

**As Passed by the House**

**124th General Assembly**

**Regular Session**

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**Sub. S. B. No. 107**

**SENATORS Armbruster, Jacobson, Johnson, Blessing, Austria, Amstutz,  
Hottinger, DiDonato, Harris, Spada, Mumper, Ryan**

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Reidelbach, Olman, Buehrer, Hughes, G. Smith, McGregor, Schaffer, Niehaus,  
Hollister**

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**A B I L L**

To amend sections 2307.60, 2307.61, 2307.62, and 1  
4399.18 of the Revised Code to specify the 2  
circumstances that would bar the recovery of 3  
damages in tort actions commenced by criminal 4  
offenders. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 2307.60, 2307.61, 2307.62, and 6  
4399.18 of the Revised Code be amended to read as follows: 7

**Sec. 2307.60.** (A) Anyone injured in person or property by a 8  
criminal act has, and may recover full damages in, a civil action 9  
unless specifically excepted by law, may recover the costs of 10  
maintaining the civil action and attorney's fees if authorized by 11  
any provision of the Rules of Civil Procedure or another section 12  
of the Revised Code or under the common law of this state, and may 13

recover punitive or exemplary damages if authorized by section 14  
2315.21 or another section of the Revised Code. No record of a 15  
conviction, unless obtained by confession in open court, shall be 16  
used as evidence in a civil action brought pursuant to division 17  
(A) of this section. 18

(B)(1) As used in division (B) of this section, "tort action" 19  
means a civil action for damages for injury, death, or loss to 20  
person or property other than a civil action for damages for a 21  
breach of contract or another agreement between persons. "Tort 22  
action" includes, but is not limited to, a product liability 23  
claim, an action for wrongful death under Chapter 2125. of the 24  
Revised Code, and an action based on derivative claims for relief. 25

(2) Recovery on a claim for relief in a tort action is barred 26  
to any person or the person's legal representative if the person 27  
has been convicted of or has pleaded guilty to a felony, or to a 28  
misdemeanor that is an offense of violence, arising out of 29  
criminal conduct that was a proximate cause of the injury or loss 30  
for which relief is claimed in the action. 31

(3) Division (B) of this section does not apply to civil 32  
claims based upon alleged intentionally tortious conduct, alleged 33  
violations of the United States Constitution, or alleged 34  
violations of statutes of the United States pertaining to civil 35  
rights. 36

**Sec. 2307.61.** (A) If a property owner brings a civil action 37  
pursuant to division (A) of section 2307.60 of the Revised Code to 38  
recover damages from any person who willfully damages the owner's 39  
property or who commits a theft offense, as defined in section 40  
2913.01 of the Revised Code, involving the owner's property, the 41  
property owner may recover as follows: 42

(1) In the civil action, the property owner may elect to 43  
recover moneys as described in division (A)(1)(a) or (b) of this 44

section:

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(a) Compensatory damages that may include, but are not limited to, the value of the property and liquidated damages in whichever of the following amounts applies:

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(i) Fifty dollars, if the value of the property was fifty dollars or less at the time it was willfully damaged or was the subject of a theft offense;

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(ii) One hundred dollars, if the value of the property was more than fifty dollars, but not more than one hundred dollars, at the time it was willfully damaged or was the subject of a theft offense;

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(iii) One hundred fifty dollars, if the value of the property was more than one hundred dollars at the time it was willfully damaged or was the subject of a theft offense.

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(b) Liquidated damages in whichever of the following amounts is greater:

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(i) Two hundred dollars;

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(ii) Three times the value of the property at the time it was willfully damaged or was the subject of a theft offense, irrespective of whether the property is recovered by way of replevin or otherwise, is destroyed or otherwise damaged, is modified or otherwise altered, or is resalable at its full market price. This division does not apply to a check, negotiable order of withdrawal, share draft, or other negotiable instrument that was returned or dishonored for insufficient funds by a financial institution if the check, negotiable order of withdrawal, share draft, or other negotiable instrument was presented by an individual borrower to a check-cashing business licensed pursuant to sections 1315.35 to 1315.44 of the Revised Code for a check-cashing loan transaction.

