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## **DEADLY TRADE: CONSTRUCTION SAFETY IN ILLINOIS SINCE REPEAL OF THE STRUCTURAL WORK ACT**

Construction is the 3<sup>rd</sup> most dangerous industry in Illinois.<sup>1</sup> The state also has the 5<sup>th</sup> highest construction employment in the nation.<sup>2</sup> With these two factors combined, Illinoisans face notable risk. The repeal of the Illinois Structural Work Act in 1995 has contributed significantly to this unsafe environment.<sup>3</sup>

Construction work is not only very dangerous—it is *inherently* dangerous and continues to rank as one of the most hazardous industries in Illinois and the United States. Construction workers perform their jobs around heavy machinery and power lines, at treacherous heights, and with many workers who may not be aware of what others are doing. A single distraction could be deadly.

For 88 years, Illinois had in place a law to protect the safety of construction trade workers and the public and to minimize the scope of the dangers accompanying such work. On February 14, 1995, the Illinois General Assembly repealed this law, the Structural Work Act. The repeal (also known as “the Second St. Valentine’s Day Massacre”) eliminated essential safety standards, legal protections for injured workers, and effective incentives for construction owners and contractors to ensure safe working conditions.

### **CONSTRUCTION WORK IS HIGHLY AND INHERENTLY DANGEROUS, ACCORDING TO GOVERNMENT STATISTICS.**

The U.S. Bureau of Labor Statistics listed construction labor as one of the most dangerous jobs in America.<sup>4</sup> One author recently wrote, “A typical day in the American workplace includes 165 occupational disease deaths plus the following fatalities”<sup>5</sup> (among others):

- “2 workers die from falling, usually off ladders, roofs or scaffolds”<sup>6</sup>
- “1 worker dies after being struck by a falling object, such as by a brick falling off a scaffold or by a tree during tree cutting”<sup>7</sup>

The private construction industry accounted for more deaths than any other industry in the nation.<sup>8</sup> The fatality rate for the private construction industry in the U.S. was 11.0 fatalities per 100,000 workers that year, fourth highest among all industry sectors.<sup>9</sup> The comparable figure for

all workers was 4.0 fatalities per 100,000 workers.<sup>10</sup> In 2005, there were 5,702 occupational fatalities.<sup>11</sup> One out of every 5 on-the-job fatalities was a construction worker.<sup>12</sup>

Of all major industry sectors, construction had the highest incidence rate of workplace injuries and illnesses that required recuperation away from work.<sup>13</sup> The incidence rate or total recordable case rate (number of nonfatal injuries/illnesses per 100 full-time workers) for construction in 2005 was 6.3, exceeding the total private industry rate of 4.6.<sup>14</sup> (See [Table 1](#) below).

**Table 1. National Nonfatal Occupational Injury & Illness Incidence Rates Per 100 Full-Time Workers in the Construction Industry, 1992-2005**

National Construction Industry			Cases with days away from work, job transfer, or restriction				
Year	Average annual employment (000's)	Total recordable cases	Total <sup>1</sup>	Cases with days away from work <sup>2</sup>	Cases with job transfer or restriction	Other recordable cases	Cases without lost workdays
1994	5,010.0	11.8	5.5	4.9			6.3
1995	5,088.1	10.6	4.9	4.2			5.8
1996	5,359.7	9.9	4.5	3.7			5.4
1997	5,637.1	9.5	4.4	3.6			5.0
1998	5,949.5	8.8	4.0	3.3			4.8
1999	6,337.3	8.6	4.2	3.3			4.4
2000	6,623.0	8.3	4.1	3.2			4.2
2001		7.9	4.0	3.0			3.9
2002		7.1	3.8	2.8	1.1	3.2	
2003	6,672.4	6.8	3.6	2.6	1.0	3.2	
2004	6,916.4	6.4	3.4	2.4	0.9	3.0	
2005	7,166.6	6.3	3.4	2.4	1.0	2.9	

Sources: U.S. Bureau of Labor Statistics, "Workplace Injuries and Illnesses in 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005," (15 December 1995): 5; (12 March 1997): 6; (17 December 1997): 6; (17 December 1998): 6; (16 December 1999): 6; (12 December 2000): 6; (18 December 2001): 6; (19 December 2002): 6; (18 December 2003): 6; (14 December 2004): 7; (17 November 2005): 11; (19 October 2006): 11.

Of those reported cases involving days away from work, the most common event that precipitated worker injury in private construction in 2005 was contact with objects, which accounted for 35 percent of cases.<sup>15</sup> As documented in [Table 2](#) below, "struck by object" (20 percent), such as a falling piece of machinery or scaffold and "falls" (23 percent) were also frequent events from 2003 through 2005.<sup>16</sup>

**Table 2. Nonfatal Injuries and Illnesses Involving Days Away From Work in the Construction Industry, U.S., 2003-2005**

Event or exposure	2003	2004	2005	
	Number	Number	Number	percent
Total	155,420	153,200	157,070	100 percent
Contact with objects and equipment	54,230	51,830	55,590	35 percent
Falls	37,100	35,480	36,360	23 percent
Fall to lower level	20,280	20,950	21,750	14 percent
Fall on same level	14,050	12,700	12,360	8 percent
Overexertion	30,390	30,460	28,520	18 percent
Struck by object	28,890	27,950	30,640	20 percent
Struck against object	13,570	12,720	12,600	8 percent

Source: Bureau of Labor Statistics, "Nonfatal Cases Involving Days Away From Work: Selected Characteristics"

