/or damages to employees of “named insureds”
- Cross suit exclusions



New York Labor Law 200

Labor Law 200 is founded on the belief that employers have a duty to protect the health and safety of employees. This law is meant to cover everything about a workplace, including how it is: constructed, equipped, arranged, operated and conducted.

Employers are required to protect the lives, health and safety of employees and people lawfully frequenting their workplace. This includes operating, guarding and lighting all machinery, equipment and devices at the workplace.

Potential limitations to Labor Law 200

According to New York law, employees are entitled to lawful pay for work performed and a safe work environment; they are also entitled to be treated in a nondiscriminatory manner. However, at the same time, employers are entitled to the full performance of employees, timely attendance and compliance with employment policies and procedures. Employers may also discipline or terminate employees for not keeping up their side of the bargain, resulting in potential limitations to Labor Law 200.

We Help You Win

The construction industry specialists at Amwins understand the provisions and implications of New York Labor Laws. They put their expertise to work for you, ensuring that your client gets the coverage they need.

If your clients do business in the state of New York, we can help. Contact your local Amwins broker to learn more.

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