

As Reported by the House Civil and Commercial Law Committee

124th General Assembly

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Sub. S. B. No. 120

SENATORS Johnson, Hottinger, Armbruster, Amstutz, Harris,

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REPRESENTATIVES Seitz, Latta

A B I L L

To amend sections 1775.14, 2315.08, 4171.10, 4507.07, 1
and 5703.54; to enact sections 2307.011, 2307.22, 2
2307.23, 2307.24, 2307.25, 2307.26, 2307.27, 3
2307.28, 2307.29, 2307.82, 2315.32, 2315.33, 4
2315.34, 2315.35, 2315.36, 2315.41, 2315.42, 5
2315.43, 2315.44, 2315.45, 2315.46, and 2315.47; 6
and to repeal sections 2307.31, 2307.32, 2307.33, 7
2315.19, and 2315.20 of the Revised Code to modify 8
the law regarding the apportionment of liability in 9
specified civil actions. 10

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

Section 1. That sections 1775.14, 2315.08, 4171.10, 4507.07, 11
and 5703.54 be amended and sections 2307.011, 2307.22, 2307.23, 12
2307.24, 2307.25, 2307.26, 2307.27, 2307.28, 2307.29, 2307.82, 13
2315.32, 2315.33, 2315.34, 2315.35, 2315.36, 2315.41, 2315.42, 14
2315.43, 2315.44, 2315.45, 2315.46, and 2315.47 of the Revised 15
Code be enacted to read as follows: 16

Sec. 1775.14. (A) Subject to section 1339.65 of the Revised 17
Code and except as provided in division (B) of this section, all 18

partners are liable as follows: 19

(1) Jointly and severally for everything chargeable to the 20
partnership under sections 1775.12 and 1775.13 of the Revised 21
Code. This joint and several liability is not subject to ~~division~~ 22
~~(D)~~ of section ~~2315.19~~ 2307.22, 2315.36, 2315.45, or 2315.46 of 23
the Revised Code with respect to a negligence or other tort claim 24
that otherwise is subject to ~~that section~~ any of those sections. 25

(2) Jointly for all other debts and obligations of the 26
partnership, but any partner may enter into a separate obligation 27
to perform a partnership contract. 28

(B) Subject to divisions (C)(1) and (2) of this section or as 29
otherwise provided in a written agreement between the partners of 30
a registered limited liability partnership, a partner in a 31
registered limited liability partnership is not liable, directly 32
or indirectly, by way of indemnification, contribution, 33
assessment, or otherwise, for debts, obligations, or other 34
liabilities of any kind of, or chargeable to, the partnership or 35
another partner or partners arising from negligence or from 36
wrongful acts, errors, omissions, or misconduct, whether or not 37
intentional or characterized as tort, contract, or otherwise, 38
committed or occurring while the partnership is a registered 39
limited liability partnership and committed or occurring in the 40
course of the partnership business by another partner or an 41
employee, agent, or representative of the partnership. 42

(C)(1) Division (B) of this section does not affect the 43
liability of a partner in a registered limited liability 44
partnership for that partner's own negligence, wrongful acts, 45
errors, omissions, or misconduct, including that partner's own 46
negligence, wrongful acts, errors, omissions, or misconduct in 47
directly supervising any other partner or any employee, agent, or 48
representative of the partnership. 49

(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. 2307.011. As used in Chapters 2307. and 2315. of the Revised Code unless specifically provided otherwise:

(A) "Conduct" means actions or omissions.

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

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

(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;

(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; 80

(3) All expenditures of a person whose property was injured 81
or destroyed or of another person on behalf of the person whose 82
property was injured or destroyed in order to repair or replace 83
the property; 84

(4) Any other expenditures incurred as a result of an injury, 85
death, or loss to person or property that is a subject of a tort 86
action, except expenditures of the injured person, the person 87
whose property was injured or destroyed, or another person on 88
behalf of the injured person or the person whose property was 89
injured or destroyed in relation to the actual preparation or 90
presentation of the claim involved. 91

(D) "Intentional tort claim" means a claim alleging that a 92
tortfeasor intentionally caused or intentionally contributed to 93
the injury or loss to person or property or the wrongful death or 94
that a tortfeasor knew or believed that the injury or loss to 95
person or property or the wrongful death was substantially certain 96
to result from the tortfeasor's conduct. As used in sections 97
2307.22, 2315.32, 2315.42, and 2315.45 of the Revised Code, 98
"intentional tort claim" does not include an intentional tort 99
claim alleged by an employee or the employee's legal 100
representative against the employee's employer and that arises 101
from the tortfeasor's conduct that occurs on premises owned, 102
leased, or supervised by the employer. 103

