

CRAIN'S

NEW YORK BUSINESS

Construction in NYC Safer than State-wide, Union-Backed Study Finds Crain's New York Business, Will Bredderman, 1.30.19

New York construction workers are living in a city of dreams but beyond the five boroughs—in a state of fear, according to a new report by a labor-linked think tank.

New York Committee for Occupational Safety and Health's "Deadly Skyline" study found the number of building industry deaths has dropped dramatically in New York City while increasing across the state as a whole. Drawing on federal statistics, the group found that 20 people died in the five boroughs in 2017, contributing to a 23% decline in the fatality rate in the past five years.

The Empire State at large lost 69 workers to accidents in 2017 representing a 2% drop in the fatality rate from the year prior but still 39% higher than five years ago.

The drop in city fatalities came during a period of explosive growth in building since 2012 and bucked a 64% increase in worker deaths across all sectors between 2016 and 2017.

"This indicates that fluctuations in the number of construction projects in New York City does not correlate with the decreasing number of fatalities, as construction is booming yet fatalities are falling," the dossier reads.

NYCOSH seems to attribute the reduction in workplace tragedies to the city's aggressive "prosecutions of criminal construction contractors" for wage and labor violations and recommends even harsher penalties. The group in particular urged the state Legislature to pass Carlos' Law, named for a fatally injured Ecuadorean-born construction worker; it would slap developers with fines as high as \$500,000 if an employee gets hurt or dies as a consequence of insufficient safety precautions.

This proposal enjoys the support of many immigrant advocacy groups, and it could make union construction more competitive, if organized labor's claims are accurate that nonunion contractors are more likely to cut corners on safety to save on costs.

In both the city and the state, fatal falls accounted for roughly half of all construction-related deaths. The study further asserts that around nine-tenths of the deaths are on nonunion sites, and that older and Latino workers are more likely to perish in hard-hat jobs. Still, construction workers make up a disproportionate number of all employees killed while on the clock: 25% in New York City and 22% in New York state, compared with 19% nationwide.

The data on city fatalities fly in the face of other reports finding injuries on Big Apple job sites on the rise, especially last year. The NYCOSH study acknowledges a recent de Blasio administration analysis that found a spike in construction deaths last year. Use of different data sets contributes to the discrepancies.

The "Deadly Skyline" study calls the numbers from the Mayor's Management Report "only one piece of the puzzle" and suggests that the federal Bureau of Labor Statistics' data collection is more sophisticated and comprehensive. The federal numbers for last year will not be available until December.



Safety+Health[®]

The Official Magazine of the NSC Congress & Expo

'Deadly Skyline': Construction Deaths Keep Climbing in New York State, but fall in New York City Safety + Health, By Staff, 1.30.19

New York — Construction worker fatalities remain on the rise in New York state while continuing to decline in New York City, according to an annual report released by the advocacy group New York Committee for Occupational Safety and Health.

Deadly Skyline: An Annual Report on Construction Fatalities in New York State, released Jan. 30, states that 69 construction workers died statewide in 2017, including 20 in New York City.

Although the statewide total is fewer than the 71 fatalities reported in 2016, the construction fatality rate in the state has increased 39 percent in the past five years, to 12.2 fatal workplace injuries per 100,000 full-time equivalent workers.

Over that same period, the fatality rate has decreased 23 percent in New York City, to 7.8 per 100,000 FTEs.

Falls are the leading cause of construction worker deaths, accounting for 49 percent of fatal injuries statewide and 46 percent in the city over the past 10 years. The report also notes that 86.7 percent of fatalities statewide in 2017 involved nonunion workers, while that percentage was 92.9 in the city.

The report offers several recommendations, including maintaining and supporting laws that protect workers, such as the Scaffold Safety Law and Carlos's Law, and proactively protecting Latino and immigrant workers.

THE BUFFALO NEWS

Letter: State's Scaffold Safety Law Protects Workers, Families

The Buffalo News, Germain Harnden 1.21.19

A recent editorial by The Buffalo News editorial board irresponsibly echoed many of the same mischaracterizations and falsehoods that have been weaponized by insurers and the construction industry for years.

In truth, the Scaffold Safety Law is one of the few remaining safeguards protecting construction workers and their families today, at a time when real estate and construction are booming and workplace fatalities are on the rise.

To be clear, the Scaffold Safety Law only applies to incidents in which the contractor failed to provide adequate safety equipment to workers. If the contractor provides the required equipment, they cannot be held liable under the provision. That's the law.

Recently, OSHA regulations have been undercut by limited resources and inadequate enforcement practices. Only a small percentage of construction worksites are actually inspected by government officials each year, allowing a large majority of unsafe construction sites to escape scrutiny.

As a result, the Scaffold Safety Law is one of the only mechanisms available to workers who wish to hold bad actors accountable for dangerous labor practices when tragic events occur. Given the record number of construction fatalities in the last few years, it's crucial that we encourage workplace safety rather than provide cover for negligent contractors.

