

1 House BILL NO. 158
 2 INTRODUCED BY Samuel J. Hays W. Ryan
 3 Samuel J. Hays

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATE SCAFFOLDING LAWS; AUTHORIZING THE
 5 USE OF COMPARATIVE NEGLIGENCE LAW IN DETERMINING LIABILITY; AMENDING SECTION 50-77-101,
 6 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9
 10 **Section 1.** Section 50-77-101, MCA, is amended to read:

11 "**50-77-101. ~~Construction of scaffolds~~ Scaffolds -- definition -- safety practices.** ~~All scaffolds~~
 12 ~~erected in this state for use in the erection, repair, alteration, or removal of buildings shall be well and safely~~
 13 ~~supported, of sufficient width, and properly secured so as to ensure the safety of persons working on them~~
 14 ~~or passing under them or by them and to prevent them from falling or to prevent any material that may be~~
 15 ~~used, placed, or deposited on them from falling~~ (1) As used in this part, "scaffold" or "scaffolding" means
 16 a temporarily elevated platform and its supporting structure that is used for supporting a person, material,
 17 or both. The term does not include a ladder or other mobile construction equipment.

18 (2) A person working on or near a scaffold shall follow the safety practices commonly recognized
 19 in the construction industry and the safety regulations required by the person's employer."

20
 21 **NEW SECTION. Section 2. Liability of employer for negligence -- exceptions.** (1) A contractor,
 22 subcontractor, or builder who uses or constructs a scaffold on a construction site is liable, subject to the
 23 application of 27-1-702, for damages sustained by any person, except a fellow employee or immediate
 24 employer, who uses the scaffold when the damages are caused by the negligence of the contractor,
 25 subcontractor, or builder in the use or construction of the scaffold.

26 (2) If a person dies from an injury caused by the negligent use or construction of a scaffold, the
 27 right of action survives and may be prosecuted and maintained by the decedent's heirs or personal
 28 representatives.

29
 30 **NEW SECTION. Section 3. Codification instruction.** [Section 2] is intended to be codified as an

1 integral part of Title 50, chapter 77, part 1, and the provisions of Title 50, chapter 77, part 1, apply to
2 [section 2].

3

4 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

5

-END-

1 HOUSE BILL NO. 158

2 INTRODUCED BY FUCHS, HARPER, RYAN, MCGEE, FELAND

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17 ~~or both. The term does not include a ladder or other mobile construction equipment.~~18 ~~(2) A person working on or near a scaffold shall follow the safety practices commonly recognized~~
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24 ~~employer, who uses the scaffold when the damages are caused by the negligence of the contractor,~~
25 ~~subcontractor, or builder in the use or construction of~~ **WHEN THE DAMAGES ARE CAUSED BY**
26 **NEGLIGENCE OF THE CONTRACTOR, SUBCONTRACTOR, OR BUILDER IN THE USE OR CONSTRUCTION**
27 **OF THE SCAFFOLD, SUBJECT TO THE APPLICATION OF 27-1-702, FOR DAMAGES SUSTAINED BY ANY**
28 **PERSON, EXCEPT A FELLOW EMPLOYEE OR IMMEDIATE EMPLOYER, WHO USES** the scaffold.29 (2) If a person dies from an injury caused by the negligent use or construction of a scaffold, the
30 right of action survives and may be prosecuted and maintained by the decedent's heirs or personal

1 representatives.

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18 ~~(2) A person working on or near a scaffold shall follow the safety practices commonly recognized~~
19 ~~in the construction industry and the safety regulations required by the person's employer.~~

20 (2) EMPLOYERS AND EMPLOYEES SHALL FOLLOW SAFETY PRACTICES COMMONLY
21 RECOGNIZED IN THE CONSTRUCTION INDUSTRY AS WELL AS APPLICABLE STATE AND FEDERAL
22 OCCUPATIONAL SAFETY LAWS."