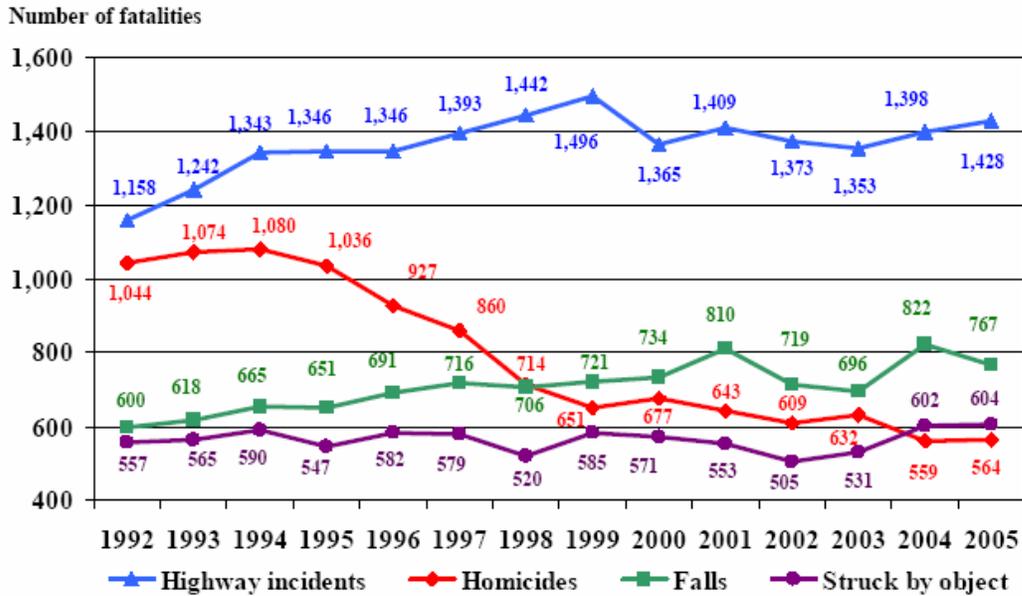
One of the most debilitating work injuries are musculoskeletal disorders, which are defined as an “injury or disorder of the muscles, nerves, tendons, joints, cartilage, or spinal discs.”<sup>17</sup> Nearly 10 percent of all injuries due to musculoskeletal disorders (MSDs) in 2005 occurred in construction.<sup>18</sup> During that year, MSD cases in the industry caused the worker to miss a median of 10 days away from work—one day more than the median for all workers.<sup>19</sup>

## Falls

The hazards of falling are especially prevalent in the construction industry. Falls have been the second leading cause of workplace fatalities in the nation since 1999.<sup>20</sup> The total number of fatal falls peaked at 822 in 2004.<sup>21</sup> The U.S. Bureau of Labor Statistics lists falls as one of the four most frequent work-related fatal events from 1992 to 2005.<sup>22</sup> The private construction industry accounted for over half of the 2,177 American workers who fell to their death from 2003 to 2005 (55 percent).<sup>23</sup>

Graph 1.

**The four most frequent work-related fatal events, 1992-2005**



NOTE: Data from 2001 exclude fatalities resulting from the September 11 terrorist attacks.  
 SOURCE: US Department of Labor, Bureau of Labor Statistics, Census of Fatal Occupational Injuries, 2005.

Source: U.S. Bureau of Labor Statistics, “National Census of Fatal Occupational Injuries in 2005,” (10 August 2006): 2.

Construction also leads the nation’s industries in nonfatal falls. In 2005 the incidence rate for nonfatal falls to a lower level in construction was 33.2 – more than double that of the next most dangerous industry (natural resources and mining, 14.8).<sup>24</sup>

**Day Laborers**

Construction labor is the top job employing day laborers.<sup>25</sup> Construction contractors often hire day laborers to cut costs, but the costs in human life and suffering for day laborers are just beginning to be measured.

The recent National Day Labor Study, “On the Corner: Day Labor in the United States” reports “one in five day laborers has suffered a work-related injury.”<sup>26</sup> In addition, “more than half of those who were injured in the past year did not receive medical care. More than two-thirds of injured day laborers have lost time from work.”<sup>27</sup> The Midwest and Illinois are no safer for these workers. “About three-quarters of day laborers nationwide find their occupations to be dangerous, while in the Midwest, where roofing jobs are undertaken at significantly higher rates than in the other regions, and astounding 92 percent find their work to be dangerous.”<sup>28</sup> These inordinately high injury rates can be attributed to several factors, including discriminatory assignment to the most dangerous work, inadequate tools and safety equipment, and poor safety training.<sup>29</sup>

The as-needed hiring nature of day labor makes it easier for contractors to ignore critical safety concerns because these workers are vulnerable and frightened. As the study notes, “[T]he inescapable conclusions are that day laborers are hired to undertake some of the most dangerous jobs at a worksite and there is little, if any, meaningful enforcement of health and safety laws. Day laborers continue to endure unsafe working conditions, mainly because they fear that if they speak up, complain, or otherwise challenge these conditions, they will either be fired or not paid for their work.”<sup>30</sup>

## **THE OCCUPATIONAL AND SAFETY HEALTH ADMINISTRATION (OSHA) DOES A POOR JOB ENSURING WORKPLACE SAFETY**

The Occupational Safety and Health Administration (OSHA) is supposed to assure the safety and health of America’s construction workers - but it doesn’t. OSHA is an agency of the U.S. Department of Labor. It was created by Congress under the Occupational Safety and Health Act of 1970 (OSH Act).<sup>31</sup> OSHA’s stated mission is “to assure the safety and health of America’s workers by setting and enforcing standards; providing training, outreach, and education; establishing partnerships; and encouraging continual improvement in workplace safety and health.”<sup>32</sup> It has the authority to issue standards and rules, conduct workplace inspections and investigations, impose penalties and respond to worker complaints.<sup>33</sup>

Almost every worker and employer in the United States comes under OSHA’s jurisdiction.<sup>34</sup> Private-sector workers are covered by an OSHA regional office under federal OSHA or an OSHA program run by their state government.<sup>35</sup> Public-sector workers are only covered in states that operate their own OSHA programs.<sup>36</sup> Federal OSHA approves and monitors state plans and may subsidize up to 50 percent of an approved plan’s operating costs.<sup>37</sup> State OSHA programs must meet but can exceed the federal program’s worker protection standards.

OSHA has a long way to go to achieve its safety objectives. On average, 16 workers were killed and more than 12,000 were injured or made ill each day of 2005, according to the most recent government statistics available.<sup>38</sup> These numbers do not include worker deaths from illnesses caused by occupational exposures, which claim an estimated 50,000 to 60,000 lives every year, nor do they accurately reflect the extent of workplace injuries and illnesses in the United States.<sup>39</sup>

OSHA has a multitude of construction safety standards from eye protection to steel erection;<sup>40</sup> however, violations of these standards abound, suggesting that OSHA’s regulatory structure is failing to work.

