

Supporters need more votes to advance Senate class action bill

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WASHINGTON (AP) — Despite majority support for changing the way America sues, Democrats say they have enough votes in the Senate to block Republicans from moving class action lawsuits out of state court and into the federal system.

The Senate is the last stumbling block for the legislation, with President Bush, the GOP-controlled House, Senate Republicans and some Senate Democrats already on board.

But most of the 48 Senate Democrats oppose the legislation to place all national class action lawsuits into the federal system, enough to filibuster if necessary, Democratic leaders say.

When asked recently if Senate Majority Leader Bill Frist, R-Tenn., had enough votes to break a filibuster, Senate Democratic leader Tom Daschle of South Dakota said: "I don't think so."

Supporters are still looking for those elusive votes. By some estimates, the bill has at least 57 backers. It takes 60 votes to break a filibuster in the Senate, which has 51 Republicans, 48 Democrats and one independent senator, Sen. Jim Jeffords of Vermont.

"I think our chances of getting it out of the Senate this year are good. That's not to suggest that it's going to be easy," said Sen. Tom Carper of Delaware, one of the Democratic supporters of the bill.

Last week Republicans decided to force a confrontation on the legislation to see if Democrats are serious about filibustering the bill.

While Carper supports the bill, he warned Republicans not to dismiss Democratic amendments or simply use the legislation to score political points. If they do, he said in an interview, "we're dead and so are those who strongly believe we need reforms like this."

Under both the House and Senate versions of the bill, class-action lawsuits in which the primary defendant and more than one-third of the plaintiffs are from the same state would still be heard in state court. But if less than one-third of the plaintiffs are from the same state as the primary defendant, the case would go to federal court.

Also, at least \$5 million would have to be at stake for a class-action lawsuit to be heard in federal court.

The House version would apply to all lawsuits, including ones being argued in court now, but the Senate version is not retroactive. It also would apply only to class action lawsuits and not to similar actions, including lawsuits consolidated into one case or state attorney general actions.

Opponents of the legislation call it corporate welfare to help out big businesses that abuse the public. Federal courts are assumed to be less likely to issue multimillion-dollar verdicts against big corporations. Democrats also say the bill was meant hurt to trial lawyers, a perennial Republican target.

The federal courts already are overwhelmed with cases, which means that class action lawsuits would receive the lowest priority, said Jamie Court, executive director of the Foundation for Taxpayer and Consumer Rights.

But the bill's supporters say trial lawyers currently seek the most sympathetic venues around the nation, and target judges known for multimillion dollar verdicts, forcing businesses into unjustified settlements.

Moving the cases to federal court would curb frivolous lawsuits, they say, and keep trial lawyers from getting millions in fees while their clients get little. □