

107TH CONGRESS
2^D SESSION

S. 3050

To provide multiparty, multiform jurisdiction of district courts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 3, 2002

Mr. HATCH introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide multiparty, multiform jurisdiction of district courts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Multiparty,
5 Multiforum Trial Jurisdiction Act of 2002”.

6 **SEC. 2. MULTIPARTY, MULTIFORM JURISDICTION OF DIS-**
7 **TRICT COURTS.**

8 (a) BASIS OF JURISDICTION.—

1 (1) IN GENERAL.—Chapter 85 of title 28,
2 United States Code, is amended by adding at the
3 end the following:

4 **“§ 1369. Multiparty, multiform jurisdiction**

5 “(a) IN GENERAL.—The district courts shall have
6 original jurisdiction of any civil action involving minimal
7 diversity between adverse parties that arises from a single
8 accident, where at least 75 natural persons have died in
9 the accident at a discrete location, if—

10 “(1) a defendant resides in a State and a sub-
11 stantial part of the accident took place in another
12 State or other location, regardless of whether that
13 defendant is also a resident of the State where a
14 substantial part of the accident took place;

15 “(2) any two defendants reside in different
16 States, regardless of whether such defendants are
17 also residents of the same State or States; or

18 “(3) substantial parts of the accident took place
19 in different States.

20 “(b) LIMITATION OF JURISDICTION OF DISTRICT
21 COURTS.—The district court shall abstain from hearing
22 any civil action described in subsection (a) in which—

23 “(1) the substantial majority of all plaintiffs
24 are citizens of a single State of which the primary
25 defendants are also citizens; and

1 “(2) the claims asserted will be governed pri-
2 marily by the laws of that State.

3 “(c) SPECIAL RULES AND DEFINITIONS.—For pur-
4 poses of this section—

5 “(1) minimal diversity exists between adverse
6 parties if any party is a citizen of a State and any
7 adverse party is a citizen of another State, a citizen
8 or subject of a foreign state, or a foreign state as
9 defined in section 1603(a) of this title;

10 “(2) a corporation is deemed to be a citizen of
11 any State, and a citizen or subject of any foreign
12 state, in which it is incorporated or has its principal
13 place of business, and is deemed to be a resident of
14 any State in which it is incorporated or licensed to
15 do business or is doing business;

16 “(3) the term ‘injury’ means—

17 “(A) physical harm to a natural person;
18 and

19 “(B) physical damage to or destruction of
20 tangible property, but only if physical harm de-
21 scribed in subparagraph (A) exists;

22 “(4) the term ‘accident’ means a sudden acci-
23 dent, or a natural event culminating in an accident,
24 that results in death incurred at a discrete location
25 by at least 75 natural persons; and

1 “(5) the term ‘State’ includes the District of
2 Columbia, the Commonwealth of Puerto Rico, and
3 any territory or possession of the United States.

4 “(d) INTERVENING PARTIES.—In any action in a dis-
5 trict court which is or could have been brought, in whole
6 or in part, under this section, any person with a claim
7 arising from the accident described in subsection (a) shall
8 be permitted to intervene as a party plaintiff in the action,
9 even if that person could not have brought an action in
10 a district court as an original matter.

11 “(e) NOTIFICATION OF JUDICIAL PANEL ON MULTI-
12 DISTRICT LITIGATION.—A district court in which an ac-
13 tion under this section is pending shall promptly notify
14 the judicial panel on multidistrict litigation of the pend-
15 ency of the action.”.

16 (2) CONFORMING AMENDMENT.—The table of
17 sections at the beginning of chapter 85 of title 28,
18 United States Code, is amended by adding at the
19 end the following new item:

“1369. Multiparty, multiform jurisdiction.”.

20 (b) VENUE.—Section 1391 of title 28, United States
21 Code, is amended by adding at the end the following:

22 “(g) A civil action in which jurisdiction of the district
23 court is based upon section 1369 of this title may be
24 brought in any district in which any defendant resides or

1 in which a substantial part of the accident giving rise to
2 the action took place.”.