Three of the top ten OSHA violations of 2006 relate to standards covering occupations in construction (scaffolding, fall protection and ladders).<sup>41</sup> Even in light of these frequent citations, safety violations in construction continue. In 2006, “For the fifth year in a row, Scaffolds – General Requirements was far and away OSHA’s most violated standard,” according to the online publication *Occupational Hazards*.<sup>42</sup> The majority of these violations were injuries that could have been prevented with proper investigation and enforcement.

But the industry's safety record continues to be terrible. In Illinois in 2006, the construction industry accounted for 21 of the 46 fatalities investigated by OSHA—almost half of the total (46 percent)<sup>43</sup> – though construction employed less than 5 percent of the total workforce population in that year.<sup>44</sup> By comparison, region wide, construction accounted for 47 of the 133 fatalities (35.7 percent) for the same year.<sup>45</sup>

The following examples of accidents investigated by OSHA in Illinois in 2004 illustrate how poorly OSHA enforcement is working.<sup>46</sup>

- “Two employees were landing bundles of metal decking on the roof. After landing a bundle of decking, the chokers were released and the crane was signaled to raise, when one of the chokers caught the bundle causing it to shift. When the bundle shifted, one of the employees lost his balance and fell 18’ to the ground. The 19-year-old employee was paralyzed from the chest down. There was fall protection on the site; however, the foreman did not require the use of the fall protection equipment.”<sup>47</sup>
- “A 38-year old worker was climbing a ladder that was not secured and stable, resulting in a fall” (of approximately 15’). “Employee was in a coma for 8 days.”<sup>48</sup>
- “A 51-year-old owner was working from a fabricated frame scaffold” (approximately 74 inches from the floor) “while removing concrete block from an interior wall.... The owner fell from the scaffold and sustained severe head trauma. He was transported to the hospital and pronounced dead.”<sup>49</sup>

The financial cost of workplace injuries and death is just as alarming. For example, a March 2007 report by Liberty Mutual, the nation's largest workers' compensation insurer, found that: occupational injuries cost U.S. employers \$48.6 billion in direct costs alone (*i.e.*, medical and lost wage payments); and businesses pay between \$145.8 billion and \$291.6 billion in direct and indirect (*i.e.*, overtime, training and lost productivity) workers' compensation losses each year.<sup>50</sup> A subsequent analysis by the AFL-CIO revealed that Liberty Mutual significantly underestimated these costs.<sup>51</sup>

### **Setting the Stage for Future Injuries**

**Insufficient number of inspectors.** There are not enough OSHA inspectors to enforce worker-protection laws in the United States.<sup>52</sup> OSHA does not have the resources to inspect all construction work. According to a 2007 report by the AFL-CIO, “At its current staffing and inspection levels, it would take federal OSHA 133 years to inspect each workplace under its jurisdiction just once.”<sup>53</sup> In fiscal year (FY) 2006, there were at most 2,112 federal and state OSHA inspectors responsible for enforcing the law at approximately eight million workplaces.<sup>54</sup> The current level of federal and state OSHA inspectors provides one inspector for every 63,670 workers.<sup>55</sup> The agency further exacerbates the problem when it notifies employers of an upcoming inspection. Lisa Cullen documents a widespread concern of employees that OSHA's surprise initial visits to worksites are merely used to inform employers of a planned future inspection; therefore, OSHA investigators rarely see the true environment of a workplace.<sup>56</sup>

Because few inspections are conducted in relation to the size of construction activity, the deterrent effect of OSHA inspections has generally been minimal to nonexistent in the construction industry.

Illinois workplaces are covered by five area OSHA offices: North Aurora, Chicago North, Calumet City, Fairview Heights and Peoria. This year, OSHA plans to conduct 1,342 construction inspections in Illinois.<sup>57</sup> Though OSHA reserves at least half of its yearly inspections for the construction industry, the number of construction sites in the state far exceeds the number OSHA can inspect.<sup>58</sup> According to a 2007 AFL-CIO report, it would take 121 years for OSHA to inspect all jobsites in Illinois.<sup>59</sup>

In response to this dilemma, OSHA in Illinois has adopted “local emphasis programs,” or “LEPs,” to target construction inspections to “address hazards we see prevalent on construction sites.”<sup>60</sup> There are currently 6 different LEPs implemented by various district OSHA offices throughout Illinois, covering work from trenches to road construction. According to the OSHA Regional Notice Directive continuing this Program through September of 2007, “this LEP is designed to increase inspection activity, provide tracking, enhance expertise and formalize procedures”.<sup>61</sup>

**Penalties too low, too infrequent.** The dollar amounts and number of federal and state OSHA penalties are trivial, giving employers no incentive to comply with health and safety rules. According to an analysis of government statistics by the AFL-CIO<sup>62</sup>:

- In FY 2005 and 2006, the average penalty per serious violation of the OSHA Act totaled \$881 (\$873 for federal OSHA, \$890 for state OSHA plans). A violation is considered “serious” if it poses a substantial probability of death or serious physical harm to workers.
- Federal OSHA issued 446 willful violations in FY 2006. The average penalty for a willful violation dropped substantially from \$43,294 in FY 2005 to \$32,158 in FY 2006.
- In FY 2006, state-run OSHAs issued 153 willful violations, with an average penalty of \$23,519, and 2,482 repeat violations, with an average penalty of \$1,916 per violation.
- There were 467 inspections involving persistent violators in FY 2006, a 21 percent decrease from the previous year. Persistent violators don’t face enhanced penalties; they are usually subjected to increased oversight by OSHA or consultants.
- IN FY 2006, the Department of Labor referred 11 persistent violator cases to the Justice Department for criminal prosecution. Employers may face criminal prosecution if a willful violation causes a worker’s death.
- Though many workers die on the job or from occupational diseases because of employers’ reckless disregard for worker safety, prosecutions are extremely rare.

