

As Passed by the Senate

124th General Assembly

Regular Session

2001-2002

Am. Sub. S. B. No. 120

SENATORS Johnson, Hottinger, Armbruster, Amstutz, Harris,
Randy Gardner, Nein, Robert Gardner

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 and 2307.27 and sections 2307.011, 2307.22, 10
2307.23, 2307.25, 2307.26, 2307.28, 2307.29, 11
2315.32, 2315.33, 2315.34, 2315.35, 2315.36, 12
2315.41, 2315.42, 2315.43, 2315.44, 2315.45, and 13
2315.46; and to repeal sections 2307.31, 2307.32, 14
2307.33, 2307.331, 2315.19, 2315.20, and 2315.37 of 15
the Revised Code to modify the law regarding the 16
apportionment of liability in specified civil 17
actions. 18

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

Section 1. That sections 2101.31, 2307.24, 2307.27, 2307.30, 19
2313.46, 2315.23, 2315.24, 4507.07, and 5703.54 be amended; 20

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

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

(1) Jointly and severally for everything chargeable to the
partnership under sections 1775.12 and 1775.13 of the Revised
Code. 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 or other tort claim
that otherwise is subject to ~~that section~~ any of those sections.

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

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

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.

(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.

(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.

(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.

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.

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

(A) "Conduct" means actions or omissions.

(B) "Contributory fault" means contributory negligence, other 82
contributory tortious conduct, comparative negligence, or express 83
or implied assumption of the risk. 84

(C) "Economic loss" means any of the following types of 85
pecuniary harm: 86

(1) All wages, salaries, or other compensation lost as a 87
result of an injury, death, or loss to person or property that is 88
a subject of a tort action, including wages, salaries, or other 89
compensation lost as of the date of a judgment and future expected 90
lost earnings; 91

(2) All expenditures for medical care or treatment, 92
rehabilitation services, or other care, treatment, services, 93
products, or accommodations incurred as a result of an injury, 94
death, or loss to person that is a subject of a tort action, 95
including expenditures for those purposes that were incurred as of 96
the date of a judgment and expenditures for those purposes that, 97
in the determination of the trier of fact, will be incurred in the 98
future because of the injury, whether paid by the injured person 99
or by another person on behalf of the injured person; 100

(3) All expenditures of a person whose property was injured 101
or destroyed or of another person on behalf of the person whose 102
property was injured or destroyed in order to repair or replace 103
the property; 104

(4) Any other expenditures incurred as a result of an injury, 105
death, or loss to person or property that is a subject of a tort 106
action, except expenditures of the injured person, the person 107
whose property was injured or destroyed, or another person on 108
behalf of the injured person or the person whose property was 109
injured or destroyed in relation to the actual preparation or 110
presentation of the claim involved. 111

(D) "Negligence claim" means a civil action for damages for 112

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.

(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, or protection; advice, guidance, counsel, instruction,
training, or education; mental anguish; and any other intangible
loss.

(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.

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

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

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

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

(4) Persons 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.

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

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

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

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

143
144
145

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

146
147

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

148
149
150
151
152

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

153
154
155

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

156
157
158
159
160
161
162
163
164

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

165
166
167
168
169
170

(1) In a tort action in which the trier of fact determines 171
that two or more persons proximately caused the same injury or 172
loss to person or property or the same wrongful death and in which 173
the trier of fact determines that more than fifty per cent of the 174
tortious conduct is attributable to one defendant, that defendant 175
shall be jointly and severally liable in tort for all compensatory 176
damages that represent economic loss. 177

(2) If division (A)(1) of this section is applicable, each 178
defendant who is determined by the trier of fact to be legally 179
responsible for the same injury or loss to person or property or 180
the same wrongful death and to whom fifty per cent or less of the 181
tortious conduct is attributable shall be liable to the plaintiff 182
only for that defendant's proportionate share of the compensatory 183
damages that represent economic loss. The proportionate share of a 184
defendant shall be calculated by multiplying the total amount of 185
the economic damages awarded to the plaintiff by the percentage of 186
tortious conduct as determined pursuant to section 2307.23 of the 187
Revised Code that is attributable to that defendant. 188

