

Class Action Legislation

SECTION 1: TITLE

Class Action Fairness Act of 2005

SECTION 2: FINDINGS AND PURPOSE

The purpose of the bill is to assure fair and prompt recoveries for class members with legitimate claims, to ensure federal court consideration of interstate cases of national importance, and to benefit society by encouraging innovation of lowering prices.

SECTION 3: CONSUMER CLASS ACTION BILL OF RIGHTS

I. Coupon Settlements

- (a) Courts must hold hearing on fairness of any class action settlement in which class members receive coupons as compensation.
- (b) Attorneys' fees for coupon settlements must be based on either (a) the value of coupons actually redeemed or (b) the hours actually billed in prosecuting class action.
- (c) In settlements involving the award of coupons, courts may allow expert testimony, upon motion, on the value of coupons redeemed.

II. Protection against loss by class members

Courts may approve a proposed settlement under which any class member is obligated to pay sums to class counsel . . . , if court makes a written finding that non-monetary benefits substantially outweigh loss.

III. Protection against discrimination based on geographic location

Courts may not approve settlements that allow class members greater sums based on a geographic proximity.

IV. Notification to appropriate Federal and State Officials

Defendants must notify, w/in 10 days after a proposed settlement is filed, appropriate federal and state authorities to ensure an additional layer of independent oversight. Settlement cannot be approved until 90 days after the later of the dates that the federal and state officials were served with notice.

SECTION 4: FEDERAL COURT JURISDICTION FOR INTERSTATE CLASS ACTIONS

1) District courts have original jurisdiction in civil matters in which the amount in controversy exceeds the sum or value of \$5,000,000.00, exclusive of interest and costs, and is a class action which:

(a) any member of a class of plaintiffs is a citizen of a State different from any defendant;

(b) any member of a class of plaintiffs is a foreign state or subject of a foreign state and any defendant is a citizen of a State; or

(c) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

•Only applies to cases where the primary defendants are not States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief.

•Only applies in cases where the number of proposed class members exceeds 100.

•Only applies in cases where less than one-third of the class members are from the state where case was originally filed.

2) If greater than two-thirds of class members, and the primary defendant(s) are citizens of the State in which action was originally filed, district courts shall decline to accept jurisdiction.

•If during the 3-year period preceding the filing of current class action, another class action has been filed asserting the same or similar factual allegations against any of the defendants on behalf of the same or other persons, case may be removed to federal court.

3) A district court may decline to exercise jurisdiction over a class action in which greater than one-third but less than two-thirds of the members of all proposed class members are citizens of the State in which the action was originally filed, based on the following factors:

- (a) whether the claims involve matters of national or interstate interest;
- (b) whether the claims will be governed by laws of the State in which the action was originally filed;
- (c) whether the class action has been pleaded in a manner that seeks to avoid Federal jurisdiction;
- (d) whether the action was brought in a forum with a distinct nexus with the class members, the alleged harm, or the defendants; and
- (e) whether the number of citizens of the State in which the action was originally filed in all proposed plaintiff classes in the aggregate is substantially larger than the number of citizens from any other State, and the citizenship of the other members of the proposed class is dispersed among a substantial number of States.

• **3-year rule also applies to this provision**

SECTION 5: REMOVAL OF INTERSTATE CLASS ACTIONS

- 1) the 1-year limitation on removal does not apply
- 2) removal is permissible by any defendant regardless of whether the defendant is a citizen of the state in which the action is brought
- 3) consent is not required from other defendants

SECTION 6: REPORT ON CLASS ACTION SETTLEMENTS

Directs the Judicial Conference of the United States to prepare a report (w/in 12 months of enactment of this legislation) with recommendations on the best practices that courts can use to ensure fairness in class action settlements.

**SECTION 7: ENACTMENT OF JUDICIAL CONFERENCE
RECOMMENDATIONS**

Accelerates acceptance of revisions to Federal Rule of Civil Procedure 23, as previously recommended by United States Supreme Court.

**SECTION 8: RULEMAKING AUTHORITY OF SUPREME COURT AND
JUDICIAL CONFERENCE**

Clarifies that nothing in the bill restricts the authority of the Judicial Conference and Supreme Court to implement new rules relating to class actions.

SECTION 9: EFFECTIVE DATE

February 18, 2005