STATE OF NEW YORK

4474

2021-2022 Regular Sessions

IN ASSEMBLY

February 4, 2021

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

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:

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

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

2. For the purposes of this section, a personal injury includes, but shall not be limited to the following diseases: asthma that was diagnosed after service in a country or territory listed, cancer of any type, chronic bronchitis, chronic obstructive pulmonary disease, constrictive bronchiolitis or obliterative bronchiolitis, emphysema, granulomatous disease, interstitial lung disease, lymphoma, pleuritis, pulmonary fibrosis, and sarcoidosis.

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

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

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

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

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

§ 5. This act shall take effect immediately.