There are plenty of ways we can make New York more affordable, such as demanding greater transparency from insurers who work with the construction industry. In fact, legislation doing just that has been proposed by both Republicans and Democrats repeatedly over the last several years. But putting workers' lives at greater risk by reducing accountability of those who control jobsites, solely to increase profits of big contractors and corporate insurers, must not be the solution.

Germain Harnden

Executive Director, WNY Council

CRAIN'S

NEW YORK BUSINESS

Attacking Scaffold Law is Not the Way to Cut Insurance Costs

Crain's New York Business, Sen. Jessica Ramos and Gary LaBarbera, 1.17.19

To the editor:

The report published by the General Contractors Association—"Contractors blame scaffold law, bureaucracy for public-works costs" (CrainsNewYork.com)—relies entirely on unsubstantiated and unsourced data to rail against the scaffold safety law, an extremely effective labor protection in place for New York construction workers.

The construction industry is booming across New York, and business is better than ever for contractors. Meanwhile, worksite inspections are on the decline. The reality is if an employer or contractor equips construction workers with the necessary safety equipment and provide a safe work environment, the employer or contractor will not be held liable.

If the construction industry were truly interested in a good-faith effort to lower insurance costs, it would support legislation requiring greater transparency from insurers. Instead, some contractors have teamed up with insurers to try to roll back one of the only remaining layers of accountability against negligent and dangerous employers.

The stakes are too high to put lives at risk. We must not allow a small group of powerful special interests to peel back critical safety protections for workers and put them at an ever greater risk. The insurance industry needs to open its books so we can have an honest discussion.

Jessica Ramos

Gary LaBarbera

Ramos is a state senator from Queens and chairwoman of the Senate Labor Committee. LaBarbera is president of the Building and Construction Trades Council of Greater New York.

lohud.

Scaffold Law Protects Workers from 'Bad Actors'
Lohud, By Sen. Jessica Ramos and Gary LaBarbera, 1.16.19



State Sen. Jessica Ramos, D-Queens, is chair of the Senate Labor Committee.



Gary LaBarbera is president of the Building & Construction Trades Council of Greater New York.

Re "Scaffold Law drives up cost of construction in New York," Jan. 9 Community View:

Insurers are irresponsibly mischaracterizing the way the Scaffold Law works and placing undue blame on a law that ensures the safety of construction workers across the state.

The Scaffold Safety Law is not complicated. If an employer or contractor equips construction workers with the necessary safety equipment and provides a safe work environment, they will not be held liable.

The problem is some contractors and insurers skirt accountability because that would impact their bottom line. They love reaping the rewards of New York's construction boom, while avoiding the responsibility that comes with it.

But with construction fatalities at an all-time high, now is not the time to play games and put profits over people by attacking safety laws meant to protect those who have put their lives on the line to build a better New York. We should work to increase the safety of our construction workers by supporting legislation that increases safety and transparency — legislation that is already on the table.

Instead of attacking laws meant to protect workers and their families from bad actors, insurers should be open and transparent with New Yorkers and stop shrouding their operations and data in secrecy. Without a way to see how much insurers are charging contractors for policies or how they are determining their pricing and assessing risks, they have no standing to criticize the Scaffold Law. Open up your books and let's have an honest discussion.

Jessica Ramos

New York State Senator, D-Queens, Chair of Senate Labor Committee

Gary LaBarbera

President, Building & Construction Trades Council of Greater New York

THE WALL STREET JOURNAL.

New York City Workplace Deaths Soared in 2017, Labor Report Says

The Wall Street Journal, Kate King, 1.10.19

Workplace deaths in New York City rose 55% in 2017, although fatalities in the construction industry remained flat, according to a U.S. Department of Labor report released Thursday.

In total, there were 87 workplace deaths in the five boroughs in 2017, the highest level since 2008. That compares with 56 deaths in 2016, the lowest level since 1992, when the Bureau of Labor Statistics began tracking this data using these methods. Nationally, fatal work injuries fell less than 1% between 2016 and 2017, from 5,190 to 5,147.

An increase in falls, slips and trips drove the jump in worker deaths in New York City, with 31 people dying in 2017 compared with 13 the year before.

Martin Kohli, chief regional economist with the bureau, said an increase in worker deaths in New York City usually coincides with an uptick in construction fatalities. In 2017, however, construction deaths remained relatively flat.

“When people think of work-related deaths in New York City, historically it’s been construction workers,” he said in an interview. “The most recent data is interesting in part because construction deaths were relatively little changed.”

Construction remained the city’s most dangerous occupation, with 25% of workers who died employed as construction workers, carpenters or electricians. Men accounted for 89% of worker fatalities in New York City, compared with 93% nationwide.

Charlene Obernauer, executive director of the advocacy group New York Committee for Occupational Safety and Health, said the city has made significant improvements in construction safety.

She credited the Department of Buildings, which has seen its budget increased in recent years, for improving safety at construction sites. She said city prosecutors have also been proactive in holding employers accountable for workplace deaths.

“Any time there’s a case in which a worker dies on the job, they’re doing criminal investigations,” she said.

