

**As Introduced**

**124th General Assembly  
Regular Session  
2001-2002**

**S. B. No. 120**

**SENATOR Johnson**

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**A B I L L**

To amend sections 2101.31, 2307.24, 2307.27, 2307.30, 1  
2313.46, 2315.23, 2315.24, 4507.07, and 5703.54; to 2  
revive and amend sections 1775.14, 2315.18, and 3  
4171.10; to amend, for the purpose of adopting new 4  
section numbers as indicated in parentheses, 5  
sections 2307.24 (2307.16), 2307.27 (2307.17), 6  
2307.30 (2307.18), 2315.07 (2315.05, 2315.08 7  
(2315.06), 2315.18 (2315.07), 2315.23 (2315.08), 8  
and 2315.24 (2315.09); to enact new sections 9  
2307.24, 2307.27, and 2315.37 and sections 10  
2307.011, 2307.21, 2307.22, 2307.23, 2307.25, 11  
2307.26, 2307.28, 2307.29, 2315.31, 2315.32, 12  
2315.33, 2315.34, 2315.35, 2315.36, 2315.41, 13  
2315.42, 2315.43, 2315.44, 2315.45, and 2315.46; 14  
and to repeal sections 2307.31, 2307.32, 2307.33, 15  
2307.331, 2315.19, 2315.20, and 2315.37 of the 16  
Revised Code to modify the law regarding the 17  
apportionment of liability in specified civil 18  
actions. 19

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

**Section 1.** That sections 2101.31, 2307.24, 2307.27, 2307.30, 20  
2313.46, 2315.23, 2315.24, 4507.07, and 5703.54 be amended; 21

sections 1775.14, 2315.18, and 4171.10 be revived and amended; 22  
sections 2307.24 (2307.16), 2307.27 (2307.17), 2307.30 (2307.18), 23  
2315.07 (2315.05), 2315.08 (2315.06), 2315.18 (2315.07), 2315.23 24  
(2315.08), and 2315.24 (2315.09) be amended for the purpose of 25  
adopting new section numbers as indicated in parentheses; and new 26  
sections 2307.24, 2307.27, and 2315.37 and sections 2307.011, 27  
2307.21, 2307.22, 2307.23, 2307.25, 2307.26, 2307.28, 2307.29, 28  
2315.31, 2315.32, 2315.33, 2315.34, 2315.35, 2315.36, 2315.41, 29  
2315.42, 2315.43, 2315.44, 2315.45, and 2315.46 of the Revised 30  
Code be enacted to read as follows: 31

**Sec. 1775.14.** (A) Subject to section 1339.65 of the Revised 32  
Code and except as provided in division (B) of this section, all 33  
partners are liable as follows: 34

(1) Jointly and severally for everything chargeable to the 35  
partnership under sections 1775.12 and 1775.13 of the Revised 36  
Code. This joint and several liability is not subject to ~~division~~ 37  
~~(D)~~ of section ~~2315.19~~ 2307.22, 2315.36, 2315.37, or 2315.46 of 38  
the Revised Code with respect to a negligence or other tort claim 39  
that otherwise is subject to ~~that section~~ any of those sections. 40

(2) Jointly for all other debts and obligations of the 41  
partnership, but any partner may enter into a separate obligation 42  
to perform a partnership contract. 43

(B) Subject to divisions (C)(1) and (2) of this section or as 44  
otherwise provided in a written agreement between the partners of 45  
a registered limited liability partnership, a partner in a 46  
registered limited liability partnership is not liable, directly 47  
or indirectly, by way of indemnification, contribution, 48  
assessment, or otherwise, for debts, obligations, or other 49  
liabilities of any kind of, or chargeable to, the partnership or 50  
another partner or partners arising from negligence or from 51  
wrongful acts, errors, omissions, or misconduct, whether or not 52

intentional or characterized as tort, contract, or otherwise,  
committed or occurring while the partnership is a registered  
limited liability partnership and committed or occurring in the  
course of the partnership business by another partner or an  
employee, agent, or representative of the partnership.

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(C)(1) Division (B) of this section does not affect the  
liability of a partner in a registered limited liability  
partnership for that partner's own negligence, wrongful acts,  
errors, omissions, or misconduct, including that partner's own  
negligence, wrongful acts, errors, omissions, or misconduct in  
directly supervising any other partner or any employee, agent, or  
representative of the partnership.

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(2) Division (B) of this section shall not affect the  
liability of a partner for liabilities imposed by Chapters 5735.,  
5739., 5743., and 5747. and section 3734.908 of the Revised Code.

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(D) A partner in a registered limited liability partnership  
is not a proper party to an action or proceeding by or against a  
registered limited liability partnership with respect to any debt,  
obligation, or other liability of any kind described in division  
(B) of this section, unless the partner is liable under divisions  
(C)(1) and (2) of this section.

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**Sec. 2101.31.** All questions of fact shall be determined by  
the probate judge, unless ~~he the judge orders them~~ those questions  
of fact to be tried by before a jury, or referred, refers those  
questions of fact to a special master commissioner as provided in  
sections 2101.06 and 2101.07, ~~and sections 2315.26 to 2315.37,~~  
~~inclusive,~~ of the Revised Code.