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(2) In a civil action in which the value of the property that was willfully damaged or was the subject of a theft offense is less than five thousand dollars, the property owner may recover damages as described in division (A)(1)(a) or (b) of this section and additionally may recover the reasonable administrative costs, if any, of the property owner that were incurred in connection with actions taken pursuant to division (A)(2) of this section, the cost of maintaining the civil action, and reasonable attorney's fees, if all of the following apply:

(a) The property owner, at least thirty days prior to the filing of the civil action, serves a written demand for payment of moneys as described in division (A)(1)(a) of this section and the reasonable administrative costs, if any, of the property owner that have been incurred in connection with actions taken pursuant to division (A)(2) of this section, upon the person who willfully damaged the property or committed the theft offense.

(b) The demand conforms to the requirements of division (C) of this section and is sent by certified mail, return receipt requested.

(c) Either the person who willfully damaged the property or committed the theft offense does not make payment to the property owner of the amount specified in the demand within thirty days after the date of its service upon that person and does not enter into an agreement with the property owner during that thirty-day period for that payment or the person who willfully damaged the property or committed the theft offense enters into an agreement with the property owner during that thirty-day period for that payment but does not make that payment in accordance with the agreement.

(B) If a property owner who brings a civil action pursuant to division (A) of section 2307.60 of the Revised Code to recover damages for willful damage to property or for a theft offense

attempts to collect the reasonable administrative costs, if any, 107  
of the property owner that have been incurred in connection with 108  
actions taken pursuant to division (A)(2) of this section, the 109  
cost of maintaining the civil action, and reasonable attorney's 110  
fees under authority of that division and if the defendant 111  
prevails in the civil action, the defendant may recover from the 112  
property owner reasonable attorney's fees, the cost of defending 113  
the civil action, and any compensatory damages that may be proven. 114

(C) For purposes of division (A)(2) of this section, a 115  
written demand for payment shall include a conspicuous notice to 116  
the person upon whom the demand is to be served that indicates all 117  
of the following: 118

(1) The willful property damage or theft offense that the 119  
person allegedly committed; 120

(2) That, if the person makes payment of the amount specified 121  
in the demand within thirty days after its service upon the person 122  
or enters into an agreement with the property owner during that 123  
thirty-day period for that payment and makes that payment in 124  
accordance with the agreement, the person cannot be sued by the 125  
property owner in a civil action in relation to the willful 126  
property damage or theft offense; 127

(3) That, if the person fails to make payment of the amount 128  
specified in the demand within thirty days after the date of its 129  
service upon the person and fails to enter into an agreement for 130  
that payment with the property owner during that thirty-day period 131  
or enters into an agreement for that payment with the property 132  
owner during that thirty-day period but does not make that payment 133  
in accordance with the agreement, the person may be sued in a 134  
civil action in relation to the willful property damage or theft 135  
offense; 136

(4) The potential judgment that the person may be required to 137  
pay if the person is sued in a civil action in relation to the 138

willful property damage or theft offense and judgment is rendered  
against the person in that civil action;

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(5) That, if the person is sued in a civil action by the  
property owner in relation to the willful property damage or theft  
offense, if the civil action requests that the person be required  
to pay the reasonable administrative costs, if any, of the  
property owner that have been incurred in connection with actions  
taken pursuant to division (A)(2) of this section, the cost of  
maintaining the action, and reasonable attorney's fees, and if the  
person prevails in the civil action, the person may recover from  
the property owner reasonable attorney's fees, the cost of  
defending the action, and any compensatory damages that can be  
proved.

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(D) If a property owner whose property was willfully damaged  
or was the subject of a theft offense serves a written demand for  
payment upon a person who willfully damaged the property or  
committed the theft offense and if the person makes payment of the  
amount specified in the demand within thirty days after the date  
of its service upon the person or the person enters into an  
agreement with the property owner during that thirty-day period  
for that payment and makes payment in accordance with the  
agreement, the property owner shall not file a civil action  
against the person in relation to the willful property damage or  
theft offense.