Seven finance workers died in 2017, which Mr. Kohli said was historically unusual.

Other industries where workplace deaths increased significantly include trade, transportation and utilities, where fatalities rose to 18 from 10.

New York City also saw an uptick in worker deaths from unintentional overdoses, with 11 fatalities in 2017 compared with four the year before.

“The country has seen this epidemic of deaths related to opioid use,” Mr. Kohli said. “People are overdosing at work now, in addition to at home.”

Construction DIVE

Construction Fatalities Up in New York State, Down in NYC

Construction Dive, Kim Slowey, 2.5.19

Dive Brief:

- In its most recent analysis of construction deaths in New York, the New York Committee for Occupational Safety & Health found that jobsite fatalities increased statewide in 2017, but, for the same period, such incidents decreased in New York City.
- In "Deadly Skyline: An Annual Report on Construction Fatalities in New York State," NYCOSH also reported that New York state's rate of construction deaths increased 39% from 2013 through 2017, with 69 fatalities. Despite New York City's ongoing building boom, however, deaths decreased by 23% during the same period, with only 20 construction fatalities. In the 10 years preceding 2017, falls statewide and in New York City accounted for 49% and 46% of construction deaths, respectively. Workers older than 55 and Latino workers were the most likely to experience a fatal onsite accident.
- The organization's recommendations for reducing the number of deaths include increasing safety education and training; supporting legislation and regulations that help protect workers; increasing the number of criminal prosecutions statewide; revoking licenses and permits; increasing state safety enforcement to take up slack for OSHA; and limiting the availability of state and city subsidies to projects that use unsafe contractors.

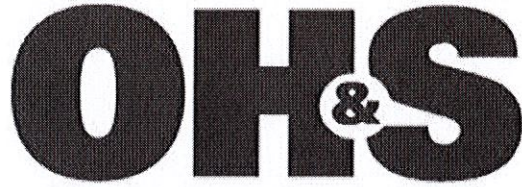
Dive Insight:

In New York City, construction safety has a champion in Manhattan District Attorney Cyrus Vance Jr., as well as in the Construction Fraud Task Force his office created. The task force goes after contractors that commit safety, wage and other violations and recently pressed criminal charges against two supervisors working on a Manhattan construction site after an accident involving a mini-crane.

The DA's office alleged that Terrence Edwards and Timothy Braico of Western Waterproofing Co. Inc. — doing business as Western Specialty Contractors — allowed someone who had not been adequately trained to operate a mini-crane on an upper floor of the building that was under construction. The crane flipped and fell four stories, injuring two workers in the process.

The days when many simply accepted injuries as a result of the dangerous nature of construction are over, and all contractors need to make sure they have robust safety and training programs in place before they let their employees set foot on a jobsite. If not, they run the risk of hefty OSHA fines or criminal prosecution if the lapse is severe.

General contractors should also be aware that they could be held responsible for their subcontractors' safety infractions. A U.S. appeals court judge in December ruled that a general contractor could be held responsible for safety on site with multiple contractors in its position as a "controlling employer."



OCCUPATIONAL HEALTH & SAFETY

Report Finds Construction Fatalities Continue to Increase in New York State

Occupational Health & Safety Online, Staff, 2.1.19

New York's construction industry continues to be "highly dangerous" for workers, according to the New York Committee for Occupational Safety and Health's latest construction fatality report, released Jan. 30. In the report, *Deadly Skyline: An Annual Report on Construction Fatalities in New York State*, researchers found that while New York State has seen an increase in fatalities related to construction, construction fatality rates in New York City construction continue to decrease.

According to the report, 69 construction workers died in New York State in 2017, the most recent data year available. The construction fatality rate for New York State has increased by 39 percent in the past five years.

In contrast, construction fatalities for New York City continued to decrease in 2017, with the rate trending downwards. In New York City, 20 construction workers died in 2017. The fatal occupational injury rate in construction in New York City has decreased by 23 percent over the past five years. According to NYCOSH, "this indicates that fluctuations in the number of construction projects in New York City does not correlate to the decreasing number of fatalities, as construction is booming yet fatalities are falling."

New York State had a 52 percent higher construction fatality rate than New York City in 2017, the report states. Fatal falls continue to be the top cause of construction work deaths in both New York City and New York State; in the past 10 years, 187 workers died in falls in New York State, accounting for 49 percent of all construction fatalities.

The report's other findings include that OSHA fines for construction fatality cases remain low, and nonunion job sites are particularly dangerous for construction workers.

NYCOSH's report includes multiple recommendations to mitigate the risk of construction fatalities, including increasing the role of New York State in protecting construction worker safety and preserving New York's Scaffold Safety Law.

"In our new 'Deadly Skyline' report on construction fatalities in New York, we found that over the past five years, as construction deaths on the job have been mostly decreasing in New York City, they have been mostly increasing in New York State," said Charlene Obernauer, executive director of NYCOSH.

"'Deadly Skyline' points to the need for New York State to proactively protect construction workers—particularly Latino and immigrant workers—with protective policies."