

As Reported by the Senate Judiciary-Civil Justice Committee

124th General Assembly

Regular Session

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Sub. S. B. No. 120

SENATORS Johnson, Hottinger

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; 21

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

Sec. 1775.14. (A) Subject to section 1339.65 of the Revised 31
Code and except as provided in division (B) of this section, all 32
partners are liable as follows: 33

(1) Jointly and severally for everything chargeable to the 34
partnership under sections 1775.12 and 1775.13 of the Revised 35
Code. This joint and several liability is not subject to ~~division~~ 36
~~(D)~~ of section ~~2315.19~~ 2307.22, 2315.36, 2315.37, or 2315.46 of 37
the Revised Code with respect to a negligence or other tort claim 38
that otherwise is subject to ~~that section~~ any of those sections. 39

(2) Jointly for all other debts and obligations of the 40
partnership, but any partner may enter into a separate obligation 41
to perform a partnership contract. 42

(B) Subject to divisions (C)(1) and (2) of this section or as 43
otherwise provided in a written agreement between the partners of 44
a registered limited liability partnership, a partner in a 45
registered limited liability partnership is not liable, directly 46
or indirectly, by way of indemnification, contribution, 47
assessment, or otherwise, for debts, obligations, or other 48
liabilities of any kind of, or chargeable to, the partnership or 49
another partner or partners arising from negligence or from 50
wrongful acts, errors, omissions, or misconduct, whether or not 51
intentional or characterized as tort, contract, or otherwise, 52

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

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

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

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

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

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

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(A) "Conduct" means actions or omissions.

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(B) "Contributory fault" means contributory negligence, other contributory tortious conduct, comparative negligence, or express or implied assumption of the risk. 82
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(C) "Economic loss" means any of the following types of pecuniary harm: 85
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(1) All wages, salaries, or other compensation lost as a result of an injury, death, or loss to person or property that is a subject of a tort action, including wages, salaries, or other compensation lost as of the date of a judgment and future expected lost earnings; 87
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(2) All expenditures for medical care or treatment, rehabilitation services, or other care, treatment, services, products, or accommodations incurred as a result of an injury, death, or loss to person that is a subject of a tort action, including expenditures for those purposes that were incurred as of the date of a judgment and expenditures for those purposes that, in the determination of the trier of fact, will be incurred in the future because of the injury, whether paid by the injured person or by another person on behalf of the injured person; 92
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(3) All expenditures of a person whose property was injured or destroyed or of another person on behalf of the person whose property was injured or destroyed in order to repair or replace the property; 101
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(4) Any other expenditures incurred as a result of an injury, death, or loss to person or property that is a subject of a tort action, except expenditures of the injured person, the person whose property was injured or destroyed, or another person on behalf of the injured person or the person whose property was injured or destroyed in relation to the actual preparation or presentation of the claim involved. 105
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(D) "Negligence claim" means a civil action for damages for 112

injury, death, or loss to person or property to the extent that 113
the damages are sought or recovered based on allegation or proof 114
of negligence. 115

(E) "Noneconomic loss" means nonpecuniary harm that results 116
from an injury, death, or loss to person that is a subject of a 117
tort action, including, but not limited to, pain and suffering; 118
loss of society, consortium, companionship, care, assistance, 119
attention, protection; advice, guidance, counsel, instruction, 120
training, or education; mental anguish; and any other intangible 121
loss. 122

(F) "Person" has the same meaning as in division (C) of 123
section 1.59 of the Revised Code and additionally includes a 124
political subdivision and the state. 125

(G) "Persons from whom the plaintiff does not seek recovery 126
in this action" includes, but is not limited to, the following: 127

(1) Persons who have entered into a settlement agreement with 128
the plaintiff; 129

(2) Persons whom the plaintiff has dismissed from the tort 130
action without prejudice; 131

(3) Persons whom the plaintiff has dismissed from the tort 132
action with prejudice; 133

(4) Persons who are not a party to the tort action whether or 134
not that person was or could have been a party to the tort action. 135
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(H) "Plaintiff" includes the person for whom the plaintiff is 137
legal representative. 138

(I) "Political subdivision" and "state" have the same 139
meanings as in section 2744.01 of the Revised Code. 140

