

Environmental

Advocates

NY

EANY SUPPORTS Toxic Torts



Memo #46

[S.1295 \(Sanders\)](#)

[A4472 \(Ramos\)](#)

Explanation:

The purpose of a statute of limitations in a tort case is to provide a balance between the rights of the person harmed to be compensated for a wrongful injury and the right of the potential defendant to have a definite end of liability for actionable activities. Toxic tort cases have traditionally suffered from the challenge that the alleged injury is not immediately known or discoverable because many diseases, such as cancers, may only manifest until years after the exposure has taken place. The bill acknowledges this reality and strikes a new balance of cutting off liability at a date which provides more time for latent injuries and the connection to toxic exposure to become known.

Today with new technologies and new toxics that impact our everyday environment, we are at greater risk of encountering harmful ecological factors that may cause injury at a future date. It would be unfair to bar citizens from seeking compensation due to the length of time it may take to discover the cause of the injury. Expanding the statute of limitations in these cases helps protect against this unfair result.

Summary:

This bill would amend the Civil Practice Law and Rules to change the statute of limitations to allow more time to sue for harm caused by toxic exposures. Under the bill, a victim would have ten years, as opposed to five years, to discover the etiological cause of the injury, including the source of the alleged harm. After the discovery of the cause of the injury, a plaintiff or claimant would have three years, as opposed to one year bring a cause of action.