(B) In a tort action in which the trier of fact determines 189
that two or more persons proximately caused the same injury or 190
loss to person or property or the same wrongful death and in which 191
the trier of fact determines that fifty per cent or less of the 192
tortious conduct is attributable to each defendant, each defendant 193
shall be liable to the plaintiff only for that defendant's 194
proportionate share of the compensatory damages that represent 195
economic loss. The proportionate share of a defendant shall be 196
calculated by multiplying the total amount of the economic damages 197
awarded to the plaintiff by the percentage of tortious conduct as 198
determined pursuant to section 2307.23 of the Revised Code that is 199
attributable to that defendant. 200

(C) In a tort action in which the trier of fact determines 201
that two or more persons proximately caused the same injury or 202

loss to person or property or the same wrongful death, each
defendant who is determined by the trier of fact to be legally
responsible for the same injury or loss to person or property or
for the same wrongful death shall be liable to the plaintiff only
for that defendant's proportionate share of the compensatory
damages that represent noneconomic loss. The proportionate share
of a defendant shall be calculated by multiplying the total amount
of the noneconomic damages awarded to the plaintiff by the
percentage of tortious conduct as determined pursuant to section
2307.23 of the Revised Code that is attributable to that
defendant.

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

Sec. 2307.23. (A) In determining the percentage of tortious
conduct attributable to a party in a tort action under section
2307.22, sections 2315.32 to 2315.37, or sections 2315.41 to
2315.46 of the Revised Code, the 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 all of the following:

(1) The percentage of tortious conduct that proximately
caused the injury or loss to person or property or the wrongful
death that is attributable to the plaintiff and to each party to
the tort action from whom the plaintiff seeks recovery in this
action;

(2) The percentage of tortious conduct that proximately
caused the injury or loss to person or property or the wrongful
death that is attributable to each person from whom the plaintiff
does not seek recovery in this action.

(B) The sum of the percentages of tortious conduct as

determined pursuant to division (A) of this section shall equal
one hundred per cent.

234
235

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

236
237
238

(B) Sections 2307.22 and 2307.23 of the Revised Code do not
affect any other section of the Revised Code or the common law of
this state to the extent that the other section or common law
makes a principal, master, or other person vicariously liable for
the tortious conduct of an agent, servant, or other person. For
purposes of section 2307.22 of the Revised Code, a principal and
agent, a master and servant, or other persons having a vicarious
liability relationship shall constitute a single party when
determining percentages of tortious conduct in a tort action in
which vicarious liability is asserted.

239
240
241
242
243
244
245
246
247
248

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

249
250
251
252
253
254
255
256
257
258
259
260
261
262
263

(B) A tortfeasor who enters into a settlement with a claimant 264
is not entitled to contribution from another tortfeasor whose 265
liability for the injury or loss to person or property or the 266
wrongful death is not extinguished by the settlement, or in 267
respect to any amount paid in a settlement that is in excess of 268
what is reasonable. 269

(C) A liability insurer that by payment has discharged in 270
full or in part the liability of a tortfeasor and has discharged 271
in full by the payment its obligation as insurer is subrogated to 272
the tortfeasor's right of contribution to the extent of the amount 273
it has paid in excess of the tortfeasor's proportionate share of 274
the common liability. This division does not limit or impair any 275
right of subrogation arising from any other relationship. 276

(D) This section does not impair any right of indemnity under 277
existing law. If one tortfeasor is entitled to indemnity from 278
another, the right of the indemnity obligee is for indemnity and 279
not contribution, and the indemnity obligor is not entitled to 280
contribution from the obligee for any portion of the indemnity 281
obligation. 282

(E) This section does not apply to breaches of trust or of 283
other fiduciary obligations. 284

(F) The proportionate shares of tortfeasors in the common 285
liability shall be based upon their relative degrees of legal 286
responsibility. If equity requires the collective liability of 287
some as a group, the group shall constitute a single share, and 288
principles of equity applicable to contribution generally shall 289
apply. 290

(G) Whether or not judgment has been entered in an action 291
against two or more tortfeasors for the same injury or loss to 292
person or property or for the same wrongful death, contribution 293
may be enforced by separate action. 294