3 (c) REMOVAL OF ACTIONS.—Section 1441 of title 28,
4 United States Code, is amended—

5 (1) in subsection (e) by striking “(e) The court
6 to which such civil action is removed” and inserting
7 “(f) The court to which a civil action is removed
8 under this section”; and

9 (2) by inserting after subsection (d) the fol-
10 lowing:

11 “(e)(1) Notwithstanding the provisions of subsection
12 (b) of this section, a defendant in a civil action in a State
13 court may remove the action to the district court of the
14 United States for the district and division embracing the
15 place where the action is pending if—

16 “(A) the action could have been brought in a
17 United States district court under section 1369 of
18 this title; or

19 “(B) the defendant is a party to an action
20 which is or could have been brought, in whole or in
21 part, under section 1369 in a United States district
22 court and arises from the same accident as the ac-
23 tion in State court, even if the action to be removed
24 could not have been brought in a district court as
25 an original matter.

1 The removal of an action under this subsection shall be
2 made in accordance with section 1446 of this title, except
3 that a notice of removal may also be filed before trial of
4 the action in State court within 30 days after the date
5 on which the defendant first becomes a party to an action
6 under section 1369 in a United States district court that
7 arises from the same accident as the action in State court,
8 or at a later time with leave of the district court.

9 “(2) Whenever an action is removed under this sub-
10 section and the district court to which it is removed or
11 transferred under section 1407(j) has made a liability de-
12 termination requiring further proceedings as to damages,
13 the district court shall remand the action to the State
14 court from which it had been removed for the determina-
15 tion of damages, unless the court finds that, for the con-
16 venience of parties and witnesses and in the interest of
17 justice, the action should be retained for the determination
18 of damages.

19 “(3) Any remand under paragraph (2) shall not be
20 effective until 60 days after the district court has issued
21 an order determining liability and has certified its inten-
22 tion to remand the removed action for the determination
23 of damages. An appeal with respect to the liability deter-
24 mination of the district court may be taken during that
25 60-day period to the court of appeals with appellate juris-

1 diction over the district court. In the event a party files
2 such an appeal, the remand shall not be effective until the
3 appeal has been finally disposed of. Once the remand has
4 become effective, the liability determination shall not be
5 subject to further review by appeal or otherwise.

6 “(4) Any decision under this subsection concerning
7 remand for the determination of damages shall not be re-
8 viewable by appeal or otherwise.

9 “(5) An action removed under this subsection shall
10 be deemed to be an action under section 1369 and an ac-
11 tion in which jurisdiction is based on section 1369 of this
12 title for purposes of this section and sections 1407, 1697,
13 and 1785 of this title.

14 “(6) Nothing in this subsection shall restrict the au-
15 thority of the district court to transfer or dismiss an ac-
16 tion on the ground of inconvenient forum.”.

17 (d) SERVICE OF PROCESS.—

18 (1) OTHER THAN SUBPOENAS.—

19 (A) IN GENERAL.—Chapter 113 of title
20 28, United States Code, is amended by adding
21 at the end the following:

22 **“§ 1697. Service in multiparty, multiforum actions**

23 “When the jurisdiction of the district court is based
24 in whole or in part upon section 1369 of this title, process,
25 other than subpoenas, may be served at any place within

1 the United States, or anywhere outside the United States
2 if otherwise permitted by law.”.

3 (B) TABLE OF SECTIONS.—The table of
4 sections at the beginning of chapter 113 of title
5 28, United States Code, is amended by adding
6 at the end the following:

“1697. Service in multiparty, multiforum actions.”.

7 (2) SERVICE OF SUBPOENAS.—

8 (A) IN GENERAL.—Chapter 117 of title
9 28, United States Code, is amended by adding
10 at the end the following:

11 **“§ 1785. Subpoenas in multiparty, multiforum actions**

12 “When the jurisdiction of the district court is based
13 in whole or in part upon section 1369 of this title, a sub-
14 poena for attendance at a hearing or trial may, if author-
15 ized by the court upon motion for good cause shown, and
16 upon such terms and conditions as the court may impose,
17 be served at any place within the United States, or any-
18 where outside the United States if otherwise permitted by
19 law.”.

20 (B) TABLE OF SECTIONS.—The table of
21 sections at the beginning of chapter 117 of title
22 28, United States Code, is amended by adding
23 at the end the following:

“1785. Subpoenas in multiparty, multiforum actions.”.

1 **SEC. 3. EFFECTIVE DATE.**

2 The amendments made by section 2 shall apply to
3 a civil action if the accident giving rise to the cause of
4 action occurred on or after the 90th day after the date
5 of enactment of this Act.

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