

STATE OF NEW YORK

3337--C

Cal. No. 305

2019-2020 Regular Sessions

IN SENATE

February 5, 2019

Introduced by Sens. GAUGHRAN, LAVALLE, BROOKS, HARCKHAM, HOYLMAN, KAMINSKY, KAPLAN, METZGER, SERRANO, 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 -- passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to 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, biological or radio-
6 logical substance or matter in water and includes but is not limited to
7 an emerging contaminant listed pursuant to section eleven hundred twelve
8 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

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

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1 connections or regularly serves an average of at least twenty-five indi-
2 viduals daily at least sixty days out of the year.

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

7 (e) "Source of water supply" means any groundwater aquifer or other
8 source from which water is taken either periodically or continuously
9 for drinking, kitchen, cooking or food-processing purposes, or which has
10 been designated for present or future use as a source of water supply
11 for domestic or municipal purposes.

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

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

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

19 2. Notwithstanding any other law that provides for a shorter limita-
20 tions period, any civil claim or cause of action brought by a public
21 water supplier or wholesale water supplier against any person to recover
22 damages for injury to property owned, managed or operated by a public
23 water supplier or a wholesale water supplier resulting from the presence
24 of a contaminant in a source of water supply shall be commenced within
25 three years of the latest of any of the following:

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

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

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

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

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

48 § 2. This act shall take effect immediately.