(H) Whenever the provisions of the "Federal Tort Claims Act," 295
60 Stat. 842 (1946), 28 U.S.C. 2671 et seq., are applicable to a 296
tort and the United States is held liable in tort, the United 297
States has no right of contribution under this section against the 298
state pursuant to the waiver of sovereign immunity contained in 299
Chapter 2743. of the Revised Code. 300

Sec. 2307.26. If a judgment that imposes joint and several 301
liability has been entered in an action against one or more 302
tortfeasors for the same injury or loss to person or property or 303
for the same wrongful death, contribution may be enforced in that 304
action by judgment in favor of one against other judgment debtors, 305
by motion, upon notice to all parties to the action. If there is a 306
judgment for the injury or loss to person or property or the 307
wrongful death against the tortfeasor seeking contribution, that 308
tortfeasor shall commence any separate action to enforce 309
contribution within one year after the judgment has become final 310
by lapse of time for appeal or after appellate review. 311

If there is no judgment for the injury or loss to person or 312
property or the wrongful death against the tortfeasor seeking 313
contribution, that tortfeasor's right of contribution is barred 314
unless either of the following applies: 315

(A) That tortfeasor has discharged by payment the common 316
liability within the statute of limitations period applicable to 317
the claimant's right of action against that tortfeasor and has 318
commenced that tortfeasor's action for contribution within one 319
year after the payment. 320

(B) That tortfeasor has agreed while an action is pending 321
against that tortfeasor to discharge the common liability and has 322
paid within one year after the agreement the common liability and 323
commenced that tortfeasor's action for contribution. 324

Sec. 2307.27. (A) The recovery of a judgment for an injury or 325
loss to person or property or a wrongful death against one 326
tortfeasor does not of itself discharge the other tortfeasors from 327
liability for the injury, loss, or wrongful death unless the 328
judgment is satisfied. The satisfaction of the judgment does not 329
impair any right of contribution. 330

(B) Valid answers to interrogatories by a jury or findings of 331
fact by a court sitting without a jury in determining the 332
percentage of liability of several defendants for an injury or 333
loss to person or property or a wrongful death shall be binding as 334
among those defendants in determining their right to contribution. 335

Sec. 2307.28. When a release or a covenant not to sue or not 336
to enforce judgment is given in good faith to one of two or more 337
persons for the same injury or loss to person or property or the 338
same wrongful death, both of the following apply: 339

(A) The release or covenant does not discharge any of the 340
other tortfeasors from liability for the injury, loss, or wrongful 341
death unless its terms otherwise provide, but it reduces the claim 342
against the other tortfeasors to the extent of the greater of any 343
amount stipulated by the release or the covenant or the amount of 344
the consideration paid for it. 345

(B) The release or covenant discharges the person to whom it 346
is given from all liability for contribution to any other 347
tortfeasor. 348

Sec. 2307.29. No provision of sections 2307.25 to 2307.28 of 349
the Revised Code applies to a negligence or other tort claim to 350
the extent that sections 2307.22 to 2307.24, sections 2315.32 to 351
2315.37, or sections 2315.41 to 2315.46 of the Revised Code make a 352
party against whom a judgment is entered liable to the plaintiff 353

only for the proportionate share of that party as described in
those sections.

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.

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.

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 381
Code, respecting trials by jury, apply to trials by the court. 382

Sec. ~~2315.24~~ 2315.09. Parties to a question ~~which~~ that might 383
be the subject of a civil action, on filing an affidavit that the 384
controversy is real and the proceeding in good faith to determine 385
their rights, may agree upon a case containing the facts upon 386
which the controversy depends and present a submission of it to 387
any court of competent jurisdiction, ~~which,~~ The court shall hear 388
and determine the case and render judgment as if an action were 389
pending. 390

The case, the submission, and the judgment constitutes the 391
record of a question submitted under this section. 392

Such judgment shall be with costs, may be enforced, and shall 393
be subject to reversal, in like manner, as if it were rendered in 394
an action, unless otherwise provided in the submission. 395

Sec. 2315.32. (A) Sections 2315.32 to 2315.36 of the Revised 396
Code do not apply to tort actions based on a product liability 397
claim. 398

(B) The contributory fault of the plaintiff may be asserted 399
as an affirmative defense to a negligence claim or to a tort claim 400
other than a negligence claim. 401

Sec. 2315.33. The contributory fault of a person does not bar 402
the person as plaintiff from recovering damages that have directly 403
and proximately resulted from the tortious conduct of one or more 404
other persons, if the contributory fault of the plaintiff was not 405
greater than the combined tortious conduct of all other persons 406
from whom the plaintiff seeks recovery in this action and of all 407
other persons from whom the plaintiff does not seek recovery in 408
this action. The court shall diminish any compensatory damages 409

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.