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24 **NEW SECTION. Section 2. Liability of employer for negligence -- exceptions.** (1) A contractor,
25 subcontractor, or builder who uses or constructs a scaffold on a construction site is liable, ~~subject to the~~
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27 ~~employer, who uses the scaffold when the damages are caused by the negligence of the contractor,~~
28 ~~subcontractor, or builder in the use or construction of~~ WHEN THE DAMAGES ARE CAUSED BY
29 NEGLIGENCE OF THE CONTRACTOR, SUBCONTRACTOR, OR BUILDER IN THE USE OR CONSTRUCTION
30 OF THE SCAFFOLD, SUBJECT TO THE APPLICATION OF 27-1-702, FOR DAMAGES SUSTAINED BY ANY

1 PERSON, EXCEPT A FELLOW EMPLOYEE OR IMMEDIATE EMPLOYER, WHO USES the scaffold.

2 (2) If a person dies from an injury caused by the negligent use or construction of a scaffold, the
3 right of action survives and may be prosecuted and maintained by the decedent's heirs or personal
4 representatives.

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-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 8, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration HB 158 (third reading copy -- blue), respectfully report that HB 158 be amended as follows and as so amended be concurred in.

Signed: 
Senator Bruce Crippen, Chair

That such amendments read:

1. Page 1, line 16.

Following: "used"

Strike: "for supporting"

Insert: "on a construction site to support"

2. Page 1, line 17.

Following: "term"

Insert: "includes a ladder or other equipment that is the exclusive route of access to the scaffold but"

Following: "include"

Strike: "a"

Insert: "any other"

3. Page 1, line 24.

Following: "(1)"

Strike: "A"

Insert: "Subject to the comparative negligence principles provided in Title 27, chapter 1, part 7, a"

4. Page 1, line 25.

Following: "liable"


Insert: "for damages sustained by any person who uses the scaffold, except a fellow employee or immediate employer"

5. Page 1, line 30 through page 2, line 1.

Following: "SCAFFOLD" on line 30

Strike: remainder of line 30 through "scaffold" on page 2, line 1

-END-


Amd. Coord.
SA Sec. of Senate

SEN. BARTLETT
Senator Carrying Bill

HB 158
SENATE

541059SC.SPV

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INTRODUCED BY FUCHS, HARPER, RYAN, MCGEE, FELAND

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~~(2) A person working on or near a scaffold shall follow the safety practices commonly recognized in the construction industry and the safety regulations required by the person's employer.~~

(2) EMPLOYERS AND EMPLOYEES SHALL FOLLOW SAFETY PRACTICES COMMONLY RECOGNIZED IN THE CONSTRUCTION INDUSTRY AS WELL AS APPLICABLE STATE AND FEDERAL OCCUPATIONAL SAFETY LAWS."

NEW SECTION. Section 2. Liability of employer for negligence -- exceptions. (1) A SUBJECT TO THE COMPARATIVE NEGLIGENCE PRINCIPLES PROVIDED IN TITLE 27, CHAPTER 1, PART 7, A contractor, subcontractor, or builder who uses or constructs a scaffold on a construction site is liable FOR DAMAGES SUSTAINED BY ANY PERSON WHO USES THE SCAFFOLD, EXCEPT A FELLOW EMPLOYEE OR IMMEDIATE EMPLOYER, subject to the application of 27-1-702, for damages sustained by any person,

1 ~~except a fellow employee or immediate employer, who uses the scaffold when the damages are caused by~~
2 ~~the negligence of the contractor, subcontractor, or builder in the use or construction of~~ WHEN THE
3 DAMAGES ARE CAUSED BY NEGLIGENCE OF THE CONTRACTOR, SUBCONTRACTOR, OR BUILDER IN
4 THE USE OR CONSTRUCTION OF THE SCAFFOLD, SUBJECT TO THE APPLICATION OF 27-1-702, FOR
5 DAMAGES SUSTAINED BY ANY PERSON, EXCEPT A FELLOW EMPLOYEE OR IMMEDIATE EMPLOYER,
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