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(E) If a property owner whose property was willfully damaged  
or was the subject of a theft offense serves a written demand for  
payment upon a person who willfully damaged the property or  
committed the theft offense and if the person, within thirty days  
after the date of service of the demand upon the person, enters  
into an agreement with the property owner for the payment of the  
amount specified in the demand but does not make that payment in  
accordance with the agreement, the time between the entering of

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the agreement and the failure to make that payment shall not be 171  
computed as any part of the period within which a civil action 172  
based on the willful property damage or theft offense must be 173  
brought under the Revised Code. 174

(F) A civil action to recover damages for willful property 175  
damage or for a theft offense may be joined with a civil action 176  
that is brought pursuant to Chapter 2737. of the Revised Code to 177  
recover the property. If the two actions are joined, any 178  
compensatory damages recoverable by the property owner shall be 179  
limited to the value of the property. 180

(G)(1) In a civil action to recover damages for willful 181  
property damage or for a theft offense, the trier of fact may 182  
determine that an owner's property was willfully damaged or that a 183  
theft offense involving the owner's property has been committed, 184  
whether or not any person has pleaded guilty to or has been 185  
convicted of any criminal offense or has been adjudicated a 186  
delinquent child in relation to any act involving the owner's 187  
property. 188

(2) This section does not affect the prosecution of any 189  
criminal action or proceeding or any action to obtain a delinquent 190  
child adjudication in connection with willful property damage or a 191  
theft offense. 192

(H) As used in this section: 193

(1) "Administrative costs" includes the costs of written 194  
demands for payment and associated postage under division (A)(2) 195  
of this section. 196

(2) "Value of the property" means one of the following: 197

(a) The retail value of any property that is offered for sale 198  
by a mercantile establishment, irrespective of whether the 199  
property is destroyed or otherwise damaged, is modified or 200  
otherwise altered, or otherwise is not resalable at its full 201

market price;

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(b) The face value of any check or other negotiable instrument that is not honored due to insufficient funds in the drawer's account, the absence of any drawer's account, or another reason, and all charges imposed by a bank, savings and loan association, credit union, or other financial institution upon the holder of the check or other negotiable instrument;

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(c) The replacement value of any property not described in division (H)(1) or (2) of this section.

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**Sec. 2307.62.** (A) As used in this section:

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(1) "Trier of fact" means the jury or, in a nonjury trial, the court.

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(2) "Profits" derived from a violation of division (A) or (B) of section 2913.041 of the Revised Code are equal to whichever of the following applies:

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(a) The gross revenue derived from the violation by the persons who violated division (A) or (B) of section 2913.041 of the Revised Code, as established by a preponderance of the evidence by the owner or operator of the cable television system or other similar closed circuit coaxial cable communications system who is aggrieved by the violation;

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(b) The gross revenue derived from the violation by the persons who violated division (A) or (B) of section 2913.041 of the Revised Code, as established by a preponderance of the evidence by the owner or operator of the cable television system or other similar closed circuit coaxial cable communications system who is aggrieved by the violation, minus deductible expenses and other elements of profit that are not attributable to the violation of division (A) or (B) of section 2913.041 of the Revised Code, as established by a preponderance of the evidence by

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the persons who violated either or both of those divisions. 232

(B)(1) An owner or operator of a cable television system or 233  
other similar closed circuit coaxial cable communications system 234  
who is aggrieved by conduct that is prohibited by division (A) or 235  
(B) of section 2913.041 of the Revised Code may elect to commence 236  
a civil action for damages in accordance with division (A) of 237  
section 2307.60 or section 2307.61 of the Revised Code or to 238  
commence a civil action under this section in the appropriate 239  
municipal court, county court, or court of common pleas to recover 240  
damages and other specified moneys described in division 241  
(B)(1)(a), (b), or (c) of this section and, if applicable, damages 242  
described in division (B)(2) of this section from the persons who 243  
violated division (A) or (B) of section 2913.041 of the Revised 244  
Code. If the owner or operator elects to commence a civil action 245  
for damages and other specified moneys under this section, the 246  
owner or operator shall specify in its complaint which of the 247  
following categories of damages and other specified moneys the 248  
owner or operator seeks to recover from the persons who violated 249  
division (A) or (B) of section 2913.041 of the Revised Code: 250

(a) Full compensatory damages, punitive or exemplary damages 251  
if authorized by section 2315.21 of the Revised Code, and the 252  
reasonable attorney's fees, court costs, and other reasonable 253  
expenses incurred in maintaining the civil action under this 254  
section. 255

(b) Damages equal to the actual loss suffered by the owner or 256  
operator as a proximate result of the conduct that violated 257  
division (A) or (B) of section 2913.041 of the Revised Code and, 258  
in addition, damages equal to the profits derived by the persons 259  
who violated either or both of those divisions as a proximate 260  
result of the prohibited conduct. 261

(c) Liquidated damages in an amount of not less than two 262  
hundred fifty dollars and not more than ten thousand dollars, as 263

determined by the trier of fact, for each separate violation of  
division (A) or (B) of section 2913.041 of the Revised Code as  
described in division (D) of that section.