Sec. 2315.34. If contributory fault is asserted and
established as an affirmative defense to a negligence claim, the
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 440
from whom the plaintiff seeks recovery plus all persons from whom 441
the plaintiff does not seek recovery in this action, the court 442
shall enter judgment in favor of the defendants. 443

Sec. 2315.36. If contributory fault is asserted as an 444
affirmative defense to a negligence claim, if it is determined 445
that the plaintiff was contributorily at fault and that 446
contributory fault was a direct and proximate cause of the injury, 447
death, or loss to person or property that is the subject of the 448
tort action, and if the plaintiff is entitled to recover 449
compensatory damages pursuant to section 2315.33 of the Revised 450
Code from more than one party, after it makes findings of fact or 451
after the jury returns its general verdict accompanied by answers 452
to interrogatories as described in section 2315.34 of the Revised 453
Code, the court shall enter a judgment that is in favor of the 454
plaintiff and that imposes liability pursuant to section 2307.22 455
of the Revised Code. 456

Sec. 2315.41. (A) As used in sections 2315.41 to 2315.46 of 457
the Revised Code, "other contributory tortious conduct" or "other 458
tortious conduct" means tortious conduct that contributes to the 459
injury, death, or loss to person or property for which the 460
plaintiff is seeking relief but does not include conduct 461
constituting express assumption of the risk or implied assumption 462
of the risk. 463

(B) Sections 2315.41 to 2315.46 of the Revised Code do not 464
apply to actions described in section 4113.03 of the Revised Code. 465

Sec. 2315.42. (A) Express or implied assumption of the risk 466
may be asserted as an affirmative defense to a product liability 467
claim. 468

(B) If express or implied assumption of the risk is asserted 469

as an affirmative defense to a product liability claim and if it
is determined that the plaintiff expressly or impliedly assumed a
risk and that the express or implied assumption of the risk was a
direct and proximate cause of harm for which the plaintiff seeks
to recover damages, the express or implied assumption of the risk
is a complete bar to the recovery of those damages.

Sec. 2315.43. Contributory negligence or other contributory
tortious conduct may be asserted as an affirmative defense to a
product liability claim. Contributory negligence or other
contributory tortious conduct of a plaintiff does not bar the
plaintiff from recovering damages that have directly and
proximately resulted from the tortious conduct of one or more
other persons, if the contributory negligence or other
contributory tortious conduct of the plaintiff was not greater
than the combined tortious conduct of all other persons from whom
the plaintiff seeks recovery and of all other persons from whom
the plaintiff does not seek recovery in this action. The
compensatory damages recoverable by the plaintiff shall be
diminished by an amount that is proportionately equal to the
percentage of negligence or other tortious conduct of the
plaintiff, which percentage is determined pursuant to section
2315.44 of the Revised Code.

Sec. 2315.44. If contributory negligence or other
contributory tortious conduct is asserted and established as an
affirmative defense to a product liability claim, the 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 product liability claim but for the
negligence or other tortious conduct of the plaintiff;

(B) The portion of the compensatory damages specified under 501
division (A) of this section that represents economic loss; 502

(C) The portion of the compensatory damages specified under 503
division (A) of this section that represents noneconomic loss; 504

(D) The percentage of negligence or other tortious conduct 505
attributable to all persons as determined pursuant to section 506
2307.23 of the Revised Code. 507