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**Sec. 2307.011.** As used in Chapters 2307. and 2315. of the  
Revised Code:

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(A) "Conduct" means actions or omissions.

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(B) "Contributory fault" means contributory negligence, other contributory tortious conduct, comparative negligence, or express or implied assumption of the risk. 83  
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(C) "Economic loss" means any of the following types of pecuniary harm: 86  
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(1) All wages, salaries, or other compensation lost as a result of an injury, death, or loss to person or property that is a subject of a tort action, including wages, salaries, or other compensation lost as of the date of a judgment and future expected lost earnings; 88  
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(2) All expenditures for medical care or treatment, rehabilitation services, or other care, treatment, services, products, or accommodations incurred as a result of an injury, death, or loss to person that is a subject of a tort action, including expenditures for those purposes that were incurred as of the date of a judgment and expenditures for those purposes that, in the determination of the trier of fact, will be incurred in the future because of the injury, whether paid by the injured person or by another person on behalf of the injured person; 93  
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(3) All expenditures of a person whose property was injured or destroyed or of another person on behalf of the person whose property was injured or destroyed in order to repair or replace the property; 102  
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(4) Any other expenditures incurred as a result of an injury, death, or loss to person or property that is a subject of a tort action, except expenditures of the injured person, the person whose property was injured or destroyed, or another person on behalf of the injured person or the person whose property was injured or destroyed in relation to the actual preparation or presentation of the claim involved. 106  
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(D) "Negligence claim" means a civil action for damages for 113

injury, death, or loss to person or property to the extent that the damages are sought or recovered based on allegation or proof of negligence.

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(E) "Noneconomic loss" means nonpecuniary harm that results from an injury, death, or loss to person that is a subject of a tort action, including, but not limited to, pain and suffering; loss of society, consortium, companionship, care, assistance, attention, protection; advice, guidance, counsel, instruction, training, or education; mental anguish; and any other intangible loss.

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(F) "Person" has the same meaning as in division (C) of section 1.59 of the Revised Code and additionally includes a political subdivision and the state.

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(G) "Persons from whom the plaintiff does not seek recovery in this action" includes, but is not limited to, the following:

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(1) Persons who have entered into a settlement agreement with the plaintiff;

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(2) Persons whom the plaintiff has dismissed from the tort action without prejudice;

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(3) Persons whom the plaintiff has dismissed from the tort action with prejudice;

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(4) Tortfeasors who are not a party to the tort action whether or not that person was or could have been a party to the tort action.

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(H) "Plaintiff" includes the person for whom the plaintiff is legal representative.

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(I) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.

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(J) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action"

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includes a product liability claim but does not include a civil 144  
action for damages for a breach of contract or another agreement 145  
between persons. 146

(K) "Trier of fact" means the jury or, in a nonjury action, 147  
the court. 148

**Sec. ~~2307.24~~ 2307.16.** A partnership formed for the purpose of 149  
carrying on a trade or business in this state, or holding property 150  
in this state, may sue or be sued by the usual or ordinary name 151  
~~which is that it~~ has assumed, or by which it is known. 152

**Sec. ~~2307.27~~ 2307.17.** In an action for the recovery of real 154  
or personal property, a person claiming an interest in the 155  
property, on ~~his~~ application, may be made a party. 156

**Sec. ~~2307.30~~ 2307.18.** ~~An~~ A judicial officer against whom an 157  
action is brought to recover personal property taken by ~~him~~ the 158  
officer on execution, or for the proceeds of ~~such the personal~~ 159  
property sold by ~~him~~ the officer, upon exhibiting to the court the 160  
process under which ~~he~~ the officer acted, with ~~his~~ the officer's 161  
affidavit that the property was taken or sold by ~~him~~ the officer 162  
under ~~such that~~ process, may have the benefit of ~~section 2307.29~~ 163  
~~of the Revised Code~~ Civil Rule 22, against the party in whose 164  
favor the execution issued. 165

**Sec. 2307.21.** As used in sections 2307.21 to 2307.29 of the 166  
Revised Code, "tortious conduct" includes, but is not limited to, 167  
the following: 168

(A) Negligence; 169

(B) Express or implied assumption of the risk. 170

Sec. 2307.22. (A) Subject to sections 2307.23 and 2307.24 and 171  
except as provided in division (B) of section 2307.70, division 172  
(B) of section 4507.07, section 4399.02, or another section of the 173  
Revised Code that expressly establishes joint and several tort 174  
liability for specified persons, joint and several tort liability 175  
shall be determined as follows: 176

(1) In a tort action in which the trier of fact determines 177  
that two or more tortfeasors proximately caused the same injury or 178  
loss to person or property or the same wrongful death and in which 179  
the trier of fact determines that more than fifty per cent of the 180  
tortious conduct is attributable to one defendant, that defendant 181  
shall be jointly and severally liable in tort for all compensatory 182  
damages that represent economic loss. 183