**Voluntary compliance over standards and enforcement.** At the behest of the Bush administration, OSHA has pursued a “voluntary compliance strategy,” reaching agreements with businesses and industry associations to police themselves.<sup>63</sup> Such voluntary programs often fail to address specific workplace hazards or have any enforcement power. As Peg Seminario, Director of Occupational Safety and Health at the AFL-CIO, told a Senate subcommittee on April 26, 2007: “With this approach, OSHA has abandoned its leadership role in safety and health, choosing to work with individual employers, rather than taking bold action to bring about broad and meaningful change in working conditions on an industry-wide and national level.”<sup>64</sup>

Moreover, only companies with strong safety records can participate in voluntary programs, leaving businesses with less than stellar records without an incentive to make their workplaces safer and healthier. “OSHA has been focusing on the best companies in their voluntary protection program while doing nothing in the area of standard setting,” Seminario explained to the *New York Times*. “They’ve simply gotten out of the standard-setting business in favor of industry partnerships that have no teeth.”<sup>65</sup>

**Regulatory inaction.** Rulemaking at OSHA has ground to a halt. Under Bush, OSHA has eliminated dozens of existing regulations, repeatedly delayed the adoption of others and pulled countless safety and health rules from its regulatory agenda. OSHA has also issued the fewest significant health and safety regulations in the agency’s history. For example, it took OSHA five years to issue its first major rule – a standard on hexavalent chromium, a cancer-causing chemical – and that was done under court order.<sup>66</sup>

As Dr. David Michaels, an occupational health expert at George Washington University, recently told the *New York Times*, “The people at OSHA have no interest in running a regulatory agency.... If they ever knew how to issue regulations, they’ve forgotten. The concern about protecting workers has gone out the window.”<sup>67</sup>

**Reliance on incomplete injury and illness data.** OSHA has ignored evidence that the annual number of workplace injuries and illnesses is much higher than what’s reported by employers.<sup>68</sup> Instead, agency officials continue to rely on employer reports of workplace injuries as evidence that agency policies are effective. This has serious consequences for worker health and safety.

As the AFL-CIO recently put it, “Reliable data is needed to have an accurate picture of the true nature and toll of workplace injuries and illnesses, to develop policies and initiatives to address identified problems and to assess the effectiveness of efforts to reduce this toll and address safety and health hazards.”<sup>69</sup>

**Budget problems.** Since FY 2001, OSHA’s budget has been cut by \$25 million. The President’s proposed 2008 budget for OSHA is \$490 million. Of that amount, 27 percent (\$134.1 million) is allocated to compliance assistance programs for employers. Since taking office, the Bush administration has increased the budget for such programs by nearly \$29 million.<sup>70</sup> In contrast, every year the White House has tried to decrease or eliminate funding for OSHA worker safety and health training and education programs. As in FY 2006 and FY 2007, the Administration not designated any funding for these programs in FY 2008.<sup>71</sup>

**Staffing problems.** Since 2001, OSHA has eliminated almost 200 full-time positions. The number of federal OSHA enforcement staff has been reduced by 8 percent, while staff levels for the development of safety and health standards have decreased by 17 percent.<sup>72</sup>

**Reduced fines.** Moreover, one author who has written about OSHA has said that it is accepted OSHA policy that a number of significant and deadly OSHA violations and the resulting penalties are negotiated down, reclassified, and even deleted completely.<sup>73</sup>

## **THE ILLINOIS STRUCTURAL WORK ACT HELPED TO ENSURE WORKPLACE SAFETY.**

Because falls from high places are a leading cause of construction deaths, Illinois originally enacted the Structural Work Act in 1907 to place responsibility for safety practices at a construction site not only on the owner, but also on anyone with authority over construction activities. This included architects and draftsmen,<sup>74</sup> as well as “[a]ny owner, contractor, sub-contractor, foreman or other person having charge of the erection, construction, repairing, alteration, removal or painting of any building, bridge, viaduct or other structure within the provisions of this Act...”<sup>75</sup> They had to provide proper and safe equipment such as scaffolds, hoists, cranes and supports to protect both employees and passersby.<sup>76</sup>

The responsibility of owners and contractors ensures that low-bidding subcontractors, who are tempted to work as quickly and cheaply as possible, do not jeopardize worker safety to save money. Each entity was legally liable if violation of the Structural Work Act caused injuries. The Act prohibited wrongdoers from blaming others for safety violations.

The Structural Work Act not only protected construction workers, but also anyone in the vicinity of a construction site. This is especially relevant in large cities like Chicago, with busy sidewalks and streets and active high-rise and renovation construction in densely populated areas. A safe construction site that limits hazards such as falling objects and unsound scaffolding is good for everyone.

This concern is best illustrated by perhaps one of the most tragic events in recent Chicago history, when a suspended scaffold platform broke loose and fell from the 42<sup>nd</sup> floor of the John Hancock Building to the street below. Three women were crushed to death, and seven others were seriously injured and traumatized.<sup>77</sup> Severe weather had been forecast that day, but the operator of the site ignored the scaffolding manufacturer’s specifications for securing the scaffolding in bad weather.<sup>78</sup>

In response to this tragedy in July, 2002, the Chicago City Council approved a municipal-wide safety ordinance that strengthened scaffolding laws in the city, establishing joint and several liability for owners, and for operations who erect or maintain scaffolding. However, it did not establish responsibility for workplace safety for all those with authority over construction activities, as did the Illinois Structural Work Act.<sup>79</sup>

## REPEAL OF STRUCTURAL WORK ACT IN 1995 SENT ILLINOIS CONSTRUCTION SAFETY ON ROLLERCOASTER RIDE

At a same when other workplace fatalities in Illinois are falling to record lows, construction industry fatality rates continue to be appalling. An Illinois Department of Public Health press release in August of 2000 publicized that “Workplace Fatalities Drop to Eight Year Low.”<sup>80</sup> Construction fatalities, however, had risen by 9 percent, to 48 deaths that year alone. In the ten years since the repeal of the Structural Work Act, the construction industry in Illinois has been responsible for an average 45 worker deaths per year.<sup>81</sup>

