

As Introduced

125th General Assembly
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S. B. No. 80

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

A BILL

To amend sections 1701.76, 1701.82, 1775.14, 2117.06, 1
2125.01, 2125.02, 2125.04, 2305.01, 2305.03, 2
2305.10, 2305.25, 2307.011, 2307.23, 2307.29, 3
2307.60, 2307.71, 2307.75, 2307.80, 2315.01, 4
2315.21, 2315.32, 2315.33, 2315.34, 2315.36, 5
2323.41, 2323.43, 2323.51, 4507.07, 4513.263, and 6
4705.15; to enact sections 901.52, 2305.131, 7
2307.711, 2307.91 to 2307.97, and 4705.16; and to 8
repeal sections 2315.41, 2315.42, 2315.43, 9
2315.44, 2315.45, and 2315.46 of the Revised Code 10
to make changes related to the award of certain 11
damages, collateral benefits evidence, and 12
contributory fault in tort actions; to establish a 13
statute of repose for certain product liability 14
claims and claims based on unsafe conditions of 15
real property improvements and to make other 16
changes related to product liability claims; to 17
provide that the product liability statutes are 18
intended to abrogate common law product liability 19
causes of action; to enact a conflicts of law 20
provision for statutes of limitation in civil 21
actions; to modify the provisions on frivolous 22
conduct in filing civil actions; to prohibit 23

imputing any assurances or assumption of liability 24
regarding public access to premises used for 25
growing agricultural produce; to enact a legal 26
consumer's bill of rights; to limit attorney 27
contingency fees in connection with certain tort 28
actions; to establish minimum medical requirements 29
for filing certain asbestos claims; to establish 30
limitations on successor asbestos-related 31
liabilities relating to corporations; and to make 32
other changes related to civil actions; and to 33
amend the version of section 4513.263 of the 34
Revised Code that is scheduled to take effect 35
January 1, 2004, to continue the provisions of 36
this act on and after that effective date. 37

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

Section 1. That sections 1701.76, 1701.82, 1775.14, 2117.06, 38
2125.01, 2125.02, 2125.04, 2305.01, 2305.03, 2305.10, 2305.25, 39
2307.011, 2307.23, 2307.29, 2307.60, 2307.71, 2307.75, 2307.80, 40
2315.01, 2315.21, 2315.32, 2315.33, 2315.34, 2315.36, 2323.41, 41
2323.43, 2323.51, 4507.07, 4513.263, and 4705.15 be amended and 42
sections 901.52, 2305.131, 2307.711, 2307.91, 2307.92, 2307.93, 43
2307.94, 2307.95, 2307.96, 2307.97, and 4705.16 of the Revised 44
Code be enacted to read as follows: 45

Sec. 901.52. (A) As used in this section, "tort action" has 46
the same meaning as in section 2305.35 of the Revised Code. 47

(B) In a tort action, in the absence of willful or wanton 48
misconduct or intentionally tortious conduct, no owner, lessee, 49
renter, or operator of premises that are open to the public for 50
direct access to growing agricultural produce shall be imputed to 51

do either of the following:

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(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;

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(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.

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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:

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

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(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.

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(2) At the shareholder meeting described in division 82
(A)(1)(b) of this section or at any subsequent shareholder 83
meeting, shareholders, by the same vote that is required to 84
authorize the lease, sale, exchange, transfer, or other 85
disposition of all, or substantially all, of the assets, with or 86
without the good will, of the corporation, may grant authority to 87
the directors to establish or amend any of the terms and 88
conditions of the transaction, except that the shareholders shall 89
not authorize the directors to do any of the following: 90

(a) Alter or change the amount or kind of shares, securities, 91
money, property, or rights to be received in exchange for the 92
assets; 93

(b) Alter or change to any material extent the amount or kind 94
of liabilities to be assumed in exchange for the assets; 95

(c) Alter or change any other terms and conditions of the 96
transaction if any of the alterations or changes, alone or in the 97
aggregate, would materially adversely affect the shareholders or 98
the corporation. 99

(3) Notice of the meeting of the shareholders described in 100
division (A)(1)(b) of this section shall be given to all 101
shareholders whether or not entitled to vote at the meeting and 102
shall be accompanied by a copy or summary of the terms of the 103
transaction. 104

(B) The corporation by its directors may abandon ~~such~~ the 105
transaction under this section, subject to the contract rights of 106
other persons, if the power of abandonment is conferred upon the 107
directors either by the terms of the transaction or by the same 108
vote of shareholders and at the same meeting of shareholders as 109
that referred to in division (A)(1)(b) of this section or at any 110
subsequent meeting. 111

