As Introduced

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Senators Stivers, Hottinger, Goodman, Wachtmann, Amstutz, Randy Gardner, Austria, Nein, Schuring, Armbruster, Coughlin, Carey, Harris, Mumper, Schuler

A B I L L

To amend sections 1701.76, 1701.82, 1775.14, 2117.06, 2125.01, 2125.02, 2125.04, 2305.01, 2305.03, 2305.10, 2305.25, 2307.011, 2307.23, 2307.29, 2307.60, 2307.71, 2307.75, 2307.80, 2315.01, 2315.21, 2315.32, 2315.33, 2315.34, 2315.36, 2323.41, 2323.43, 2323.51, 4507.07, 4513.263, and 4705.15; to enact sections 901.52, 2305.131, 2307.711, 2307.91 to 2307.97, and 4705.16; and to repeal sections 2315.41, 2315.42, 2315.43, 2315.44, 2315.45, and 2315.46 of the Revised Code to make changes related to the award of certain damages, collateral benefits evidence, and contributory fault in tort actions; to establish a statute of repose for certain product liability claims and claims based on unsafe conditions of real property improvements and to make other changes related to product liability claims; to provide that the product liability statutes are intended to abrogate common law product liability causes of action; to enact a conflicts of law provision for statutes of limitation in civil actions; to modify the provisions on frivolous conduct in filing civil actions; to prohibit
imputing any assurances or assumption of liability regarding public access to premises used for growing agricultural produce; to enact a legal consumer's bill of rights; to limit attorney contingency fees in connection with certain tort actions; to establish minimum medical requirements for filing certain asbestos claims; to establish limitations on successor asbestos-related liabilities relating to corporations; and to make other changes related to civil actions; and to amend the version of section 4513.263 of the Revised Code that is scheduled to take effect January 1, 2004, to continue the provisions of this act on and after that effective date.

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

Section 1. That sections 1701.76, 1701.82, 1775.14, 2117.06, 2125.01, 2125.02, 2125.04, 2305.01, 2305.03, 2305.10, 2305.25, 2307.011, 2307.23, 2307.29, 2307.60, 2307.71, 2307.75, 2307.80, 2315.01, 2315.21, 2315.32, 2315.33, 2315.34, 2315.36, 2323.41, 2323.43, 2323.51, 4507.07, 4513.263, and 4705.15 be amended and sections 901.52, 2305.131, 2307.111, 2307.91, 2307.92, 2307.93, 2307.94, 2307.95, 2307.96, 2307.97, and 4705.16 of the Revised Code be enacted to read as follows:

Sec. 901.52. (A) As used in this section, "tort action" has the same meaning as in section 2305.35 of the Revised Code.

(B) In a tort action, in the absence of willful or wanton misconduct or intentionally tortious conduct, no owner, lessee, renter, or operator of premises that are open to the public for direct access to growing agricultural produce shall be imputed to
do either of the following:

(1) Extend any assurance to a person that the premises are safe from naturally occurring hazards merely by the act of giving permission to the person to enter the premises or by receiving consideration for the produce picked by the person;

(2) Assume responsibility or liability for injury, death, or loss to person or property, allegedly resulting from the natural condition of the terrain of the premises or from the condition of the terrain resulting from cultivation of soil.

Sec. 1701.76. (A)(1) Provided the provisions of Chapter 1704. of the Revised Code do not prevent the transaction from being effected, a lease, sale, exchange, transfer, or other disposition of all, or substantially all, of the assets, with or without the good will, of a corporation, if not made in the usual and regular course of its business, may be made upon such the terms and conditions and for such the consideration, which that may consist, in whole or in part, of money or other property of any description, including shares or other securities or promissory obligations of any other corporation, domestic or foreign, as that may be authorized as follows:

(a) By the directors, either before or after authorization by the shareholders as required in this section; and

(b) At a meeting of the shareholders held for such that purpose, by the affirmative vote of the holders of shares entitling them to exercise two-thirds of the voting power of the corporation on such the proposal, or, if the articles so provide or permit, by the affirmative vote of a greater or lesser proportion, but not less than a majority, of such the voting power, and by such the affirmative vote of the holders of shares of any particular class as that is required by the articles.
(2) At the shareholder meeting described in division (A)(1)(b) of this section or at any subsequent shareholder meeting, shareholders, by the same vote that is required to authorize the lease, sale, exchange, transfer, or other disposition of all, or substantially all, of the assets, with or without the good will, of the corporation, may grant authority to the directors to establish or amend any of the terms and conditions of the transaction, except that the shareholders shall not authorize the directors to do any of the following:

(a) Alter or change the amount or kind of shares, securities, money, property, or rights to be received in exchange for the assets;

(b) Alter or change to any material extent the amount or kind of liabilities to be assumed in exchange for the assets;

(c) Alter or change any other terms and conditions of the transaction if any of the alterations or changes, alone or in the aggregate, would materially adversely affect the shareholders or the corporation.

(3) Notice of the meeting of the shareholders described in division (A)(1)(b) of this section shall be given to all shareholders whether or not entitled to vote at the meeting and shall be accompanied by a copy or summary of the terms of the transaction.

(B) The corporation by its directors may abandon the transaction under this section, subject to the contract rights of other persons, if the power of abandonment is conferred upon the directors either by the terms of the transaction or by the same vote of shareholders and at the same meeting of shareholders as that referred to in division (A)(1)(b) of this section or at any subsequent meeting.

(C) Dissenting holders of shares of any class, whether or not
entitled to vote, shall be entitled to relief under section 1701.85 of the Revised Code.

(D) An action to set aside a conveyance by a corporation, on the ground that any section of the Revised Code applicable to the lease, sale, exchange, transfer, or other disposition of all, or substantially all, of the assets of such that corporation has not been complied with, shall be brought within ninety days after such that transaction, or such the action shall be forever barred.

(E) If a resolution of dissolution is adopted pursuant to section 1701.86 of the Revised Code, the directors may dispose of all, or substantially all, of the corporation's assets without the necessity of a shareholders' authorization under this section.

(F) The terms and conditions of any transaction under this section shall be subject to the limitations specified in section 2307.96 of the Revised Code.

Sec. 1701.82. (A) When a merger or consolidation becomes effective, all of the following apply:

(1) The separate existence of each constituent entity other than the surviving entity in a merger shall cease, except that whenever a conveyance, assignment, transfer, deed, or other instrument or act is necessary to vest property or rights in the surviving or new entity, the officers, general partners, or other authorized representatives of the respective constituent entities shall execute, acknowledge, and deliver such those instruments and do such those acts. For these purposes, the existence of the constituent entities and the authority of their respective officers, directors, general partners, or other authorized representatives is continued notwithstanding the merger or consolidation.

(2) In the case of a consolidation, the new entity exists
when the consolidation becomes effective and, if it is a domestic corporation, the articles contained in or provided for in the agreement of consolidation shall be its original articles. In the case of a merger in which the surviving entity is a domestic corporation, the articles of the domestic surviving corporation in effect immediately prior to the time the merger becomes effective shall continue as its articles after the merger except as otherwise provided in the agreement of merger.

(3) The surviving or new entity possesses all assets and property of every description, and every interest in the assets and property, wherever located, and the rights, privileges, immunities, powers, franchises, and authority, of a public as well as of a private nature, of each constituent entity, and, subject to the limitations specified in section 2307.96 of the Revised Code, all obligations belonging to or due to each constituent entity, all of which are vested in the surviving or new entity without further act or deed. Title to any real estate or any interest in the real estate vested in any constituent entity shall not revert or in any way be impaired by reason of such merger or consolidation.

(4) Subject to the limitations specified in section 2307.96 of the Revised Code, the surviving or new entity is liable for all the obligations of each constituent entity, including liability to dissenting shareholders. Any claim existing or any action or proceeding pending by or against any constituent entity may be prosecuted to judgment, with right of appeal, as if the merger or consolidation had not taken place, or the surviving or new entity may be substituted in its place.

(5) Subject to the limitations specified in section 2307.96 of the Revised Code, all the rights of creditors of each constituent entity are preserved unimpaired, and all liens upon the property of any constituent entity are preserved unimpaired,
on only the property affected by such those liens immediately prior to the effective date of the merger or consolidation. If a general partner of a constituent partnership is not a general partner of the entity surviving or the new entity resulting from the merger or consolidation, then the former general partner shall have no liability for any obligation incurred after the merger or consolidation except to the extent that a former creditor of the constituent partnership in which the former general partner was a partner extends credit to the surviving or new entity reasonably believing that the former general partner continued as a general partner of the surviving or new entity.

(B) If a general partner of a constituent partnership is not a general partner of the entity surviving or the new entity resulting from the merger or consolidation, the provisions of division (B) of section 1782.434 of the Revised Code shall apply.

(C) In the case of a merger of a domestic constituent corporation into a foreign surviving corporation, limited liability company, or limited partnership that is not licensed or registered to transact business in this state or in the case of a consolidation of a domestic constituent corporation into a new foreign corporation, limited liability company, or limited partnership, if the surviving or new entity intends to transact business in this state and the certificate of merger or consolidation is accompanied by the information described in division (B)(4) of section 1701.81 of the Revised Code, then, on the effective date of the merger or consolidation, the surviving or new entity shall be considered to have complied with the requirements for procuring a license or for registering to transact business in this state as a foreign corporation, limited liability company, or limited partnership, as the case may be. In such a case, a copy of the certificate of merger or consolidation certified by the secretary of state constitutes the license.
certificate prescribed by the laws of this state for a foreign 207

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corporation transacting business in this state or the application 209

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for registration prescribed for a foreign limited partnership or 211

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limited liability company.

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(D) Any action to set aside any merger or consolidation on 215

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the ground that any section of the Revised Code applicable to the 217

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merger or consolidation has not been complied with shall be 219

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brought within ninety days after the effective date of such that 221

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merger or consolidation or be forever barred.

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(E) As used in this section, "corporation" or "entity" applies to 225

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both domestic and foreign corporations and entities where the 227

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context so permits. In the case of a foreign constituent entity or a 229

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foreign new entity, this section is subject to the laws of the state 231

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under the laws of which the entity exists or in which it has property.

Sec. 1775.14. (A) Subject to section 1339.65 of the Revised 233

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Code and except as provided in division (B) of this section, all 235

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partners are liable as follows:

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(1) Jointly and severally for everything chargeable to the 238

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partnership under sections 1775.12 and 1775.13 of the Revised 240

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Code. This joint and several liability is not subject to section 242

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2307.22, or 2315.36, or 2315.46 of the Revised Code with respect 244

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to a negligence or other tort claim that otherwise is subject to 246

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any either of those sections.

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(2) Jointly for all other debts and obligations of the partnership, 249

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but any partner may enter into a separate obligation to perform a 251

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partnership contract.

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(B) Subject to divisions (C)(1) and (2) of this section or as 254

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otherwise provided in a written agreement between the partners of a 256

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registered limited liability partnership, a partner in a
registered limited liability partnership is not liable, directly or indirectly, by way of indemnification, contribution, assessment, or otherwise, for debts, obligations, or other liabilities of any kind of, or chargeable to, the partnership or another partner or partners arising from negligence or from wrongful acts, errors, omissions, or misconduct, whether or not intentional or characterized as tort, contract, or otherwise, committed or occurring while the partnership is a registered limited liability partnership and committed or occurring in the course of the partnership business by another partner or an employee, agent, or representative of the partnership.

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

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

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

Sec. 2117.06. (A) All creditors having claims against an estate, including claims arising out of contract, out of tort, on cognovit notes, or on judgments, whether due or not due, secured or unsecured, liquidated or unliquidated, shall present their
claims in one of the following manners:

(1) To the executor or administrator in a writing;

(2) To the executor or administrator in a writing, and to the probate court by filing a copy of the writing with it;

(3) In a writing that is sent by ordinary mail addressed to the decedent and that is actually received by the executor or administrator within the appropriate time specified in division (B) of this section. For purposes of this division, if an executor or administrator is not a natural person, the writing shall be considered as being actually received by the executor or administrator only if the person charged with the primary responsibility of administering the estate of the decedent actually receives the writing within the appropriate time specified in division (B) of this section.

(B) All claims shall be presented within one year after the death of the decedent, whether or not the estate is released from administration or an executor or administrator is appointed during that one-year period. Every claim presented shall set forth the claimant's address.

(C) A claim that is not presented within one year after the death of the decedent shall be forever barred as to all parties, including, but not limited to, devisees, legatees, and distributees. No payment shall be made on the claim and no action shall be maintained on the claim, except as otherwise provided in sections 2117.37 to 2117.42 of the Revised Code with reference to contingent claims.

(D) In the absence of any prior demand for allowance, the executor or administrator shall allow or reject all claims, except tax assessment claims, within thirty days after their presentation, provided that failure of the executor or
administrator to allow or reject within that time shall not prevent the executor or administrator from doing so after that time and shall not prejudice the rights of any claimant. Upon the allowance of a claim, the executor or the administrator, on demand of the creditor, shall furnish the creditor with a written statement or memorandum of the fact and date of the allowance.

(E) If the executor or administrator has actual knowledge of a pending action commenced against the decedent prior to the decedent's death in a court of record in this state, the executor or administrator shall file a notice of the appointment of the executor or administrator in the pending action within ten days after acquiring that knowledge. If the administrator or executor is not a natural person, actual knowledge of a pending suit against the decedent shall be limited to the actual knowledge of the person charged with the primary responsibility of administering the estate of the decedent. Failure to file the notice within the ten-day period does not extend the claim period established by this section.

(F) This section applies to any person who is required to give written notice to the executor or administrator of a motion or application to revive an action pending against the decedent at the date of the death of the decedent.

(G) Nothing in this section or in section 2117.07 of the Revised Code shall be construed to reduce the time mentioned periods of limitation or periods prior to repose in section 2125.02, 2305.09, 2305.10, 2305.11, 2305.113, or 2305.12 Chapter 2305. of the Revised Code, provided that no portion of any recovery on a claim brought pursuant to that section or any of those sections section in that chapter shall come from the assets of an estate unless the claim has been presented against the estate in accordance with Chapter 2117. of the Revised Code.

(H) Any person whose claim has been presented and has not
been rejected after presentment is a creditor as that term is used in Chapters 2113. to 2125. of the Revised Code. Claims that are contingent need not be presented except as provided in sections 2117.37 to 2117.42 of the Revised Code, but, whether presented pursuant to those sections or this section, contingent claims may be presented in any of the manners described in division (A) of this section.

(I) If a creditor presents a claim against an estate in accordance with division (A)(2) of this section, the probate court shall not close the administration of the estate until that claim is allowed or rejected.

(J) The probate court shall not require an executor or administrator to make and return into the court a schedule of claims against the estate.

(K) If the executor or administrator makes a distribution of the assets of the estate prior to the expiration of the time for the filing of claims as set forth in this section, the executor or administrator shall provide notice on the account delivered to each distributee that the distributee may be liable to the estate up to the value of the distribution and may be required to return all or any part of the value of the distribution if a valid claim is subsequently made against the estate within the time permitted under this section.

Sec. 2125.01. When (A)(1) Except as provided in division (B) of this section, if the death of a person is caused by wrongful act, neglect, or default which would have entitled the party injured to maintain an a civil action and recover damages if death had not ensued, the person who would have been liable if death had not ensued, or the administrator or executor of the estate of such the liable person, as such that administrator or executor, shall be is liable to an action for in damages in a
civil action for wrongful death under this chapter, notwithstanding the death of the injured person and although the death was caused under circumstances which make it aggravated murder, murder, or manslaughter. When the civil action for wrongful death is against such an administrator or executor, the damages recovered shall be a valid claim against the estate of such the deceased liable person. No civil action for the wrongful death of a person may be maintained against the owner or lessee of the real property upon which the death occurred if the cause of the death was the violent unprovoked act of a party other than the owner, the lessee, or a person under the control of the owner or lessee, unless the acts or omissions of the owner, lessee, or person under the control of the owner or lessee constitute gross negligence.

