

BILL TEXT:

STATE OF NEW YORK

5933

2005-2006 Regular Sessions

IN ASSEMBLY

March 2, 2005

Introduced by M. of A. RAMOS -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to time limitations for filing claims for certain injuries

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 4 of section 214-c of the civil practice law
2 and rules, as added by chapter 682 of the laws of 1986, is amended to
3 read as follows:

4 4. Notwithstanding the provisions of subdivisions two and three of
5 this section, where the discovery of the specific toxic etiological
6 cause of the injury, including the source of the alleged harm, is
7 alleged to have occurred less than [~~five~~] ten years after discovery of
8 the injury or when with reasonable diligence such injury should have
9 been discovered, whichever is earlier, an action may be commenced or a
10 claim filed within [~~one year~~] three years of such discovery of the cause
11 of the injury; provided, however, if any such action is commenced or
12 claim filed after the period in which it would otherwise have been
13 authorized pursuant to subdivision two or three of this section the
14 plaintiff or claimant shall be required to allege and prove that techni-
15 cal, scientific or medical knowledge and information sufficient to
16 ascertain the cause of his injury had not been discovered, identified or
17 determined, or that after diligent effort the cause was not known by the
18 plaintiff or claimant, prior to the expiration of the period within
19 which the action or claim would have been authorized and that he has
20 otherwise satisfied the requirements of subdivisions two and three of
21 this section.

22 § 2. This act shall take effect immediately.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD08389-01-5

SPONSORS MEMO:

NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(e)

BILL NUMBER: A5933

SPONSOR: Ramos

TITLE OF BILL: An act to amend the civil practice law and rules, in relation to time limitations for filing claims for certain injuries

PURPOSE OR GENERAL IDEA OF BILL: To amend the Civil Practice Law and Rules in relation to time limitations for filing claims for certain injuries.

SUMMARY OF SPECIFIC PROVISIONS: Subdivision 4 of section 214-c of the Civil Practice Laws and Rules, as added by chapter 682 of the laws of 1986 is amended.

JUSTIFICATION: This bill would amend the present law to allow for greater time in filing a civil law suit due to an injury caused by specific toxic ecological factors. With the advance of technology, society creates new toxins everyday. Some of these toxins may take many years to manifest themselves to warrant such a law suit, while others may not even be known to be the cause of illness until the deadline is passed. Consequently, it would be unjust to prohibit citizens from seeking compensation due to the lengthy time it may have taken to determine the cause of their injury. The statute of limitations in these causes of action would be increased from five to ten years.

PRIOR LEGISLATIVE HISTORY: 2001-02 A.7723 - Judiciary Committee; 2003 A1923-Rules

FISCAL IMPLICATIONS: None.

EFFECTIVE DATE: This act shall take effect immediately.