(E) "Negligence claim" means a civil action for damages for 104
injury, death, or loss to person or property to the extent that 105
the damages are sought or recovered based on allegation or proof 106
of negligence. 107

(F) "Noneconomic loss" means nonpecuniary harm that results 108
from an injury, death, or loss to person that is a subject of a 109
tort action, including, but not limited to, pain and suffering; 110

loss of society, consortium, companionship, care, assistance, 111
attention, protection, advice, guidance, counsel, instruction, 112
training, or education; mental anguish; and any other intangible 113
loss. 114

(G) "Person" has the same meaning as in division (C) of 115
section 1.59 of the Revised Code and additionally includes a 116
political subdivision and the state. 117

(H) "Persons from whom the plaintiff does not seek recovery 118
in this action" includes, but is not limited to, the following: 119

(1) Persons who have entered into a settlement agreement with 120
the plaintiff; 121

(2) Persons whom the plaintiff has dismissed from the tort 122
action without prejudice; 123

(3) Persons whom the plaintiff has dismissed from the tort 124
action with prejudice; 125

(4) Persons who are not a party to the tort action whether or 126
not that person was or could have been a party to the tort action 127
if the name of the person has been disclosed prior to trial. 128

(I) "Plaintiff" includes the person for whom the plaintiff is 130
legal representative. 131

(J) "Political subdivision" and "state" have the same 132
meanings as in section 2744.01 of the Revised Code. 133

(K)(1) "Tort action" means a civil action for damages for 134
injury, death, or loss to person or property. 135

(2) "Tort action" includes any of the following: 136

(a) A product liability claim brought under sections 2307.71 137
to 2307.80 of the Revised Code and based on a product's defective 138
design or formulation as described in section 2307.75 of the 139

Revised Code; 140

(b) A product liability claim brought under sections 2307.71 141
to 2307.80 of the Revised Code and based on a defective product 142
because of inadequate warning or instruction as described in 143
section 2307.76 of the Revised Code; 144

(c) A product liability claim that is described in division 145
(K)(3)(a) or (b) of this section and that pursuant to section 146
2315.47 of the Revised Code is governed by sections 2307.22 to 147
2307.29 and 2315.32 to 2315.36 of the Revised Code. 148

(3) "Tort action" does not include any of the following: 149

(a) Except as provided in division (K)(2)(c) of this section, 150
a product liability claim brought under sections 2307.71 to 151
2307.80 of the Revised Code and based upon a product's defective 152
manufacture or construction as described in section 2307.74 of the 153
Revised Code; 154

(b) Except as provided in division (K)(2)(c) of this section, 155
a product liability claim brought under sections 2307.71 to 156
2307.80 of the Revised Code and based upon a defective product 157
because it did not conform to a representation made by its 158
manufacturer as described in section 2307.77 of the Revised Code; 159

(c) A civil action for damages for a breach of contract or 160
another agreement between persons. 161

(L) "Trier of fact" means the jury or, in a nonjury action, 162
the court. 163

Sec. 2307.22. (A) Subject to sections 2307.23 and 2307.24 and 164
except as provided in division (B) of section 2307.70, division 165
(B) of section 4507.07, section 4399.02, or another section of the 166
Revised Code that expressly establishes joint and several tort 167
liability for specified persons, joint and several tort liability 168
shall be determined as follows: 169

(1) In a tort action in which the trier of fact determines that two or more persons proximately caused the same injury or loss to person or property or the same wrongful death and in which the trier of fact determines that more than fifty per cent of the tortious conduct is attributable to one defendant, that defendant shall be jointly and severally liable in tort for all compensatory damages that represent economic loss. 170
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(2) If division (A)(1) of this section is applicable, 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 the same wrongful death and to whom fifty per cent or less of the tortious conduct is attributable shall be liable to the plaintiff only for that defendant's proportionate share of the compensatory damages that represent economic loss. The proportionate share of a defendant shall be calculated by multiplying the total amount of the economic 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. 177
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(3) In a tort action in which the trier of fact determines that two or more persons proximately caused the same injury or loss to person or property or the same wrongful death and in which the trier of fact determines that fifty per cent or less of the tortious conduct is attributable to any defendant against whom an intentional tort claim has been alleged and established, that defendant shall be jointly and severally liable in tort for all compensatory damages that represent economic loss. 188
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(4) If division (A)(3) of this section is applicable, each defendant against whom an intentional tort claim has not been alleged and established, who is determined by the trier of fact to be legally responsible for the same injury or loss to person or property or the same wrongful death, and to whom fifty per cent or less of the tortious conduct is attributable shall be liable to 196
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the plaintiff only for that defendant's proportionate share of the 202
compensatory damages that represent economic loss. The 203
proportionate share of a defendant shall be calculated by 204
multiplying the total amount of the economic damages awarded to 205
the plaintiff by the percentage of tortious conduct as determined 206
pursuant to section 2307.23 of the Revised Code that is 207
attributable to that defendant. 208