(2) If the death of a person is caused by a wrongful act, neglect, or default in another state or foreign country, for which and a right to maintain an a civil action for wrongful death and recover damages is given by a statute of such the other state or foreign country, such the right of to maintain the civil action may be enforced in this state, except as provided in division (B) of this section. Every such civil action of that nature shall be commenced within the time prescribed for the commencement of such civil actions of that nature by the statute of such the other state or foreign country.

The same remedy shall apply to any such cause of action now existing and to any such action commenced before January 1, 1932, or attempted to be commenced in proper time and now appearing on the files of any court within this state, and no prior law of this state shall prevent the maintenance of such cause of action.

(B) A person may not maintain a civil action for wrongful death in a court of this state under division (A)(1) or (2) of
this section if either of the following applies:

(1) The person liable for the personal injuries sustained by the decedent or the administrator or executor of that person's estate compensated the decedent for those injuries prior to the death of the decedent; because of the payment of that compensation, the decedent executed to that person, administrator, or executor a valid release of the decedent's claims against that person or that person's estate based on the personal injuries sustained by the decedent; and those personal injuries were sustained under the same circumstances that otherwise could be the basis of a civil action for wrongful death in a court of this state under division (A)(1) or (2) of this section.

(2) Prior to the death of the decedent, a judgment for damages was entered in a civil action against the person liable for the personal injuries sustained by the decedent or against the administrator or executor of that person's estate; that person or the administrator or executor of that person's estate fully satisfied the judgment so entered prior to the decedent's death; and the decedent's personal injuries that were the subject of that civil action were sustained under the same circumstances that otherwise could be the basis of a civil action for wrongful death in a court of this state under division (A)(1) or (2) of this section.

Sec. 2125.02. (A)(1) Except as provided in this division, an a civil action for wrongful death shall be brought in the name of the personal representative of the decedent for the exclusive benefit of the surviving spouse, the children, and the parents of the decedent, all of whom are rebuttably presumed to have suffered damages by reason of the wrongful death, and for the exclusive benefit of the other next of kin of the decedent. A parent who abandoned a minor child who is the decedent shall not receive any
a benefit in a wrongful death civil action for wrongful death brought under this division.

(2) The jury, or the court if the civil action for wrongful death is not tried to a jury, may award damages authorized by division (B) of this section, as it determines are proportioned to the injury and loss resulting to the beneficiaries described in division (A)(1) of this section by reason of the wrongful death and may award the reasonable funeral and burial expenses incurred as a result of the wrongful death. In its verdict, the jury or court shall set forth separately the amount, if any, awarded for the reasonable funeral and burial expenses incurred as a result of the wrongful death.

(3)(a) The date of the decedent's death fixes, subject to division (A)(3)(b)(iii) of this section, the status of all beneficiaries of the civil action for wrongful death for purposes of determining the damages suffered by them and the amount of damages to be awarded. A person who is conceived prior to the decedent's death and who is born alive after the decedent's death is a beneficiary of the action.

(b)(i) In determining the amount of damages to be awarded, the jury or court may consider all factors existing at the time of the decedent's death that are relevant to a determination of the damages suffered by reason of the wrongful death.

(ii) Consistent with the Rules of Evidence, any a party to an a civil action for wrongful death may present evidence of the cost of an annuity in connection with any an issue of recoverable future damages. If such that evidence is presented, then, in addition to the factors described in division (A)(3)(b)(i) of this section and, if applicable, division (A)(3)(b)(iii) of this section, the jury or court may consider that evidence in determining the future damages suffered by reason of the wrongful
death. If such that evidence is presented, the present value in dollars of any an annuity is its cost.

(iii) Consistent with the Rules of Evidence, any a party to an a civil action for wrongful death may present evidence that the surviving spouse of the decedent is remarried. If such that evidence is presented, then, in addition to the factors described in divisions (A)(3)(b)(i) and (ii) of this section, the jury or court may consider that evidence in determining the damages suffered by the surviving spouse by reason of the wrongful death.

(B) Compensatory damages may be awarded in an a civil action for wrongful death and may include damages for the following:

(1) Loss of support from the reasonably expected earning capacity of the decedent;

(2) Loss of services of the decedent;

(3) Loss of the society of the decedent, including loss of companionship, consortium, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, and education, suffered by the surviving spouse, minor dependent children, parents, or next of kin of the decedent;

(4) Loss of prospective inheritance to the decedent's heirs at law at the time of the decedent's death;

(5) The mental anguish incurred by the surviving spouse, minor dependent children, parents, or next of kin of the decedent.

(C) A personal representative appointed in this state, with the consent of the court making the appointment and at any time before or after the commencement of an a civil action for wrongful death, may settle with the defendant the amount to be paid.

(D) An (1) Except as provided in division (D)(2) of this section, a civil action for wrongful death shall be commenced within two years after the decedent's death.
(2)(a) Except as otherwise provided in divisions (D)(2)(b), (c), (d), (e), and (f) of this section, no cause of action for wrongful death involving a product liability claim shall accrue against the manufacturer or supplier of a product later than ten years from the date that the product was delivered to its first purchaser or first lessee who was not engaged in a business in which the product was used as a component in the production, construction, creation, assembly, or rebuilding of another product.

(b) Division (D)(2)(a) of this section does not apply if the manufacturer or supplier of a product engaged in fraud in regard to information about the product and the fraud contributed to the harm that is alleged in a product liability claim involving that product.

(c) Division (D)(2)(a) of this section does not bar a civil action for wrongful death involving a product liability claim against a manufacturer or supplier of a product who made an express, written warranty as to the safety of the product that was for a period longer than ten years and that, at the time of the decedent's death, has not expired in accordance with the terms of that warranty.

(d) If the decedent's death occurs during the ten-year period described in division (D)(2)(a) of this section but less than two years prior to the expiration of that period, a civil action for wrongful death involving a product liability claim may be commenced within two years after the decedent's death.

(e) If the decedent's death occurs during the ten-year period described in division (D)(2)(a) of this section and the claimant cannot commence an action during that period due to a disability described in section 2305.16 of the Revised Code, a civil action for wrongful death involving a product liability claim may be
commenced within two years after the disability is removed.

(f)(i) Division (D)(2)(a) of this section does not bar a civil action for wrongful death based on a product liability claim against a manufacturer or supplier of a product if the product involved is a substance or device described in division (B)(1), (2), (3), or (4) of section 2305.10 of the Revised Code and the decedent's death resulted from exposure to the product during the ten-year period described in division (D)(2)(a) of this section.

(ii) If division (D)(2)(f)(i) of this section applies regarding a civil action for wrongful death, the cause of action that is the basis of the action accrues upon the date on which the claimant is informed by competent medical authority that the decedent's death was related to the exposure to the product or upon the date on which by the exercise of reasonable diligence the claimant should have known that the decedent's death was related to the exposure to the product, whichever date occurs first. A civil action for wrongful death based on a cause of action described in division (D)(2)(f)(i) of this section shall be commenced within two years after the cause of action accrues and shall not be commenced more than two years after the cause of action accrues.

(E)(1) If the personal representative of a deceased minor has actual knowledge or reasonable cause to believe that the minor was abandoned by a parent seeking to benefit from the a civil action for wrongful death action or if any person listed in division (A)(1) of this section who is permitted to benefit in from a civil action for wrongful death action filed commenced in relation to a deceased minor has actual knowledge or reasonable cause to believe that the minor was abandoned by a parent seeking to benefit from the wrongful death action, the personal representative or the person may file a motion in the court in which the wrongful death action is filed commenced requesting the court to issue an order
finding that the parent abandoned the deceased minor and is not entitled to recover damages in the wrongful death action based on the death of the deceased minor child.

(2) The movant who files a motion described in division (E)(1) of this section shall name the parent who abandoned the deceased minor and, whether or not that parent is a resident of this state, the parent shall be served with a summons and a copy of the motion in accordance with the Rules of Civil Procedure. Upon the filing of the motion, the court shall conduct a hearing. In the hearing on the motion, the movant has the burden of proving, by a preponderance of the evidence, that the parent abandoned the deceased minor child. If, at the hearing, the court finds that the movant has sustained that burden of proof, the court shall issue an order that includes its findings that the parent abandoned the deceased minor child and that, because of the prohibition set forth in division (A)(1) of this section, the parent is not entitled to recover damages in the wrongful death action based on the death of the deceased minor child.

(3) A motion requesting a court to issue an order finding that the specified parent abandoned the minor child and is not entitled to recover damages in the civil action for wrongful death action based on the death of the deceased minor child may be filed at any time during the pendency of the wrongful death action.

(F) This section does not create a new cause of action or substantive legal right against any person involving a product liability claim.

(G) As used in this section:

(1) "Annuity" means an annuity that would be purchased from either of the following types of insurance companies:

(a) An insurance company that the A. M. Best Company, in its
most recently published rating guide of life insurance companies, has rated A or better and has rated XII or higher as to financial size or strength;

(b)(i) An insurance company that the superintendent of insurance, under rules adopted pursuant to Chapter 119. of the Revised Code for purposes of implementing this division, determines is licensed to do business in this state and, considering the factors described in division (F)(G)(1)(b)(ii) of this section, is a stable insurance company that issues annuities that are safe and desirable.

(ii) In making determinations as described in division (F)(G)(1)(b)(i) of this section, the superintendent shall be guided by the principle that the jury or court in a civil action for wrongful death should be presented only with evidence as to the cost of annuities that are safe and desirable for the beneficiaries of such an action who are awarded compensatory damages under this section. In making such determinations, the superintendent shall consider the financial condition, general standing, operating results, profitability, leverage, liquidity, amount and soundness of reinsurance, adequacy of reserves, and the management of any a particular insurance company involved and also may consider ratings, grades, and classifications of any nationally recognized rating services of insurance companies and any other factors relevant to the making of such determinations.

(2) "Future damages" means damages that result from the wrongful death and that will accrue after the verdict or determination of liability by the jury or court is rendered in the civil action for wrongful death.

(3) "Abandoned" means that a parent of a minor failed without justifiable cause to communicate with the minor, care for the minor, and provide for the maintenance or support of the minor as
required by law or judicial decree for a period of at least one year immediately prior to the date of the death of the minor.

(4) "Minor" means a person who is less than eighteen years of age.

(5) "Harm" means death.

(6) "Manufacturer," "product," "product liability claim," and "supplier" have the same meanings as in section 2307.71 of the Revised Code.

(H) Divisions (D) and (G)(5) to (G)(7) of this section shall be considered to be purely remedial in operation and shall be applied in a remedial manner in any civil action commenced on or after the effective date of this amendment, in which those divisions are relevant, regardless of when the cause of action accrued and notwithstanding any other section of the Revised Code or prior rule of law of this state, but shall not be construed to apply to any civil action pending prior to the effective date of this amendment.

**Sec. 2125.04.** In every civil action for wrongful death commenced or attempted to be commenced within the time specified by division (D)(1) or (D)(2)(c), (d), (e), or (f) of section 2125.02 of the Revised Code, if a judgment for the plaintiff is reversed or if the plaintiff fails otherwise than upon the merits, and if the time limited by such section any of those divisions for the commencement of such the action has expired at the date of such the reversal or failure, the plaintiff or, if the plaintiff dies and the cause of action survives, the personal representative of the plaintiff may commence a new civil action for wrongful death within one year after such that date, subject to division (B) of section 2125.01 of the Revised Code or division (D)(2) of section 2125.02 of the Revised Code.
Sec. 2305.01. The Except as otherwise provided by this section or section 2305.03 of the Revised Code, the court of common pleas has original jurisdiction in all civil cases in which the sum or matter in dispute exceeds the exclusive original jurisdiction of county courts and appellate jurisdiction from the decisions of boards of county commissioners. The court of common pleas shall not have jurisdiction to award compensatory damages for noneconomic loss that exceed the amount set forth in section 2323.43 of the Revised Code or to award punitive or exemplary damages that exceed the amount set forth in section 2315.21 of the Revised Code.

The court of common pleas may on its own motion transfer for trial any action in the court to any municipal court in the county having concurrent jurisdiction of the subject matter of, and the parties to, the action, if the amount sought by the plaintiff does not exceed one thousand dollars and if the judge or presiding judge of the municipal court concurs in the proposed transfer. Upon the issuance of an order of transfer, the clerk of courts shall remove to the designated municipal court the entire case file. Any untaxed portion of the common pleas deposit for court costs shall be remitted to the municipal court by the clerk of courts to be applied in accordance with section 1901.26 of the Revised Code, and the costs taxed by the municipal court shall be added to any costs taxed in the common pleas court.

The court of common pleas has jurisdiction in any action brought pursuant to division (I) of section 3733.11 of the Revised Code if the residential premises that are the subject of the action are located within the territorial jurisdiction of the court.

The courts of common pleas of Adams, Athens, Belmont, Brown, Clermont, Columbiana, Gallia, Hamilton, Jefferson, Lawrence,
Meigs, Monroe, Scioto, and Washington counties have jurisdiction beyond the north or northwest shore of the Ohio river extending to the opposite shore line, between the extended boundary lines of any adjacent counties or adjacent state. Each of those courts of common pleas has concurrent jurisdiction on the Ohio river with any adjacent court of common pleas that borders on that river and with any court of Kentucky or of West Virginia that borders on the Ohio river and that has jurisdiction on the Ohio river under the law of Kentucky or the law of West Virginia, whichever is applicable, or under federal law.

**Sec. 2305.03.** A civil action, (A) Except as provided in division (B) of this section and unless a different limitation is prescribed by statute, a civil action may be commenced only within the period prescribed in sections 2305.03 to 2305.22, inclusive, of the Revised Code. When if interposed by proper plea by a party to an action mentioned in such any of those sections, lapse of time shall be a bar thereto to the action.

(B) No civil action that is based upon a cause of action that accrued in any other state, territory, district, or foreign jurisdiction may be commenced and maintained in this state if the period of limitation that applies to that action under the laws of that other state, territory, district, or foreign jurisdiction has expired or the period of limitation that applies to that action under the laws of this state has expired.

**Sec. 2305.10.** An action based on a product liability claim and an action for bodily injury or injuring personal property shall be brought within two years after the cause thereof arose of action accrues. Except as provided in divisions (B)(1), (2), (3), and (4) of this section, a cause of action accrues under this division when the injury or loss to person or property occurs.
(B)(1) For purposes of division (A) of this section, a cause of action for bodily injury that is not described in division (B)(2), (3), or (4) of this section and that is caused by exposure to hazardous or toxic chemicals, ethical drugs, or ethical medical devices accrues upon the date on which the plaintiff is informed by competent medical authority that the plaintiff has an injury that is related to the exposure, or upon the date on which by the exercise of reasonable diligence the plaintiff should have known that the plaintiff has an injury that is related to the exposure, whichever date occurs first.

(2) For purposes of division (A) of this section, a cause of action for bodily injury caused by exposure to asbestos or to chromium in any of its chemical forms accrues upon the date on which the plaintiff is informed by competent medical authority that the plaintiff has been injured by such an injury that is related to the exposure, or upon the date on which, by the exercise of reasonable diligence, the plaintiff should have become aware that the plaintiff has been injured by an injury that is related to the exposure, whichever date occurs first.

(3) For purposes of division (A) of this section, a cause of action for bodily injury incurred by a veteran through exposure to chemical defoliants or herbicides or other causative agents, including agent orange, accrues upon the date on which the plaintiff is informed by competent medical authority that the plaintiff has been injured by such an injury that is related to the exposure, or upon the date on which, by the exercise of reasonable diligence, the plaintiff should have known that the plaintiff has an injury that is related to the exposure, whichever date occurs first.

