

**A4474-A** Hunter No Same as

Civil Practice Law and Rules

TITLE....Relates to creating an action for the recovery of damages for personal injury caused by exposure to toxic burn pits while serving as a member of the armed forces

**Currently on Assembly Committee Agenda**

Judiciary (LAVINE)

9:00 AM, Wednesday, May 26, 2021

The committee meeting will be broadcast on the NYS Assembly website ([click here to view](#)).

02/04/21 referred to judiciary

05/20/21 amend and recommit to judiciary

05/20/21 print number 4474a

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HUNTER

Add §214-i, amd §214, CPLR

Relates to creating an action for the recovery of damages for personal injury caused by exposure to toxic burn pits while serving as a member of the armed forces on or after August 2, 1990.

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# STATE OF NEW YORK

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4474--A

2021-2022 Regular Sessions

## IN ASSEMBLY

February 4, 2021

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Introduced by M. of A. HUNTER -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil practice law and rules, in relation to creating an action for the recovery of damages for personal injury caused by exposure to toxic burn pits while serving as a member of the armed forces

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

1 Section 1. The civil practice law and rules is amended by adding a new  
2 section 214-i to read as follows:

3 § 214-i. Action to recover damages for personal injury caused by  
4 contact with or exposure to toxic burn pits. 1. Notwithstanding any  
5 provision of law to the contrary, an action to recover damages for  
6 personal injury caused by exposure to toxic burn pits while serving as a  
7 member of the armed forces of the United States in Afghanistan, Bahrain,  
8 Burkina Faso, Cameroon, Chad, Diego Garcia, Djibouti, Egypt, Ethiopia,  
9 Gabon, Ghana, Iraq, Jordan, Kenya, Kuwait, Kyrgyzstan, Libya, Mali,  
10 Niger, Nigeria, Oman, Pakistan, Philippines, Saudi Arabia, Somalia,  
11 South Sudan, Sudan, Syria, Tajikistan, Tunisia, Turkey, United Arab  
12 Emirates, Uzbekistan, and Yemen on or after August second, nineteen  
13 hundred ninety, may be commenced within three years from the date of the  
14 discovery of such injury, or within three years from the date when  
15 through the exercise of reasonable diligence the cause of such injury  
16 should have been discovered, whichever is later.

17 2. For the purposes of this section, a personal injury includes, but  
18 shall not be limited to the following diseases: asthma that was diag-  
19 nosed after service in a country or territory listed, cancer of any  
20 type, chronic bronchitis, chronic obstructive pulmonary disease,  
21 constrictive bronchiolitis or obliterative bronchiolitis, emphysema,

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

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1 granulomatous disease, interstitial lung disease, lymphoma, pleuritis,  
2 pulmonary fibrosis, and sarcoidosis.

3 § 2. Subdivision 5 of section 214 of the civil practice law and rules,  
4 as separately amended by chapters 485 and 682 of the laws of 1986, is  
5 amended to read as follows:

6 5. an action to recover damages for a personal injury except as  
7 provided in sections 214-b, 214-c, 214-i and 215;

8 § 3. Every cause of action for an injury or death caused by exposure  
9 to toxic burn pits while serving as a member of the armed forces of the  
10 United States in Afghanistan, Bahrain, Burkina Faso, Cameroon, Chad,  
11 Diego Garcia, Djibouti, Egypt, Ethiopia, Gabon, Ghana, Iraq, Jordan,  
12 Kenya, Kuwait, Kyrgyzstan, Libya, Mali, Niger, Nigeria, Oman, Pakistan,  
13 Philippines, Saudi Arabia, Somalia, South Sudan, Sudan, Syria, Tajikis-  
14 tan, Tunisia, Turkey, United Arab Emirates, Uzbekistan, and Yemen on or  
15 after August second, nineteen hundred ninety, which is barred as of the  
16 effective date of this act because the applicable period of limitation  
17 has expired is hereby revived and extended and any action thereon may be  
18 commenced and prosecuted.

19 § 4. The provisions of this act shall be severable, and if any clause,  
20 sentence, paragraph, subdivision or part of this act shall be adjudged  
21 by any court of competent jurisdiction to be invalid, such judgment  
22 shall not affect, impair, or invalidate the remainder thereof, but shall  
23 be confined in its operation to the clause, sentence, paragraph, subdivi-  
24 sion or part thereof directly involved in the controversy in which  
25 such judgment shall have been rendered.

26 § 5. This act shall take effect immediately.

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

**BILL NUMBER:** A4474A

**SPONSOR:** Hunter

**TITLE OF BILL:**

An act to amend the civil practice law and rules, in relation to creating an action for the recovery of damages for personal injury caused by exposure to toxic burn pits while serving as a member of the armed forces

**PURPOSE OR GENERAL IDEA OF BILL:**

This legislation would permanently revive time barred causes of action for a chronic condition caused by contact with or exposure to toxic burn pits for those persons serving as members of the armed forces in the Middle East from 1990 onwards.

**SUMMARY OF PROVISIONS:**

Section 1: Amends civil practice law and rules by adding a new section 214-i to establish action to recover personal damages for personal injury caused by contact with or exposure to toxic burn pits in specified locations after August 2, 1990. Chronic conditions that qualify as personal injuries under this section are also listed.

Section 2: Subdivision 5 of section 214 of the civil practice law and rules is amended to include 214-i.

Section 3: Revives cause of action for the specified service dates and locations if the applicable period of limitation has-expired.

Section 4: Establishes a severability clause.

Section 5: Establishes an immediate effective date.

**DIFFERENCE BETWEEN ORIGINAL AND AMENDED VERSION:**

This version of the bill increases limitations from the date of discovery from 2 years to 3 years.

**JUSTIFICATION:**

After the conflict in Vietnam, it took many years to fully realize the extent of the health damage done to servicemen and women due to exposure to Agent Orange. Unfortunately, a similar pattern has emerged in our veterans who served in the Middle East throughout the conflicts of the past 30 years. The practice of using burn pits to dispose of toxic materials has caused a litany of chronic illnesses for returning veterans. Because of the nature of these illnesses, it often takes time for the condition to emerge, get diagnosed, and determine the most likely cause.

This legislation ensures veterans can access New York courts with a cause of action without being barred by the typical period of limitation.

**PRIOR LEGISLATIVE HISTORY:**

2020: A.11119

**FISCAL IMPLICATIONS:**

None.

**EFFECTIVE DATE:**

Immediately.