(B) Except as otherwise provided in divisions (A)(3) and (4) 209
of this section, in a tort action in which the trier of fact 210
determines that two or more persons proximately caused the same 211
injury or loss to person or property or the same wrongful death 212
and in which the trier of fact determines that fifty per cent or 213
less of the tortious conduct is attributable to each defendant, 214
each defendant shall be liable to the plaintiff only for that 215
defendant's proportionate share of the compensatory damages that 216
represent economic loss. The proportionate share of a defendant 217
shall be calculated by multiplying the total amount of the 218
economic damages awarded to the plaintiff by the percentage of 219
tortious conduct as determined pursuant to section 2307.23 of the 220
Revised Code that is attributable to that defendant. 221

(C) In a tort action in which the trier of fact determines 222
that two or more persons proximately caused the same injury or 223
loss to person or property or the same wrongful death, each 224
defendant who is determined by the trier of fact to be legally 225
responsible for the same injury or loss to person or property or 226
for the same wrongful death shall be liable to the plaintiff only 227
for that defendant's proportionate share of the compensatory 228
damages that represent noneconomic loss. The proportionate share 229
of a defendant shall be calculated by multiplying the total amount 230
of the noneconomic damages awarded to the plaintiff by the 231
percentage of tortious conduct as determined pursuant to section 232
2307.23 of the Revised Code that is attributable to that 233

defendant.

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(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.

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Sec. 2307.23. (A) In determining the percentage of tortious
conduct attributable to a party in a tort action under section
2307.22 or sections 2315.32 to 2315.36 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:

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(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;

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(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.

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

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(C) For purposes of division (A)(2) of this section, it is an
affirmative defense for each party to the tort action from whom
the plaintiff seeks recovery in this action that a specific
percentage of the tortious conduct that proximately caused the
injury or loss to person or property or the wrongful death is
attributable to one or more persons from whom the plaintiff does
not seek recovery in this action. Any party to the tort action

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from whom the plaintiff seeks recovery in this action may raise an affirmative defense under this division at any time before the trial of the action.

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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.

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(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.

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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 against whom an intentional tort claim has been alleged and established.

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(B) A tortfeasor who enters into a settlement with a claimant 295
is not entitled to contribution from another tortfeasor whose 296
liability for the injury or loss to person or property or the 297
wrongful death is not extinguished by the settlement, or in 298
respect to any amount paid in a settlement that is in excess of 299
what is reasonable. 300

(C) A liability insurer that by payment has discharged in 301
full or in part the liability of a tortfeasor and has discharged 302
in full by the payment its obligation as insurer is subrogated to 303
the tortfeasor's right of contribution to the extent of the amount 304
it has paid in excess of the tortfeasor's proportionate share of 305
the common liability. This division does not limit or impair any 306
right of subrogation arising from any other relationship. 307

(D) This section does not impair any right of indemnity under 308
existing law. If one tortfeasor is entitled to indemnity from 309
another, the right of the indemnity obligee is for indemnity and 310
not contribution, and the indemnity obligor is not entitled to 311
contribution from the obligee for any portion of the indemnity 312
obligation. 313

(E) This section does not apply to breaches of trust or of 314
other fiduciary obligations. 315

(F) The proportionate shares of tortfeasors in the common 316
liability shall be based upon their relative degrees of legal 317
responsibility. If equity requires the collective liability of 318
some as a group, the group shall constitute a single share, and 319
principles of equity applicable to contribution generally shall 320
apply. 321

(G) Whether or not judgment has been entered in an action 322
against two or more tortfeasors for the same injury or loss to 323
person or property or for the same wrongful death, contribution 324
may be enforced by separate action. 325

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(H) Whenever the provisions of the "Federal Tort Claims Act," 326
60 Stat. 842 (1946), 28 U.S.C. 2671 et seq., are applicable to a 327
tort and the United States is held liable in tort, the United 328
States has no right of contribution under this section against the 329
state pursuant to the waiver of sovereign immunity contained in 330
Chapter 2743. of the Revised Code. 331