(C) Dissenting holders of shares of any class, whether or not 112

entitled to vote, shall be entitled to relief under section 113
1701.85 of the Revised Code. 114

(D) An action to set aside a conveyance by a corporation, on 115
the ground that any section of the Revised Code applicable to the 116
lease, sale, exchange, transfer, or other disposition of all, or 117
substantially all, of the assets of ~~such~~ that corporation has not 118
been complied with, shall be brought within ninety days after ~~such~~ 119
that transaction, or ~~such~~ the action shall be forever barred. 120

(E) If a resolution of dissolution is adopted pursuant to 121
section 1701.86 of the Revised Code, the directors may dispose of 122
all, or substantially all, of the corporation's assets without the 123
necessity of a shareholders' authorization under this section. 124

(F) The terms and conditions of any transaction under this 125
section shall be subject to the limitations specified in section 126
2307.96 of the Revised Code. 127

Sec. 1701.82. (A) When a merger or consolidation becomes 128
effective, all of the following apply: 129

(1) The separate existence of each constituent entity other 130
than the surviving entity in a merger shall cease, except that 131
whenever a conveyance, assignment, transfer, deed, or other 132
instrument or act is necessary to vest property or rights in the 133
surviving or new entity, the officers, general partners, or other 134
authorized representatives of the respective constituent entities 135
shall execute, acknowledge, and deliver ~~such~~ those instruments and 136
do ~~such~~ those acts. For these purposes, the existence of the 137
constituent entities and the authority of their respective 138
officers, directors, general partners, or other authorized 139
representatives is continued notwithstanding the merger or 140
consolidation. 141

(2) In the case of a consolidation, the new entity exists 142

when the consolidation becomes effective and, if it is a domestic 143
corporation, the articles contained in or provided for in the 144
agreement of consolidation shall be its original articles. In the 145
case of a merger in which the surviving entity is a domestic 146
corporation, the articles of the domestic surviving corporation in 147
effect immediately prior to the time the merger becomes effective 148
shall continue as its articles after the merger except as 149
otherwise provided in the agreement of merger. 150

(3) The surviving or new entity possesses all assets and 151
property of every description, and every interest in the assets 152
and property, wherever located, and the rights, privileges, 153
immunities, powers, franchises, and authority, of a public as well 154
as of a private nature, of each constituent entity, and, subject 155
to the limitations specified in section 2307.96 of the Revised 156
Code, all obligations belonging to or due to each constituent 157
entity, all of which are vested in the surviving or new entity 158
without further act or deed. Title to any real estate or any 159
interest in the real estate vested in any constituent entity shall 160
not revert or in any way be impaired by reason of such merger or 161
consolidation. 162

(4) ~~The~~ Subject to the limitations specified in section 163
2307.96 of the Revised Code, the surviving or new entity is liable 164
for all the obligations of each constituent entity, including 165
liability to dissenting shareholders. Any claim existing or any 166
action or proceeding pending by or against any constituent entity 167
may be prosecuted to judgment, with right of appeal, as if the 168
merger or consolidation had not taken place, or the surviving or 169
new entity may be substituted in its place. 170

(5) ~~All~~ Subject to the limitations specified in section 171
2307.96 of the Revised Code, all the rights of creditors of each 172
constituent entity are preserved unimpaired, and all liens upon 173
the property of any constituent entity are preserved unimpaired, 174

on only the property affected by ~~such~~ those liens immediately 175
prior to the effective date of the merger or consolidation. If a 176
general partner of a constituent partnership is not a general 177
partner of the entity surviving or the new entity resulting from 178
the merger or consolidation, then the former general partner shall 179
have no liability for any obligation incurred after the merger or 180
consolidation except to the extent that a former creditor of the 181
constituent partnership in which the former general partner was a 182
partner extends credit to the surviving or new entity reasonably 183
believing that the former general partner continued as a general 184
partner of the surviving or new entity. 185

(B) If a general partner of a constituent partnership is not 186
a general partner of the entity surviving or the new entity 187
resulting from the merger or consolidation, the provisions of 188
division (B) of section 1782.434 of the Revised Code shall apply. 189