Sec. 2315.45. After the court makes its findings of fact or 508
after the jury returns its general verdict accompanied by answers 509
to interrogatories as described in section 2315.44 of the Revised 510
Code, the court shall diminish the total amount of the 511
compensatory damages that would have been recoverable by an amount 512
that is proportionately equal to the percentage of negligence or 513
other tortious conduct determined pursuant to section 2307.23 of 514
the Revised Code that is attributable to the plaintiff. If the 515
percentage of the negligence or other tortious conduct determined 516
to be attributable to the plaintiff is greater than the sum of the 517
percentages of the tortious conduct determined to be attributable 518
to all parties to the action from whom the plaintiff seeks 519
recovery plus all persons from whom the plaintiff does not seek 520
recovery in this action, the court shall enter judgment in favor 521
of the defendants. 522

Sec. 2315.46. If contributory negligence or other 523
contributory tortious conduct is asserted as an affirmative 524
defense to a product liability claim, if it is determined that the 525
plaintiff was contributorily negligent or engaged in other 526
contributory tortious conduct and that the contributory negligence 527
or other contributory tortious conduct was a direct and proximate 528
cause of the injury, death, or loss to person or property 529
involved, and if the plaintiff is entitled to recover compensatory 530

damages pursuant to this section from more than one party, after
it makes findings of fact or after the jury returns its general
verdict accompanied by answers to interrogatories as described in
section 2315.44 of the Revised Code, the court shall enter a
judgment that is in favor of the plaintiff and that imposes
liability pursuant to section 2307.22 of the Revised Code.

Sec. 4171.10. The express assumption of risk set forth in
section 4171.09 of the Revised Code shall serve as a complete
defense ~~to~~ in a suit tort or other civil action against an
operator by a roller skater for injuries resulting from the
assumed risks of roller skating. The comparative negligence or
other tort provisions of ~~section 2315.19~~ sections 2315.32 to
2315.37 of the Revised Code shall not apply unless the operator
has breached ~~his~~ the operator's duties pursuant to sections
4171.06 and 4171.07 of the Revised Code.

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

At the time a minor under eighteen years of age submits an
application for a license or permit at a driver's license
examining station, the adult who signs the application shall
present identification establishing that the adult is the
individual whose signature appears on the application. The
registrar shall prescribe, by rule, the types of identification
that are suitable for the purposes of this paragraph. If the adult

who signs the application does not provide identification as
required by this paragraph, the application shall not be accepted.

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

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

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

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

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

(3) The officer or employee did not act manifestly outside
the scope of ~~his~~ the officer's or employee's office or employment
and did not act with malicious purpose, in bad faith, or in a

wanton or reckless manner.

624

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

625

626

627

628

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

629

630

631

(2) Reasonable costs of litigation and attorneys fees
sustained by the taxpayer.

632

633

(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 2315.32 to 2315.37 of the Revised Code.

634

635

636

637

638

(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.

639

640

641

642

643

(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.

644

645

646

(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.

647

648

649

(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:

650

651

652

(1) It obviously serves merely to harass or maliciously

653

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;

(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.

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

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

Section 4. (A) Sections 1775.14, 2315.18, and 4171.10 of the
Revised Code, as they existed immediately prior to being amended
by Am. Sub. H.B. 350 of the 121st General Assembly, are revived
and amended and supersede the versions of those sections repealed
by Section 2 of this act. Sections 2315.18 and 4171.10 of the

Revised Code also are amended to reenact the changes made to those 684
sections by Am. Sub. H.B. 350. 685

(B) Section 4507.07 of the Revised Code, which has been 686
amended by Am. Sub. S.B. 35 of the 122nd General Assembly 687
subsequent to its amendment by Am. Sub. H.B. 350 of the 121st 688
General Assembly, first is amended to remove matter inserted by, 689
or to revive matter removed by, Am. Sub. H.B. 350 and then is 690
amended to reenact the changes made to that section by Am. Sub. 691
H.B. 350. Amendments made to that section by Am. Sub. S.B. 35 are 692
retained. 693

(C) The revival and amendment or amendment of sections 694
1775.14, 2315.18, 4171.10, and 4507.07 of the Revised Code by this 695
act as described in divisions (A) and (B) of this section is in 696
conformity with the Supreme Court of Ohio's decisions in *State, ex* 697
rel. Ohio Academy of Trial Lawyers v. Sheward (1999), 86 Ohio 698
St.3d 451, and *Stevens v. Ackman* (2001), 91 Ohio St.3d 182 and is 699
intended to clarify the status of those sections. 700