

# STATE OF NEW YORK

3337--B

Cal. No. 305

2019-2020 Regular Sessions

## IN SENATE

February 5, 2019

Introduced by Sens. GAUGHRAN, LAVALLE, BROOKS, HOYLMAN, KAMINSKY, KAPLAN, METZGER, SKOUFIS, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the civil practice law and rules, in relation to the statute of limitations for public water suppliers and wholesale water suppliers to commence an action for injury to property

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-h to read as follows:

3 § 214-h. Certain actions by public water suppliers to recover damages  
4 for injury to property. 1. In this section:

5 (a) "Contaminant" means any physical, chemical, microbiological or  
6 radiological substance or matter in water and includes but is not limit-  
7 ed to an emerging contaminant listed pursuant to section eleven hundred  
8 twelve of the public health law.

9 (b) "Person" means an individual, corporation, public corporation,  
10 company, association, partnership, or entity of the state or federal  
11 government.

12 (c) "Public water supplier" means a person that owns, manages or oper-  
13 ates a community, noncommunity or nontransient noncommunity water system  
14 that provides water to the public for human consumption through pipes or  
15 other constructed conveyances, if such system has at least five service  
16 connections or regularly serves an average of at least twenty-five indi-  
17 viduals daily at least sixty days out of the year.

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

LBD03302-09-9

1 (d) "Wholesale water supplier" means a person that owns, manages or  
2 operates a public water system that treats a source of water supply as  
3 necessary to produce finished water and then delivers some or all of  
4 that finished water to a public water supplier.

5 (e) "Source of water supply" means any groundwater aquifer or waterc-  
6 ourse from which water is taken either periodically or continuously for  
7 drinking, culinary or food-processing purposes, or which has been desig-  
8 nated for present or future use as a source of water supply for domestic  
9 or municipal purposes.

10 (f) "Plant intake" means the works or structures at the head of a  
11 conduit through which water is diverted from a source of water supply  
12 into the treatment plant by a public water supplier.

13 (g) "Well" means any excavation used for obtaining water by a public  
14 water supplier.

15 (h) "Raw water" means water immediately before the first or only point  
16 of disinfection or other treatment.

17 2. Notwithstanding any provision of any other law, any civil claim or  
18 cause of action brought by a public water supplier or wholesale water  
19 supplier against any person alleging intentional, negligent or other  
20 wrongful acts or omissions by a person to recover damages for injury to  
21 property owned, managed or operated by a public water supplier or a  
22 wholesale water supplier resulting from the presence of a contaminant in  
23 a source of water supply shall be commenced within three years of the  
24 latest of any of the following:

25 (a) the detection of a contaminant in the raw water of each well or  
26 plant intake sampling point in excess of any notification level, action  
27 level, maximum contaminant level, or maximum contaminant level goal  
28 established by the commissioner of health, the department of health or  
29 the United States Environmental Protection Agency for that contaminant;

30 (b) the last wrongful act by any person whose conduct substantially  
31 contributed to the presence of a contaminant in a source of water supply  
32 or the raw water of each well or plant intake sampling point; or

33 (c) the date the contaminant is last detected in the raw water of each  
34 well or plant intake sampling point in excess of any notification level,  
35 action level, maximum contaminant level, or maximum contaminant level  
36 goal established by the commissioner of health, the department of health  
37 or the United States Environmental Protection Agency for that contam-  
38 inant.

39 3. This three-year period shall apply to each well and each plant  
40 intake for each contaminant separately, and the expiration of the three-  
41 year period at one well or plant intake shall not affect the three-year  
42 period for another well or plant intake.

43 4. Nothing in this section shall abridge or limit a public water  
44 supplier's or a wholesale water supplier's right to bring an action to  
45 abate an imminent threat of contamination of any well or plant intake or  
46 to recover as damages the costs of such abatement.

47 § 2. This act shall take effect immediately.