(2) If division (A)(1) of this section is applicable, each 184  
defendant who is determined by the trier of fact to be legally 185  
responsible for the same injury or loss to person or property or 186  
the same wrongful death and to whom fifty per cent or less of the 187  
tortious conduct is attributable shall be liable to the plaintiff 188  
only for that defendant's proportionate share of the compensatory 189  
damages that represent economic loss. The proportionate share of a 190  
defendant shall be calculated by multiplying the total amount of 191  
the economic damages awarded to the plaintiff by the percentage of 192  
tortious conduct as determined in section 2307.23 of the Revised 193  
Code that is attributable to that defendant. 194

(B) In a tort action in which the trier of fact determines 195  
that two or more tortfeasors proximately caused the same injury or 196  
loss to person or property or the same wrongful death and 197  
determines that fifty per cent or less of the tortious conduct is 198  
attributable to each defendant, each defendant shall be liable to 199  
the plaintiff only for that defendant's proportionate share of the 200  
compensatory damages that represent economic loss. The 201

proportionate share of a defendant shall be calculated by 202  
multiplying the total amount of the economic damages awarded to 203  
the plaintiff by the percentage of tortious conduct as determined 204  
pursuant to section 2307.23 of the Revised Code that is 205  
attributable to that defendant. 206

(C) In a tort action in which the trier of fact determines 207  
that two or more tortfeasors proximately caused the same injury or 208  
loss to person or property or the same wrongful death, each 209  
defendant who is determined by the trier of fact to be legally 210  
responsible for the same injury or loss to person or property or 211  
for the same wrongful death shall be liable to the plaintiff only 212  
for that defendant's proportionate share of the compensatory 213  
damages that represent noneconomic loss. The proportionate share 214  
of a defendant shall be calculated by multiplying the total amount 215  
of the noneconomic damages awarded to the plaintiff by the 216  
percentage of tortious conduct as determined pursuant to section 217  
2307.23 of the Revised Code that is attributable to that 218  
defendant. 219

(D) Sections 2307.25 to 2307.29 of the Revised Code shall 220  
apply to joint and several tort liability that is described in 221  
division (A) of this section. 222

**Sec. 2307.23.** (A) In determining the percentages of tortious 223  
conduct attributable to a party in a tort action under section 224  
2307.22, sections 2315.31 to 2315.37, or sections 2315.41 to 225  
2315.46 of the Revised Code, the court in a nonjury action shall 226  
make findings of fact, and the jury in a jury action shall return 227  
a general verdict accompanied by answers to interrogatories, that 228  
shall specify all of the following: 229

(1) The percentage of tortious conduct that proximately 230  
caused the injury or loss to person or property or the wrongful 231  
death that is attributable to the plaintiff and to each party to 232



the tort action from whom the plaintiff seeks recovery in this 233  
tort action; 234

(2) The percentage of tortious conduct that proximately 235  
caused the injury or loss to person or property or the wrongful 236  
death that is attributable to each person from whom the plaintiff 237  
does not seek recovery in this tort action, including, but not 238  
limited to, all of the following: 239

(a) Persons who have entered into a settlement agreement with 240  
the plaintiff; 241

(b) Persons whom the plaintiff has dismissed from the tort 242  
action without prejudice; 243

(c) Persons whom the plaintiff has dismissed from the tort 244  
action with prejudice; 245

(d) Persons who are not a party to the tort action, whether 246  
or not that person was or could have been a party to the tort 247  
action. 248

(B) The sum of the percentages of tortious conduct as 249  
determined pursuant to division (A) of this section shall equal 250  
one hundred per cent. 251

**Sec. 2307.24.** (A) Sections 2307.21, 2307.22, and 2307.23 of 252  
the Revised Code do not affect joint and several liability that is 253  
not based in tort. 254

(B) Sections 2307.21, 2307.22, and 2307.23 of the Revised 255  
Code do not affect any other section of the Revised Code or the 256  
common law of this state to the extent that the other section or 257  
common law makes a principal, master, or other person vicariously 258  
liable for the tortious conduct of an agent, servant, or other 259  
person. For purposes of section 2307.22 of the Revised Code, a 260  
principal and agent, a master and servant, or other persons having 261  
a vicarious liability relationship shall constitute a single party 262

when determining percentages of tortious conduct in a tort action 263  
in which vicarious liability is asserted. 264

Sec. 2307.25. (A) Except as otherwise provided in sections 265  
2307.25 to 2307.28 of the Revised Code, if two or more persons are 266  
jointly and severally liable in tort for the same injury or loss 267  
to person or property or for the same wrongful death, there is a 268  
right of contribution among them even though judgment has not been 269  
recovered against all or any of them. The right of contribution 270  
exists only in favor of a tortfeasor who has paid more than that 271  
tortfeasor's proportionate share of the common liability, and that 272  
tortfeasor's total recovery is limited to the amount paid by that 273  
tortfeasor in excess of that tortfeasor's proportionate share. No 274  
tortfeasor is compelled to make contribution beyond that 275  
tortfeasor's own proportionate share of the common liability. 276  
There is no right of contribution in favor of any tortfeasor who 277  
intentionally has caused or intentionally has contributed to the 278  
injury or loss to person or property or the wrongful death. 279

