

## 2017-K180

Assembly Resolution No. 180

BY: M. of A. DenDekker

URGING the New York State Congressional delegation to pass the Blue Water Navy Vietnam Veterans Act of 2017, H.R. 299

WHEREAS, The federal legislation, The Blue Water Navy Vietnam Veterans Act of 2017, would restore the presumption of Agent Orange exposure to those veterans who served in the bays, harbors, and territorial seas of Vietnam; and

WHEREAS, H.R. 299 would correct a Veteran's Affairs (VA) policy decision implemented in 2002, that unilaterally stripped these veterans of the presumption of exposure granted by the Agent Orange Act of 1991; and

WHEREAS, This action was based on a 1997 General Counsel's opinion that interpreted the phrase "service in the Republic of Vietnam" as to apply only to the landmass; the opinion ignored international recognition that national sovereignty extended to the territorial seas; and

WHEREAS, The United States specifically recognized this sovereignty in the 1954 Geneva Accords and the 1973 Paris Peace Treaty that ended the Vietnam War; and

WHEREAS, Dioxin is a chemical contaminant that was contained in Agent Orange, a herbicide used for defoliation in Vietnam from 1962 until 1971; and

WHEREAS, Agent Orange received its name from orange painted on barrels containing the herbicide; and

WHEREAS, Herbicide-spraying operations were conducted to clear vegetation, denying the enemy camouflage or cover for ambush; herbicides were also used to destroy enemy food crops and to clear base perimeters, landing zones, waterways, and communication lines; an estimated 11 million gallons of Agent Orange was sprayed; and

WHEREAS, Diseases and/or conditions were recognized by the federal Department of Veterans Affairs to be associated with Agent Orange; among those cited include, but limited to: adult-onset diabetes mellitus (Type 11), Parkinson's disease, prostate cancer, multiple myeloma, respiratory cancers, and soft-tissue sarcoma; and

WHEREAS, In 1991, federal legislation was enacted to allow the Secretary of Veterans Affairs to declare certain illnesses "presumptive" to exposure to Agent Orange and enabled these veterans to receive disability compensation for these related conditions; and

WHEREAS, In 2002, the VA limited the scope of the law to only those veterans who could provide orders for "boots on the ground" in Vietnam; boots on the ground encompassed infantry and the riverine Navy; as a result, veterans who served in the waters off Vietnam, commonly known as "blue water veterans," were forced to file individual claims with the VA

to restore their benefits, which are then decided on a case-by-case basis; the VA has denied over 32,000 through 2009; and

WHEREAS, In May 2011, a report issued by the Institute of Medicine concluded that plausible routes of exposure of Agent Orange exist for blue water veterans; presumptive coverage lifts the burden of prove from the individual veteran to prove direct exposure of Agent Orange; and

WHEREAS, In April 2015, the Court of Appeals for Veterans Claims rules that the VA policy of excluding bays and harbors from the definition of inland waters, presumption of exposure was irrational, arbitrary and capricious; and

WHEREAS, This legislation is endorsed by about 35 military and veterans organization including the Vietnam Veterans of America, the Association of the U.S. Navy, Fleet Reserve Association and the Blue Water Navy Vietnam Veterans Association; now, therefore, be it

RESOLVED, That the New York State Congressional delegation be and hereby is respectfully memorialized by this Legislative Body to pass legislation to provide presumptive coverage of Agent Orange exposure to those veterans known as "blue water veterans", H.R.299, and be it further

RESOLVED, That copies of this Resolution, suitably engrossed, be transmitted to each member of the Congressional delegation from the State of New York; John Rowan, President, Vietnam Veterans of America; and Ned D. Foote, President, Vietnam Veterans of America New York State Council.