

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 1253
Judiciary

(Delegate Malone)

Exposure to Organophosphate Pesticide - Time Limits for Bringing Civil Actions

This bill exempts wrongful death and personal injury actions, including survival actions, arising from exposure to an organophosphate pesticide from the current time limits on bringing these actions and authorizes these actions to be filed within 20 years from the date of exposure to the organophosphate pesticide or three years from the date the cause of injury or death was discovered, whichever is later.

The bill applies retroactively to any cause of action that is not barred by application of any time condition or limit before June 1, 2012, but may not revive a cause of action barred before October 1, 2012.

The bill takes effect June 1, 2012.

Fiscal Summary

State Effect: The bill is procedural and does not materially affect State finances.

Local Effect: The bill is procedural and does not materially affect local finances.

Small Business Effect: None.

Analysis

Current Law: A survival action is a lawsuit brought on behalf of a decedent's estate for injuries or damages sustained by the decedent prior to his or her death – damages that the decedent would have been able to recover if he/she had survived. In contrast, a wrongful death action is a lawsuit brought by a decedent's *survivors* for their damages resulting from the wrongful act that caused the decedent's death.

A wrongful death action must be filed within three years after the death of the injured person. However, if the injured person died as the result of an “occupational disease” (defined as a disease caused by exposure to any toxic substance in the person’s workplace that the person contracted in the course of employment), the action must be filed within three years of the discovery of facts from which it was known or reasonably should have been known that the disease was the proximate cause of death, but no later than 10 years from the date of death. The same time limits apply to personal injury actions, including survival actions, for damages resulting from an occupational disease.

Background: Organophosphate pesticides, also referred to as organophosphates, are derived from phosphoric acid and are some of the most widely used insecticides in the world. Organophosphates replaced some of the uses of organochlorines, another group of chemical compounds, many of which have been banned or restricted by the U.S. Environmental Protection Agency. Though organophosphates were first recognized in 1854, their general toxicity was not established until the 1930s.

Some of the early organophosphates were developed as nerve agents during World War II, and their potential as effective insecticides was discovered as a by-product of this endeavor. Organophosphates attack the nervous system by inhibiting acetylcholinesterase, an enzyme necessary for control of nerve pulse transmissions between nerve fibers. Depending on the amount and route of exposure, symptoms of organophosphate poisoning can develop within minutes or hours after exposure. Symptoms of organophosphate poisoning include runny nose, tightening of the chest, shortness of breath, sweating, nausea, vomiting, stomach cramps, and muscle twitching. Severely poisoned people may develop seizures, paralysis, or coma.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Judiciary (Administrative Office of the Courts), Centers for Disease Control and Prevention, Missouri Department of Agriculture, Illinois Department of Public Health, Michigan Department of Natural Resources, Pesticide Action Network UK, University of Florida, Department of Legislative Services

Fiscal Note History: First Reader - February 27, 2012
mc/kdm

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