(B) A tortfeasor who enters into a settlement with a claimant 280  
is not entitled to contribution from another tortfeasor whose 281  
liability for the injury or loss to person or property or the 282  
wrongful death is not extinguished by the settlement, or in 283  
respect to any amount paid in a settlement that is in excess of 284  
what is reasonable. 285

(C) A liability insurer that by payment has discharged in 286  
full or in part the liability of a tortfeasor and has discharged 287  
in full by the payment its obligation as insurer is subrogated to 288  
the tortfeasor's right of contribution to the extent of the amount 289  
it has paid in excess of the tortfeasor's proportionate share of 290  
the common liability. This division does not limit or impair any 291  
right of subrogation arising from any other relationship. 292

(D) This section does not impair any right of indemnity under 293

existing law. If one tortfeasor is entitled to indemnity from another, the right of the indemnity obligee is for indemnity and not contribution, and the indemnity obligor is not entitled to contribution from the obligee for any portion of the indemnity obligation.

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(E) This section does not apply to breaches of trust or of other fiduciary obligations.

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(F) The proportionate shares of tortfeasors in the common liability shall be based upon their relative degrees of legal responsibility. If equity requires the collective liability of some as a group, the group shall constitute a single share, and principles of equity applicable to contribution generally shall apply.

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(G) Whether or not judgment has been entered in an action against two or more tortfeasors for the same injury or loss to person or property or for the same wrongful death, contribution may be enforced by separate action.

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(H) Whenever the provisions of the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 U.S.C. 2671 et seq., are applicable to a tort and the United States is held liable in tort, the United States has no right of contribution under this section against the state pursuant to the waiver of sovereign immunity contained in Chapter 2743. of the Revised Code.

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**Sec. 2307.26.** If a judgment that imposes joint and several liability has been entered in an action against two or more tortfeasors for the same injury or loss to person or property or for the same wrongful death, contribution may be enforced in that action by judgment in favor of one against other judgment debtors, by motion, upon notice to all parties to the action. If there is a judgment for the injury or loss to person or property or the wrongful death against the tortfeasor seeking contribution, that

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tortfeasor shall commence any separate action to enforce 325  
contribution within one year after the judgment has become final 326  
by lapse of time for appeal or after appellate review. 327

If there is no judgment for the injury or loss to person or 328  
property or the wrongful death against the tortfeasor seeking 329  
contribution, that tortfeasor's right of contribution is barred 330  
unless either of the following applies: 331

(A) That tortfeasor has discharged by payment the common 332  
liability within the statute of limitations period applicable to 333  
the claimant's right of action against that tortfeasor and has 334  
commenced that tortfeasor's action for contribution within one 335  
year after the payment. 336

(B) That tortfeasor has agreed while an action is pending 337  
against that tortfeasor to discharge the common liability and has 338  
paid within one year after the agreement the common liability and 339  
commenced that tortfeasor's action for contribution. 340

**Sec. 2307.27.** (A) The recovery of a judgment for an injury or 341  
loss to person or property or a wrongful death against one 342  
tortfeasor does not of itself discharge the other tortfeasors from 343  
liability for the injury, loss, or wrongful death unless the 344  
judgment is satisfied. The satisfaction of the judgment does not 345  
impair any right of contribution. 346

(B) Valid answers to interrogatories by a jury or findings of 347  
fact by a court sitting without a jury in determining the 348  
percentage of liability of several defendants for an injury or 349  
loss to person or property or a wrongful death shall be binding as 350  
among those defendants in determining their right to contribution. 351

**Sec. 2307.28.** When a release or a covenant not to sue or not 352  
to enforce judgment is given in good faith to one of two or more 353

persons for the same injury or loss to person or property or the same wrongful death, both of the following apply:

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(A) The release or covenant does not discharge any of the other tortfeasors from liability for the injury, loss, or wrongful death unless its terms otherwise provide, but it reduces the claim against the other tortfeasors to the extent of the greater of any amount stipulated by the release or the covenant or the amount of the consideration paid for it.

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(B) The release or covenant discharges the tortfeasor to whom it is given from all liability for contribution to any other tortfeasor.

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**Sec. 2307.29.** No provision of sections 2307.25 to 2307.28 of the Revised Code applies to a negligence or other tort claim to the extent that sections 2307.21 to 2307.24, sections 2315.31 to 2315.37, or sections 2315.41 to 2315.46 of the Revised Code makes a party against whom a judgment is entered liable to the plaintiff only for the proportionate share of that party as described in those sections.

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**Sec. 2313.46.** Sections 2313.01 to 2313.46, inclusive, and 2315.01 to 2315.24, inclusive, Chapter 2315. of the Revised Code do not contravene or affect any section of the Revised Code relating to jurors in the inferior courts in any county of the state.

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**Sec. ~~2315.07~~ 2315.05.** Because of the sickness of a juror, or an accident or calamity which requires it, or with the consent of both parties, or after jurors have been kept together until it satisfactorily appears that there is no probability of their agreeing, the court may discharge the jury.

