

As Passed by the Senate

**125th General Assembly
Regular Session
2003-2004**

Am. H. B. No. 498

**Representatives Faber, Buehrer, Young, Gibbs, Wagner, Seitz, Brinkman,
Aslanides, Setzer, Reinhard, Combs, Hagan, Niehaus, Collier, Clancy,
D. Evans, Schaffer, Fessler, Webster, Cates, Blasdel, Calvert, Carmichael,
Core, Daniels, DeWine, C. Evans, Flowers, Gilb, Hollister, Hoops, Kearns,
Martin, Peterson, Reidelbach, Schlichter, Schmidt, Schneider, Taylor,
Widowfield, Wolpert
Senators Mumper, Wachtmann, Amstutz, Hottinger, Jordan, Spada**

—

A B I L L

To enact new section 2745.01 and to repeal sections 1
2305.112 and 2745.01 of the Revised Code to 2
replace the existing statutory provisions on 3
employment intentional torts with a requirement 4
that the plaintiff in a civil action based on an 5
employment intentional tort prove that the 6
employer acted with intent to injure another or in 7
the belief that the injury was substantially 8
certain to occur. 9

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

Section 1. That new section 2745.01 of the Revised Code be 10
enacted to read as follows: 11

Sec. 2745.01. (A) In an action brought against an employer by 12
an employee, or by the dependent survivors of a deceased employee, 13
for damages resulting from an intentional tort committed by the 14

employer during the course of employment, the employer shall not
be liable unless the plaintiff proves that the employer committed
the tortious act with the intent to injure another or with the
belief that the injury was substantially certain to occur.

15
16
17
18
19

(B) As used in this section, "substantially certain" means
that an employer acts with deliberate intent to cause an employee
to suffer an injury, a disease, a condition, or death.

20
21
22

(C) Deliberate removal by an employer of an equipment safety
guard or deliberate misrepresentation of a toxic or hazardous
substance creates a rebuttable presumption that the removal or
misrepresentation was committed with intent to injure another if
an injury or an occupational disease or condition occurs as a
direct result.

23
24
25
26
27
28

(D) This section does not apply to claims arising during the
course of employment involving discrimination, civil rights,
retaliation, harassment in violation of Chapter 4112. of the
Revised Code, intentional infliction of emotional distress not
compensable under Chapters 4121. and 4123. of the Revised Code,
contract, promissory estoppel, or defamation.

29
30
31
32
33
34

Section 2. That sections 2305.112 and 2745.01 of the Revised
Code are hereby repealed.

35
36