As used in this section, "agent orange," "causative agent," and "veteran" have the same meanings as in section 5903.21 of the Revised Code.
(4) For purposes of division (A) of this section, a cause of action for bodily injury which may be caused by exposure to diethylstilbestrol or other nonsteroidal synthetic estrogens, including exposure before birth, accrues upon the date on which the plaintiff learns from a licensed physician is informed by competent medical authority that the plaintiff has an injury which may be that is related to such the exposure, or upon the date on which by the exercise of reasonable diligence the plaintiff should have become aware known that the plaintiff has an injury which may be that is related to such the exposure, whichever date occurs first.

(C)(1) Except as otherwise provided in divisions (C)(2), (3), (4), (5), and (6) of this section, no cause of action based on a product liability claim shall accrue against the manufacturer or supplier of a product later than ten years from the date that the product was delivered to its first purchaser or first lessee who was not engaged in a business in which the product was used as a component in the production, construction, creation, assembly, or rebuilding of another product.

(2) Division (C)(1) of this section does not apply if the manufacturer or supplier of a product engaged in fraud in regard to information about the product and the fraud contributed to the harm that is alleged in a product liability claim involving that product.

(3) Division (C)(1) of this section does not bar an action based on a product liability claim against a manufacturer or supplier of a product who made an express, written warranty as to the safety of the product that was for a period longer than ten years and that, at the time of the accrual of the cause of action, has not expired in accordance with the terms of that warranty.

(4) If the cause of action relative to a product liability
claim accrues during the ten-year period described in division (C)(1) of this section but less than two years prior to the expiration of that period, an action based on the product liability claim may be commenced within two years after the cause of action accrues.

(5) If a cause of action relative to a product liability claim accrues during the ten-year period described in division (C)(1) of this section and the claimant cannot commence an action during that period due to a disability described in section 2305.16 of the Revised Code, an action based on the product liability claim may be commenced within two years after the disability is removed.

(6)(a) Division (C)(1) of this section does not bar an action based on a product liability claim against a manufacturer or supplier of a product if all of the following apply:

(i) The action is for bodily injury.

(ii) The product involved is a substance or device described in division (B)(1), (2), (3), or (4) of this section.

(iii) The bodily injury results from exposure to the product during the ten-year period described in division (C)(1) of this section.

(b) If division (C)(6)(a) of this section applies regarding an action, the cause of action accrues upon the date on which the claimant is informed by competent medical authority that the bodily injury was related to the exposure to the product, or upon the date on which by the exercise of reasonable diligence the claimant should have known that the bodily injury was related to the exposure to the product, whichever date occurs first. The action based on the product liability claim shall be commenced within two years after the cause of action accrues and shall not be commenced more than two years after the cause of action.
accrues.

(D) This section does not create a new cause of action or substantive legal right against any person involving a product liability claim.

(E) As used in this section:

(1) "Agent orange," "causative agent," and "veteran" have the same meanings as in section 5903.21 of the Revised Code.

(2) "Ethical drug," "ethical medical device," "manufacturer," "product," "product liability claim," and "supplier" have the same meanings as in section 2307.71 of the Revised Code.

(3) "Harm" means injury, death, or loss to person or property.

(F) This section shall be considered to be purely remedial in operation and shall be applied in a remedial manner in any civil action commenced on or after the effective date of this amendment, in which this section is relevant, regardless of when the cause of action accrued and notwithstanding any other section of the Revised Code or prior rule of law of this state, but shall not be construed to apply to any civil action pending prior to the effective date of this amendment.

Sec. 2305.131. (A)(1) Notwithstanding an otherwise applicable period of limitations specified in this chapter or in section 2125.02 of the Revised Code and except as otherwise provided in divisions (A)(2), (A)(3), (C), and (D) of this section, no cause of action to recover damages for bodily injury, an injury to real or personal property, or wrongful death that arises out of a defective and unsafe condition of an improvement to real property and no cause of action for contribution or indemnity for damages sustained as a result of bodily injury, an injury to real or personal property, or wrongful death that arises out of a

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defective and unsafe condition of an improvement to real property shall accrue against a person who performed services for the improvement to real property or a person who furnished the design, planning, supervision of construction, or construction of the improvement to real property later than ten years from the date of the performance of the services or the furnishing of the design, planning, supervision of construction, or construction.

(2) Notwithstanding an otherwise applicable period of limitations specified in this chapter or in section 2125.02 of the Revised Code, a claimant who discovers a defective and unsafe condition of an improvement to real property during the ten-year period specified in division (A)(1) of this section but less than two years prior to the expiration of that period may commence a civil action to recover damages as described in that division within two years from the date of the discovery of that defective and unsafe condition.

(3) Notwithstanding an otherwise applicable period of limitations specified in this chapter or in section 2125.02 of the Revised Code, if a cause of action that arises out of a defective and unsafe condition of an improvement to real property accrues during the ten-year period specified in division (A)(1) of this section and the plaintiff cannot commence an action during that period due to a disability described in section 2305.16 of the Revised Code, the plaintiff may commence a civil action to recover damages as described in that division within two years from the removal of that disability.

(B) Division (A) of this section does not apply to a civil action commenced against a person who is an owner of, tenant of, or other person in possession and control of an improvement to real property and who is in actual possession and control of the improvement to real property at the time that the defective and
unsafe condition of the improvement to real property constitutes
the proximate cause of the bodily injury, injury to real or
personal property, or wrongful death that is the subject matter of
the civil action.

(C) Division (A)(1) of this section is not available as an
affirmative defense to a defendant in a civil action described in
that division if the defendant engages in fraud in regard to
furnishing the design, planning, supervision of construction, or
construction of an improvement to real property or in regard to
any relevant fact or other information that pertains to the act or
omission constituting the alleged basis of the bodily injury,
injury to real or personal property, or wrongful death or to the
defective and unsafe condition of the improvement to real
property.

(D) Division (A)(1) of this section does not prohibit the
commencement of a civil action for damages against a person who
has expressly warranted or guaranteed an improvement to real
property for a period longer than the period described in division
(A)(1) of this section and whose warranty or guarantee has not
expired as of the time of the alleged bodily injury, injury to
real or personal property, or wrongful death in accordance with
the terms of that warranty or guarantee.

(E) This section does not create a new cause of action or
substantive legal right against any person resulting from the
design, planning, supervision of construction, or construction of
an improvement to real property.

(F) This section shall be considered to be purely remedial in
operation and shall be applied in a remedial manner in any civil
action commenced on or after the effective date of this section,
in which this section is relevant, regardless of when the cause of
action accrued and notwithstanding any other section of the
Revised Code or prior rule of law of this state, but shall not be
construed to apply to any civil action pending prior to the
effective date of this section.

Sec. 2305.25. As used in this section and sections 2305.251
to 2305.253 of the Revised Code:

(A)(1) "Health care entity" means an entity, whether acting
on its own behalf or on behalf of or in affiliation with other
health care entities, that conducts as part of its regular
business activities professional credentialing or quality review
activities involving the competence of, professional conduct of,
or quality of care provided by health care providers, including
both individuals who provide health care and entities that provide
health care.

(B) "Health care entity" includes any entity described in
division (A)(1) of this section, regardless of whether it is a
government entity; for-profit or nonprofit corporation; limited
liability company; partnership; professional corporation; state or
local society composed of physicians, dentists, optometrists,
psychologists, or pharmacists; or other health care organization.

(B) "Health insuring corporation" means an entity that holds
a certificate of authority under Chapter 1751. of the Revised
Code. "Health insuring corporation" includes wholly owned
subsidiaries of a health insuring corporation.

(C) "Hospital" means either of the following:

(1) An institution that has been registered or licensed by
the department of health as a hospital;

(2) An entity, other than an insurance company authorized to
do business in this state, that owns, controls, or is affiliated
with an institution that has been registered or licensed by the
department of health as a hospital.
(D) "Incident report or risk management report" means a report of an incident involving injury or potential injury to a patient as a result of patient care provided by health care providers, including both individuals who provide health care and entities that provide health care, that is prepared by or for the use of a peer review committee of a health care entity and is within the scope of the functions of that committee.

(E)(1) "Peer review committee" means a utilization review committee, quality assessment committee, performance improvement committee, tissue committee, credentialing committee, or other committee that does either of the following:

(a) Conducts professional credentialing or quality review activities involving the competence of, professional conduct of, or quality of care provided by health care providers, including both individuals who provide health care and entities that provide health care;

(b) Conducts any other attendant hearing process initiated as a result of a peer review committee's recommendations or actions.

(2) "Peer review committee" includes all of the following:

(a) A peer review committee of a hospital or long-term care facility or a peer review committee of a nonprofit health care corporation that is a member of the hospital or long-term care facility or of which the hospital or facility is a member;

(b) A peer review committee of a community mental health center;

(c) A board or committee of a hospital, a long-term care facility, or other health care entity when reviewing professional qualifications or activities of health care providers, including both individuals who provide health care and entities that provide health care;
(d) A peer review committee, professional standards review committee, or arbitration committee of a state or local society composed of members who are in active practice as physicians, dentists, optometrists, psychologists, or pharmacists;

(e) A peer review committee of a health insuring corporation that has at least a two-thirds majority of member physicians in active practice and that conducts professional credentialing and quality review activities involving the competence or professional conduct of health care providers that adversely affects or could adversely affect the health or welfare of any patient;

(f) A peer review committee of a health insuring corporation that has at least a two-thirds majority of member physicians in active practice and that conducts professional credentialing and quality review activities involving the competence or professional conduct of a health care facility that has contracted with the health insuring corporation to provide health care services to enrollees, which conduct adversely affects, or could adversely affect, the health or welfare of any patient;

(g) A peer review committee of a sickness and accident insurer that has at least a two-thirds majority of physicians in active practice and that conducts professional credentialing and quality review activities involving the competence or professional conduct of health care providers that adversely affects or could adversely affect the health or welfare of any patient;

(h) A peer review committee of a sickness and accident insurer that has at least a two-thirds majority of physicians in active practice and that conducts professional credentialing and quality review activities involving the competence or professional conduct of a health care facility that has contracted with the insurer to provide health care services to insureds, which conduct adversely affects, or could adversely affect, the health or
welfare of any patient;

   (i) A peer review committee of any insurer authorized under Title XXXIX of the Revised Code to do the business of medical professional liability insurance in this state that conducts professional quality review activities involving the competence or professional conduct of health care providers that adversely affects or could affect the health or welfare of any patient;

   (j) Any other peer review committee of a health care entity.

(F) "Physician" means an individual authorized to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(G) "Sickness and accident insurer" means an entity authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state.

(H) "Tort action" means a civil action for damages for injury, death, or loss to a patient of a health care entity. "Tort action" includes a product liability claim, as defined in section 2307.71 of the Revised Code, but does not include a civil action for a breach of contract or another agreement between persons.

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

(A) "Conduct" means actions or omissions.

(B) "Contributory fault" means contributory negligence, other contributory tortious conduct, comparative negligence, or, except as provided with respect to product liability claims in section 2307.711 of the Revised Code, 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;

(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;

(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.

(D) "Intentional tort claim" means a claim alleging that a tortfeasor intentionally caused or intentionally contributed to the injury or loss to person or property or the wrongful death or that a tortfeasor knew or believed that the injury or loss to person or property or the wrongful death was substantially certain to result from the tortfeasor's conduct. As used in sections
"intentional tort claim" does not include an intentional tort claim alleged by an employee or the employee's legal representative against the employee's employer and that arises from the tortfeasor's conduct that occurs on premises owned, leased, or supervised by the employer.

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

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

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

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

(1) Persons who have entered into a settlement agreement with the plaintiff;
(2) Persons whom the plaintiff has dismissed from the tort action without prejudice;
(3) Persons whom the plaintiff has dismissed from the tort action with prejudice;
(4) Persons who are not a party to the tort action whether or
not that person was or could have been a party to the tort action if the name of the person has been disclosed prior to trial.

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

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

(J) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in section 2307.71 of the Revised Code, but does not include a civil action for damages for a breach of contract or another agreement between persons.

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

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, or sections 2315.41 to 2315.46 of the Revised Code, the court in a nonjury action shall make findings of fact, and the jury in a jury action shall return a general verdict accompanied by answers to interrogatories, that shall specify all of the following:

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

(2) The percentage of tortious conduct that proximately caused the injury or loss to person or property or the wrongful death that is attributable to each person from whom the plaintiff does not seek recovery in this action.
(B) The sum of the percentages of tortious conduct as
determined pursuant to division (A) of this section shall equal
one hundred per cent.

(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
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.

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 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 those sections.

Sec. 2307.60. (A) Anyone injured in person or property by a
criminal act has, and may recover full damages in, a civil action
unless specifically excepted by law, may recover the costs of
maintaining the civil action and attorney's fees if authorized by
any provision of the Rules of Civil Procedure or another section
of the Revised Code or under the common law of this state, and may
recover punitive or exemplary damages if authorized by section
2315.21 or another section of the Revised Code. No record of a
conviction, unless obtained by confession in open court, shall be
used as evidence in a civil action brought pursuant to division
(A) of this section.

(B)(1) As used in division (B) of this section, "tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons. "Tort action" includes, but is not limited to, a product liability claim, as defined in section 2307.71 of the Revised Code, an action for wrongful death under Chapter 2125. of the Revised Code, and an action based on derivative claims for relief.

(2) Recovery on a claim for relief in a tort action is barred to any person or the person's legal representative if the person has been convicted of or has pleaded guilty to a felony, or to a misdemeanor that is an offense of violence, arising out of criminal conduct that was a proximate cause of the injury or loss for which relief is claimed in the action.

(3) Division (B) of this section does not apply to civil claims based upon alleged intentionally tortious conduct, alleged violations of the United States Constitution, or alleged violations of statutes of the United States pertaining to civil rights.

Sec. 2307.71. (A) As used in sections 2307.71 to 2307.80 of the Revised Code:

(A)(1) "Claimant" means either of the following:

(a) A person who asserts a product liability claim or on whose behalf such a claim is asserted;

(b) If a product liability claim is asserted on behalf of the surviving spouse, children, parents, or other next of kin of a decedent or on behalf of the estate of a decedent, whether as a claim in a wrongful death action under Chapter 2125. of the Revised Code or as a survivorship claim, whichever of the
following is appropriate:

(a) (i) The decedent, if the reference is to the person who allegedly sustained harm or economic loss for which, or in connection with which, compensatory damages or punitive or exemplary damages are sought to be recovered;

(b) (ii) The personal representative of the decedent or the estate of the decedent, if the reference is to the person who is asserting or has asserted the product liability claim.

(B) (2) "Economic loss" means direct, incidental, or consequential pecuniary loss, including, but not limited to, damage to the product in question, and nonphysical damage to property other than that product. Harm is not "economic loss."

(C) (3) "Environment" means navigable waters, surface water, ground water, drinking water supplies, land surface, subsurface strata, and air.

(D) (4) "Ethical drug" means a prescription drug that is prescribed or dispensed by a physician or any other person who is legally authorized to prescribe or dispense a prescription drug.

(E) (5) "Ethical medical device" means a medical device that is prescribed, dispensed, or implanted by a physician or any other person who is legally authorized to prescribe, dispense, or implant a medical device and that is regulated under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040, 21 U.S.C. 301-392, as amended.

