

107TH CONGRESS  
1ST SESSION

# H. R. 860

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IN THE SENATE OF THE UNITED STATES

MARCH 15, 2001

Received; read twice and referred to the Committee on the Judiciary

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## AN ACT

To amend title 28, United States Code, to allow a judge to whom a case is transferred to retain jurisdiction over certain multidistrict litigation cases for trial, and to provide for Federal jurisdiction of certain multiparty, multiforum civil actions.

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 “Multidistrict,  
5       Multiparty, Multiforum Trial Jurisdiction Act of 2001”.

6       **SEC. 2. MULTIDISTRICT LITIGATION.**

7       Section 1407 of title 28, United States Code, is  
8       amended—

9               (1) in the third sentence of subsection (a), by  
10       inserting “or ordered transferred to the transferee  
11       or other district under subsection (i)” after “termi-  
12       nated”; and

13              (2) by adding at the end the following new sub-  
14       section:

15       “(i)(1) Subject to paragraph (2) and except as pro-  
16       vided in subsection (j), any action transferred under this  
17       section by the panel may be transferred for trial purposes,  
18       by the judge or judges of the transferee district to whom  
19       the action was assigned, to the transferee or other district  
20       in the interest of justice and for the convenience of the  
21       parties and witnesses.

22       “(2) Any action transferred for trial purposes under  
23       paragraph (1) shall be remanded by the panel for the de-  
24       termination of compensatory damages to the district court  
25       from which it was transferred, unless the court to which

1 the action has been transferred for trial purposes also  
 2 finds, for the convenience of the parties and witnesses and  
 3 in the interests of justice, that the action should be re-  
 4 tained for the determination of compensatory damages.”.

5 **SEC. 3. MULTIPARTY, MULTIFORUM JURISDICTION OF DIS-**  
 6 **TRICT COURTS.**

7 (a) BASIS OF JURISDICTION.—

8 (1) IN GENERAL.—Chapter 85 of title 28,  
 9 United States Code, is amended by adding at the  
 10 end the following new section:

11 **“§ 1369. Multiparty, multiforum jurisdiction**

12 “(a) IN GENERAL.—The district courts shall have  
 13 original jurisdiction of any civil action involving minimal  
 14 diversity between adverse parties that arises from a single  
 15 accident, where at least 25 natural persons have either  
 16 died or incurred injury in the accident at a discrete loca-  
 17 tion and, in the case of injury, the injury has resulted in  
 18 damages which exceed \$150,000 per person, exclusive of  
 19 interest and costs, if—

20 “(1) a defendant resides in a State and a sub-  
 21 stantial part of the accident took place in another  
 22 State or other location, regardless of whether that  
 23 defendant is also a resident of the State where a  
 24 substantial part of the accident took place;

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

4           “(3) substantial parts of the accident took place  
5       in different States.

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

9           “(1) the substantial majority of all plaintiffs  
10       are citizens of a single State of which the primary  
11       defendants are also citizens; and

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

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

16           “(1) minimal diversity exists between adverse  
17       parties if any party is a citizen of a State and any  
18       adverse party is a citizen of another State, a citizen  
19       or subject of a foreign state, or a foreign state as  
20       defined in section 1603(a) of this title;

21           “(2) a corporation is deemed to be a citizen of  
22       any State, and a citizen or subject of any foreign  
23       state, in which it is incorporated or has its principal  
24       place of business, and is deemed to be a resident of

1 any State in which it is incorporated or licensed to  
2 do business or is doing business;

3 “(3) the term ‘injury’ means—

4 “(A) physical harm to a natural person;  
5 and

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

9 “(4) the term ‘accident’ means a sudden acci-  
10 dent, or a natural event culminating in an accident,  
11 that results in death or injury incurred at a discrete  
12 location by at least 25 natural persons; and

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

16 “(d) INTERVENING PARTIES.—In any action in a dis-  
17 trict court which is or could have been brought, in whole  
18 or in part, under this section, any person with a claim  
19 arising from the accident described in subsection (a) shall  
20 be permitted to intervene as a party plaintiff in the action,  
21 even if that person could not have brought an action in  
22 a district court as an original matter.

23 “(e) NOTIFICATION OF JUDICIAL PANEL ON MULTI-  
24 DISTRICT LITIGATION.—A district court in which an ac-  
25 tion under this section is pending shall promptly notify

1 the judicial panel on multidistrict litigation of the pend-  
2 ency of the action.”.

3 (2) CONFORMING AMENDMENT.—The table of  
4 sections at the beginning of chapter 85 of title 28,  
5 United States Code, is amended by adding at the  
6 end the following new item:

“1369. Multiparty, multiform jurisdiction.”.

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

9 “(g) A civil action in which jurisdiction of the district  
10 court is based upon section 1369 of this title may be  
11 brought in any district in which any defendant resides or  
12 in which a substantial part of the accident giving rise to  
13 the action took place.”.