Sec. 2307.26. If a judgment that imposes joint and several 332
liability has been entered in an action against one or more 333
tortfeasors for the same injury or loss to person or property or 334
for the same wrongful death, contribution may be enforced in that 335
action by judgment in favor of one against other judgment debtors, 336
by motion, upon notice to all parties to the action. If there is a 337
judgment for the injury or loss to person or property or the 338
wrongful death against the tortfeasor seeking contribution, that 339
tortfeasor shall commence any separate action to enforce 340
contribution within one year after the judgment has become final 341
by lapse of time for appeal or after appellate review. 342

If there is no judgment for the injury or loss to person or 343
property or the wrongful death against the tortfeasor seeking 344
contribution, that tortfeasor's right of contribution is barred 345
unless either of the following applies: 346

(A) That tortfeasor has discharged by payment the common 347
liability within the statute of limitations period applicable to 348
the claimant's right of action against that tortfeasor and has 349
commenced that tortfeasor's action for contribution within one 350
year after the payment. 351

(B) That tortfeasor has agreed while an action is pending 352
against that tortfeasor to discharge the common liability and has 353
paid within one year after the agreement the common liability and 354
commenced that tortfeasor's action for contribution. 355

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

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

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

(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, except that the reduction of the claim against the other tortfeasors shall not apply in any case in which the reduction results in the plaintiff recovering less than the total amount of the plaintiff's compensatory damages awarded by the trier of fact and except that in any case in which the reduction does not apply the plaintiff shall not recover more than the total amount of the plaintiff's compensatory damages awarded by the trier of fact.

(B) The release or covenant discharges the person 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 2307.22 to 2307.24 or sections 2315.32 to
2315.36 of the Revised Code make 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. 2307.82. No cause of action may exist as a product
liability claim unless it is defined and governed by sections
2307.71 to 2307.80 of the Revised Code.

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Sec. 2315.08. ~~So far as in their nature applicable, sections~~
2315.01 to 2315.19 of the Revised Code, respecting The provisions
of this chapter that apply to trials by jury, apply to trials by
the court.

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Sec. 2315.32. (A) Sections 2315.32 to 2315.36 of the Revised
Code do not apply to any of the following:

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(1) A product liability claim brought under sections 2307.71
to 2307.80 of the Revised Code and based upon a product's
defective manufacture or construction as described in section
2307.74 of the Revised Code;

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(2) A product liability claim brought under sections 2307.71
to 2307.80 of the Revised Code and based upon a defective product
because it did not conform to a representation made by its
manufacturer as described in section 2307.77 of the Revised Code.

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(B) Except as provided in division (C) of this section, 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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(C) The contributory fault of the plaintiff may not be asserted as an affirmative defense to any of the following: 414 415

(1) An intentional tort claim; 416

(2) A product liability claim brought under sections 2307.71 to 2307.80 of the Revised Code and based upon a product's defective manufacture or construction as described in section 2307.74 of the Revised Code; 417 418 419 420

(3) A product liability claim brought under sections 2307.71 to 2307.80 of the Revised Code and based upon a defective product because it did not conform to a representation made by its manufacturer as described in section 2307.77 of the Revised Code. 421 422 423 424

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. 425 426 427 428 429 430 431 432 433 434 435 436 437

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: 438 439 440 441 442

(A) The total amount of the compensatory damages that would 443

have been recoverable on that negligence claim but for the 444
tortious conduct of the plaintiff; 445

(B) The portion of the compensatory damages specified under 446
division (A) of this section that represents economic loss; 447

(C) The portion of the compensatory damages specified under 448
division (A) of this section that represents noneconomic loss; 449

(D) The percentage of tortious conduct attributable to all 450
persons as determined pursuant to section 2307.23 of the Revised 451
Code. 452

Sec. 2315.35. After the court makes its findings of fact or 453
after the jury returns its general verdict accompanied by answers 454
to interrogatories as described in section 2315.34 of the Revised 455
Code, the court shall diminish the total amount of the 456
compensatory damages that would have been recoverable by an amount 457
that is proportionately equal to the percentage of tortious 458
conduct determined under section 2307.23 of the Revised Code that 459
is attributable to the plaintiff. If the percentage of the 460
tortious conduct determined to be attributable to the plaintiff is 461
greater than the sum of the percentages of the tortious conduct 462
determined to be attributable to all parties to the tort action 463
from whom the plaintiff seeks recovery plus all persons from whom 464
the plaintiff does not seek recovery in this action, the court 465
shall enter judgment in favor of the defendants. 466