From 2001, the number of fatal injuries dropped precipitously for one year, followed by an upward spike in 2003 to 47, the same number reported two years previously. Though the number of construction deaths in Illinois had dropped for two consecutive years (from 2003 to 2005), the construction industry continues to hold the notorious distinction as leader of fatal injuries.<sup>82</sup> In fact, from 1992 through 2004, the construction industry in Illinois ranked first among all industries in workplace deaths in 9 out of the 13 years and second in the remaining 4 years.<sup>83</sup>

During the three-year period preceding the repeal of the Illinois Scaffolding Act, construction deaths constituted on average 17 percent of the total workplace deaths in Illinois. The construction industry’s “share” of total fatalities increased over the next ten years to an average of one out of every five fatal injuries (or 21 percent).<sup>84</sup> In 2005, construction occupations ranked 3<sup>rd</sup> of all occupations causing the most injury-related fatalities.<sup>85</sup> The year before, construction and extraction occupations also accounted for the 3<sup>rd</sup> highest number of nonfatal injury and illness cases with days away from work.<sup>86</sup>

Today Illinois workers in the construction industry suffer injuries requiring more median days away from work than all workers nationally. Notably, in 2004 workers in the Illinois construction industry suffered injuries resulting in a median of 19 days lost from work, while nationally only a median of 10 days were lost in the construction industry.<sup>87</sup>

But the devastating impact of injuries in the Illinois construction industry is probably most clearly felt by construction laborers – the most prevalent occupation in the construction industry. Construction laborers recorded a whopping 31 median days away from work—*three times the high-risk group average*, as pictured below in Table 3.<sup>88</sup>

While nearly half (48.8 percent) of the cases involving days away from work for construction workers necessitated a worker missing 31 days or more, only 4.4 percent required missing 1 day of work.<sup>89</sup> Injuries requiring 6 to 20 days away from work comprised 15.7 percent of all categories of cases away from work.<sup>90</sup> Clearly, this data illuminates the severity of injuries which now afflict construction laborers and the recuperation period necessary before returning to work, if ever.

**Table 3. Illinois percent of Nonfatal Occupational Injuries and Illnesses Involving Days Away from Work <sup>1</sup> and Selected Detailed Occupations, 2003**

Occupation	Number of days away from work. Cases involving...							Median days away from work
	1 day	2 days	3-5 days	6-10 days	11-20 days	21-30 days	31 or more days	
Psychiatric technician (code 29-2053)	35.3 percent	14.7 percent	23.5 percent	14.7 percent			11.8 percent	3
Psychiatric aides (code 31-1013)	31.3 percent	12.5 percent	31.3 percent		7.8 percent	12.5 percent	7.8 percent	3
Production workers, all other (code 51-9199)	9.5 percent	9.2 percent	11.6 percent	8.5 percent	14.1 percent	10.2 percent	36.6 percent	19
Metal workers and plastic workers, all other (code 51-4199)	9.0 percent	6.7 percent	15.7 percent	18.0 percent	13.5 percent		33.7 percent	11
Emergency medical technicians and paramedics (code 29-2041)		6.7 percent		42.3 percent			28.8 percent	5
Electrical power-line installers and repairers (code 49-9051)	8.0 percent		26.0 percent		12.0 percent		10.0 percent	4
Telecommunications equipment installers and repairers, except line installers (code 49-2022)	12.5 percent		20.8 percent	33.3 percent	20.8 percent			7
Reservation and transportation ticket agents and travel clerks (code 43-4181)	18.2 percent		22.7 percent			13.6 percent	22.7 percent	7
Bus drivers, transit and intercity (code 53-3021)				12.7 percent	20.0 percent		32.7 percent	16
Taxi drivers and chauffeurs (code 53-3041)								7
Carpenters (code 47-2031)	9.0 percent	11.4 percent	22.3 percent	12.8 percent	9.0 percent	5.7 percent	29.9 percent	28
<b>Construction laborers (code 47-2061)</b>	<b>4.4 percent</b>	<b>8.8 percent</b>	<b>10.0 percent</b>	<b>6.3 percent</b>	<b>9.4 percent</b>	<b>6.9 percent</b>	<b>48.8 percent</b>	<b>31</b>
Plumbers, pipe fitters, and steamfitters (code 47-2152)	7.5 percent	7.5 percent	12.5 percent	20.0 percent	8.8 percent	10.0 percent	30.0 percent	30
Butchers and meat cutters (code 51-3021)							59.4 percent	57
Truck drivers, heavy and tractor-trailer (code 53-3032)	7.6 percent	8.0 percent	21.9 percent	12.2 percent	14.2 percent	8.7 percent	27.8 percent	11

Industrial machinery mechanics (code 49-9041)			20.0 percent		17.1 percent		37.1 percent	14
Food servers, non-restaurant (code 35-3041)				22.2 percent	48.1 percent			18
Highway maintenance workers (code 47-4051)				7.1 percent	14.3 percent	14.3 percent	60.7 percent	47
Total of high incidence rate occupations	8.4 percent	7.2 percent	15.1 percent	12.5 percent	11.4 percent	6.2 percent	30.1 percent	10

1 Days away from work include those that result in days away from work with or without job transfer or restriction.

2 Median days away from work are the measure used to summarize the varying lengths of absences from work among the cases with days away from work. Half the cases involved more days and half involved less days than a specified median. Median days away from work are represented in actual values.

NOTE: Because of rounding and data exclusion of non-classifiable responses, data may not sum to the totals. Dashes indicate data that do not meet publication guidelines. The scientifically selected probability sample used was one of many possible samples, each of which could have produced different estimates. A measure of sampling variability for each estimate is available upon request.

SOURCE: Bureau of Labor Statistics, U.S. Department of Labor, October 11, 2005 and Illinois Department of Public Health, "Occupations with High Risk of Work-Related Injuries Illinois, 2003," (February 2006): 15.

## Falls

The construction industry in Illinois has consistently been the number one source of fatal falls, responsible for far more deadly falls than any other industry. To illustrate, from 1996 to 2004, since repeal of the Structural Work Act, the construction industry averaged 17 deaths by falling per year; the second highest average was 5 per year in the services industry.<sup>91</sup> (See [Table 4](#) below).