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**Sec. ~~2315.08~~ 2315.06.** When the jury is discharged during a trial or after a cause is submitted, such cause may at once be tried again, or on a future day, as the court directs.

**Sec. ~~2315.18~~ 2315.07.** ~~Except as otherwise provided in this section, when~~ When by the verdict in a civil action tried to a jury any party in the action is entitled to recover money from an adverse party, the jury shall determine the amount of the recovery in its verdict. ~~A jury shall not determine the amount of punitive or exemplary damages recoverable by a party in a tort action pursuant to section 2315.21 or another section of the Revised Code except as provided in division (D)(5) of section 2315.21 of the Revised Code.~~

~~As used in this section, "tort action" has the same meaning as in section 2315.21 of the Revised Code.~~

**Sec. ~~2315.23~~ 2315.08.** So far as in their nature applicable, sections 2315.01 to ~~2315.19, inclusive,~~ 2315.08 of the Revised Code, respecting trials by jury, apply to trials by the court.

**Sec. ~~2315.24~~ 2315.09.** Parties to a question ~~which~~ that might be the subject of a civil action, on filing an affidavit that the controversy is real and the proceeding in good faith to determine their rights, may agree upon a case containing the facts upon which the controversy depends and present a submission of it to any court of competent jurisdiction, ~~which.~~ The court shall hear and determine the case and render judgment as if an action were pending.

The case, the submission, and the judgment constitutes the record of a question submitted under this section.

Such judgment shall be with costs, may be enforced, and shall

be subject to reversal, in like manner, as if it were rendered in  
an action, unless otherwise provided in the submission.

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Sec. 2315.31. As used in sections 2315.31 to 2315.37 of the  
Revised Code, "tortious conduct" includes, but is not limited to,  
all of the following:

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(A) Negligence;

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(B) Contributory negligence or other contributory tortious  
conduct;

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(C) Comparative negligence;

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(D) Express or implied assumption of the risk.

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Sec. 2315.32. The contributory fault of the plaintiff may be  
asserted as an affirmative defense to a negligence claim or to a  
tort claim other than a negligence claim.

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Sec. 2315.33. The contributory fault of a person does not bar  
the person as plaintiff from recovering damages that have directly  
and proximately resulted from the tortious conduct of one or more  
other persons, if the contributory fault of the plaintiff was not  
greater than the combined tortious conduct of all other persons  
from whom the plaintiff seeks recovery in this action and of all  
other persons from whom the plaintiff does not seek recovery in  
this action. The court shall diminish any compensatory damages  
recoverable by the plaintiff by an amount that is proportionately  
equal to the percentage of tortious conduct of the plaintiff as  
determined pursuant to section 2315.34 of the Revised Code. This  
section does not apply to actions described in section 4113.03 of  
the Revised Code.

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Sec. 2315.34. If contributory fault is asserted and  
established as an affirmative defense to a negligence claim, the

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court in a nonjury action shall make findings of fact, and the  
jury in a jury action shall return a general verdict accompanied  
by answers to interrogatories, that shall specify the following:

(A) The total amount of the compensatory damages that would  
have been recoverable on that negligence claim but for the  
tortious conduct of the plaintiff;

(B) The portion of the compensatory damages specified under  
division (A) of this section that represents economic loss;

(C) The portion of the compensatory damages specified under  
division (A) of this section that represents noneconomic loss;

(D) The percentage of tortious conduct attributable to all  
persons as determined pursuant to section 2307.23 of the Revised  
Code.

**Sec. 2315.35.** After the court makes its findings of fact or  
after the jury returns its general verdict accompanied by answers  
to interrogatories as described in section 2315.34 of the Revised  
Code, the court shall diminish the total amount of the  
compensatory damages that would have been recoverable by an amount  
that is proportionately equal to the percentage of tortious  
conduct determined under section 2307.23 of the Revised Code that  
is attributable to the plaintiff. If the percentage of the  
tortious conduct determined to be attributable to the plaintiff is  
greater than the sum of the percentages of the tortious conduct  
determined to be attributable to all parties to the tort action  
from whom the plaintiff seeks recovery plus all persons from whom  
the plaintiff does not seek recovery in this tort action, the  
court shall enter judgment in favor of the defendants.

**Sec. 2315.36.** If contributory fault is asserted as an  
affirmative defense to a negligence claim, if it is determined  
that the plaintiff was contributorily at fault and that



contributory fault was a direct and proximate cause of the injury, 468  
death, or loss to person or property that is the subject of the 469  
tort action, and if the plaintiff is entitled to recover 470  
compensatory damages pursuant to this section from more than one 471  
party, after it makes findings of fact or after the jury returns 472  
its general verdict accompanied by answers to interrogatories as 473  
described in section 2315.34 of the Revised Code, the court shall 474  
enter a judgment that is in favor of the plaintiff and that 475  
imposes liability pursuant to section 2307.22 of the Revised Code. 476