Sec. 2315.36. If contributory fault is asserted as an 467
affirmative defense to a negligence claim, if it is determined 468
that the plaintiff was contributorily at fault and that 469
contributory fault was a direct and proximate cause of the injury, 470
death, or loss to person or property that is the subject of the 471
tort action, and if the plaintiff is entitled to recover 472
compensatory damages pursuant to section 2315.33 of the Revised 473

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Code from more than one party, after it makes findings of fact or 474
after the jury returns its general verdict accompanied by answers 475
to interrogatories as described in section 2315.34 of the Revised 476
Code, the court shall enter a judgment that is in favor of the 477
plaintiff and that imposes liability pursuant to section 2307.22 478
of the Revised Code. 479

Sec. 2315.41. (A) As used in sections 2315.41 to 2315.46 of 480
the Revised Code: 481

(1) "Economic loss" means any of the following types of 482
pecuniary harm: 483

(a) All wages, salaries, or other compensation lost as a 484
result of an injury, death, or loss to person or property that is 485
a subject of a strict liability product liability action, 486
including wages, salaries, or other compensation lost as of the 487
date of a judgment and future expected lost earnings; 488

(b) All expenditures for medical care or treatment, 489
rehabilitation services, or other care, treatment, services, 490
products, or accommodations incurred as a result of an injury, 491
death, or loss to person that is a subject of a strict liability 492
product liability action, including expenditures for those 493
purposes that were incurred as of the date of a judgment and 494
expenditures for those purposes that, in the determination of the 495
trier of fact, will be incurred in the future because of the 496
injury, whether paid by the injured person or by another person on 497
behalf of the injured person; 498

(c) All expenditures of a person whose property was injured 499
or destroyed or of another person on behalf of the person whose 500
property was injured or destroyed in order to repair or replace 501
the property; 502

(d) Any other expenditures incurred as a result of an injury, 503
death, or loss to person or property that is a subject of a strict 504

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liability product liability action, except expenditures of the 505
injured person, the person whose property was injured or 506
destroyed, or another person on behalf of the injured person or 507
the person whose property was injured or destroyed in relation to 508
the actual preparation or presentation of the claim involved. 509

(2) "Noneconomic loss" means nonpecuniary harm that results 510
from an injury, death, or loss to person that is a subject of a 511
strict liability product liability action, including, but not 512
limited to, pain and suffering; loss of society, consortium, 513
companionship, care, assistance, attention, protection, advice, 514
guidance, counsel, instruction, training, or education; mental 515
anguish; and any other intangible loss. 516

(3) "Other contributory tortious conduct" or "other tortious 517
conduct" means tortious conduct that contributes to the injury, 518
death, or loss to person or property for which the plaintiff is 519
seeking relief but does not include conduct constituting express 520
assumption of the risk or implied assumption of the risk. 521

(4)(a) "Product liability claim" includes any of the 522
following: 523

(i) A product liability claim brought under sections 2307.71 524
to 2307.80 of the Revised Code and based upon a product's 525
defective manufacture or construction as described in section 526
2307.74 of the Revised Code; 527

(ii) A product liability claim brought under sections 2307.71 528
to 2307.80 of the Revised Code and based upon a defective product 529
because it did not conform to a representation made by its 530
manufacturer as described in section 2307.77 of the Revised Code. 531

(b) "Product liability claim" does not include any of the 532
following: 533

(i) A product liability claim brought under sections 2307.71 534
to 2307.80 of the Revised Code and based on a product's defective 535

design or formulation as described in section 2307.75 of the 536
Revised Code; 537

(ii) A product liability claim brought under sections 2307.71 538
to 2307.80 of the Revised Code and based on a defective product 539
because of inadequate warning or instruction as described in 540
section 2307.76 of the Revised Code. 541

(5)(a) "Strict liability product liability action" means an 542
action that includes only product liability claims brought under 543
sections 2307.71 to 2307.80 of the Revised Code and based upon 544
either a product's defective manufacture or construction as 545
described in section 2307.74 of the Revised Code or a defective 546
product because it did not conform to a representation made by its 547
manufacturer as described in section 2307.77 of the Revised Code. 548

(b) "Strict liability product liability action" does not 549
include any action that includes a product liability claim brought 550
under sections 2307.71 to 2307.80 of the Revised Code and based 551
upon either a product's defective design or formulation as 552
described in section 2307.75 of the Revised Code or a defective 553
product because of inadequate warning or instruction as described 554
in section 2307.76 of the Revised Code. 555

(B) Sections 2315.41 to 2315.46 of the Revised Code do not 556
apply to actions described in section 4113.03 of the Revised Code. 557

Sec. 2315.42. (A) Express or implied assumption of the risk 558
may be asserted as an affirmative defense to a product liability 559
claim, except that express or implied assumption of the risk may 560
not be asserted as an affirmative defense to an intentional tort 561
claim. 562

(B) If express or implied assumption of the risk is asserted 563
as an affirmative defense to a product liability claim and if it 564
is determined that the plaintiff expressly or impliedly assumed a 565

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.

