

## New York's litigation-friendly laws hurt business

Written by  
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Most everyone would agree that Gov. Andrew Cuomo has been uniquely successful in getting his agenda passed through a Legislature that was completely dysfunctional not too long ago.

So, what's next? Reforming New York's antiquated and stifling legal system has wide support and would provide millions in economic development at no cost to the state. By enacting lawsuit reform the government will stimulate the economy and save money, since municipalities are often the target of lawsuit abuse.

New York is one of the most litigious states in the most litigious country in the world. But there are many small changes the governor can support to help free our state from that dubious distinction.

Take, for example, the state's rules on trespasser responsibility. New York and California are the only states where if someone gets hurt while trespassing on your property, you are liable. This law only makes sense to lawyers. Changing this would clearly send a message that New York is now working differently. In a recent survey, New York's litigious climate was one of the top reasons that businesses don't invest in our state. Now is the time to let employers know things are changing.

The so-called "Scaffold Law" makes the employer at fault for an injury on the worksite, even in cases of gross negligence on behalf of the injured. So if a construction worker is drunk and falls off a roof, his or her employer is liable, not the drunk person who fell. This law is obviously a huge financial burden to the employers of our state and a drain on our economy. Quite simply, this law costs New Yorkers jobs.

As the governor travels the state promoting economic development and job growth, he should support commonsense provisions like a reform of the Scaffold Law that would exempt the employer in cases of drug and alcohol use, criminal activity or violation of safety standards. If the governor reforms or repeals the Scaffold Law, millions of dollars a year could potentially be saved in unfair judgments and insurance payments, allowing employers to invest in more jobs and capital improvements throughout New York.

The final piece of a strong lawsuit reform package for New York would be to cap non-economic judgments in medical malpractice cases. Health-care professionals and businesses in New York work under constant threat of multimillion-dollar judgments that can destroy their businesses and the jobs they provide. By capping non-economic judgments (that is, judgments above and beyond medical costs or lost wages) the governor can show health-care professionals and businesses that New York is open for business. Those who are injured as a result of an accident should be compensated for their medical bills and lost wages. It is the excessive and unpredictable nature of such things as the "pain-and-suffering" settlements that cause problems for the medical community and serve little or no purpose except to enrich trial lawyers. Many states have passed similar limits to great success. New York should join them and end the current "lawsuit lottery" system that threatens the economic growth of our state. This will help end the mass exodus of medical professionals from our state and, by reducing the cost and unpredictability of malpractice insurance, will increase access to health care and make it more affordable for more New Yorkers.

Cuomo's first round of legislative successes will be a tough act to follow. By securing passage of a package of economic-boosting legal reforms in 2012, history may judge the governor's next session to be more successful than the last.

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