(F) (6) "Foreseeable risk" means a risk of harm that satisfies both of the following:

(1) (a) It is associated with an intended or reasonably foreseeable use, modification, or alteration of a product in question;

(2) (b) It is a risk that the manufacturer in question should
recognize while exercising both of the following:

- (i) The attention, perception, memory, knowledge, and intelligence that a reasonable manufacturer should possess;

- (ii) Any superior attention, perception, memory, knowledge, or intelligence that the manufacturer in question possesses.

(H) "Harm" means death, physical injury to person, serious emotional distress, or physical damage to property other than the product in question. Economic loss is not "harm."

(I) "Hazardous or toxic substances" include, but are not limited to, hazardous waste as defined in section 3734.01 of the Revised Code, hazardous waste as specified in the rules of the director of environmental protection pursuant to division (A) of section 3734.12 of the Revised Code, hazardous substances as defined in section 3716.01 of the Revised Code, and hazardous substances, pollutants, and contaminants as defined in or by regulations adopted pursuant to the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601, as amended.

(J) "Manufacturer" means a person engaged in a business to design, formulate, produce, create, make, construct, assemble, or rebuild a product or a component of a product.

(K) "Person" has the same meaning as in division (C) of section 1.59 of the Revised Code and also includes governmental entities.

(L) "Physician" means a person who is licensed to practice medicine and surgery or osteopathic medicine and surgery by the state medical board.

(M) "Product" means, subject to division (A)(12) of this section, any object, substance, mixture,
or raw material that constitutes tangible personal property and that satisfies all of the following:

(a)(i) It is capable of delivery itself, or as an assembled whole in a mixed or combined state, or as a component or ingredient.

(b)(ii) It is produced, manufactured, or supplied for introduction into trade or commerce.

(c)(iii) It is intended for sale or lease to persons for commercial or personal use.

(2)(b) "Product" does not include human tissue, blood, or organs.

(4)(13) "Product liability claim" means a claim that is asserted in a civil action pursuant to sections 2307.71 to 2307.80 of the Revised Code and that seeks to recover compensatory damages from a manufacturer or supplier for death, physical injury to person, emotional distress, or physical damage to property other than the product in question, that allegedly arose from any of the following:

(a) The design, formulation, production, construction, creation, assembly, rebuilding, testing, or marketing of that product;

(b) Any warning or instruction, or lack of warning or instruction, associated with that product;

(c) Any failure of that product to conform to any relevant representation or warranty.

(6)(14) "Representation" means an express representation of a material fact concerning the character, quality, or safety of a product.

(8)(1)(15)(a) "Supplier" means, subject to division (8)(2)(A)(15)(b) of this section, either of the following:
(a) (i) A person that, in the course of a business conducted for the purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise participates in the placing of a product in the stream of commerce;

(ii) A person that, in the course of a business conducted for the purpose, installs, repairs, or maintains any aspect of a product that allegedly causes harm.

(b) "Supplier" does not include any of the following:

(i) A manufacturer;

(ii) A seller of real property;

(iii) A provider of professional services who, incidental to a professional transaction the essence of which is the furnishing of judgment, skill, or services, sells or uses a product;

(iv) Any person who acts only in a financial capacity with respect to the sale of a product, or who leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

(16) "Unavoidably unsafe" means that, in the state of technical, scientific, and medical knowledge at the time a product in question left the control of its manufacturer, an aspect of that product was incapable of being made safe.

(B) Sections 2307.71 to 2307.80 of the Revised Code are intended to abrogate all common law product liability causes of action.

Sec. 2307.711. (A) Subject to divisions (B)(1), (2), and (3) of this section, sections 2315.32 to 2315.36 of the Revised Code apply to a product liability claim that is asserted pursuant to
sections 2307.71 to 2307.80 of the Revised Code.

(B)(1) Express or implied assumption of the risk may be asserted as an affirmative defense to a product liability claim under sections 2307.71 to 2307.80 of the Revised Code, except that express or implied assumption of the risk may not be asserted as an affirmative defense to an intentional tort claim.

(2) Subject to division (B)(3) of this section, if express or implied assumption of the risk is asserted as an affirmative defense to a product liability claim under sections 2307.71 to 2307.80 of the Revised Code and if it is determined that the claimant 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 claimant seeks to recover damages, the express or implied assumption of the risk is a complete bar to the recovery of those damages.

(3) If implied assumption of the risk is asserted as an affirmative defense to a product liability claim against a supplier under division (A)(1) of section 2307.78 of the Revised Code, sections 2315.32 to 2315.36 of the Revised Code are applicable to that affirmative defense and shall be used to determine whether the claimant is entitled to recover compensatory damages based on that claim and the amount of any recoverable compensatory damages.

Sec. 2307.75. (A) Subject to divisions (D), (E), and (F) of this section, a product is defective in design or formulation if either of the following applies:

(1) When, at the time it left the control of its manufacturer, the foreseeable risks associated with its design or formulation as determined pursuant to division (B) of this section exceeded the benefits associated with that design or formulation.
as determined pursuant to division (C) of this section.

(2) It is more dangerous than an ordinary consumer would expect when used in an intended or reasonably foreseeable manner.

(B) The foreseeable risks associated with the design or formulation of a product shall be determined by considering factors including, but not limited to, the following:

(1) The nature and magnitude of the risks of harm associated with that design or formulation in light of the intended and reasonably foreseeable uses, modifications, or alterations of the product;

(2) The likely awareness of product users, whether based on warnings, general knowledge, or otherwise, of those risks of harm;

(3) The likelihood that that design or formulation would cause harm in light of the intended and reasonably foreseeable uses, modifications, or alterations of the product;

(4) The extent to which that design or formulation conformed to any applicable public or private product standard that was in effect when the product left the control of its manufacturer.

(C) The benefits associated with the design or formulation of a product shall be determined by considering factors including, but not limited to, the following:

(1) The intended or actual utility of the product, including any performance or safety advantages associated with that design or formulation;

(2) The technical and economic feasibility, when the product left the control of its manufacturer, of using an alternative design or formulation;

(3) The nature and magnitude of any foreseeable risks associated with such an alternative design or formulation.

(D) An ethical drug or ethical medical device is not
defective in design or formulation because some aspect of it is
unavoidably unsafe, if the manufacturer of the ethical drug or
ethical medical device provides adequate warning and instruction
under section 2307.76 of the Revised Code concerning that
unavoidably unsafe aspect.

(E) A product is not defective in design or formulation if
the harm for which the claimant seeks to recover compensatory
damages was caused by an inherent characteristic of the product
which is a generic aspect of the product that cannot be eliminated
without substantially compromising the product's usefulness or
desirability and which is recognized by the ordinary person with
the ordinary knowledge common to the community.

(F) A product is not defective in design or formulation if,
at the time the product left the control of its manufacturer, a
practical and technically feasible alternative design or
formulation was not available that would have prevented the harm
for which the claimant seeks to recover compensatory damages
without substantially impairing the usefulness or intended purpose
of the product, unless the manufacturer acted unreasonably in
introducing the product into trade or commerce.

Sec. 2307.80. (A) Subject to division divisions (C) and (D)
of this section, punitive or exemplary damages shall not be
awarded against a manufacturer or supplier in question in
connection with a product liability claim unless the claimant
establishes, by clear and convincing evidence, that harm for which
the claimant is entitled to recover compensatory damages in
accordance with section 2307.73 or 2307.78 of the Revised Code was
the result of misconduct of the manufacturer or supplier in
question that manifested a flagrant disregard of the safety of
persons who might be harmed by the product in question. The fact
by itself that a product is defective does not establish a
flagrant disregard of the safety of persons who might be harmed by
that product.

(B) Whether the trier of fact is a jury or the court, if the
trier of fact determines that a manufacturer or supplier in
question is liable for punitive or exemplary damages in connection
with a product liability claim, the amount of those damages shall
be determined by the court. In determining the amount of punitive
or exemplary damages, the court shall consider factors including,
but not limited to, the following:

(1) The likelihood that serious harm would arise from the
misconduct of the manufacturer or supplier in question;

(2) The degree of the awareness of the manufacturer or
supplier in question of that likelihood;

(3) The profitability of the misconduct to the manufacturer
or supplier in question;

(4) The duration of the misconduct and any concealment of it
by the manufacturer or supplier in question;

(5) The attitude and conduct of the manufacturer or supplier
in question upon the discovery of the misconduct and whether the
misconduct has terminated;

(6) The financial condition of the manufacturer or supplier
in question;

(7) The total effect of other punishment imposed or likely to
be imposed upon the manufacturer or supplier in question as a
result of the misconduct, including awards of punitive or
exemplary damages to persons similarly situated to the claimant
and the severity of criminal penalties to which the manufacturer
or supplier in question has been or is likely to be subjected.

(C) If (1) Except as provided in division (C)(2) of this
section, if a claimant alleges in a product liability claim that a
drug or device caused harm to the claimant, the manufacturer of the drug or device shall not be liable for punitive or exemplary damages in connection with that product liability claim if the drug or device that allegedly caused the harm satisfies either of the following:

(a) It was manufactured and labeled in relevant and material respects in accordance with the terms of an approval or license issued by the federal food and drug administration under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C. 301-392, as amended, or the "Public Health Service Act," 58 Stat. 682 (1944), 42 U.S.C. 201-300cc-15, as amended, unless it is established.

(b) It was an over-the-counter drug marketed pursuant to federal regulations, was generally recognized as safe and effective and as not being misbranded pursuant to the applicable federal regulations, and satisfied in relevant and material respects each of the conditions contained in the applicable regulations and each of the conditions contained in an applicable monograph.

(2) Division (C)(1) of this section does not apply if the claimant establishes, by a preponderance of the evidence, that the manufacturer fraudulently and in violation of applicable regulations of the food and drug administration withheld from the food and drug administration information known to be material and relevant to the harm that the claimant allegedly suffered or misrepresented to the food and drug administration information of that type. For

(3) For purposes of this division, "drug divisions (C) and (D) of this section:

(a) "Drug" has the same meaning given to that term as in the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040, 1041
(1938), 21 U.S.C. 321(g)(1), as amended.

(b) "Federal regulations" means regulations of the United States food and drug administration that are adopted pursuant to the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C. 301-392, as amended, and that are set forth in Parts 300, 400, 600, 800, and 1000 of Chapter I of Title 21 of the Code of Federal Regulations, 21 C.F.R. 300, 400, 600, 800, and 1000, as amended.

(c) "Device" has the same meaning as in the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040, 1041 (1938), 21 U.S.C. 321(h), as amended.

(D) If a claimant alleges in a product liability claim that a product other than a drug or device caused harm to the claimant, the manufacturer or supplier of the product shall not be liable for punitive or exemplary damages in connection with the claim if the manufacturer or supplier fully complied with all applicable government standards relative to the product's manufacture or construction, the product's design or formulation, adequate warnings or instructions, and representations when the product left the control of the manufacturer or supplier.

(E) The bifurcated trial provisions of division (B) of section 2315.21 of the Revised Code, the ceiling on recoverable punitive or exemplary damages specified in division (D)(1) of that section, and the provisions of division (D)(3) of that section apply to awards of punitive or exemplary damages under this section.

Sec. 2307.91. As used in sections 2307.91 to 2307.95 of the Revised Code:

(A) "AMA guides to the evaluation of permanent impairment" means the American medical association's guides to the evaluation
of permanent impairment (fifth edition 2000) as may be modified by
the American medical association.

(B) "Asbestos" means chrysotile, amosite, crocidolite,
tremolite asbestos, anthophyllite asbestos, actinolite asbestos,
and any of these minerals that have been chemically treated or
altered.

(C) "Asbestos claim" means any claim for damages, losses,
indemnification, contribution, or other relief arising out of,
based on, or in any way related to asbestos. "Asbestos claim"
includes a claim made by or on behalf of any person who has been
exposed to asbestos, or any representative, spouse, parent, child,
or other relative of that person, for injury, including mental or
emotional injury, death, or loss to person, risk of disease or
other injury, costs of medical monitoring or surveillance, or any
other effects on the person's health that are caused by the
person's exposure to asbestos.

(D) "Asbestosis" means bilateral diffuse interstitial
fibrosis of the lungs caused by inhalation of asbestos fibers.

(E) "Board-certified internist" means a medical doctor who is
currently certified by the American board of internal medicine.

(F) "Board-certified oncologist" means a medical doctor who
is currently certified by the American board of internal medicine
in the subspecialty of medical oncology.

(G) "Board-certified pathologist" means a medical doctor who
is currently certified by the American board of pathology.

(H) "Board-certified pulmonary specialist" means a medical
doctor who is currently certified by the American board of
internal medicine in the subspecialty of pulmonary medicine.

(I) "Certified B-reader" means an individual qualified as a
"final" or "B-reader" as defined in 42 C.F.R. section 37.51(b), as
(J) "Civil action" means all suits or claims of a civil nature in state or federal court, whether cognizable as cases at law or in equity or admiralty. The term "civil action" does not include an action relating to any workers' compensation law.

(K) "Exposed person" means any person whose exposure to asbestos or to asbestos-containing products is the basis for an asbestos claim.

(L) "Exposure years" means the following:

1. Each single year of exposure prior to 1972 will be counted as one year.
2. Each single year of exposure from 1972 through 1979 will be counted as one-half year.
3. Exposure after 1979 will not be counted, except that each year from 1972 forward for which the plaintiff can establish exposure exceeding the occupational safety and health administration (OSHA) limit for eight-hour time-weighted average airborne concentration for a substantial portion of the year will count as one year.

(M) "FEV1" means forced expiratory volume in the first second, which is the maximal volume of air expelled in one second during performance of simple spirometric tests.

(N) "FVC" means forced vital capacity that is maximal volume of air expired with maximum effort from a position of full inspiration.

(O) "ILO scale" means the system for the classification of chest x-rays set forth in the international labour office's guidelines for the use of ILO international classification of radiographs of pneumoconioses (1980), as amended.

(P) "Lung cancer" means a malignant tumor in which the
primary site of origin of the cancer is inside the lungs, but that term does not include an asbestos claim based upon mesothelioma.

(Q) "Mesothelioma" means a malignant tumor with a primary site of origin in the pleura or the peritoneum, which has been diagnosed by a board-certified pathologist, using standardized and accepted criteria of microscopic morphology and appropriate staining techniques.

(R) "Nonmalignant condition" means a condition that is caused or may be caused by asbestos other than a diagnosed cancer.

(S) "Nonsmoker" means the exposed person has not smoked cigarettes or used any other tobacco products within the last fifteen years.

(T) "Pathological evidence of asbestosis" means a statement by a board-certified pathologist that more than one representative section of lung tissue uninvolved with any other disease process demonstrates a pattern of peribronchiolar or parenchymal scarring in the presence of characteristic asbestos bodies and that there is no other more likely explanation for the presence of the fibrosis.

(U) "Physical impairment" means a nonmalignant condition that meets the minimum requirements of division (B) of section 2307.92 of the Revised Code, lung cancer that meets the minimum requirements of division (C) of section 2307.92 of the Revised Code, or cancer of the colon, rectum, larynx, pharynx, esophagus, or stomach that meets the minimum requirements of division (D) of section 2307.92 of the Revised Code.

(V) "Predicted lower limit of normal" means the fifth percentile of healthy populations based on age, height, and gender, as referenced in the AMA guides to the evaluation of permanent impairment.
(W) "Qualified physician" means a medical doctor who is providing a diagnosis for purposes of constituting prima-facie evidence of an exposed person's physical impairment that meets the requirements of section 2307.92 of the Revised Code and who meets the following requirements:

(1) The medical doctor is a board-certified internist, pulmonary specialist, oncologist, or pathologist.

(2) The medical doctor is actually treating or has treated the exposed person and has or had a doctor-patient relationship with the person.

(3) The medical doctor spends not more than ten per cent of the medical doctor's professional practice time in providing consulting or expert services in connection with actual or potential civil actions, and the medical doctor's medical group, professional corporation, clinic, or other affiliated group earns not more than twenty per cent of its revenues from providing those services.