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Sec. 2315.43. Contributory negligence or other contributory tortious conduct may not be asserted as an affirmative defense to a strict liability product liability claim.

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Sec. 2315.44. (A)(1) The trier of fact in a strict liability product liability action shall determine the liability of the defendants and the persons from whom the plaintiff does not seek recovery in this action who are liable to the plaintiff and the amount of damages to which the plaintiff is entitled in the action pursuant to sections 2307.71 to 2307.80 of the Revised Code. After the trier of fact has determined the liability of the defendants and other persons and the amount of the plaintiff's damages, the trier of fact shall determine in accordance with sections 2307.71 to 2307.80 of the Revised Code the relative responsibility for the plaintiff's damages among the defendants who are liable to the plaintiff and the persons from whom the plaintiff does not seek recovery in this action who are liable to the plaintiff.

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(2) For purposes of division (A)(1) of this section, it is an affirmative defense for each party to the strict liability product liability action from whom the plaintiff seeks recovery in this action that a specific percentage of the responsibility for the plaintiff's damages is attributable to one or more persons from whom the plaintiff does not seek recovery in this action. Any party to the strict liability product liability action from whom the plaintiff seeks recovery in this action may raise an affirmative defense under this division at any time before the trial of the action.

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(B) If the trier of fact determines in accordance with 597
division (A)(1) of this section that two or more persons are 598
liable for the plaintiff's damages in a strict liability product 599
liability action brought pursuant to sections 2307.71 to 2307.80 600
of the Revised Code, joint and several liability shall be 601
determined as follows: 602

(1) If the trier of fact determines that two or more persons 603
are liable for the plaintiff's damages and determines that one 604
defendant is responsible for more than fifty per cent of those 605
damages, that defendant shall be jointly and severally liable for 606
all of the plaintiff's damages that represent economic loss. 607

(2) If division (B)(1) of this section applies, each 608
defendant whom the trier of fact determined is responsible for the 609
plaintiff's damages and whom the trier of fact determined to be 610
responsible for fifty per cent or less of the plaintiff's damages 611
shall be liable to the plaintiff only for that defendant's 612
proportionate share of the plaintiff's damages that represent 613
economic loss. The trier of fact shall determine each defendant's 614
proportionate share of the plaintiff's damages pursuant to 615
sections 2307.71 to 2307.80 of the Revised Code. 616

(C) In a strict liability product liability action in which 617
the trier of fact determines that two or more persons are liable 618
for the plaintiff's damages and in which the trier of fact 619
determines that each defendant is responsible for fifty or less 620
per cent of the plaintiff's damages, each defendant shall be 621
liable to the plaintiff only for the defendant's proportionate 622
share of the plaintiff's damages that represent economic loss. The 623
trier of fact shall determine each defendant's proportionate share 624
of the plaintiff's damages pursuant to sections 2307.71 to 2307.80 625
of the Revised Code. 626

(D) In a strict liability product liability action in which 627
the trier of fact determines that two or more persons are liable 628

for the plaintiff's damages, each defendant shall be liable to the plaintiff only for that defendant's proportionate share of the plaintiff's damages that represent noneconomic loss. The trier of fact shall determine each defendant's proportionate share of the plaintiff's damages pursuant to sections 2307.71 to 2307.80 of the Revised Code.

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Sec. 2315.45. (A) If one or more persons are jointly and severally liable in a strict liability product liability action for the plaintiff's damages, 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 defendant that has paid more than that defendant's proportionate share of the plaintiff's damages, and that defendant's total recovery is limited to the amount paid by that defendant in excess of that defendant's proportionate share. No defendant may be compelled to make contribution beyond that defendant's own proportionate share of the plaintiff's damages. There is no right of contribution in favor of any defendant against whom an intentional tort claim has been alleged and established.

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(B) A defendant who enters into a settlement with a claimant is not entitled to contribution from another defendant whose liability for the plaintiff's damages is not extinguished by the settlement, or in respect to any amount paid in a settlement that is in excess of what is reasonable.