(J) "Tort action" means a civil action for damages for 141
injury, death, or loss to person or property. "Tort action" 142

includes a product liability claim but does not include a civil 143
action for damages for a breach of contract or another agreement 144
between persons. 145

(K) "Trier of fact" means the jury or, in a nonjury action, 146
the court. 147

Sec. ~~2307.24~~ 2307.16. A partnership formed for the purpose of 148
carrying on a trade or business in this state, or holding property 149
in this state, may sue or be sued by the usual or ordinary name 150
~~which is that it~~ has assumed, or by which it is known. 151

Sec. ~~2307.27~~ 2307.17. In an action for the recovery of real 153
or personal property, a person claiming an interest in the 154
property, on ~~his~~ application, may be made a party. 155

Sec. ~~2307.30~~ 2307.18. ~~An~~ A judicial officer against whom an 156
action is brought to recover personal property taken by ~~him~~ the 157
officer on execution, or for the proceeds of ~~such the personal~~ 158
property sold by ~~him~~ the officer, upon exhibiting to the court the 159
process under which ~~he~~ the officer acted, with ~~his~~ the officer's 160
affidavit that the property was taken or sold by ~~him~~ the officer 161
under ~~such that~~ process, may have the benefit of ~~section 2307.29~~ 162
~~of the Revised Code~~ Civil Rule 22, against the party in whose 163
favor the execution issued. 164

Sec. 2307.22. (A) Subject to sections 2307.23 and 2307.24 and 165
except as provided in division (B) of section 2307.70, division 166
(B) of section 4507.07, section 4399.02, or another section of the 167
Revised Code that expressly establishes joint and several tort 168
liability for specified persons, joint and several tort liability 169
shall be determined as follows: 170

(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. 171
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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. 178
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(B) 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 each defendant, each defendant 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. 189
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(C) In a tort action in which the trier of fact determines that two or more persons proximately caused the same injury or 201
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loss to person or property or the same wrongful death, each 203
defendant who is determined by the trier of fact to be legally 204
responsible for the same injury or loss to person or property or 205
for the same wrongful death shall be liable to the plaintiff only 206
for that defendant's proportionate share of the compensatory 207
damages that represent noneconomic loss. The proportionate share 208
of a defendant shall be calculated by multiplying the total amount 209
of the noneconomic damages awarded to the plaintiff by the 210
percentage of tortious conduct as determined pursuant to section 211
2307.23 of the Revised Code that is attributable to that 212
defendant. 213

(D) Sections 2307.25 to 2307.29 of the Revised Code shall 214
apply to joint and several tort liability that is described in 215
division (A) of this section. 216

Sec. 2307.23. (A) In determining the percentage of tortious 217
conduct attributable to a party in a tort action under section 218
2307.22, sections 2315.32 to 2315.37, or sections 2315.41 to 219
2315.46 of the Revised Code, the court in a nonjury action shall 220
make findings of fact, and the jury in a jury action shall return 221
a general verdict accompanied by answers to interrogatories, that 222
shall specify all of the following: 223

(1) The percentage of tortious conduct that proximately 224
caused the injury or loss to person or property or the wrongful 225
death that is attributable to the plaintiff and to each party to 226
the tort action from whom the plaintiff seeks recovery in this 227
action; 228

(2) The percentage of tortious conduct that proximately 229
caused the injury or loss to person or property or the wrongful 230
death that is attributable to each person from whom the plaintiff 231
does not seek recovery in this action. 232

(B) The sum of the percentages of tortious conduct as 233

determined pursuant to division (A) of this section shall equal 234
one hundred per cent. 235

Sec. 2307.24. (A) Sections 2307.22 and 2307.23 of the Revised 236
Code do not affect joint and several liability that is not based 237
in tort. 238

(B) Sections 2307.22 and 2307.23 of the Revised Code do not 239
affect any other section of the Revised Code or the common law of 240
this state to the extent that the other section or common law 241
makes a principal, master, or other person vicariously liable for 242
the tortious conduct of an agent, servant, or other person. For 243
purposes of section 2307.22 of the Revised Code, a principal and 244
agent, a master and servant, or other persons having a vicarious 245
liability relationship shall constitute a single party when 246
determining percentages of tortious conduct in a tort action in 247
which vicarious liability is asserted. 248