(C) In the case of a merger of a domestic constituent 190
corporation into a foreign surviving corporation, limited 191
liability company, or limited partnership that is not licensed or 192
registered to transact business in this state or in the case of a 193
consolidation of a domestic constituent corporation into a new 194
foreign corporation, limited liability company, or limited 195
partnership, if the surviving or new entity intends to transact 196
business in this state and the certificate of merger or 197
consolidation is accompanied by the information described in 198
division (B)(4) of section 1701.81 of the Revised Code, then, on 199
the effective date of the merger or consolidation, the surviving 200
or new entity shall be considered to have complied with the 201
requirements for procuring a license or for registering to 202
transact business in this state as a foreign corporation, limited 203
liability company, or limited partnership, as the case may be. In 204
such a case, a copy of the certificate of merger or consolidation 205
certified by the secretary of state constitutes the license 206

certificate prescribed by the laws of this state for a foreign 207
corporation transacting business in this state or the application 208
for registration prescribed for a foreign limited partnership or 209
limited liability company. 210

(D) Any action to set aside any merger or consolidation on 211
the ground that any section of the Revised Code applicable to the 212
merger or consolidation has not been complied with shall be 213
brought within ninety days after the effective date of ~~such~~ that 214
merger or consolidation or be forever barred. 215

(E) As used in this section, "corporation" or "entity" 216
applies to both domestic and foreign corporations and entities 217
where the context so permits. In the case of a foreign constituent 218
entity or a foreign new entity, this section is subject to the 219
laws of the state under the laws of which the entity exists or in 220
which it has property. 221

Sec. 1775.14. (A) Subject to section 1339.65 of the Revised 222
Code and except as provided in division (B) of this section, all 223
partners are liable as follows: 224

(1) Jointly and severally for everything chargeable to the 225
partnership under sections 1775.12 and 1775.13 of the Revised 226
Code. This joint and several liability is not subject to section 227
2307.22, or 2315.36, ~~or 2315.46~~ of the Revised Code with respect 228
to a ~~negligence or other~~ tort claim that otherwise is subject to 229
~~any~~ either of those sections. 230

(2) Jointly for all other debts and obligations of the 231
partnership, but any partner may enter into a separate obligation 232
to perform a partnership contract. 233

(B) Subject to divisions (C)(1) and (2) of this section or as 234
otherwise provided in a written agreement between the partners of 235
a registered limited liability partnership, a partner in a 236

registered limited liability partnership is not liable, directly 237
or indirectly, by way of indemnification, contribution, 238
assessment, or otherwise, for debts, obligations, or other 239
liabilities of any kind of, or chargeable to, the partnership or 240
another partner or partners arising from negligence or from 241
wrongful acts, errors, omissions, or misconduct, whether or not 242
intentional or characterized as tort, contract, or otherwise, 243
committed or occurring while the partnership is a registered 244
limited liability partnership and committed or occurring in the 245
course of the partnership business by another partner or an 246
employee, agent, or representative of the partnership. 247

(C)(1) Division (B) of this section does not affect the 248
liability of a partner in a registered limited liability 249
partnership for that partner's own negligence, wrongful acts, 250
errors, omissions, or misconduct, including that partner's own 251
negligence, wrongful acts, errors, omissions, or misconduct in 252
directly supervising any other partner or any employee, agent, or 253
representative of the partnership. 254

(2) Division (B) of this section shall not affect the 255
liability of a partner for liabilities imposed by Chapters 5735., 256
5739., 5743., and 5747. and section 3734.908 of the Revised Code. 257

(D) A partner in a registered limited liability partnership 258
is not a proper party to an action or proceeding by or against a 259
registered limited liability partnership with respect to any debt, 260
obligation, or other liability of any kind described in division 261
(B) of this section, unless the partner is liable under divisions 262
(C)(1) and (2) of this section. 263

Sec. 2117.06. (A) All creditors having claims against an 264
estate, including claims arising out of contract, out of tort, on 265
cognovit notes, or on judgments, whether due or not due, secured 266
or unsecured, liquidated or unliquidated, shall present their 267

claims in one of the following manners:	268
(1) To the executor or administrator in a writing;	269
(2) To the executor or administrator in a writing, and to the probate court by filing a copy of the writing with it;	270 271
(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.	272 273 274 275 276 277 278 279 280 281
(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.	282 283 284 285 286
(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.	287 288 289 290 291 292 293
(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	294 295 296 297

administrator to allow or reject within that time shall not 298
prevent the executor or administrator from doing so after that 299
time and shall not prejudice the rights of any claimant. Upon the 300
allowance of a claim, the executor or the administrator, on demand 301
of the creditor, shall furnish the creditor with a written 302
statement or memorandum of the fact and date of the allowance. 303