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

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(D) This section does not impair any right of indemnity under existing law. If one defendant 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. 660
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(E) This section does not apply to breaches of trust or of other fiduciary obligations. 666
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(F) The proportionate shares of defendants in the plaintiff's damages shall be determined pursuant to sections 2307.71 to 2307.80 of the Revised Code. 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. 668
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(G) Whether or not judgment has been entered in an action against two or more defendants for the same plaintiff's damages, contribution may be enforced by separate action. 674
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Sec. 2315.46. (A) If a judgment that imposes joint and several liability has been entered in a strict liability product liability action against one or more defendants for the same plaintiff's damages, 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 plaintiff's damages against the defendant seeking contribution, that defendant shall commence any separate action to enforce contribution within one year after the judgment has become final by lapse of time for appeal or after appellate review. 677
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If there is no judgment for the plaintiff's damages against the defendant seeking contribution, that defendant's right of contribution is barred unless either of the following applies: 687
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(1) That defendant has discharged by payment the common 690

liability within the statute of limitations period applicable to
the claimant's right of action against that defendant and has
commenced that defendant's action for contribution within one year
after the payment.

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(2) That defendant has agreed while an action is pending
against that defendant to discharge the common liability and has
paid within one year after the agreement the common liability and
commenced that defendant's action for contribution.

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(B) The recovery of a judgment for a plaintiff's damages
against one defendant does not of itself discharge the other
defendants from liability for the plaintiff's damages unless the
judgment is satisfied. The satisfaction of the judgment does not
impair any right of contribution.

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(C) When a release or a covenant not to sue or not to enforce
judgment is given in good faith to one of two or more persons for
the same damages, both of the following apply:

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(1) The release or covenant does not discharge any of the
other defendants from liability for the damages unless its terms
otherwise provide, but it reduces the claim against the other
defendants 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, except that the reduction of the claim against the
other defendants shall not apply in any case in which the
reduction results in the plaintiff recovering less than the total
amount of the plaintiff's damages awarded by the trier of fact and
except that in any case in which the reduction does not apply the
plaintiff shall not recover more than the total amount of the
plaintiff's damages awarded by the trier of fact.

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

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Sec. 2315.47. In any civil action in which the plaintiff 722
combines a product liability claim brought under sections 2307.71 723
to 2307.80 of the Revised Code and based upon a product's 724
defective design or formulation as described in section 2307.75 of 725
the Revised Code or a product liability claim brought under 726
sections 2307.71 to 2307.80 of the Revised Code and based upon a 727
defective product because of inadequate warning or instruction as 728
described in section 2307.76 of the Revised Code with a product 729
liability claim that is brought under sections 2307.71 to 2307.80 730
of the Revised Code and based upon either a product's defective 731
manufacture or construction as described in section 2307.74 of the 732
Revised Code or upon a defective product because it did not 733
conform to a representation made by its manufacturer as described 734
in section 2307.77 of the Revised Code, the entire action and all 735
claims in the action shall be governed by sections 2307.22 to 736
2307.29 and sections 2315.32 to 2315.36 of the Revised Code, and 737
sections 2315.41 to 2315.46 of the Revised Code do not apply to 738
the action nor to any of the claims in the action. 739

Sec. 4171.10. The express assumption of risk set forth in 740
section 4171.09 of the Revised Code shall serve as a complete 741
defense ~~to~~ in a suit tort or other civil action against an 742
operator by a roller skater for injuries resulting from the 743
assumed risks of roller skating. The comparative negligence or 744
other tort provisions of ~~section 2315.19~~ sections 2315.32 to 745
2315.36 of the Revised Code shall not apply unless the operator 746
has breached the operator's duties pursuant to sections 4171.06 747
and 4171.07 of the Revised Code. 748

Sec. 4507.07. (A) The registrar of motor vehicles shall not 749
grant the application of any minor under eighteen years of age for 750
a probationary license, a restricted license, or a temporary 751

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instruction permit, unless the application is signed by one of the 752
minor's parents, the minor's guardian, another person having 753
custody of the applicant, or, if there is no parent or guardian, a 754
responsible person who is willing to assume the obligation imposed 755
under this section. 756

At the time a minor under eighteen years of age submits an 757
application for a license or permit at a driver's license 758
examining station, the adult who signs the application shall 759
present identification establishing that the adult is the 760
individual whose signature appears on the application. The 761
registrar shall prescribe, by rule, the types of identification 762
that are suitable for the purposes of this paragraph. If the adult 763
who signs the application does not provide identification as 764
required by this paragraph, the application shall not be accepted. 765