(2) The trier of fact shall determine the amount of any  
compensatory damages to be awarded pursuant to division (B)(1)(a)  
of this section, and the court shall determine the amount of any  
punitive or exemplary damages authorized by section 2315.21 of the  
Revised Code and the amount of reasonable attorney's fees, court  
costs, and other reasonable expenses to be awarded pursuant to  
division (B)(1)(a) of this section. The trier of fact shall  
determine the amount of damages to be awarded to the owner or  
operator under division (B)(1)(b) of this section.

(3) In a civil action under this section, if an owner or  
operator of a cable television system or other similar closed  
circuit coaxial cable communications system establishes by a  
preponderance of the evidence that the persons who violated  
division (A) or (B) of section 2913.041 of the Revised Code  
engaged in the prohibited conduct for the purpose of direct or  
indirect commercial advantage or private financial gain, the trier  
of fact may award to the owner or operator damages in an amount  
not to exceed fifty thousand dollars in addition to any amount  
recovered pursuant to division (B)(1)(a), (b), or (c) of this  
section, whichever of those divisions applies to the owner or  
operator.

(C) A person may join a civil action under this section with  
a civil action under Chapter 2737. of the Revised Code to recover  
any property of the owner or operator of a cable television system  
or other similar closed circuit coaxial cable communications  
system that was the subject of the violation of division (A) or  
(B) of section 2913.041 of the Revised Code. A person may commence  
a civil action under this section regardless of whether any person  
who allegedly violated either or both of those divisions has

pleaded guilty to or has been convicted of a violation of either 296  
or both of those divisions or has been adjudicated a delinquent 297  
child for the commission of any act that constitutes a violation 298  
of either or both of those divisions. 299

**Sec. 4399.18.** Notwithstanding division (A) of section 2307.60 300  
of the Revised Code and except as otherwise provided in this 301  
section and in section 4399.01 of the Revised Code, no person, and 302  
no executor or administrator of the person, who suffers personal 303  
injury, death, or property damage as a result of the actions of an 304  
intoxicated person has a cause of action against any liquor permit 305  
holder or an employee of a liquor permit holder who sold beer or 306  
intoxicating liquor to the intoxicated person unless the injury, 307  
death, or property damage occurred on the permit holder's premises 308  
or in a parking lot under the control of the permit holder and was 309  
proximately caused by the negligence of the permit holder or an 310  
employee of the permit holder. A person has a cause of action 311  
against a permit holder or an employee of a permit holder for 312  
personal injury, death, or property damage caused by the negligent 313  
actions of an intoxicated person occurring off the premises or 314  
away from a parking lot under the permit holder's control only 315  
when both of the following can be shown by a preponderance of the 316  
evidence: 317

(A) The permit holder or an employee of the permit holder 318  
knowingly sold an intoxicating beverage to at least one of the 319  
following: 320

(1) A noticeably intoxicated person in violation of division 321  
(B) of section 4301.22 of the Revised Code; 322

(2) A person in violation of division (C) of section 4301.22 323  
of the Revised Code; 324

(3) A person in violation of section 4301.69 of the Revised 325  
Code. 326

(B) The person's intoxication proximately caused the personal 327  
injury, death, or property damage. 328

Notwithstanding sections 4399.02 and 4399.05 of the Revised 329  
Code, no person, and no executor or administrator of the person, 330  
who suffers personal injury, death, or property damage as a result 331  
of the actions of an intoxicated person has a cause of action 332  
against the owner of a building or premises who rents or leases 333  
the building or premises to a liquor permit holder against whom a 334  
cause of action may be brought under this section, except when the 335  
owner and the permit holder are the same person. 336

**Section 2.** That existing sections 2307.60, 2307.61, 2307.62, 337  
and 4399.18 of the Revised Code are hereby repealed. 338