**Sec. 2315.37.** (A) Sections 2307.22 to 2307.25 of the Revised 477  
Code apply to the portion of the compensatory damages in a 478  
judgment that represents economic loss and for which joint and 479  
several liability attaches under section 2315.36 of the Revised 480  
Code. 481

(B) Sections 2315.31 to 2315.37 of the Revised Code do not 482  
apply to tort actions based on a product liability claim. 483

**Sec. 2315.41.** (A) As used in sections 2315.41 to 2315.46 of 484  
the Revised Code: 485

(1) "Claimant," "harm," and "product liability claim" have 486  
the same meanings as in section 2307.71 of the Revised Code. 487

(2) "Other contributory tortious conduct" or "other tortious 488  
conduct" means tortious conduct that contributes to the injury, 489  
death, or loss to person or property for which the plaintiff or 490  
the person for whom the plaintiff is legal representative is 491  
seeking relief but does not include conduct constituting express 492  
assumption of the risk or implied assumption of the risk. 493  
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(B) Sections 2315.41 to 2315.46 of the Revised Code do not 495  
apply to actions described in section 4113.03 of the Revised Code. 496

Sec. 2315.42. (A) Express or implied assumption of the risk 497  
may be asserted as an affirmative defense to a product liability 498  
claim. 499

(B) If express or implied assumption of the risk is asserted 500  
as an affirmative defense to a product liability claim and if it 501  
is determined that the claimant expressly or impliedly assumed a 502  
risk and that the express or implied assumption of the risk was a 503  
direct and proximate cause of harm for which the claimant seeks to 504  
recover damages, the express or implied assumption of the risk is 505  
a complete bar to the recovery of those damages. 506

Sec. 2315.43. Contributory negligence or other contributory 507  
tortious conduct may be asserted as an affirmative defense to a 508  
product liability claim. Contributory negligence or other 509  
contributory tortious conduct of a plaintiff or of a person for 510  
whom the plaintiff is the legal representative does not bar the 511  
plaintiff from recovering damages that have directly and 512  
proximately resulted from the tortious conduct of one or more 513  
other persons, if the contributory negligence or other 514  
contributory tortious conduct of the plaintiff or of the person 515  
for whom the plaintiff is legal representative was not greater 516  
than the combined tortious conduct of all other persons from whom 517  
the plaintiff seeks recovery and of all other persons from whom 518  
the plaintiff does not seek recovery, including, but not limited 519  
to, persons who have entered into a settlement agreement with the 520  
plaintiff, persons whom the plaintiff has dismissed from the 521  
action without prejudice, and persons whom the plaintiff has 522  
dismissed from the action with prejudice, whether or not a person 523  
was or could have been a party to the action. However, the 524  
compensatory damages recoverable by the plaintiff shall be 525  
diminished by an amount that is proportionately equal to the 526  
percentage of negligence or other tortious conduct of the 527

plaintiff or of the person for whom the plaintiff is legal 528  
representative, which percentage is determined pursuant to section 529  
2315.44 of the Revised Code. 530

**Sec. 2315.44.** If contributory negligence or other 531  
contributory tortious conduct is asserted and established as an 532  
affirmative defense to a product liability claim, the court in a 533  
nonjury action shall make findings of fact, and the jury in a jury 534  
action shall return a general verdict accompanied by answers to 535  
interrogatories, that shall specify the following: 536

(A) The total amount of the compensatory damages that would 537  
have been recoverable on that product liability claim but for the 538  
negligence or other tortious conduct of the plaintiff or the 539  
person for whom the plaintiff is legal representative; 540

(B) The portion of the compensatory damages specified under 541  
division (A) of this section that represents economic loss; 542

(C) The portion of the compensatory damages specified under 543  
division (A) of this section that represents noneconomic loss; 544

(D) The percentage of negligence or other tortious conduct 545  
determined pursuant to section 2307.23 of the Revised Code. 546

**Sec. 2315.45.** After the court makes its findings of fact or 547  
after the jury returns its general verdict accompanied by answers 548  
to interrogatories as described in section 2315.44 of the Revised 549  
Code, the court shall diminish the total amount of the 550  
compensatory damages that would have been recoverable by an amount 551  
that is proportionately equal to the percentage of negligence or 552  
other tortious conduct that is attributable to the plaintiff or 553  
the person for whom the plaintiff is legal representative as 554  
determined pursuant to that section. If the percentage of the 555  
negligence or other tortious conduct that is attributable to the 556

plaintiff or the person for whom the plaintiff is legal 557  
representative is greater than the total of the percentages of the 558  
tortious conduct that are attributable to all parties from whom 559  
the plaintiff seeks recovery and to all persons from whom the 560  
plaintiff does not seek recovery, including, but not limited to, 561  
persons who have entered into a settlement agreement with the 562  
plaintiff, persons whom the plaintiff has dismissed from the 563  
action without prejudice, and persons whom the plaintiff has 564  
dismissed from the action with prejudice, whether or not a person 565  
was or could have been a party to the action, which percentages 566  
were determined pursuant to section 2315.44 of the Revised Code, 567  
the court shall enter judgment in favor of those parties. 568