- Twenty-three people died from falling at Illinois worksites in 2005. Eleven of them were working in the construction industry. Six were construction laborers, and four were roofers.<sup>92</sup>
- With the exception of 2000, falls have been the leading cause of death in the construction industry for the last 10 years.<sup>93</sup>

In the three years before the original Structural Work Act was repealed, construction falls resulting in death were 48 percent of all fatal falls. In the nine years after the repeal, the average has climbed to 58 percent, with the construction industry responsible for 100 percent of fatal falls in 2003 and 80 percent in 2004.<sup>94</sup>

**Table 4. Fatal Falls, All Industries and Construction in Illinois, 1993-2004**

YEAR	Fatal falls			Total fatal falls	percent of total fatal falls		
	Construction	Manufacturing	Services		Construction	Manufacturing	Services
1993	11		6	35	31 percent		17.1 percent
1994	20	6	6	40	50 percent	15.0 percent	15.0 percent
1995	28	6		44	64 percent	13.6 percent	
<b>3-year average</b>	<b>20</b>	<b>6</b>	<b>6</b>	<b>40</b>	<b>48 percent</b>	<b>14 percent</b>	<b>16 percent</b>
1996	16	3		34	47 percent	8.8 percent	
1997	16	4	6	36	44 percent	11.1 percent	16.7 percent
1998	17	6	3	34	50 percent	17.6 percent	8.8 percent
1999	14	6	5	29	48 percent	20.7 percent	17.2 percent
2000	14		3	25	56 percent		12.0 percent
2001	16	3	6	39	41 percent	7.7 percent	15.4 percent
2002	16	3	6	28	57 percent	10.7 percent	21.4 percent
2003	24			24	100 percent		
2004	16			20	80 percent		
<b>9-year average</b>	<b>17</b>	<b>4</b>	<b>5</b>	<b>30</b>	<b>58 percent</b>	<b>13 percent</b>	<b>16 percent</b>

Sources: Illinois Department of Public Health, "Census of Fatal Occupational Injuries in Illinois, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004," (December 1994): 16; (April 1996): 18; (November 1996): 17; (February 1998): 17; (February 1999): 17; (October 1999): 15; (December 2000): 14; (December 2001): 13; (November 2002): 16; (November 2003): 16; (November 2004): 17; (November 2005): 15.

The statistics on nonfatal falls in Illinois present an equally alarming picture. There were 11,270 nonfatal falls in Illinois in 2005.<sup>95</sup> In 2004, the incidence rate of falls from scaffolding/staging in the construction industry in Illinois was more than triple the national rate (IL – 12.6, US – 3.6).<sup>96</sup> The record of nonfatal falls in Illinois is especially appalling when compared with New York, which continues to enforce its own “Scaffold Law”, Labor Law Sec. 240-241. Illinois has had a higher incidence rate of nonfatal falls in construction than New York, in every year reported, as depicted below.<sup>97</sup>

**Table 5. Nonfatal Falls in the Construction Industry in Illinois and New York, 2003-2005**

State	Injury and illness rate per 10,000 full-time workers		
	2003	2004	2005
Illinois	59.2	66.9	64.2
New York	50.7	63.3	59.5

Source: U.S. Bureau of Labor Statistics, "Nonfatal cases involving days away from work: selected characteristics," customized table from <http://data.bls.gov/cgi-bin/dsrv?ch>

Furthermore, in 2005 the incidence rate of falls from a roof was more than double that of New York (IL – 6.4, NY – 2.8).<sup>98</sup>

According to a report by the Illinois Department of Public Health, “Nearly all falls are preventable and many effective measures are available to prevent work-related injuries and fatalities from falls. The occurrence of fatal falls indicates a failure in preventative practices.”<sup>99</sup>

### **COSTS OF INJURIES IN CONSTRUCTION: MEASURABLE AND IMMEASURABLE**

Injuries and deaths in construction ruin lives of Illinois workers, their families and society. Some costs like medical bills and lost wages are easy to measure. But as research by the Center to Protect Workers’ Rights (CPWR) has shown, these “billable” costs are just a fraction of comprehensive injury-related costs.<sup>100</sup> The non-billable costs affect not only the injured worker and their family, but the employer and society as well. Non-billable expenses for the victim can include increased need for childcare and lost income of relatives who care for the injured worker.<sup>101</sup> Employers suffer lower worker morale and productivity, among many other costs.<sup>102</sup> Finally, “[s]ociety pays in increased Social Security taxes, higher health care premiums, and reduced savings for retirement.”<sup>103</sup>

Moreover, societal costs in the form of subsidized health care are greater than in other major industries given that a relatively small proportion of construction workers have health insurance.<sup>104</sup> “Just under 54 percent of construction wage-and-salary workers had health insurance provided by their employer or union in 2000,” according to CPWR’s findings.<sup>105</sup>

### **THE “STRUCTURAL WORK ACT” LAW DID NOT DAMAGE ILLINOIS’ BUSINESS CLIMATE; HOUSING STARTS AND FUTURE CONSTRUCTION CONTRACTS IN ILLINOIS**

Neither the existence nor repeal of the scaffolding act had any impact on the construction business climate, as measured by housing starts, in Illinois. Housing starts in Illinois follow economic trends in general and have not been tied to this statute.

The following table depicts new private housing unit permits, from the period 1980 through 2006, covering a substantial period of time before, during, and after the 1995 repeal of the

Illinois Scaffolding statute. During the 5 year period immediately preceding the repeal (1991-1995), housing starts, in the form of new permits for private construction in Illinois, *increased* substantially – by 30.8 percent. The increase in Illinois exceeded the national and East North Central regional increases during the same time period.