(4) The medical doctor is currently licensed to practice and actively practices in the state where the plaintiff's civil action was filed.

(5) The medical doctor receives or received payment for the treatment of the exposed person from that person's HMO or other medical provider.

(X) "Radiological evidence of asbestosis" means a chest x-ray showing small, irregular opacities (s, t) graded by a certified B-reader as at least 1/1 on the ILO scale.

(Y) "Radiological evidence of diffuse pleural thickening" means a chest x-ray showing bilateral pleural thickening graded by a certified B-reader as at least B2 on the ILO scale and blunting of at least one costophrenic angle.
(Z) "Smoker" means a person who has smoked cigarettes or other tobacco products within the last fifteen years.

(AA) "Spirometry" means the measurement of volume of air inhaled or exhaled by the lung.

(BB) "Substantial contributing factor" means all of the following:

1. Exposure to asbestos is the predominate cause of the physical impairment alleged in the asbestos claim.

2. The exposure to asbestos took place on a regular basis over an extended period of time and in close proximity to the exposed person.

3. A qualified physician has determined with a reasonable degree of medical certainty that the physical impairment of the exposed person would not have occurred but for the asbestos exposures.

(CC) "Veterans' benefit program" means any program for benefits in connection with military service administered by the veterans' administration under title 38 of the United States Code.

(DD) "Workers' compensation law" means Chapters 4121., 4123., 4127., and 4131. of the Revised Code.

Sec. 2307.92. (A) Physical impairment of the exposed person, to which the person's exposure to asbestos is a substantial contributing factor, shall be an essential element of an asbestos claim.

(B) No person shall bring or maintain a civil action alleging an asbestos claim based on a nonmalignant condition in the absence of a prima-facie showing that the exposed person has a physical impairment, that the physical impairment is a result of a medical condition, and that the person's exposure to asbestos is a
substantial contributing factor to the medical condition. That prima-facie showing shall include all of the following minimum requirements:

(1) Evidence verifying that a qualified physician has taken a detailed occupational and exposure history of the exposed person from the exposed person or, if that person is deceased, from the person who is most knowledgeable about the exposures that form the basis of the asbestos claim for a nonmalignant condition, including all of the following:

(a) All of the exposed person's principal places of employment and exposures to airborne contaminants;

(b) Whether each place of employment involved exposures to airborne contaminants, including, but not limited to, asbestos fibers or other disease causing dusts, that can cause pulmonary impairment and, if that type of exposure is involved, the nature, duration, and level of the exposure.

(2) Evidence verifying that a qualified physician has taken a detailed medical and smoking history of the exposed person, including a thorough review of the exposed person's past and present medical problems and the most probable causes of those medical problems;

(3) A diagnosis by a qualified physician, based on a medical examination and pulmonary function testing of the exposed person, that all of the following apply to the exposed person:

(a) The exposed person has a permanent respiratory impairment rating of at least class 2 as defined by and evaluated pursuant to the AMA guides to the evaluation of permanent impairment.

(b) The exposed person has asbestosis or diffuse pleural thickening, based at a minimum on radiological or pathological evidence of asbestosis or radiological evidence of diffuse pleural
thickening.

(c) The asbestosis or diffuse pleural thickening described in division (B)(3)(b) of this section, rather than solely chronic obstructive pulmonary disease, is a substantial contributing factor to the exposed person's physical impairment, based on a determination that the exposed person has either of the following:

(i) A forced vital capacity below the predicted lower limit of normal and a ratio of FEV1 to FVC that is equal to or greater than the predicted lower limit of normal;

(ii) A chest x-ray showing small, irregular opacities (s, t) graded by a certified B-reader at least 2/1 on the ILO scale.

(C) No person shall bring or maintain a civil action alleging an asbestos claim based upon lung cancer in the absence of a prima-facie showing of all of the following minimum requirements:

(1) A diagnosis by a board-certified pathologist, board-certified pulmonary specialist, or board-certified oncologist that the exposed person has primary lung cancer and that exposure to asbestos is a substantial contributing factor to that cancer;

(2) Evidence that is sufficient to demonstrate that at least ten years have elapsed between the date of the exposed person's first exposure to asbestos and the date of diagnosis of the exposed person's primary lung cancer;

(3) Either of the following:

(a) In the case of an exposed person who is a nonsmoker, either of the following requirements:

(i) Radiological or pathological evidence of asbestosis or radiological evidence of diffuse pleural thickening;

(ii) Evidence of the exposed person's occupational exposure
to asbestos for any of the applicable minimum exposure periods in the occupations as specified in divisions (D)(3)(b)(i), (ii), and (iii) of this section.

(b) In the case of an exposed person who is a smoker, both of the requirements specified in divisions (C)(3)(a)(i) and (ii) of this section.

(D) No person shall bring or maintain a civil action alleging an asbestos claim based upon cancer of the colon, rectum, larynx, pharynx, esophagus, or stomach, in the absence of a prima-facie showing of all of the following minimum requirements:

(1) A diagnosis by a board-certified pathologist, board-certified pulmonary specialist, or board-certified oncologist, whichever is appropriate for the type of cancer claimed, that the exposed person has primary cancer of the colon, rectum, larynx, pharynx, esophagus, or stomach and that exposure to asbestos was a substantial contributing factor to that particular cancer;

(2) Evidence that is sufficient to demonstrate that at least ten years have elapsed between the date of the exposed person's first exposure to asbestos and the date of diagnosis of the exposed person's particular cancer;

(3) Either of the following requirements:

(a) Radiological or pathological evidence of asbestos or radiological evidence of diffuse pleural thickening;

(b) Evidence of the exposed person's occupational exposure to asbestos for any of the following applicable minimum exposure periods in the specified occupations:

(i) Five exposure years for insulators, shipyard workers, workers in manufacturing plants handling raw asbestos, boilermakers, shipfitters, steamfitters, or other trades
performing similar functions;

(ii) Ten exposure years for utility and power house workers, secondary manufacturing workers, or other trades performing similar functions;

(iii) Fifteen exposure years for general construction, maintenance workers, chemical and refinery workers, marine engine room personnel and other personnel on vessels, stationary engineers and firemen, railroad engine repair workers, or other trades performing similar functions.

(E) No prima-facie showing is required in a civil action alleging an asbestos claim based upon mesothelioma.

(F) Evidence relating to physical impairment under this section, including pulmonary function testing and diffusing studies, shall comply with the technical recommendations for examinations, testing procedures, quality assurance, quality control, and equipment incorporated in the AMA guides to the evaluation of permanent impairment and reported as set forth in 20 C.F.R. Pt. 404, Subpt. P, App. 1, Part A, Sec. 3.00 E. and F., and the interpretive standards set forth in the official statement of the American thoracic society entitled "lung function testing: selection of reference values and interpretive strategies" as published in American review of respiratory disease, 1991:144:1202-1218.

(G) All of the following apply to the presentation of prima-facie evidence that meets the requirements of division (B), (C), or (D) of this section:

(1) It does not result in any presumption at trial that the exposed person has a physical impairment that is caused by an asbestos-related condition.

(2) It is not conclusive as to the liability of any defendant.
in the case.

(3) It is not admissible at trial.

**Sec. 2307.93.** The plaintiff in any civil action who alleges an asbestos claim shall file together with the complaint or other initial pleading a written report and supporting test results constituting prima-facie evidence of the exposed person's physical impairment that meets the minimum requirements of division (B), (C), or (D) of section 2307.92 of the Revised Code, whichever is applicable. With respect to any asbestos claim that is pending on the effective date of this section, the plaintiff shall file the written report and supporting test results described in this section sixty days following the effective date of this section or thirty days prior to trial, whichever is earlier. The defendant in the case shall be afforded a reasonable opportunity to challenge the adequacy of the proffered prima-facie evidence of the physical impairment. The court shall dismiss the plaintiff's claim without prejudice upon a finding of failure to make the prima-facie showing required by division (B), (C), or (D) of section 2307.92 of the Revised Code.

**Sec. 2307.94.** (A) Notwithstanding any other provision of the Revised Code, with respect to any asbestos claim based upon a nonmalignant condition that is not barred as of the effective date of this section, the period of limitations shall not begin to run until the exposed person discovers, or through the exercise of reasonable diligence should have discovered, that the person has a physical impairment due to a nonmalignant condition.

(B) An asbestos claim that arises out of a nonmalignant condition shall be a distinct cause of action from an asbestos claim relating to the same exposed person that arises out of asbestos-related cancer. No damages shall be awarded for fear or
risk of cancer in any civil action asserting only an asbestos claim for a nonmalignant condition.

(C) No settlement of an asbestos claim for a nonmalignant condition that is concluded after the effective date of this section shall require, as a condition of settlement, the release of any future claim for asbestos-related cancer.

Sec. 2307.95. Sections 2307.91 to 2307.95 of the Revised Code shall not affect the scope or operation of any workers' compensation law or veterans' benefit program or the exclusive remedy of subrogation under the provisions of that law or program and shall not authorize any lawsuit that is barred by any provision of any workers' compensation law.

Sec. 2307.96. (A) As used in this section and section 2307.97 of the Revised Code:

(1) "Asbestos" has the same meaning as in section 2307.91 of the Revised Code.

(2) "Asbestos claim" means any claim for damages, losses, indemnification, contribution, or other relief arising out of, based on, or in any way related to asbestos. "Asbestos claim" includes any of the following:

(a) A claim made by or on behalf of any person who has been exposed to asbestos, or any representative, spouse, parent, child, or other relative of that person, for injury, including mental or emotional injury, death, or loss to person, risk of disease or other injury, costs of medical monitoring or surveillance, or any other effects on the person's health that are caused by the person's exposure to asbestos;

(b) A claim for damage or loss to property that is caused by the installation, presence, or removal of asbestos.
(3)(a) "Successor" means a domestic corporation or a subsidiary of a domestic corporation that acquired any assets of or the stock of a foreign business corporation, if all of the following apply:

(a) The transaction occurred on or before July 29, 1977.

(b) The purchasing domestic corporation paid less than five million dollars for the acquisition.

(c) The principal place of business of the foreign corporation was located outside the state of Ohio.

(4)(a) "Successor asbestos-related liabilities," in relation to an asset purchase or a stock purchase by a successor means any liabilities, whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due, if the liabilities are related in any way to asbestos claims and are assumed or incurred by a successor as a result of or in connection with the asset purchase or stock purchase, merger, or consolidation, or the agreement of the asset purchase or stock purchase.

(b) "Successor asbestos-related liabilities" includes any liabilities described in division (A)(4)(a) of this section that, after the effective date of the asset purchase or stock purchase, are paid, otherwise discharged, committed to be paid, or committed to be otherwise discharged by or on behalf of the successor, or by or on behalf of a transferor, in connection with any judgment, settlement, or other discharge of those liabilities in this state or another jurisdiction.

(5) "Transferor" means a foreign corporation or its shareholders from which successor asbestos-related liabilities are assumed or incurred by the successor.

(B)(1) Except as otherwise provided in division (B)(2) of
this section, the cumulative successor asbestos-related liabilities of a successor shall be limited to the fair market value of the acquired assets or stock as determined on the effective date of the asset purchase or stock purchase, merger, or consolidation.

(2) If a transferor had assumed or incurred successor asbestos-related liabilities in connection with a prior asset purchase, stock purchase, merger, or consolidation involving a prior transferor, the successor asbestos-related liabilities of the successor described in division (B)(1) of this section shall be limited to the fair market value of the previously acquired assets or stock as determined on the effective date of the prior asset purchase, stock purchase, merger, or consolidation.

(3) The successor described in division (B)(1) or (2) of this section shall have no responsibility for any successor asbestos-related liabilities in excess of the limitation of those liabilities as described in the applicable division.

(C)(1) Except as otherwise provided in division (C)(2) of this section, the assets of a successor shall be exempt from restraint, attachment, or execution on any judgment entered in this state or another jurisdiction related to any claim for successor asbestos-related liabilities if the cumulative amounts of those liabilities that, after the effective date of the asset purchase or stock purchase that is covered by division (B) of this section, are paid or committed to be paid by or on behalf of the successor, or by or on behalf of the transferor, in connection with any judgment, settlement, or other discharge of claims of asbestos-related liabilities exceed the fair market value of the assets or stock as determined on the effective date of the asset purchase or stock purchase, merger, or consolidation.

(2) If a transferor had assumed or incurred successor asbestos-related liabilities in connection with a prior asset purchase, stock purchase, merger, or consolidation involving a prior transferor, the successor asbestos-related liabilities of the successor shall be limited to the fair market value of the previously acquired assets or stock as determined on the effective date of the prior asset purchase, stock purchase, merger, or consolidation.
asbestos-related liabilities in connection with a prior asset purchase, stock purchase, merger, or consolidation involving a prior transferor, the assets of the successor described in division (C)(1) of this section shall be exempt from restraint, attachment, or execution on any judgment entered in this state or another jurisdiction related to any claim for successor asbestos-related liabilities if the cumulative amounts of those liabilities that, after the effective date of the prior asset purchase, stock purchase, merger, or consolidation, are paid or committed to be paid by or on behalf of the successor, or by or on behalf of the prior transferor, in connection with any judgment, settlement, or other discharge of claims of asbestos-related liabilities, exceed the fair market value of the previously acquired assets or stock as determined on the effective date of the prior asset purchase, stock purchase, merger, or consolidation.

(D)(1) A successor may establish the fair market value of total assets under division (B) or (C) of this section by means of any method that is reasonable under the circumstances, including by reference to the going-concern value of those assets, to the purchase price attributable to or paid for the assets in an arm's length transaction, or, in the absence of other readily available information from which fair market value can be determined, to the value of those assets recorded on a balance sheet. Total assets shall include intangible assets. A showing by the successor of a reasonable determination of the fair market value of total assets is prima-facie evidence of the fair market value of those assets.

(2) After a successor has established a reasonable determination of the fair market value of total assets under division (D)(1) of this section, a claimant that disputes that determination of the fair market value has the burden of establishing a different fair market value of those assets.
(3) For the purpose of adjusting the limitations set forth in division (B) or (C) of this section to account for the passage of time, the fair market value of total assets on the effective date of the applicable asset purchase or stock purchase under the applicable division shall be increased annually, at the rate equal to the prime rate as listed in the first edition of the Wall Street Journal published for each calendar year since the asset purchase or stock purchase plus one per cent, not compounded, until the earlier of either of the following:

(a) The date of the judgment, settlement, or other discharge of claims of successor asbestos-related liabilities to which the limitations in division (B) or (C) of this section are being applied;

(b) The date on which the adjusted fair market value of total assets under division (D)(3) of this section is first exceeded by the cumulative amounts of successor asbestos-related liabilities that are paid or committed to be paid by or on behalf of the successor, or by or on behalf of a transferor, after the effective date of the asset purchase or stock purchase in connection with any judgment, settlement, or other discharge of the successor asbestos-related liabilities.

(E)(1) The limitations set forth in divisions (B) and (C) of this section shall apply to the following:

(a) All asbestos claims, including asbestos claims that are pending on the effective date of this section, and all litigation involving asbestos claims, including litigation that is pending on the effective date of this section;

(b) Successors of a successor to which this section applies.