**Sec. 2315.46.** If contributory negligence or other 569  
contributory tortious conduct is asserted as an affirmative 570  
defense to a product liability claim, if it is determined that the 571  
plaintiff or the person for whom the plaintiff is legal 572  
representative was contributorily negligent or engaged in other 573  
contributory tortious conduct and that the contributory negligence 574  
or other contributory tortious conduct was a direct and proximate 575  
cause of the injury, death, or loss to person or property 576  
involved, and if the plaintiff is entitled to recover compensatory 577  
damages pursuant to this section from more than one party, after 578  
it makes findings of fact or after the jury returns its general 579  
verdict accompanied by answers to interrogatories as described in 580  
section 2315.44 of the Revised Code, the court shall enter a 581  
judgment that is in favor of the plaintiff and that imposes 582  
liability pursuant to section 2307.22 of the Revised Code. 583

**Sec. 4171.10.** The express assumption of risk set forth in 584  
section 4171.09 of the Revised Code shall serve as a complete 585  
defense to in a suit tort or other civil action against an 586

operator by a roller skater for injuries resulting from the 587  
assumed risks of roller skating. The comparative negligence or 588  
other tort provisions of ~~section 2315.19~~ sections 2315.31 to 589  
2315.37 of the Revised Code shall not apply unless the operator 590  
has breached ~~his~~ the operator's duties pursuant to sections 591  
4171.06 and 4171.07 of the Revised Code. 592

**Sec. 4507.07.** (A) The registrar of motor vehicles shall not 593  
grant the application of any minor under eighteen years of age for 594  
a probationary license, a restricted license, or a temporary 595  
instruction permit, unless the application is signed by one of the 596  
minor's parents, the minor's guardian, another person having 597  
custody of the applicant, or, if there is no parent or guardian, a 598  
responsible person who is willing to assume the obligation imposed 599  
under this section. 600

At the time a minor under eighteen years of age submits an 601  
application for a license or permit at a driver's license 602  
examining station, the adult who signs the application shall 603  
present identification establishing that the adult is the 604  
individual whose signature appears on the application. The 605  
registrar shall prescribe, by rule, the types of identification 606  
that are suitable for the purposes of this paragraph. If the adult 607  
who signs the application does not provide identification as 608  
required by this paragraph, the application shall not be accepted. 609

When a minor under eighteen years of age applies for a 610  
probationary license, a restricted license, or a temporary 611  
instruction permit, the registrar shall give the adult who signs 612  
the application notice of the potential liability that may be 613  
imputed to the adult pursuant to division (B) of this section and 614  
notice of how the adult may prevent any liability from being 615  
imputed to the adult pursuant to that division. 616

(B) Any negligence, or willful or wanton misconduct, that is 617

committed by a minor under eighteen years of age when driving a  
motor vehicle upon a highway shall be imputed to the person who  
has signed the application of the minor for a probationary license  
or restricted license, which person shall be jointly and severally  
liable with the minor for any damages caused by the negligence or  
the willful or wanton misconduct. This joint and several liability  
is not subject to ~~division (D) of section 2315.19~~ 2307.22,  
2315.36, 2315.37, or 2315.46 of the Revised Code with respect to a  
negligence claim that otherwise is subject to that section.

There shall be no imputed liability imposed under this  
division, if a minor under eighteen years of age has proof of  
financial responsibility with respect to the operation of a motor  
vehicle owned by the minor or, if the minor is not the owner of a  
motor vehicle, with respect to the minor's operation of any motor  
vehicle, in the form and in the amounts as required under Chapter  
4509. of the Revised Code.

(C) Any person who has signed the application of a minor  
under eighteen years of age for a license or permit subsequently  
may surrender to the registrar the license or temporary  
instruction permit of the minor and request that the license or  
permit be canceled. The registrar then shall cancel the license or  
temporary instruction permit, and the person who signed the  
application of the minor shall be relieved from the liability  
imposed by division (B) of this section.

(D) Any minor under eighteen years of age whose probationary  
license, restricted license, or temporary instruction permit is  
surrendered to the registrar by the person who signed the  
application for the license or permit and whose license or  
temporary instruction permit subsequently is canceled by the  
registrar may obtain a new license or temporary instruction permit  
without having to undergo the examinations otherwise required by

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sections 4507.11 and 4507.12 of the Revised Code and without 650  
having to tender the fee for that license or temporary instruction 651  
permit, if the minor is able to produce another parent, guardian, 652  
other person having custody of the minor, or other adult, and that 653  
adult is willing to assume the liability imposed under division 654  
(B) of this section. That adult shall comply with the procedures 655  
contained in division (A) of this section. 656

**Sec. 5703.54.** (A) A taxpayer aggrieved by an action or 657  
omission of an officer or employee of the department of taxation 658  
may bring an action for damages in the court of claims pursuant to 659  
Chapter 2734. of the Revised Code, if all of the following apply: 660

(1) In the action or omission the officer or employee 661  
frivolously disregards a provision of Chapter 5711., 5733., 5739., 662  
5741., or 5747. of the Revised Code or a rule of the tax 663  
commissioner adopted under authority of one of those chapters; 664

