

Senate Bill No. 585

(By MS. CHACE, MR. KAUFMAN, MR. WHITE, MR. TONKOVICH, MR.
BOETTNER AND MR. TUCKER)

[Introduced February 11, 1983; referred to the Committee
on the Judiciary.]

A BILL to amend article twenty-eight, chapter sixteen of the
code of West Virginia, one thousand nine hundred thirty-
one, as amended, by adding thereto a new section desig-
nated section ten, relating to the limitation of actions and
suits for damages resulting from exposure to chemical
defoliants and herbicides.

Be it enacted by the Legislature of West Virginia:

That article twenty-eight, chapter sixteen of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended, be amended by adding thereto a new section, desig-
nated section ten, to read as follows:

EXHIBIT D

**ARTICLE 28. ASSISTANCE TO KOREAN AND VIETNAM VETER-
ANS EXPOSED TO CERTAIN CHEMICAL DEFOL-
IANTS OR HERBICIDES OR OTHER CAUSITIVE
AGENTS, INCLUDING AGENT ORANGE.**

§16-28-10. Limitation of actions and suits.

1 An action to recover damages under the provisions of
2 this article for personal injury caused by contact with or
3 exposure to chemical defoliants or herbicides, including
4 agent orange, during either the Korean or Vietnam con-
5 flict, may be commenced within two years from the date
6 of discovery of such injury, or within two years from the
7 date when through the exercise of reasonable diligence
8 the cause of such injury should have been discovered,
9 whichever is later.

10 Every cause of action for an injury or death caused by
11 contact with or exposure to chemical defoliants or her-
12 bicides, including agent orange, during either the Korean
13 or Vietnam conflict, which is barred as of the effective
14 date of this section because the applicable period of
15 limitation has expired is hereby revived and an action
16 thereon may be commenced and prosecuted provided such

17 action is commenced within two years of the effective
18 date of this section.

(NOTE: The purpose of this bill is to extend the time within which an action for personal injury resulting from exposure to agent orange must be commenced and to provide a statute of limitations for such persons exposed that runs from the discovery of the affliction.)