(2) The limitations set forth in divisions (B) and (C) of this section do not apply to any of the following:
(a) Workers' compensation benefits that are paid by or on behalf of an employer to an employee pursuant to any provision of Chapter 4121., 4123., 4127., or 4131. of the Revised Code or comparable workers' compensation law of another jurisdiction;

(b) Any claim against a successor that does not constitute a claim for a successor asbestos-related liability;

(c) An insurance corporation;


Sec. 2307.97. (A) A holder of shares, an owner of any beneficial interest in shares, or a subscriber for shares whose subscription has been accepted, or any affiliate or holding company of that holder, owner, or subscriber or of the corporation, shall be under no obligation to, and shall have no liability to, the corporation or to any person with respect to any obligation or liability of the corporation relating in any way to asbestos claims on the basis that the holder, owner, subscriber, affiliate, or holding company described in division (A) of this section controlled the corporation or is or was the alter ego of the corporation, or on the basis of actual fraud or constructive fraud, a sham to perpetrate a fraud, a fraudulent conveyance, piercing the corporate veil, or any other similar theory, unless the person demonstrates that the holder, owner, subscriber, affiliate, or holding company caused the corporation to be used for the purpose of perpetrating and did perpetrate an actual fraud on the person primarily for the direct pecuniary benefit of the holder, owner, subscriber, affiliate, or holding company, and then only to the extent of that direct pecuniary benefit.

(B) Any liability of the holder, owner, or subscriber of
shares of a corporation described in division (A) of this section or any affiliate or holding company of that holder, owner, or subscriber or of the corporation for an obligation or liability that is limited by that division is exclusive and preempts any other obligation or liability imposed upon a holder, owner, or subscriber of shares of a corporation described in that division or any affiliate or holding company of that holder, owner, or subscriber or of the corporation for that obligation or liability under common law or otherwise.

Sec. 2315.01. (A) When the jury is sworn, unless for special reasons the court otherwise directs, the trial shall proceed in the following order except as provided in section 2315.02 of the Revised Code:

(A) (1) The plaintiff concisely must shall state the plaintiff's claim, and briefly may state the plaintiff's evidence to sustain it.

(B) (2) The defendant must then briefly shall state the defendant's defense, and briefly may state the defendant's evidence in support of it.

(C) (3) The party who would be defeated if no evidence were offered on either side, first, must shall produce that party's evidence, and the adverse party must shall then produce the adverse party's evidence.

(D) (4) The parties then shall be confined to rebutting evidence, unless the court for good reasons and in the furtherance of justice, permits them to offer evidence in their original cases.

(E) (5) When the evidence is concluded, either party may present written instructions to the court on matters of law and request them to be given to the jury, which instructions shall be
The court shall give or refuse to give the written instructions to the jury before the argument to the jury is commenced.

(F)(6) The parties then may submit or argue the case to the jury. The party required first to produce that party's evidence shall have the opening and closing arguments. If several defendants, having separate defenses, and appear by different counsel, the court shall arrange their relative order.

(G)(7) The court, after the argument is concluded, and before proceeding with other business, shall charge the jury. Any charge shall be reduced to writing by the court if either party, before the argument to the jury is commenced, requests it. Such charge may be examined by the parties before any closing argument is made by any of the parties. If a charge or instruction, when so written and given, as prescribed in this division, the court shall not be orally qualified, modified, or in any manner explained to the jury by the court. All written charges and instructions shall be taken by the jurors in their retirement, shall be returned with their verdict into court, and shall remain on file with the papers of the case.

(B) In all tort actions, the court shall instruct the jury regarding the extent to which an award of compensatory damages or punitive or exemplary damages is not subject to taxation under federal or state income tax laws.

As used in this division, "tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in section 2307.71 of the Revised Code, but does not include a civil action for damages for breach of contract or another agreement between persons.
Division (B) of this section shall be considered to be purely remedial in operation and shall be applied in a remedial manner in any civil action commenced on or after the effective date of this amendment, in which division (B) of this section is relevant, regardless of when the cause of action accrued and notwithstanding any other section of the Revised Code or prior rule of law of this state, but shall not be construed to apply to any civil action pending prior to the effective date of this amendment.

Sec. 2315.21. (A) As used in this section:

(1) "Tort action" means a civil action for damages for injury or loss to person or property. "Tort action" includes a product liability claim for damages for injury or loss to person or property that is subject to sections 2307.71 to 2307.80 of the Revised Code, but does not include a civil action for damages for a breach of contract or another agreement between persons.

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

(3) "Home" has the same meaning as in section 3721.10 of the Revised Code.

(4) "Employer" includes, but is not limited to, a parent, subsidiary, affiliate, division, or department of the employer. If the employer is an individual, the individual shall be considered an employer under this section only if the subject of the tort action is related to the individual's capacity as an employer.

(5) "Small employer" means an employer who employs not more than five hundred persons on a full-time permanent basis.

(B)(1) In a tort action in which a plaintiff makes a claim for compensatory damages and a claim for punitive or exemplary damages, upon the motion of any party, the trial of the tort action shall be bifurcated as follows:
(a) The initial stage of the trial shall relate only to the presentation of evidence, and a determination by the trier of fact, with respect to whether the plaintiff is entitled to recover compensatory damages for the injury or loss to person or property from the defendant. During this stage, no party to the tort action shall present, and the court shall not permit a party to present, evidence that relates solely to the issue of whether the plaintiff is entitled to recover punitive or exemplary damages for the injury or loss to person or property from the defendant.

(b) If the trier of fact determines in the initial stage of the trial that the plaintiff is entitled to recover compensatory damages for the injury or loss to person or property from the defendant, evidence may be presented in the second stage of the trial, and a determination by the trier of fact shall be made, with respect to whether the plaintiff additionally is entitled to recover punitive or exemplary damages for the injury or loss to person or property from the defendant.

(2) In a tort action that is tried to a jury and in which a plaintiff makes a claim for both compensatory damages and punitive or exemplary damages, the court shall instruct the jury to return, and the jury shall return, a general verdict and, if that verdict is in favor of the plaintiff, answers to an interrogatory that specifies the total compensatory damages recoverable by the plaintiff from each defendant.

(3) In a tort action that is tried to a court and in which a plaintiff makes a claim for both compensatory damages and punitive or exemplary damages, the court shall make its determination with respect to whether the plaintiff is entitled to recover compensatory damages for the injury or loss to person or property from the defendant and, if that determination is in favor of the plaintiff, shall make findings of fact that specify the total compensatory damages recoverable by the plaintiff from the
defendant.

(C) Subject to division (E) of this section, punitive or exemplary damages are not recoverable from a defendant in question in a tort action unless both of the following apply:

(1) The actions or omissions of that defendant demonstrate malice, aggravated or egregious fraud, oppression, or insult, or that defendant as principal or master authorized, participated in, or ratified actions or omissions of an agent or servant that so demonstrate.

(2) The trier of fact has returned a verdict or has made a determination pursuant to division (B)(2) or (3) of this section of the total compensatory damages recoverable by the plaintiff in question has adduced proof of actual damages that resulted from actions or omissions as described in division (B)(1) of this section from that defendant.

(D)(1) In a tort action, the trier of fact shall determine the liability of any defendant for punitive or exemplary damages and the amount of those damages. Both of the following apply regarding any award of punitive or exemplary damages in a tort action:

(a) The court shall not enter judgment for punitive or exemplary damages in excess of the greater of the amount of the compensatory damages awarded to the plaintiff from that defendant or one hundred thousand dollars, as determined pursuant to division (B)(2) or (3) of this section.

(b) If the defendant is a small employer, the court shall not enter judgment for punitive or exemplary damages in excess of the lesser of the amount of the compensatory damages awarded to the plaintiff from the defendant or one hundred thousand dollars, as determined pursuant to division (B)(2) or (3) of this section.
(2) No award of prejudgment interest under division (C)(1) of section 1343.03 of the Revised Code shall include any prejudgment interest on punitive or exemplary damages found by the trier of fact.

(3) In a tort action, the burden of proof shall be upon a plaintiff in question, by clear and convincing evidence, to establish that the plaintiff is entitled to recover punitive or exemplary damages.

(4)(a) In any tort action, except as provided in division (D)(4)(b) of this section, punitive or exemplary damages shall not be awarded against a defendant if that defendant files with the court a certified judgment, judgment entries, or other evidence showing that punitive or exemplary damages have already been awarded and have been collected, in any state or federal court, against that defendant based on the same act or course of conduct that is alleged to have caused the injury or loss to person or property for which the plaintiff seeks compensatory damages and that the aggregate of those previous punitive or exemplary damage awards exceeds the maximum amount of punitive or exemplary damages that may be awarded under division (D)(1) of this section against that defendant in the tort action.

(b) Notwithstanding division (D)(4)(a) of this section, punitive or exemplary damages may be awarded against a defendant in either of the following types of tort actions:

(i) In subsequent tort actions involving the same act or course of conduct for which punitive or exemplary damages have already been awarded, if the court determines by clear and convincing evidence that the plaintiff will offer new and substantial evidence of previously undiscovered, additional behavior of a type described in division (C) of this section on the part of that defendant, other than the injury or loss for
which the plaintiff seeks compensatory damages. In that case, the court shall make specific findings of fact in the record to support its conclusion. The court shall reduce the amount of any punitive or exemplary damages otherwise awardable pursuant to this section by the sum of the punitive or exemplary damages awards previously rendered against that defendant in any state or federal court. The court shall not inform the jury about the court's determination and action under division (D)(4)(b)(i) of this section.

(ii) In subsequent tort actions involving the same act or course of conduct for which punitive or exemplary damages have already been awarded, if the court determines by clear and convincing evidence that the total amount of prior punitive or exemplary damages awards was totally insufficient to punish that defendant's behavior of a type described in division (C) of this section and to deter that defendant and others from similar behavior in the future. In that case, the court shall make specific findings of fact in the record to support its conclusion. The court shall reduce the amount of any punitive or exemplary damages otherwise awardable pursuant to this section by the sum of the punitive or exemplary damages awards previously rendered against that defendant in any state or federal court. The court shall not inform the jury about the court's determination and action under division (D)(4)(b)(ii) of this section.

(D)(E) This section does not apply to tort actions against the state in the court of claims or to the extent that another section of the Revised Code expressly provides any of the following:

(1) Punitive or exemplary damages are recoverable from a defendant in question in a tort action on a basis other than that the actions or omissions of that defendant demonstrate malice, aggravated or egregious fraud, oppression, or insult, or on a
basis other than that the defendant in question as principal or master authorized, participated in, or ratified actions or omissions of an agent or servant that so demonstrate.

(2) Punitive or exemplary damages are recoverable from a defendant in question in a tort action irrespective of whether the plaintiff in question has adduced proof of actual damages.

(3) The burden of proof upon a plaintiff in question to recover punitive or exemplary damages from a defendant in question in a tort action is one other than clear and convincing evidence.

(4) Punitive or exemplary damages are not recoverable from a defendant in question in a tort action.

(F) When determining the amount of an award of punitive or exemplary damages against either a home or a residential facility licensed under section 5123.19 of the Revised Code, the trier of fact shall consider all of the following:

(1) The ability of the home or residential facility to pay the award of punitive or exemplary damages based on the home's or residential facility's assets, income, and net worth;

(2) Whether the amount of punitive or exemplary damages is sufficient to deter future tortious conduct;

(3) The financial ability of the home or residential facility, both currently and in the future, to provide accommodations, personal care services, and skilled nursing care.

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 described in section 4113.03 of the Revised Code.

(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, except that the contributory fault of the plaintiff may not be asserted as an affirmative defense to
an intentional tort 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 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 tort 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 tort 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. 2315.36. If contributory fault is asserted as an affirmative defense to a negligence tort claim, if it is determined that the plaintiff was contributorily at fault and that contributory fault was a direct and proximate cause of the injury, death, or loss to person or property that is the subject of the tort action, and if the plaintiff is entitled to recover compensatory damages pursuant to section 2315.33 of the Revised Code from more than one party, after it makes findings of fact or after the jury returns its general verdict accompanied by answers to interrogatories as described in section 2315.34 of the Revised Code, the court shall enter a judgment that is in favor of the plaintiff and that imposes liability pursuant to section 2307.22 of the Revised Code.

Sec. 2323.41. (A) In any civil tort action upon a medical, dental, optometric, or chiropractic claim, the defendant may introduce evidence of any amount payable as a benefit to the plaintiff as a result of the damages that result from an injury, death, or loss to person or property that is the subject of the claim upon which the action is based, except if the source of collateral benefits has a mandatory self-effectuating federal right of subrogation, a contractual right of subrogation, or a statutory right of subrogation.

(B) If the defendant elects to introduce evidence described in division (A) of this section, the plaintiff may introduce evidence of any amount that the plaintiff has paid or contributed to secure the plaintiff's right to receive the benefits of which the defendant has introduced evidence.

(C) A source of collateral benefits of which evidence is introduced pursuant to division (A) of this section shall not recover any amount against the plaintiff nor shall it be
subrogated to the rights of the plaintiff against a defendant.

(D) As used in this section, “medical:

(1) "Tort action" means a civil action for damages for
injury, death, or loss to person or property. "Tort action"
includes a civil action upon a product liability claim or a civil
action upon a medical claim, dental claim, optometric claim, or
chiropractic claim. "Tort action" does not include a civil action
for damages for a breach of contract or another agreement between
persons.

(2) "Medical claim," "dental claim," "optometric claim," and
"chiropractic claim" have the same meanings as in section 2305.113
of the Revised Code.

(3) "Product liability claim" has the same meaning as in
section 2307.71 of the Revised Code.

Sec. 2323.43. (A) In a civil tort action upon a medical,
dental, optometric, or chiropractic claim to recover damages for
injury, death, or loss to person or property, all of the following
apply:

(1) There shall not be any limitation on the amount of
compensatory damages that represent the economic loss
of the person who is awarded the damages in the civil tort action.

(2) Except as otherwise provided in division (A)(3) of this
section, the amount of compensatory damages that represents
damages for noneconomic loss that is recoverable in a civil tort
action under this section to recover damages for injury, death, or
loss to person or property shall not exceed the greater of two
hundred fifty thousand dollars or an amount that is equal to three
times the plaintiff's economic loss, as determined by the trier of
fact, of the plaintiff in that tort action to a maximum of three
hundred fifty thousand dollars for each plaintiff in that tort.
action or a maximum of five hundred thousand dollars for each occurrence that is the basis of that tort action.

(3) The amount recoverable for noneconomic loss in a civil tort action under this section may exceed the amount described in division (A)(2) of this section but shall not exceed five hundred thousand dollars for each plaintiff in that tort action or one million dollars for each occurrence that is the basis of that tort action if the noneconomic losses of the plaintiff in that tort action are for either of the following:

(a) Permanent and substantial physical deformity, loss of use of a limb, or loss of a bodily organ system;

(b) Permanent physical functional injury that permanently prevents the injured person from being able to independently care for self and perform life sustaining activities.

(B) If a trial is conducted in a civil tort action upon a medical, dental, optometric, or chiropractic claim to recover damages for injury, death, or loss to person or property and a plaintiff prevails with respect to in that claim action, the court in a nonjury trial shall make findings of fact, and the jury in a jury trial shall return a general verdict accompanied by answers to interrogatories, that shall specify all of the following:

(1) The total compensatory damages recoverable by the plaintiff;

(2) The portion of the total compensatory damages that represents damages for economic loss;

(3) The portion of the total compensatory damages that represents damages for noneconomic loss.

(C)(1) After the trier of fact in a civil tort action upon a medical, dental, optometric, or chiropractic claim to recover damages for injury, death, or loss to person or property complies
with division (B) of this section, the court shall enter a judgment in favor of the plaintiff for compensatory damages for economic loss in the amount determined pursuant to division (B)(2) of this section, and, subject to division (D)(1) of this section, the court shall enter a judgment in favor of the plaintiff for compensatory damages for noneconomic loss. In no event shall a judgment for compensatory damages for noneconomic loss exceed the maximum recoverable amount that represents damages for noneconomic loss as provided in divisions (A)(2) and (3) of this section. Division (A) of this section shall be applied in a jury trial only after the jury has made its factual findings and determination as to the damages.