**Table 7. New Privately Owned Housing Units Authorized by Building Permit, 1980-2006**

Year	Illinois	East North Central <sup>1</sup>	United States	Chicago <sup>2</sup>	New York
1980	25,226	124,568	1,190,600	13,619	24,491
1981	16,356	85,003	985,533	9,557	26,234
1982	18,960	74,498	1,000,485	12,391	24,980
1983	29,836	110,815	1,605,221	21,112	37,908
1984	30,160	124,225	1,681,822	16,966	44,729
1985	38,719	152,502	1,733,266	23,602	61,927
1986	51,876	195,076	1,769,443	32,129	60,198
1987	50,447	193,530	1,534,772	28,237	62,186
1988	49,145	188,527	1,455,623	26,635	54,719
1989	42,377	182,679	1,338,423	20,919	48,735
1990	38,255	167,901	1,110,766	16,666	34,950
1991	32,846	151,520	948,794	11,951	28,580
1992	40,430	179,800	1,094,933	15,132	29,851
1993	44,742	191,649	1,199,063	30,839	28,604
1994	49,290	211,968	1,371,637	33,375	31,135
1995	47,467	207,623	1,332,549	32,425	28,060
1996	49,592	221,742	1,425,616	34,086	34,895
1997	46,323	209,213	1,441,136	31,248	32,881
1998	47,984	226,637	1,612,260	33,713	38,420
1999	53,974	241,150	1,663,533	39,091	42,593
2000	51,944	226,235	1,592,267	38,073	44,105
2001	54,839	231,799	1,636,676	40,586	45,542
2002	60,971	239,989	1,747,678	44,619	49,149
2003	62,211	249,470	1,889,214	49,954	49,708
2004	59,753	245,394	2,070,077	47,541	53,497
2005	66,942	233,807	2,155,316	53,908	61,949
2006 <sup>3</sup>	59,121	188,091	1,837,287	46,672	55,253

<sup>1</sup> Illinois, Indiana, Michigan, Ohio, Wisconsin

<sup>2</sup> 1980-2002 Chicago, 2003-2007 Chicago-Naperville-Joliet

<sup>3</sup> Preliminary totals

Source: U.S. Census Bureau: Manufacturing, Mining, and Construction Statistics

"Housing units authorized by building permits" <http://www.census.gov/const/www/permitsindex.html>

As Table 8 clearly shows, the average value of new permits for private housing during the same 5-year period also rose by approximately the same level (to 34 percent) while mirroring the national trend.

**Table 8. New Privately Owned Housing Units Authorized by Building Permit Valuation, 1980-2006**

Year	Illinois	East North Central <sup>1</sup>	United States	Chicago <sup>2</sup>	New York
1980	1,086,542	4,991,535	47,156,287	675,113	925,957
1981	775,381	3,644,975	41,910,159	504,794	1,048,576
1982	909,727	3,167,787	40,491,729	661,339	1,097,328
1983	1,610,253	5,467,631	69,277,523	1,240,672	1,657,815
1984	1,716,762	6,265,254	77,661,313	1,007,968	2,424,190
1985	2,237,683	7,808,217	84,904,249	1,379,741	3,573,195
1986	3,390,808	11,072,496	98,004,563	2,068,949	3,729,937
1987	3,806,505	12,517,073	98,346,270	2,160,957	4,417,092
1988	4,057,802	13,195,231	101,624,891	2,232,055	4,016,302
1989	3,781,053	13,509,775	100,697,657	1,902,897	3,711,002
1990	3,514,914	13,126,307	86,522,244	1,647,055	2,782,142
1991	3,188,748	12,725,589	78,772,163	1,307,011	2,420,679
1992	3,961,561	15,859,602	95,539,025	1,610,656	2,597,938
1993	4,487,398	17,716,133	106,800,971	3,358,555	2,620,744
1994	5,011,762	20,201,655	123,278,316	3,698,369	2,787,332
1995	4,844,287	19,736,674	120,810,731	3,585,672	2,616,323
1996	5,198,763	22,145,189	134,175,811	3,841,138	3,110,079
1997	5,087,002	21,688,002	141,004,397	3,761,254	3,064,240
1998	5,618,459	24,797,312	165,265,706	4,264,910	3,826,314
1999	6,537,642	27,753,907	181,246,047	5,057,178	4,411,113
2000	6,527,956	27,268,710	185,743,681	5,097,209	4,991,529
2001	7,141,367	29,051,294	196,242,858	5,622,396	5,257,031
2002	8,545,583	31,492,745	219,188,681	6,754,196	5,915,967
2003	9,105,577	34,558,376	249,693,105	7,795,739	6,193,971
2004	9,551,086	36,542,636	292,413,691	8,078,870	6,944,613
2005	10,963,905	36,836,306	329,254,468	9,440,909	7,828,112
2006 <sup>3</sup>	9,649,510	30,249,202	289,609,643	8,016,485	7,014,785

<sup>1</sup> Illinois, Indiana, Michigan, Ohio, Wisconsin

<sup>2</sup> 1980-2002 Chicago, 2003-2007 Chicago-Naperville-Joliet

<sup>3</sup> Preliminary totals

Source: U.S. Census Bureau: Manufacturing, Mining, and Construction Statistics

"Housing units authorized by building permits" <http://www.census.gov/const/www/C40/table2.html>

Another significant measure of financial health in the construction industry is the number and value of contracts for future construction. As Table 9 illustrates, data collected by the Illinois Department of Commerce and Economic Opportunity from 1980 through 2003 indicate an upward trend in the value of future contracts both *before and after* the repeal of the Illinois Scaffolding Act in 1995.

**Table 9. Illinois Contracts for Future Construction (\$ millions), 1980-2003**

Year	Total	Residential	Non-residential	Non-building
1980	5,302	1,702	2,192	1,408
1981	4,781	1,579	2,240	962
1982	4,696	1,435	1,977	1,284
1983	6,020	2,338	2,242	1,439
1984	7,099	2,435	2,829	1,834
1985	7,301	2,607	3,027	1,667
1986	9,156	4,038	3,245	1,873
1987	10,145	4,416	3,487	2,243
1988	10,727	4,717	3,909	2,102
1989	11,992	4,868	4,544	2,580
1990	10,777	4,151	4,702	1,924
1991	9,212	3,907	3,526	1,779
1992	10,600	4,437	3,652	2,513
1993	11,174	4,180	4,922	2,071
1994	12,039	5,172	3,853	3,015
1995	11,684	4,626	4,475	2,586
1996	12,667	5,312	4,542	2,810
1997	12,703	5,565	954	2,182
1998	15,000	5,895	637	2,968
1999	16,450	6,608	6,284	3,558
2000	16,945	6,822	6,123	4,128
2001	19,393	7,808	6,960	4,625
2002	20,653	8,871	7,144	4,718
2003	18,788	9,737	5,887	3,164

Source: Illinois Department of Commerce and Economic Opportunity  
[www.igpa.uiuc.edu/abstract/Business/14\\_02.htm](http://www.igpa.uiuc.edu/abstract/Business/14_02.htm)

## CONCLUSION

While construction work is inherently dangerous, it is possible to make this trade substantially safer. The unnecessary deaths and injuries of Illinoisans in construction can stop with the realization that these accidents are not freak events: they are the result of a systemic failure to maintain workplace safety.