14 (c) MULTIDISTRICT LITIGATION.—Section 1407 of  
15 title 28, United States Code, as amended by section 2 of  
16 this Act, is further amended by adding at the end the fol-  
17 lowing:

18 “(j)(1) In actions transferred under this section when  
19 jurisdiction is or could have been based, in whole or in  
20 part, on section 1369 of this title, the transferee district  
21 court may, notwithstanding any other provision of this  
22 section, retain actions so transferred for the determination  
23 of liability and punitive damages. An action retained for  
24 the determination of liability shall be remanded to the dis-  
25 trict court from which the action was transferred, or to

1 the State court from which the action was removed, for  
2 the determination of damages, other than punitive dam-  
3 ages, unless the court finds, for the convenience of parties  
4 and witnesses and in the interest of justice, that the action  
5 should be retained for the determination of damages.

6 “(2) Any remand under paragraph (1) shall not be  
7 effective until 60 days after the transferee court has  
8 issued an order determining liability and has certified its  
9 intention to remand some or all of the transferred actions  
10 for the determination of damages. An appeal with respect  
11 to the liability determination of the transferee court may  
12 be taken during that 60-day period to the court of appeals  
13 with appellate jurisdiction over the transferee court. In the  
14 event a party files such an appeal, the remand shall not  
15 be effective until the appeal has been finally disposed of.  
16 Once the remand has become effective, the liability deter-  
17 mination shall not be subject to further review by appeal  
18 or otherwise.

19 “(3) An appeal with respect to determination of puni-  
20 tive damages by the transferee court may be taken, during  
21 the 60-day period beginning on the date the order making  
22 the determination is issued, to the court of appeals with  
23 jurisdiction over the transferee court.

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

4 “(5) Nothing in this subsection shall restrict the au-  
5 thority of the transferee court to transfer or dismiss an  
6 action on the ground of inconvenient forum.”.

7 (d) REMOVAL OF ACTIONS.—Section 1441 of title 28,  
8 United States Code, is amended—

9 (1) in subsection (e) by striking “(e) The court  
10 to which such civil action is removed” and inserting  
11 “(f) The court to which a civil action is removed  
12 under this section”; and

13 (2) by inserting after subsection (d) the fol-  
14 lowing new subsection:

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

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

23 “(B) the defendant is a party to an action  
24 which is or could have been brought, in whole or in  
25 part, under section 1369 in a United States district



1 court and arises from the same accident as the ac-  
2 tion in State court, even if the action to be removed  
3 could not have been brought in a district court as  
4 an original matter.

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

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

23 “(3) Any remand under paragraph (2) shall not be  
24 effective until 60 days after the district court has issued  
25 an order determining liability and has certified its inten-

1 tion to remand the removed action for the determination  
2 of damages. An appeal with respect to the liability deter-  
3 mination of the district court may be taken during that  
4 60-day period to the court of appeals with appellate juris-  
5 diction over the district court. In the event a party files  
6 such an appeal, the remand shall not be effective until the  
7 appeal has been finally disposed of. Once the remand has  
8 become effective, the liability determination shall not be  
9 subject to further review by appeal or otherwise.

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

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

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

21 (e) SERVICE OF PROCESS.—

22 (1) OTHER THAN SUBPOENAS.—(A) Chapter  
23 113 of title 28, United States Code, is amended by  
24 adding at the end the following new section:

1 **“§ 1697. Service in multiparty, multiform actions**

2 “When the jurisdiction of the district court is based  
3 in whole or in part upon section 1369 of this title, process,  
4 other than subpoenas, may be served at any place within  
5 the United States, or anywhere outside the United States  
6 if otherwise permitted by law.”.

7 (B) The table of sections at the beginning of  
8 chapter 113 of title 28, United States Code, is  
9 amended by adding at the end the following new  
10 item:

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

11 (2) SERVICE OF SUBPOENAS.—(A) Chapter 117  
12 of title 28, United States Code, is amended by add-  
13 ing at the end the following new section:

14 **“§ 1785. Subpoenas in multiparty, multiform actions**

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

23 (B) The table of sections at the beginning of  
24 chapter 117 of title 28, United States Code, is

1       amended by adding at the end the following new  
2       item:

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

3   **SEC. 4. EFFECTIVE DATE.**

4       (a) SECTION 2.—The amendments made by section  
5   2 shall apply to any civil action pending on or brought  
6   on or after the date of the enactment of this Act.

7       (b) SECTION 3.—The amendments made by section  
8   3 shall apply to a civil action if the accident giving rise  
9   to the cause of action occurred on or after the 90th day  
10  after the date of the enactment of this Act.

Passed the House of Representatives March 14,  
2001.

Attest:

JEFF TRANDAHL,

*Clerk.*