(2) Prior to the trial in the civil tort action, any party may seek summary judgment with respect to the nature of the alleged injury or loss to person or property, seeking a determination of the damages as described in division (A)(2) or (3) of this section.

(D)(1) A court of common pleas has no jurisdiction to enter judgment on an award of compensatory damages for noneconomic loss in excess of the limits set forth in this section.

(2) If the trier of fact is a jury, the court shall not instruct the jury with respect to the limit on compensatory damages for noneconomic loss described in divisions (A)(2) and (3) of this section, and neither counsel for any party nor a witness shall inform the jury or potential jurors of that limit.

(E) Any excess amount of compensatory damages for noneconomic loss that is greater than the applicable amount specified in division (A)(2) or (3) of this section shall not be reallocated to any other tortfeasor beyond the amount of compensatory damages that that tortfeasor would otherwise be responsible for under the laws of this state.
(F)(1) If pursuant to a contingency fee agreement between an attorney and a plaintiff in a civil action upon a medical claim, dental claim, optometric claim, or chiropractic claim, the amount of the attorney's fees exceed the applicable amount of the limits on compensatory damages for noneconomic loss as provided in division (A)(2) or (3) of this section, the attorney shall make an application in the probate court of the county in which the civil action was commenced or in which the settlement was entered. The application shall contain a statement of facts, including the amount to be allocated to the settlement of the claim, the amount of the settlement or judgment that represents the compensatory damages for economic loss and noneconomic loss, the relevant provision in the contingency fee agreement, and the dollar amount of the attorney's fees under the contingency fee agreement. The application shall include the proposed distribution of the amount of the judgment or settlement.

(2) The attorney shall give written notice of the hearing and a copy of the application under division (F)(1) of this section to all interested persons who have not waived notice of the hearing. Notwithstanding the waivers and consents of the interested persons, the probate court shall retain jurisdiction over the settlement, allocation, and distribution of the claim.

(3) The application under division (F)(1) of this section shall state the arrangements, if any, that have been made with respect to the attorney's fees. The attorney's fees shall be subject to the approval of the probate court.

(G) This section does not apply to any of the following:

(1) Civil Tort actions upon a medical, dental, optometric, or chiropractic claim that are brought against the state in the court of claims, including, but not limited to, those actions in which a state university or college is a defendant and to which division
(B)(3) of section 3345.40 of the Revised Code applies;

(2) Civil Tort actions upon a medical, dental, optometric, or chiropractic claim that are brought against political subdivisions of this state and that are commenced under or are subject to Chapter 2744. of the Revised Code. Division (C) of section 2744.05 of the Revised Code applies to recoverable damages in those actions;

(3) Wrongful death actions brought pursuant to Chapter 2125. of the Revised Code.

(H) As used in this section:

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

(a) 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 civil tort action upon a medical, dental, optometric, or chiropractic claim;

(b) All expenditures for medical care or treatment, rehabilitation services, or other care, treatment, services, products, or accommodations as a result of an injury, death, or loss to person or property that is a subject of a civil tort action upon a medical, dental, optometric, or chiropractic claim;

(c) Any other expenditures incurred as a result of an injury, death, or loss to person or property that is a subject of a civil tort action upon a medical, dental, optometric, or chiropractic claim, other than attorney's fees incurred in connection with that action.

(2) "Medical claim," "dental claim," "optometric claim," and "chiropractic claim" have the same meanings as in section 2305.113 of the Revised Code.

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

(4) "Tort action" means a civil action for damages for injury or loss to person or property. "Tort action" includes a civil action upon a product liability claim, as defined in section 2307.71 of the Revised Code, or a civil action upon a medical claim, dental claim, optometric claim, or chiropractic claim. "Tort action" does not include a civil action for damages for a breach of contract or another agreement between persons.

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

Sec. 2323.51. (A) As used in this section:

(1) "Conduct" means any of the following:

(a) The filing of a civil action, the assertion of a claim, defense, or other position in connection with a civil action, the filing of a pleading, motion, or other paper in a civil action, including, but not limited to, a motion or paper filed for discovery purposes, or the taking of any other action in connection with a civil action;

(b) The filing by an inmate of a civil action or appeal against a government entity or employee, the assertion of a claim, defense or other position in connection with a civil action of that nature or the assertion of issues of law in an appeal of that nature, or the taking of any other action in connection with a civil action or appeal of that nature.
(2) "Frivolous conduct" means either of the following:

(a) Conduct of an inmate or other party to a civil action, of an inmate who has filed an appeal of the type described in division (A)(1)(b) of this section, or of the inmate's or other party's counsel of record that satisfies either any of the following:

   (i) It obviously serves merely to harass or maliciously injure another party to the civil action or appeal or is for another improper purpose, including, but not limited to, causing unnecessary delay or a needless increase in the cost of litigation.

   (ii) 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, or cannot be supported by a good faith argument for the establishment of new law.

   (iii) The conduct consists of allegations or other factual contentions that have no evidentiary support or, if specifically so identified, are not likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

   (iv) The conduct consists of denials or factual contentions that are not warranted by the evidence or, if specifically so identified, are not reasonably based on a lack of information or belief.

(b) An inmate's commencement of a civil action or appeal against a government entity or employee when any of the following applies:

   (i) The claim that is the basis of the civil action fails to state a claim or the issues of law that are the basis of the appeal fail to state any issues of law.

   (ii) It is clear that the inmate cannot prove material facts
in support of the claim that is the basis of the civil action or
in support of the issues of law that are the basis of the appeal.

(iii) The claim that is the basis of the civil action is
substantially similar to a claim in a previous civil action
commenced by the inmate or the issues of law that are the basis of
the appeal are substantially similar to issues of law raised in a
previous appeal commenced by the inmate, in that the claim that is
the basis of the current civil action or the issues of law that
are the basis of the current appeal involve the same parties or
arise from the same operative facts as the claim or issues of law
in the previous civil action or appeal.

(3) "Civil action or appeal against a government entity or
employee," "inmate," "political subdivision," and "employee" have
the same meanings as in section 2969.21 of the Revised Code.

(4) "Reasonable attorney's fees" or "attorney's fees," when
used in relation to a civil action or appeal against a government
entity or employee, includes both of the following, as applicable:

(a) The approximate amount of the compensation, and the
fringe benefits, if any, of the attorney general, an assistant
attorney general, or special counsel appointed by the attorney
general that has been or will be paid by the state in connection
with the legal services that were rendered by the attorney
general, assistant attorney general, or special counsel in the
civil action or appeal against the government entity or employee,
including, but not limited to, a civil action or appeal commenced
pro se by an inmate, and that were necessitated by frivolous
conduct of an inmate represented by counsel of record, the counsel
of record of an inmate, or a pro se inmate.

(b) The approximate amount of the compensation, and the
fringe benefits, if any, of a prosecuting attorney or other chief
legal officer of a political subdivision, or an assistant to a
chief legal officer of those natures, who has been or will be paid by a political subdivision in connection with the legal services that were rendered by the chief legal officer or assistant in the civil action or appeal against the government entity or employee, including, but not limited to, a civil action or appeal commenced pro se by an inmate, and that were necessitated by frivolous conduct of an inmate represented by counsel of record, the counsel of record of an inmate, or a pro se inmate.

(5) "State" has the same meaning as in section 2743.01 of the Revised Code.

(6) "State correctional institution" has the same meaning as in section 2967.01 of the Revised Code.

(B)(1) Subject to divisions (B)(2) and (3), (C), and (D) of this section and except as otherwise provided in division (E)(2)(b) of section 101.15 or division (I)(2)(b) of section 121.22 of the Revised Code, at any time prior to the commencement of the trial in a civil action or within twenty-one days after the entry of judgment in a civil action or appeal of the type described in division (A)(1)(b) of this section that is filed by an inmate or within twenty-one days after the entry of judgment in an appeal of that nature, the court may not more than thirty days after the entry of final judgment in a civil action or appeal, any party adversely affected by frivolous conduct may file a motion for an award of court costs, reasonable attorney's fees, and other reasonable expenses incurred in connection with the civil action or appeal to any party to the civil action or appeal who was adversely affected by frivolous conduct. The court may assess and make an award may be assessed to any party to the civil action or appeal who was adversely affected by frivolous conduct, as provided in division (B)(4) of this section.

(2) An award may be made pursuant to division (B)(1) of this
section upon the motion of a party to a civil action or an appeal
of the type described in that division or on the court's own
initiative, but only after the court does all of the following:

(a) Sets a date for a hearing to be conducted in accordance
with division (B)(2)(c) of this section, to determine whether
particular conduct was frivolous, to determine, if the conduct was
frivolous, whether any party was adversely affected by it, and to
determine, if an award is to be made, the amount of that award;

(b) Gives notice of the date of the hearing described in
division (B)(2)(a) of this section to each party or counsel of
record who allegedly engaged in frivolous conduct and to each
party who allegedly was adversely affected by frivolous conduct;

(c) Conducts the hearing described in division (B)(2)(a) of
this section in accordance with this division, allows the parties
and counsel of record involved to present any relevant evidence at
the hearing, including evidence of the type described in division
(B)(5) of this section, determines that the conduct involved was
frivolous and that a party was adversely affected by it, and then
determines the amount of the award to be made. If any party or
counsel of record who allegedly engaged in or allegedly was
adversely affected by frivolous conduct is confined in a state
correctional institution or in a county, multicounty, municipal,
municipal-county, or multicounty-municipal jail or workhouse, the
court, if practicable, may hold the hearing by telephone or, in
the alternative, at the institution, jail, or workhouse in which
the party or counsel is confined.

(3) The amount of an award made pursuant to division (B)(1)
of this section that represents reasonable attorney's fees shall
not exceed, and may be equal to or less than, whichever of the
following is applicable:

(a) If the party is being represented on a contingent fee
basis, an amount that corresponds to reasonable fees that would have been charged for legal services had the party been represented on an hourly fee basis or another basis other than a contingent fee basis;

(b) In all situations other than that described in division (B)(3)(a) of this section, the attorney's fees that were reasonably incurred by a party.

(4) An award made pursuant to division (B)(1) of this section may be made against a party, the party's counsel of record, or both.

(5)(a) In connection with the hearing described in division (B)(2)(a) of this section, each party who may be awarded reasonable attorney's fees and the party's counsel of record may submit to the court or be ordered by the court to submit to it, for consideration in determining the amount of the reasonable attorney's fees, an itemized list or other evidence of the legal services rendered, the time expended in rendering the services, and whichever of the following is applicable:

(i) If the party is being represented by that counsel on a contingent fee basis, the reasonable attorney's fees that would have been associated with those services had the party been represented by that counsel on an hourly fee basis or another basis other than a contingent fee basis;

(ii) In all situations other than those described in division (B)(5)(a)(i) of this section, the attorney's fees associated with those services.

(b) In connection with the hearing described in division (B)(2)(a) of this section, each party who may be awarded court costs and other reasonable expenses incurred in connection with the civil action or appeal may submit to the court or be ordered by the court to submit to it, for consideration in determining the
amount of the costs and expenses, an itemized list or other evidence of the costs and expenses **that were** incurred in connection with that action or appeal **and that were necessitated** by the frivolous conduct, including, but not limited to, expert witness fees and expenses associated with discovery.

(C) An award of reasonable attorney's fees under this section does not affect or determine the amount of or the manner of computation of attorney's fees as between an attorney and the attorney's client.

(D) This section does not affect or limit the application of any provision of the Rules of Civil Procedure, the Rules of Appellate Procedure, or another court rule or section of the Revised Code to the extent that the provision prohibits an award of court costs, attorney's fees, or other expenses incurred in connection with a particular civil action or appeal or authorizes an award of court costs, attorney's fees, or other expenses incurred in connection with a particular civil action or appeal in a specified manner, generally, or subject to limitations.

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

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

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

(B) Any negligence, or willful or wanton misconduct, that is committed by a minor under eighteen years of age when driving a motor vehicle upon a highway shall be imputed to the person who has signed the application of the minor for a probationary license, restricted license, or temporary instruction permit, 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 section 2307.22, or 2315.36, or 2315.46 of the Revised Code with respect to a negligence tort claim that otherwise is subject to that section.

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

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

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

Sec. 4513.263. (A) As used in this section and in section
4513.99 of the Revised Code:

(1) "Automobile" means any commercial tractor, passenger car,
commercial car, or truck that is required to be factory-equipped
with an occupant restraining device for the operator or any
passenger by regulations adopted by the United States secretary of
transportation pursuant to the "National Traffic and Motor Vehicle

(2) "Occupant restraining device" means a seat safety belt,
shoulder belt, harness, or other safety device for restraining a
person who is an operator of or passenger in an automobile and
that satisfies the minimum federal vehicle safety standards
established by the United States department of transportation.

(3) "Passenger" means any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.

(4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as in section 4501.01 of the Revised Code.

(5) "Vehicle" and "motor vehicle," as used in the definitions of the terms set forth in division (A)(4) of this section, have the same meanings as in section 4511.01 of the Revised Code.

(6) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in section 2307.71 of the Revised Code, but does not include a civil action for damages for a breach of contract or another agreement between persons.

(B) No person shall do any of the following:

(1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;

(2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in division (B)(3) of this section is wearing all of the available elements of a properly adjusted occupant restraining device;

(3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway
unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;

(4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.

(C) Division (B)(3) of this section does not apply to a person who is required by section 4511.81 of the Revised Code to be secured in a child restraint device. Division (B)(1) of this section does not apply to a person who is an employee of the United States postal service or of a newspaper home delivery service, during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers to addressees. Divisions (B)(1) and (3) of this section do not apply to a person who has an affidavit signed by a physician licensed to practice in this state under Chapter 4731. of the Revised Code or a chiropractor licensed to practice in this state under Chapter 4734. of the Revised Code that states that the person has a physical impairment that makes use of an occupant restraining device impossible or impractical.

(D) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of division (B) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

(E) All fines collected for violations of division (B) of
this section, or for violations of any ordinance or resolution of a political subdivision that is substantively comparable to that division, shall be forwarded to the treasurer of state for deposit as follows:

(1) Eight per cent shall be deposited into the seat belt education fund, which is hereby created in the state treasury, and shall be used by the department of public safety to establish a seat belt education program.

(2) Eight per cent shall be deposited into the elementary school program fund, which is hereby created in the state treasury, and shall be used by the department of public safety to establish and administer elementary school programs that encourage seat safety belt use.

(3) Two per cent shall be deposited into the Ohio ambulance licensing trust fund created by section 4766.05 of the Revised Code.

(4) Twenty-eight per cent shall be deposited into the trauma and emergency medical services fund, which is hereby created in the state treasury, and shall be used by the department of public safety for the administration of the division of emergency medical services and the state board of emergency medical services.

(5) Fifty-four per cent shall be deposited into the trauma and emergency medical services grants fund, which is hereby created in the state treasury, and shall be used by the state board of emergency medical services to make grants, in accordance with section 4765.07 of the Revised Code and the rules that the board adopts under section 4765.11 of the Revised Code.

(F)(1) Subject to division (F)(2) of this section, the failure of a person to wear all of the available elements of a properly adjusted occupant restraining device in violation of division (B)(1) or (3) of this section or the failure of a person...
to ensure that each minor who is a passenger of an automobile being operated by the person is wearing all of the available elements of such a properly adjusted occupant restraining device, in violation of division (B)(2) of this section, shall not be considered or used by the trier of fact in a tort action as evidence of negligence or contributory negligence, shall not fault or other tortious conduct or considered for any other relevant purpose if the failure contributed to the harm alleged in the tort action and may diminish pursuant to sections 2315.32 to 2315.36 of the Revised Code a recovery for of compensatory damages in any civil tort action involving the person arising from the ownership, maintenance, or operation of an automobile; shall not be used as a basis for a criminal prosecution of the person other than a prosecution for a violation of this section; and shall not be admissible as evidence in any civil or a criminal action involving the person other than a prosecution for a violation of this section.