When a minor under eighteen years of age applies for a 766
probationary license, a restricted license, or a temporary 767
instruction permit, the registrar shall give the adult who signs 768
the application notice of the potential liability that may be 769
imputed to the adult pursuant to division (B) of this section and 770
notice of how the adult may prevent any liability from being 771
imputed to the adult pursuant to that division. 772

(B) Any negligence, or willful or wanton misconduct, that is 773
committed by a minor under eighteen years of age when driving a 774
motor vehicle upon a highway shall be imputed to the person who 775
has signed the application of the minor for a probationary 776
license, restricted license, or temporary instruction permit, 777
which person shall be jointly and severally liable with the minor 778
for any damages caused by the negligence or the willful or wanton 779
misconduct. This joint and several liability is not subject to 780
~~division (D) of section 2315.19~~ 2307.22 or 2315.36 of the Revised 781
Code with respect to a negligence claim that otherwise is subject 782
to that section. 783

There shall be no imputed liability imposed under this 784
division if a minor under eighteen years of age has proof of 785
financial responsibility with respect to the operation of a motor 786
vehicle owned by the minor or, if the minor is not the owner of a 787
motor vehicle, with respect to the minor's operation of any motor 788
vehicle, in the form and in the amounts required under Chapter 789
4509. of the Revised Code. 790

(C) Any person who has signed the application of a minor 791
under eighteen years of age for a license or permit subsequently 792
may surrender to the registrar the license or temporary 793
instruction permit of the minor and request that the license or 794
permit be canceled. The registrar then shall cancel the license or 795
temporary instruction permit, and the person who signed the 796
application of the minor shall be relieved from the liability 797
imposed by division (B) of this section. 798

(D) Any minor under eighteen years of age whose probationary 799
license, restricted license, or temporary instruction permit is 800
surrendered to the registrar by the person who signed the 801
application for the license or permit and whose license or 802
temporary instruction permit subsequently is canceled by the 803
registrar may obtain a new license or temporary instruction permit 804
without having to undergo the examinations otherwise required by 805
sections 4507.11 and 4507.12 of the Revised Code and without 806
having to tender the fee for that license or temporary instruction 807
permit, if the minor is able to produce another parent, guardian, 808
other person having custody of the minor, or other adult, and that 809
adult is willing to assume the liability imposed under division 810
(B) of this section. That adult shall comply with the procedures 811
contained in division (A) of this section. 812

Sec. 5703.54. (A) A taxpayer aggrieved by an action or 813
omission of an officer or employee of the department of taxation 814

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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.

(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:

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

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

(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 2315.36 of the Revised Code.

(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. 846

(E)(1) Division (A) of this section does not apply to 847
advisory opinions or other informational functions of an officer 848
or employee of the department. 849

(2) Division (A) of this section does not authorize a 850
taxpayer to bring an action for damages based on an action or 851
omission of a county auditor or an employee of a county auditor. 852

(F) As used in this section, "frivolous" means that the 853
conduct of the commissioner, or of the taxpayer or ~~his~~ the 854
taxpayer's counsel of record satisfies either of the following: 855

(1) It obviously serves merely to harass or maliciously 856
injure the state or its employees or officers if referring to the 857
conduct of a taxpayer, or to harass or maliciously injure the 858
taxpayer if referring to the conduct of the tax commissioner; 859

(2) It is not warranted under existing law and cannot be 860
supported by a good faith argument for an extension, modification, 861
or reversal of existing law. 862

Section 2. That existing sections 1775.14, 2315.08, 4171.10, 863
4507.07, and 5703.54 and sections 2307.31, 2307.32, 2307.33, 864
2315.19, and 2315.20 of the Revised Code are hereby repealed. 865

Section 3. Sections 1775.14, 2307.011, 2307.22, 2307.23, 866
2307.24, 2307.25, 2307.26, 2307.27, 2307.28, 2307.29, 2307.82, 867
2315.32, 2315.33, 2315.34, 2315.35, 2315.36, 2315.41, 2315.42, 868
2315.43, 2315.44, 2315.45, 2315.46, 2315.47, 4171.10, 4507.07, and 869
5703.54 of the Revised Code, as amended or enacted, by this act, 870
apply only to causes of action that accrue on or after the 871
effective date of this act. Any cause of action that accrues prior 872
to the effective date of this act is governed by the law in effect 873
when the cause of action accrued. 874