Sec. 2307.25. (A) Except as otherwise provided in sections 249
2307.25 to 2307.28 of the Revised Code, if one or more persons are 250
jointly and severally liable in tort for the same injury or loss 251
to person or property or for the same wrongful death, there may be 252
a right of contribution even though judgment has not been 253
recovered against all or any of them. The right of contribution 254
exists only in favor of a tortfeasor who has paid more than that 255
tortfeasor's proportionate share of the common liability, and that 256
tortfeasor's total recovery is limited to the amount paid by that 257
tortfeasor in excess of that tortfeasor's proportionate share. No 258
tortfeasor may be compelled to make contribution beyond that 259
tortfeasor's own proportionate share of the common liability. 260
There is no right of contribution in favor of any tortfeasor who 261
intentionally has caused or intentionally has contributed to the 262
injury or loss to person or property or the wrongful death. 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

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(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 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.

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

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, sections 2315.32 to 2315.37, or sections 2315.41 to 2315.46 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 354
those sections. 355

Sec. 2313.46. Sections 2313.01 to 2313.46, ~~inclusive,~~ and 356
~~2315.01 to 2315.24, inclusive,~~ Chapter 2315. of the Revised Code 357
do not contravene or affect any section of the Revised Code 358
relating to jurors in the inferior courts in any county of the 359
state. 360

Sec. ~~2315.07~~ 2315.05. Because of the sickness of a juror, or 361
an accident or calamity which requires it, or with the consent of 362
both parties, or after jurors have been kept together until it 363
satisfactorily appears that there is no probability of their 364
agreeing, the court may discharge the jury. 365

Sec. ~~2315.08~~ 2315.06. When the jury is discharged during a 366
trial or after a cause is submitted, such cause may at once be 367
tried again, or on a future day, as the court directs. 368

Sec. ~~2315.18~~ 2315.07. ~~Except as otherwise provided in this~~ 369
~~section, when~~ When by the verdict in a civil action tried to a 370
jury any party in the action is entitled to recover money from an 371
adverse party, the jury shall determine the amount of the recovery 372
in its verdict. ~~A jury shall not determine the amount of punitive~~ 373
~~or exemplary damages recoverable by a party in a tort action~~ 374
~~pursuant to section 2315.21 or another section of the Revised Code~~ 375
~~except as provided in division (D)(5) of section 2315.21 of the~~ 376
~~Revised Code.~~ 377

~~As used in this section, "tort action" has the same meaning~~ 378
~~as in section 2315.21 of the Revised Code.~~ 379

Sec. ~~2315.23~~ 2315.08. So far as in their nature applicable, 380

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sections 2315.01 to ~~2315.19, inclusive,~~ 2315.08 of the Revised Code, respecting trials by jury, apply to trials by the court.

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

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

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

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

(B) 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.

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

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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

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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

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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 531
it makes findings of fact or after the jury returns its general 532
verdict accompanied by answers to interrogatories as described in 533
section 2315.44 of the Revised Code, the court shall enter a 534
judgment that is in favor of the plaintiff and that imposes 535
liability pursuant to section 2307.22 of the Revised Code. 536

Sec. 4171.10. The express assumption of risk set forth in 537
section 4171.09 of the Revised Code shall serve as a complete 538
defense ~~to~~ in a suit tort or other civil action against an 539
operator by a roller skater for injuries resulting from the 540
assumed risks of roller skating. The comparative negligence or 541
other tort provisions of ~~section 2315.19~~ sections 2315.32 to 542
2315.37 of the Revised Code shall not apply unless the operator 543
has breached ~~his~~ the operator's duties pursuant to sections 544
4171.06 and 4171.07 of the Revised Code. 545

Sec. 4507.07. (A) The registrar of motor vehicles shall not 546
grant the application of any minor under eighteen years of age for 547
a probationary license, a restricted license, or a temporary 548
instruction permit, unless the application is signed by one of the 549
minor's parents, the minor's guardian, another person having 550
custody of the applicant, or, if there is no parent or guardian, a 551
responsible person who is willing to assume the obligation imposed 552
under this section. 553

At the time a minor under eighteen years of age submits an 554
application for a license or permit at a driver's license 555
examining station, the adult who signs the application shall 556
present identification establishing that the adult is the 557
individual whose signature appears on the application. The 558
registrar shall prescribe, by rule, the types of identification 559
that are suitable for the purposes of this paragraph. If the adult 560

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

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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.