(2) If, at the time of an accident involving a passenger car equipped with occupant restraining devices, any occupant of the passenger car who sustained injury or death was not wearing an available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted, then, consistent with the Rules of Evidence, the fact that the occupant was not wearing the available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted is admissible in evidence in relation to any claim for relief in a tort action to the extent that the claim for relief satisfies all of the following:

(a) It seeks to recover damages for injury or death to the occupant.

(b) The defendant in question is the manufacturer, designer,
distributor, or seller of the passenger car.

(c) The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy.

(3) As used in division (F)(2) of this section, "tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim that is subject to sections 2307.71 to 2307.80 of the Revised Code, but does not include a civil action for damages for a breach of a contract or another agreement between persons.

Sec. 4705.15. (A) As used in this section:

(1) "Contingent fee agreement" means an agreement for the provision of legal services by an attorney under which the compensation of the attorney is contingent, in whole or in part, upon a judgment being rendered in favor of or a settlement being obtained for the client and is either a fixed amount or an amount to be determined by a specified formula, including, but not limited to, a percentage of any judgment rendered in favor of or settlement obtained for the client.

(2) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim that is subject to sections 2307.71 to 2307.80 of the Revised Code, but does not include a civil action for damages for a breach of contract or another agreement between persons or a civil action based upon a medical claim, dental claim, optometric claim, or chiropractic claim.

(3) "Medical claim," "dental claim," "optometric claim," and "chiropractic claim" have the same meanings as in section 2305.113.
of the Revised Code.

(4) "Recovered" means the net sum recovered on a claim after deducting any disbursements, costs, and expenses incurred in connection with the prosecution or settlement of the claim. Costs of medical care incurred by the plaintiff and the attorney's office overhead costs or charges are not deductible disbursements or costs for the purposes of this division.

(B) If an attorney and a client contract for the provision of legal services in connection with a claim that is or may become the basis of a tort action or in connection with a medical claim, dental claim, optometric claim, or chiropractic claim and if the contract includes a contingent fee agreement, that agreement shall be reduced to writing and signed by the attorney and the client. The attorney shall provide a copy of the signed writing to the client.

(C)(1) If an attorney and a client contract for the provision of legal services in connection with a claim that may become the basis of a tort action and if the contract includes a contingent fee agreement, that agreement shall not provide for the payment of a fee that exceeds, and the attorney shall not collect a contingency fee for representing the client in excess of, the following limits:

(a) Thirty-five per cent of the first one hundred thousand dollars recovered on the claim;

(b) Twenty-five per cent of the next five hundred thousand dollars recovered on the claim;

(c) Fifteen per cent of any amount on which the recovery on the claim exceeds six hundred thousand dollars.

(2) The limits in division (C)(1) of this section shall apply regardless of whether the recovery is by settlement, arbitration,
or judgment or whether the person for whom the recovery is made is a responsible adult, an infant, or a person of unsound mind.

(D) If an attorney represents a client in connection with a claim as described in division (B) of this section, if their contract for the provision of legal services includes a contingent fee agreement, and if the attorney becomes entitled to compensation under that agreement, the attorney shall prepare a signed closing statement and shall provide the client with that statement within a reasonable time of or prior to the receipt of compensation under that agreement, but not later than thirty days, after the claim is finally adjudicated or settled. The closing statement shall specify all of the following:

1. The manner in which the compensation of the attorney was determined under that agreement;
2. The actual number of hours of the attorney's legal services that were spent in connection with the claim;
3. The total amount of the hourly fees or contingent fee for the attorney's legal services in connection with the claim;
4. The actual fee per hour of the attorney's legal services in connection with the claim, determined by dividing the total amount of the hourly fees specified in division (D)(3) of this section, less itemized costs and expenses, or the total contingent fee specified in that division by the actual number of hours of the attorney's legal services specified in division (D)(2) of this section;
5. Any costs and expenses deducted by the attorney from the judgment or settlement involved;
6. Any proposed division of the attorney's fees, costs, and expenses with referring or associated counsel;
7. Any other information that the attorney considers
Sec. 4705.16. (A) Each attorney who is licensed to practice law in this state shall append to every written retainer agreement or contract for legal services a legal consumer's bill of rights that shall be substantially in the following form:

"LEGAL CONSUMER'S BILL OF RIGHTS

(A) You have the right to control your own legal affairs.

(1) Your attorney, at your request, must do all of the following:

(a) Keep you informed about the status of your matter;
(b) Promptly answer your questions;
(c) Promptly return your phone calls;
(d) Disclose any alternatives available to you for resolving your matter;
(e) Disclose the risks and benefits of each decision and alternative.

(2) You have the right and duty to make all of the key decisions in your matter, including whether, and on what terms, to settle a dispute or lawsuit.

(B) You have the right to be fully informed about the costs and fees associated with your legal matter and you have the rights specified in paragraph (D), below, if you have a contingent fee agreement with your attorney.

(1) Your attorney must disclose all of the following to you:

(a) All alternative fee arrangements;
(b) Total anticipated fees and expenses through trial;
(c) Total anticipated costs;
(d) Referral fees paid to other attorneys.
Your attorney must do all of the following:

(a) Sign a written agreement that spells out the terms of every representation of you, including the fee arrangements;

(b) Agree not to exceed estimated costs and fees without your consent;

(c) Agree to return any unexpended portion of your retainer or other advanced payments;

(d) Make full use of economical and efficient legal support services, including, but not limited to, paralegals, law clerks, and legal secretaries, as well as your own personal services to reduce the costs to you.

(C) You have the right to retain qualified legal representation.

(1) Your attorney must do all of the following:

(a) Provide timely, thorough, and professional legal services;

(b) Advise you to solicit or arrange for the services of co-counsel if your attorney is not qualified to represent you in the areas of the law relevant to your matter;

(c) Respect your right to privacy and your confidential information;

(d) Not neglect your matter;

(e) Ensure that your attorney does not have a conflict of interest in representing you;

(f) Maintain accurate records;

(g) Upon your request, provide you with copies of all court documents and letters that your attorney produces or receives while representing you.
(2) You have the right to an accessible legal system.

If you are not satisfied with the legal services that you have retained, or with how your matter is being handled, you have the right to file a grievance with the Certified Grievance Committee of your local bar association or the Ohio State Bar Association or with the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio. The Committee and the Board include non-attorneys as members. The Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio has the authority to discipline, and to impose sanctions on, attorneys in Ohio.

(D) You have the following rights if you have a contingent fee agreement, as defined in section 4705.15 of the Revised Code, with your attorney for the provision of legal services in connection with a claim that is or may become the basis of a tort action, as defined in that section:

(1) The agreement must be in writing and signed by you and your attorney.

(2) Your attorney must provide a copy of the signed agreement to you.

(3) If your attorney becomes entitled to compensation under the contingent fee agreement, your attorney must prepare a signed closing statement and provide you with that statement within a reasonable time, but not later than thirty (30) days, after the claim is finally adjudicated and settled.

(4) Your attorney's closing statement must specify all of the following:

(a) The manner in which your attorney's compensation was determined under the agreement;

(b) The actual number of hours of your attorney's legal
services that were spent in connection with the claim;

(c) The total amount of the hourly fees or contingent fee for your attorney's legal services in connection with the claim;

(d) The actual fee per hour of your attorney's legal services in connection with the claim, determined by dividing the total amount of the hourly fees specified in paragraph (4)(c), above, less itemized costs and expenses, or the total contingent fee specified in that paragraph by the actual number of hours of your attorney's legal services specified in paragraph (4)(b), above;

(e) Any costs and expenses deducted by your attorney from the judgment or settlement involved;

(f) Any proposed division of your attorney's fees, costs, and expenses with referring or associated counsel;

(g) Any other information that your attorney considers appropriate."

(B) A person who suffers an injury or loss to person has the right to be left free from unsolicited contact by plaintiff or defense attorneys or any of their representatives for ............ days after the event resulting in the injury or loss to person.

(C) This section shall be called and may be cited as the "Legal Consumer's Bill of Rights."

Section 2. That existing sections 1701.76, 1701.82, 1775.14, 2117.06, 2125.01, 2125.02, 2125.04, 2305.01, 2305.03, 2305.10, 2305.25, 2307.011, 2307.23, 2307.29, 2307.60, 2307.71, 2307.75, 2307.80, 2315.01, 2315.21, 2315.32, 2315.33, 2315.34, 2315.36, 2323.41, 2323.43, 2323.51, 4507.07, 4513.263, and 4705.15 and sections 2315.41, 2315.42, 2315.43, 2315.44, 2315.45, and 2315.46 of the Revised Code are hereby repealed.

Section 3. That the version of section 4513.263 of the
Revised Code that is scheduled to take effect January 1, 2004, be amended to read as follows:

Sec. 4513.263. (A) As used in this section and in section 4513.99 of the Revised Code:

(1) "Automobile" means any commercial tractor, passenger car, commercial car, or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States secretary of transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392.

(2) "Occupant restraining device" means a seat safety belt, shoulder belt, harness, or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum federal vehicle safety standards established by the United States department of transportation.

(3) "Passenger" means any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.

(4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as in section 4501.01 of the Revised Code.

(5) "Vehicle" and "motor vehicle," as used in the definitions of the terms set forth in division (A)(4) of this section, have the same meanings as in section 4511.01 of the Revised Code.

(6) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in section 2307.71 of the Revised Code, but does not include a civil action for damages for a breach of contract or another agreement between persons.
(B) No person shall do any of the following:

(1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;

(2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in division (B)(3) of this section is wearing all of the available elements of a properly adjusted occupant restraining device;

(3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;

(4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.

(C) Division (B)(3) of this section does not apply to a person who is required by section 4511.81 of the Revised Code to be secured in a child restraint device. Division (B)(1) of this section does not apply to a person who is an employee of the United States postal service or of a newspaper home delivery service, during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers to addressees. Divisions (B)(1) and (3) of this section do not apply to a person who has an affidavit signed by a physician licensed to practice in this state under Chapter 4731. of the Revised Code or a chiropractor licensed to practice in this state under Chapter 4734. of the Revised Code that states that the person has a
physical impairment that makes use of an occupant restraining
device impossible or impractical.

(D) Notwithstanding any provision of law to the contrary, no
law enforcement officer shall cause an operator of an automobile
being operated on any street or highway to stop the automobile for
the sole purpose of determining whether a violation of division
(B) of this section has been or is being committed or for the sole
purpose of issuing a ticket, citation, or summons for a violation
of that nature or causing the arrest of or commencing a
prosecution of a person for a violation of that nature, and no law
enforcement officer shall view the interior or visually inspect
any automobile being operated on any street or highway for the
sole purpose of determining whether a violation of that nature has
been or is being committed.

(E) All fines collected for violations of division (B) of
this section, or for violations of any ordinance or resolution of
a political subdivision that is substantively comparable to that
division, shall be forwarded to the treasurer of state for deposit
as follows:

(1) Eight per cent shall be deposited into the seat belt
education fund, which is hereby created in the state treasury, and
shall be used by the department of public safety to establish a
seat belt education program.

(2) Eight per cent shall be deposited into the elementary
school program fund, which is hereby created in the state
treasury, and shall be used by the department of public safety to
establish and administer elementary school programs that encourage
seat safety belt use.

(3) Two per cent shall be deposited into the Ohio ambulance
licensing trust fund created by section 4766.05 of the Revised
Code.
(4) Twenty-eight per cent shall be deposited into the trauma and emergency medical services fund, which is hereby created in the state treasury, and shall be used by the department of public safety for the administration of the division of emergency medical services and the state board of emergency medical services.

(5) Fifty-four per cent shall be deposited into the trauma and emergency medical services grants fund, which is hereby created in the state treasury, and shall be used by the state board of emergency medical services to make grants, in accordance with section 4765.07 of the Revised Code and the rules that the board adopts under section 4765.11 of the Revised Code.

(F)(1) Subject to division (F)(2) of this section, the failure of a person to wear all of the available elements of a properly adjusted occupant restraining device in violation of division (B)(1) or (3) of this section or the failure of a person to ensure that each minor who is a passenger of an automobile being operated by the person is wearing all of the available elements of such a properly adjusted occupant restraining device in violation of division (B)(2) of this section, shall not be considered or used by the trier of fact in a tort action as evidence of negligence or contributory negligence, shall not fault or other tortious conduct or considered for any other relevant purpose if the failure contributed to the harm alleged in the tort action and may diminish pursuant to sections 2315.32 to 2315.36 of the Revised Code a recovery for of compensatory damages in any civil a tort action involving the person arising from the ownership, maintenance, or operation of an automobile; shall not be used as a basis for a criminal prosecution of the person other than a prosecution for a violation of this section; and shall not be admissible as evidence in any civil or a criminal action involving the person other than a prosecution for a violation of this section.
If, at the time of an accident involving a passenger car equipped with occupant restraining devices, any occupant of the passenger car who sustained injury or death was not wearing an available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted, then, consistent with the Rules of Evidence, the fact that the occupant was not wearing the available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted is admissible in evidence in relation to any claim for relief in a tort action to the extent that the claim for relief satisfies all of the following:

(a) It seeks to recover damages for injury or death to the occupant.

(b) The defendant in question is the manufacturer, designer, distributor, or seller of the passenger car.

(c) The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy.

(3) As used in division (F)(2) of this section, "tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim that is subject to sections 2307.71 to 2307.80 of the Revised Code, but does not include a civil action for damages for a breach of a contract or another agreement between persons.

(G)(1) Whoever violates division (B)(1) of this section shall be fined thirty dollars.

(2) Whoever violates division (B)(3) of this section shall be fined twenty dollars.
(3) Except as otherwise provided in this division, whoever violates division (B)(4) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of division (B)(4) of this section, whoever violates division (B)(4) of this section is guilty of a misdemeanor of the third degree.

Section 4. That the existing version of section 4513.263 of the Revised Code that is scheduled to take effect January 1, 2004, is hereby repealed.

Section 5. Sections 3 and 4 of this act shall take effect January 1, 2004.

Section 6. The General Assembly declares its intent that the amendment made by this act to section 2307.71 of the Revised Code is intended to supersede the holding of the Ohio Supreme Court in Carrel v. Allied Products Corp. (1997), 78 Ohio St.3d 284, that the common law product liability cause of action of negligent design survives the enactment of the Ohio Product Liability Act, sections 2307.71 to 2307.80 of the Revised Code, and to abrogate all common law product liability causes of action.

Section 7. (A) As used in this section, "asbestos," "asbestos claim," "exposed person," and "substantial contributing factor" have the same meanings as in section 2307.91 of the Revised Code.

(B) The General Assembly hereby requests the Supreme Court to adopt rules to specify procedures for venue and consolidation of asbestos claims brought pursuant to sections 2307.91 to 2307.95 of the Revised Code.

(C) With respect procedures for venue in regard to asbestos claims, the General Assembly hereby requests the Supreme Court to adopt a rule that requires that an asbestos claim meet specific
nexus requirements, including the requirement that the plaintiff be domiciled in Ohio or that Ohio is the state in which the plaintiff's exposure to asbestos is a substantial contributing factor.

(D) With respect to procedures for consolidation of asbestos claims, the General Assembly hereby requests the Supreme Court to adopt a rule that permits consolidation of asbestos claims only with the consent of all parties, and in absence of that consent, permits a court to consolidate for trial only those asbestos claims that relate to the same exposed person and members of the exposed person's household.