

HOUSE No. 1576

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 1, 1934.

The joint committee on the Judiciary, to whom were referred so much of the annual report of the Judicial Council (Pub. Doc. No. 144) as relates to facilitating prompt and less expensive administration of the law relative to compulsory insurance by owners of motor vehicles (page 19), and as relates to venue of transitory actions applicable to district courts in connection with accidents caused by motor vehicles (page 34) and the petition (accompanied by bill, House, No. 234) of J. Walton Tuttle relative to items of costs in the superior court and the supreme judicial court and to removal of actions of tort from district courts to the superior court, report the accompanying bill (House, No. 1576).

For the committee,

HORACE T. CAHILL.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Four.

An Act giving District Courts Exclusive Original Jurisdiction of Actions of Tort arising out of the Operation of Motor Vehicles.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section nineteen of chapter two hun-
2 dred and eighteen of the General Laws, as appearing
3 in the Tercentenary edition, is hereby amended by
4 striking out, in the first line, the word "District" and
5 inserting in place thereof the words:— Except as
6 herein otherwise provided, district, — and by adding
7 at the end thereof the following new sentence:—
8 District courts shall have exclusive original jurisdic-
9 tion of actions of tort arising out of the operation of a
10 motor vehicle, — so as to read as follows:— *Sec-*
11 *tion 19.* Except as herein otherwise provided, district
12 courts shall have original jurisdiction concurrent with
13 the superior court of actions of contract, tort and
14 replevin, and also of actions in summary process
15 under chapter two hundred and thirty-nine and pro-
16 ceedings under section forty-one of chapter two hun-
17 dred and thirty-one. District courts shall have
18 exclusive original jurisdiction of actions of tort
19 arising out of the operation of a motor vehicle.

1 SECTION 2. Section two of chapter two hundred
2 and twenty-three of the General Laws, as so appear-
3 ing, is hereby amended by inserting after the word
4 "court" in the second line the words:—, except as
5 herein otherwise provided, — and by inserting after
6 the word "county" in the tenth line the following
7 new sentence:— Except that an action of tort arising
8 out of the operation of a motor vehicle shall be
9 brought in a district court in the jurisdiction of which
10 the plaintiff lives or in any district court immediately
11 adjoining thereto and in the same county, or in any
12 district court in the jurisdiction of which the defend-
13 ant lives or in any district court immediately adjoin-
14 ing thereto and in the same county, — so as to read
15 as follows:— *Section 2.* Except as provided in sec-
16 tion twenty-one of chapter two hundred and eighteen,
17 a transitory action in a district court, except as herein
18 otherwise provided shall be brought in the county
19 where one of the defendants lives or has his usual
20 place of business, or, if commenced by trustee process,
21 in the county where all persons named in the writ as
22 trustees live or have their usual places of business,
23 and, in either case, in a court within whose judicial
24 district one of the parties lives or has his usual place
25 of business, except that an action commenced by
26 trustee process may be brought in the municipal
27 court of the city of Boston if any trustee resides or
28 has his usual place of business in Suffolk county.
29 Except that an action of tort arising out of the opera-
30 tion of a motor vehicle shall be brought in a district
31 court in the jurisdiction of which the plaintiff lives
32 or in any district court immediately adjoining thereto
33 and in the same county, or in any district court in
34 the jurisdiction of which the defendant lives or in

35 any district court immediately adjoining thereto and
36 in the same county.

37 Said courts shall have jurisdiction of a transitory
38 action against a defendant who is not an inhabitant
39 of the commonwealth, if personal service or an effectual
40 attachment of property is made within the common-
41 wealth; and such action may be brought in any of
42 said courts in the county where the service or attach-
43 ment was made.

1 SECTION 3. Chapter two hundred and thirty-one
2 of the General Laws, as so appearing, is hereby
3 amended by inserting after section one hundred and
4 four the following new section:—

5 *Section 104A.* Not less than two nor more than
6 four days after a plaintiff has entered in a district
7 court an action of tort arising out of the operation of
8 a motor vehicle, he may file in said court a claim of
9 trial by the superior court, with or without jury, and
10 an affidavit by his counsel of record, if any, and if
11 none, the affidavit of such party, that in his opinion
12 there is an issue of fact or law requiring trial in the
13 cause, and that such trial is in good faith intended,
14 together with the sum of five dollars for the entry of
15 the cause in the superior court, and a bond in the
16 penal sum of one hundred dollars, with such surety or
17 sureties as may be approved by the defendant or the
18 clerk or an assistant clerk of said district court, pay-
19 able to the other party or parties to the cause, condi-
20 tioned to satisfy any judgment for costs which may
21 be entered against him in the superior court in said
22 cause within thirty days after the entry thereof. The
23 clerk shall forthwith transmit the papers and entry
24 fee in the cause to the clerk of the superior court, and

25 the case shall proceed as though originally entered
26 there, but if after removal a trial by jury is claimed
27 by the defendants, or any of them, the case may be
28 marked for trial upon the lists of causes advanced for
29 speedy trial by jury.

1 SECTION 4. Section one hundred and four of said
2 chapter two hundred and thirty-one, as so appearing,
3 is hereby amended by striking out in the eleventh
4 and twenty-fourth lines the word "three", and in-
5 serting in place thereof the word:— five, — so as to
6 read as follows:— *Section 104.* No other party to
7 such action shall be entitled to an appeal. In lieu
8 thereof, in case such action is an action of contract,
9 tort or replevin in which the debt or damages de-
10 manded or the value of the property detained exceeds
11 the jurisdictional limit of said district court effective
12 immediately prior to September first, nineteen hun-
13 dred and twentieth-nine, any such other party may,
14 within two days after the time allowed for entering
15 his appearance, file in said court a claim of trial by
16 the superior court, with or without jury, and an
17 affidavit by his counsel of record, if any, and if none,
18 the affidavit of such party, that in his opinion there
19 is an issue of fact or law requiring trial in the cause,
20 and that such trial is in good faith intended, together
21 with the sum of five dollars for the entry of the cause
22 in the superior court, and a bond in the penal sum of
23 one hundred dollars, with such surety or sureties as
24 may be approved by the plaintiff or the clerk or an
25 assistant clerk of said district court, payable to the
26 other party or parties to the cause, conditioned to
27 satisfy any judgment for costs which may be entered
28 against him in the superior court in said cause within

29 thirty days after the entry thereof; and, in lieu of
30 such an appeal in case such action is not an action of
31 contract, tort or replevin as aforesaid, any such other
32 party may, within two days after the time allowed for
33 entering his appearance, file in said court a claim of
34 trial by jury, and an affidavit by his counsel of record,
35 if any, and if none, the affidavit of such party, that
36 in his opinion there is an issue of fact requiring trial
37 in the cause, and that such trial is in good faith in-
38 tended, together with the sum of five dollars for the
39 entry of the cause in the superior court, and a bond as
40 hereinbefore provided. The clerk shall forthwith
41 transmit the papers and entry fee in the cause to the
42 clerk of the superior court, and the same shall proceed
43 as though then originally entered there, but, if a trial
44 by jury is claimed, may be marked for trial upon the
45 lists of causes advanced for speedy trial by jury.

1 SECTION 5. This act shall take effect on October
2 first of the current year and shall apply only to cases
3 entered thereafter.