The repeal of the Structural Work Act removed essential safety standards, stripped injured workers of legal protections, and weakened deterrence for those responsible for a safe workplace. The repeal of this law has compounded the problems surrounding construction work. Now, due to the prevalence of day laborers in today's construction market, employers are more able than ever to ignore chronic safety concerns. Minimal OSHA inspections and fines continue to fail in their role of deterring egregious violations while the immeasurable costs of these safety lapses on individuals, families, and society continue to grow.

Illinois was one of the safest states in the nation for construction work. Workers had clearly-defined safety protections and could seek redress for violations that led to injury or death. Shoddy contractors endangering citizens could be held responsible. Now there are serious violations that go unchecked and deaths and injuries of Illinois citizens that could be prevented.

## NOTES

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<sup>2</sup> U.S. Bureau of Labor Statistics, "Regional and State Employment and Unemployment: December 2006," (23 January 2007): 12.

<sup>3</sup> 749 Ill. Comp. Stat. 150/0.01-9 (1996) (repealed 1995).

<sup>4</sup> Guy A. Toscano, "Dangerous Jobs," Compensation and Working Conditions (Summer 1997): 57-60; available from [www.bls.gov/iif/oshwc/cfar0020.pdf](http://www.bls.gov/iif/oshwc/cfar0020.pdf).

<sup>5</sup> Lisa Cullen, A Job to Die For: Why So Many Americans are Killed, Injured or Made Ill at Work and What to Do About It (Monroe, ME: Common Courage Press, 2002), 4.

<sup>6</sup> Ibid, 4.

<sup>7</sup> Ibid, 4.

<sup>8</sup> U.S. Bureau of Labor Statistics, "National Census of Fatal Occupational Injuries in 2005," (10 August 2006): 3.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid, 8.

<sup>12</sup> Samuel W. Meyer and Stephen M. Pegula, "Injuries, Illnesses, and Fatalities in Construction, 2004," U.S. Bureau of Labor Statistics (24 May 2006) available from [www.bls.gov/opub/cwc/sh20060519ar01p1.htm](http://www.bls.gov/opub/cwc/sh20060519ar01p1.htm).

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<sup>18</sup> U.S. Bureau of Labor Statistics, "Nonfatal Occupational Injuries and Illnesses Requiring Days Away from Work, 2005," (17 November 2006): 8.

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- <sup>22</sup> Ibid.
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- <sup>28</sup> Ibid, 12.
- <sup>29</sup> Ibid, 12.
- <sup>30</sup> Ibid, 12.
- <sup>31</sup> Occupational Safety and Health Act of 1970, Public Law 91-596, found at [http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=OSHACT&p\\_id=2743](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=OSHACT&p_id=2743).
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- <sup>73</sup> Cullen, 149-165.
- <sup>74</sup> 749 Ill. Comp. Stat. 150/8 (1994) (repealed 1995).
- <sup>75</sup> 749 Ill. Comp. Stat. 150/9 (1994) (repealed 1995).
- <sup>76</sup> 749 Ill. Comp. Stat. 150/1 (1994) (repealed 1995).
- <sup>77</sup> Maria Kantzavelos, "2006 Settlement Survey: The Hancock Scaffolding Collapse," *Chicago Lawyer* (October 2006); and Lorene Yue, "Hancock Lawsuits Settled: \$75 Million Agreed to in '02 Disaster that Killed 3, Hurt 7," *Chicago Tribune* (2 February 2006).
- <sup>78</sup> Kantzavelos and Yue.
- <sup>79</sup> See Scaffolding Ordinance, City of Chicago, Chapter 13-34-020 (a).
- <sup>80</sup> Illinois Department of Public Health, "Workplace Fatalities Drop to Eight-Year Low," (17 August 2000); available from [www.idph.state.il.us/public/press00/jobfatalities.htm](http://www.idph.state.il.us/public/press00/jobfatalities.htm).

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- <sup>86</sup> Illinois Department of Public Health, "Nonfatal Workplace Injuries and Illnesses in Illinois, 2004," (July 2006): 6.
- <sup>87</sup> U.S. Bureau of Labor Statistics, "Nonfatal Cases Involving Days Away from Work: Selected Characteristics," customized table available from <http://data.bls.gov/cgi-bin/dsrv?ch>.
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- <sup>90</sup> Ibid.
- <sup>91</sup> Illinois Department of Public Health, "Census of Fatal Occupational Injuries and Illnesses, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004," (December 1994): 16; (April 1996): 18; (November 1996): 17; (February 1998): 17; (February 1999): 17; (October 1999): 15; (December 2000): 14; (December 2001): 13; (November 2002): 16; (November 2003): 16; (November 2004): 17; (November 2005): 15.
- <sup>92</sup> U.S. Bureau of Labor Statistics, "Census of Fatal Occupational Injuries," customized table available from <http://data.bls.gov/PDQ/outside.jsp?survey=fi>.
- <sup>93</sup> Falls were the second-leading cause of death in the construction industry in 2000, after transportation fatalities. Categories of fatal events or exposures are transportation, violent acts and assaults, contact with equipment, falls, exposure to harmful substances, and fires and explosions. Illinois Department of Public Health, "Census of Fatal Occupational Injuries and Illnesses, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005," (February 1998): 17; (February 1999): 17; (October 1999): 15; (December 2000): 14; (December 2001): 13; (November 2002): 16; (November 2003): 16; (November 2004): 17; (November 2005): 15; (December 2005): 15.
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