



# American Tort Reform Association

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January 28, 2025

The Honorable Bob Lynn  
Chair, House Judiciary Committee  
LOB Room 206-208  
107 North Main Street  
Concord, NH 03301

Re: Opposition to H.B. 199 (January 29 Committee Hearing)

Dear Chairman Lynn and Members of the Committee:

On behalf of the American Tort Reform Association (ATRA), a national coalition of large and small businesses, nonprofits, and trade and professional associations with the mission promoting a fair and predictable civil justice system, we would like to express our opposition to H.B. 199. This bill would significantly increase New Hampshire's already lengthy statute of limitations—from 6 years to 20 years—for a civil action arising out of alleged harm from exposure to PFAS (perfluoroalkyl and polyfluoroalkyl substances). In doing so, the legislation would introduce greater uncertainty and potential unfairness into civil litigation, undermining the fundamental purposes of a statute of limitations.

As the New Hampshire Supreme Court has repeatedly emphasized, “The primary purpose of [a] statute of limitations is . . . to eliminate stale or fraudulent claims.”<sup>1</sup> The statute of limitations “establishes a deadline after which the defendant may legitimately have peace of mind; it also recognizes that after a certain period of time it is unfair to require the defendant to attempt to piece together . . . defense to an old claim.”<sup>2</sup> These limitation periods promote security and stability to human affairs and “expedite the orderly administration of justice.”<sup>3</sup>

H.B. 199 would have the opposite effect by extending the statute of limitations so long as to remove any meaningful incentive for a claimant to promptly file an injury claim. New Hampshire's current 6-year statute of limitations for PFAS injury claims is already twice as long as the state's generally applicable 3-year statute of limitations for personal injury claims.<sup>4</sup> This longer limitations period, which includes a discovery rule that potentially tolls the limitations period, was only adopted in 2021.<sup>5</sup> H.B. 199 would more than triple this already extended limitations period, allowing individuals to bring lawsuits for alleged injuries that occurred decades earlier.

Under the bill, a claimant allegedly injured from exposure to PFAS today could wait until 2045 to bring his or her lawsuit, whereas a claimant alleging wrongful death or catastrophic personal injury would have

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<sup>1</sup> *Perez v. Pike Industries, Inc.*, 889 A.2d 27, 30 (N.H. 2005) (quoting *Donnelly v. Eastman*, 826 A.2d 586 (N.H. 2003)).

<sup>2</sup> *Id.*; see also *French v. R.S. Audley, Inc.*, 464 A.2d 279, 282 (N.H. 1983) (“Statutes of limitation serve society’s purposes by keeping from the courts those claims which are stale or in which credibility has been eroded by the passage of time and faltering memories.”).

<sup>3</sup> *Wolf Investments, Inc. v. Town of Brookfield*, 529 A.2d 861, 862 (N.H. 1987) (quoting *Torr v. Dover*, 226 A.2d 96, 98 (N.H. 1967)).

<sup>4</sup> N.H. Rev. Stat. § 508:4.

<sup>5</sup> H.B. 236 (N.H. 2021).

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three years to sue. The bill's proposed 20-year limitations period could also allow claims that are older than two decades because the statute of limitations incorporates a discovery rule in which the limitations period is tolled for any period in which a claimant exercising reasonable diligence does not discover the injury or damages and the causal relationship giving rise to the claim. Thus, as a practical matter, the bill would allow PFAS injury claims with no clear stopping point, even after the extraordinary 20-year stated period.

Consequently, H.B. 199's proposed limitations period would encourage stale and fraudulent claims in contrast to the primary purpose of a statute of limitations to eliminate them. Defendants facing decades-old claims would be deprived of an ability to mount a fair defense, even where they are diligent in documenting activities that may involve PFAS and in retaining records. Insurers also may no longer provide coverage for alleged PFAS injury claims if any New Hampshire business can basically be subjected to liability indefinitely.

New Hampshire's current statute of limitations, by comparison, provides a more reasonable balance of the interests of both plaintiffs and defendants. An injured plaintiff has 6 years to pursue a claim, and potentially far longer if the plaintiff did not reasonably discover his or her injury. Allowing a plaintiff who *knows* he or she has sustained an injury or damages to simply decide to sit on that claim for 20 years is excessive and in no way calibrated to "expedite the orderly administration of justice."

Finally, H.B. 199 would set a troubling precedent with respect to other state statutes of limitation because PFAS injury claims are not unique to tort law. Many types of alleged exposure-related injuries can have latency periods, but they are subject to reasonable limitation periods (again, generally 3 years) that may be tolled by the application of a discovery rule. Creating an extraordinarily long statute of limitations specific to PFAS claims will lead to other calls to significantly extend limitations periods, introducing tremendous uncertainty into New Hampshire's civil justice system with respect to laws designed to promote stability and certainty.

For these reasons, ATRA respectfully urges the Committee to reject H.B. 199. Thank you for your consideration.

Sincerely,



Matt Fullenbaum

Vice President, Legislative Affairs

cc: Members of the House Judiciary Committee