(2) The action or omission occurred with respect to an audit 665  
or assessment and the review and collection proceedings connected 666  
with the audit or assessment; 667

(3) The officer or employee did not act manifestly outside 668  
the scope of ~~his~~ the officer's or employee's office or employment 669  
and did not act with malicious purpose, in bad faith, or in a 670  
wanton or reckless manner. 671

(B) In any action brought under division (A) of this section, 672  
upon a finding of liability on the part of the state, the state 673  
shall be liable to the taxpayer in an amount equal to the sum of 674  
the following: 675

(1) Compensatory damages sustained by the taxpayer as a 676  
result of the action or omission by the department's officer or 677  
employee; 678

(2) Reasonable costs of litigation and attorneys fees 679

sustained by the taxpayer.

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(C) In the awarding of damages under division (B) of this section, the court shall take into account the negligent actions or omissions, if any, on the part of the taxpayer that contributed to the damages, but shall not be bound by the provisions of ~~section 2315.19~~ sections 2315.31 to 2315.37 of the Revised Code.

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(D) Whenever it appears to the court that a taxpayer's conduct in the proceedings brought under division (A) of this section is frivolous, the court may impose a penalty against the taxpayer in an amount not to exceed ten thousand dollars which shall be paid to the general revenue fund of the state.

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(E)(1) Division (A) of this section does not apply to advisory opinions or other informational functions of an officer or employee of the department.

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(2) Division (A) of this section does not authorize a taxpayer to bring an action for damages based on an action or omission of a county auditor or an employee of a county auditor.

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(F) As used in this section, "frivolous" means that the conduct of the commissioner, or of the taxpayer or ~~his~~ the taxpayer's counsel of record satisfies either of the following:

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(1) It obviously serves merely to harass or maliciously injure the state or its employees or officers if referring to the conduct of a taxpayer, or to harass or maliciously injure the taxpayer if referring to the conduct of the tax commissioner;

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(2) It is not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law.

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**Section 2.** That existing sections 2101.31, 2307.24, 2307.27, 2307.30, 2313.46, 2315.07, 2315.08, 2315.18, 2315.23, 2315.24, 4507.07, and 5703.54, all existing versions of sections 1775.14,

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2315.18, and 4171.10 in effect before, on, or after the effective 710  
date of Am. Sub. H.B. 350 of the 121st General Assembly, January 711  
27, 1997, and sections 2307.31, 2307.32, 2307.33, 2307.331, 712  
2315.19, 2315.20, and 2315.37 of the Revised Code are hereby 713  
repealed. 714

**Section 3.** Sections 1775.14, 2101.31, 2307.011, 2307.16, 715  
2307.17, 2307.18, 2307.21, 2307.22, 2307.23, 2307.24, 2307.25, 716  
2307.26, 2307.27, 2307.28, 2307.29, 2307.30, 2313.46, 2315.05, 717  
2315.06, 2315.07, 2315.08, 2315.09, 2315.18, 2315.23, 2315.24, 718  
2315.31, 2315.32, 2315.33, 2315.34, 2315.35, 2315.36, 2315.37, 719  
2315.41, 2315.42, 2315.43, 2315.44, 2315.45, 2315.46, 4171.10, 720  
4507.07, and 5703.54 of the Revised Code, as amended or enacted, 721  
by this act, apply only to causes of action that accrue on or 722  
after the effective date of this act. Any cause of action that 723  
accrues prior to the effective date of this act is governed by the 724  
law in effect when the cause of action accrued. 725

**Section 4.** (A) Sections 1775.14, 2315.18, and 4171.10 of the 726  
Revised Code, as they existed immediately prior to being amended 727  
by Am. Sub. H.B. 350 of the 121st General Assembly, are revived 728  
and amended and supersede the versions of those sections repealed 729  
by Section 2 of this act. Sections 2315.18 and 4171.10 of the 730  
Revised Code also are amended to reenact the changes made to those 731  
sections by Am. Sub. H.B. 350. 732

(B) Section 4507.07 of the Revised Code, which has been 733  
amended by Am. Sub. S.B. 35 of the 122nd General Assembly 734  
subsequent to its amendment by Am. Sub. H.B. 350 of the 121st 735  
General Assembly, first is amended to remove matter inserted by, 736  
or to revive matter removed by, Am. Sub. H.B. 350 and then is 737  
amended to reenact the changes made to that section by Am. Sub. 738  
H.B. 350. Amendments made to that section by Am. Sub. S.B. 35 are 739  
retained. 740

(C) The revival and amendment or amendment of sections 741  
1775.14, 2315.18, 4171.10, and 4507.07 of the Revised Code by this 742  
act as described in divisions (A) and (B) of this section is in 743  
conformity with the Supreme Court of Ohio's decisions in *State, ex* 744  
*rel. Ohio Academy of Trial Lawyers v. Sheward* (1999), 86 Ohio 745  
St.3d 451, and *Stevens v. Ackman* (2001), 91 Ohio St.3d 182 and is 746  
intended to clarify the status of those sections. 747