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(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.

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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.

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(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

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temporary instruction permit, and the person who signed the 593
application of the minor shall be relieved from the liability 594
imposed by division (B) of this section. 595

(D) Any minor under eighteen years of age whose probationary 596
license, restricted license, or temporary instruction permit is 597
surrendered to the registrar by the person who signed the 598
application for the license or permit and whose license or 599
temporary instruction permit subsequently is canceled by the 600
registrar may obtain a new license or temporary instruction permit 601
without having to undergo the examinations otherwise required by 602
sections 4507.11 and 4507.12 of the Revised Code and without 603
having to tender the fee for that license or temporary instruction 604
permit, if the minor is able to produce another parent, guardian, 605
other person having custody of the minor, or other adult, and that 606
adult is willing to assume the liability imposed under division 607
(B) of this section. That adult shall comply with the procedures 608
contained in division (A) of this section. 609

Sec. 5703.54. (A) A taxpayer aggrieved by an action or 610
omission of an officer or employee of the department of taxation 611
may bring an action for damages in the court of claims pursuant to 612
Chapter 2734. of the Revised Code, if all of the following apply: 613

(1) In the action or omission the officer or employee 614
frivolously disregards a provision of Chapter 5711., 5733., 5739., 615
5741., or 5747. of the Revised Code or a rule of the tax 616
commissioner adopted under authority of one of those chapters; 617

(2) The action or omission occurred with respect to an audit 618
or assessment and the review and collection proceedings connected 619
with the audit or assessment; 620

(3) The officer or employee did not act manifestly outside 621
the scope of ~~his~~ the officer's or employee's office or employment 622
and did not act with malicious purpose, in bad faith, or in a 623

wanton or reckless manner. 624

(B) In any action brought under division (A) of this section, 625
upon a finding of liability on the part of the state, the state 626
shall be liable to the taxpayer in an amount equal to the sum of 627
the following: 628

(1) Compensatory damages sustained by the taxpayer as a 629
result of the action or omission by the department's officer or 630
employee; 631

(2) Reasonable costs of litigation and attorneys fees 632
sustained by the taxpayer. 633

(C) In the awarding of damages under division (B) of this 634
section, the court shall take into account the negligent actions 635
or omissions, if any, on the part of the taxpayer that contributed 636
to the damages, but shall not be bound by the provisions of 637
~~section 2315.19~~ sections 2315.32 to 2315.37 of the Revised Code. 638

(D) Whenever it appears to the court that a taxpayer's 639
conduct in the proceedings brought under division (A) of this 640
section is frivolous, the court may impose a penalty against the 641
taxpayer in an amount not to exceed ten thousand dollars which 642
shall be paid to the general revenue fund of the state. 643

(E)(1) Division (A) of this section does not apply to 644
advisory opinions or other informational functions of an officer 645
or employee of the department. 646

(2) Division (A) of this section does not authorize a 647
taxpayer to bring an action for damages based on an action or 648
omission of a county auditor or an employee of a county auditor. 649

(F) As used in this section, "frivolous" means that the 650
conduct of the commissioner, or of the taxpayer or ~~his~~ the 651
taxpayer's counsel of record satisfies either of the following: 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;

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

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

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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.

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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

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Revised Code also are amended to reenact the changes made to those sections by Am. Sub. H.B. 350. 684
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(B) Section 4507.07 of the Revised Code, which has been amended by Am. Sub. S.B. 35 of the 122nd General Assembly subsequent to its amendment by Am. Sub. H.B. 350 of the 121st General Assembly, first is amended to remove matter inserted by, or to revive matter removed by, Am. Sub. H.B. 350 and then is amended to reenact the changes made to that section by Am. Sub. H.B. 350. Amendments made to that section by Am. Sub. S.B. 35 are retained. 686
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(C) The revival and amendment or amendment of sections 1775.14, 2315.18, 4171.10, and 4507.07 of the Revised Code by this act as described in divisions (A) and (B) of this section is in conformity with the Supreme Court of Ohio's decisions in *State, ex rel. Ohio Academy of Trial Lawyers v. Sheward* (1999), 86 Ohio St.3d 451, and *Stevens v. Ackman* (2001), 91 Ohio St.3d 182 and is intended to clarify the status of those sections. 694
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