(E) If the executor or administrator has actual knowledge of 304
a pending action commenced against the decedent prior to the 305
decedent's death in a court of record in this state, the executor 306
or administrator shall file a notice of the appointment of the 307
executor or administrator in the pending action within ten days 308
after acquiring that knowledge. If the administrator or executor 309
is not a natural person, actual knowledge of a pending suit 310
against the decedent shall be limited to the actual knowledge of 311
the person charged with the primary responsibility of 312
administering the estate of the decedent. Failure to file the 313
notice within the ten-day period does not extend the claim period 314
established by this section. 315

(F) This section applies to any person who is required to 316
give written notice to the executor or administrator of a motion 317
or application to revive an action pending against the decedent at 318
the date of the death of the decedent. 319

(G) Nothing in this section or in section 2117.07 of the 320
Revised Code shall be construed to reduce the ~~time mentioned~~ 321
periods of limitation or periods prior to repose in section 322
2125.02, ~~2305.09, 2305.10, 2305.11, 2305.113, or 2305.12~~ Chapter 323
2305. of the Revised Code, provided that no portion of any 324
recovery on a claim brought pursuant to that section or any of 325
~~those sections~~ section in that chapter shall come from the assets 326
of an estate unless the claim has been presented against the 327
estate in accordance with Chapter 2117. of the Revised Code. 328

(H) Any person whose claim has been presented and has not 329

been rejected after presentment is a creditor as that term is used 330
in Chapters 2113. to 2125. of the Revised Code. Claims that are 331
contingent need not be presented except as provided in sections 332
2117.37 to 2117.42 of the Revised Code, but, whether presented 333
pursuant to those sections or this section, contingent claims may 334
be presented in any of the manners described in division (A) of 335
this section. 336

(I) If a creditor presents a claim against an estate in 337
accordance with division (A)(2) of this section, the probate court 338
shall not close the administration of the estate until that claim 339
is allowed or rejected. 340

(J) The probate court shall not require an executor or 341
administrator to make and return into the court a schedule of 342
claims against the estate. 343

(K) If the executor or administrator makes a distribution of 344
the assets of the estate prior to the expiration of the time for 345
the filing of claims as set forth in this section, the executor or 346
administrator shall provide notice on the account delivered to 347
each distributee that the distributee may be liable to the estate 348
up to the value of the distribution and may be required to return 349
all or any part of the value of the distribution if a valid claim 350
is subsequently made against the estate within the time permitted 351
under this section. 352

Sec. 2125.01. ~~When~~ (A)(1) Except as provided in division (B) 353
of this section, if the death of a person is caused by wrongful 354
act, neglect, or default ~~which~~ that would have entitled the ~~party~~ 355
injured person to maintain ~~an~~ a civil action and recover damages 356
if death had not ensued, the person who would have been liable if 357
death had not ensued, or the administrator or executor of the 358
estate of ~~such~~ the liable person, as ~~such~~ that administrator or 359
executor, ~~shall be is~~ is liable ~~to an action for~~ in damages in a 360

civil action for wrongful death under this chapter, 361
notwithstanding the death of the injured person ~~injured~~ and 362
although the death was caused under circumstances ~~which~~ that make 363
it aggravated murder, murder, or manslaughter. ~~When~~ If the civil 364
action for wrongful death is against ~~such an~~ administrator or 365
executor, the damages recovered shall be a valid claim against the 366
estate of ~~such the~~ deceased liable person. No civil action for ~~the~~ 367
wrongful death ~~of a person~~ may be maintained against the owner or 368
lessee of the real property upon which the death occurred if the 369
cause of the death was the violent unprovoked act of a party other 370
than the owner, the lessee, or a person under the control of the 371
owner or lessee, unless the acts or omissions of the owner, 372
lessee, or person under the control of the owner or lessee 373
constitute gross negligence. 374

~~When~~ (2) If the death of a person is caused by a wrongful 375
act, neglect, or default in another state or foreign country, ~~for~~ 376
~~which~~ and a right to maintain ~~an~~ a civil action for wrongful death 377
and recover damages is given by a statute of ~~such the~~ other state 378
or foreign country, ~~such the~~ right of to maintain the civil action 379
may be enforced in this state, except as provided in division (B) 380
of this section. Every ~~such~~ civil action of that nature shall be 381
commenced within the time prescribed for the commencement of ~~such~~ 382
civil actions of that nature by the statute of ~~such the~~ other 383
state or foreign country. 384

~~The same remedy shall apply to any such cause of action now~~ 385
~~existing and to any such action commenced before January 1, 1932,~~ 386
~~or attempted to be commenced in proper time and now appearing on~~ 387
~~the files of any court within this state, and no prior law of this~~ 388
~~state shall prevent the maintenance of such cause of action.~~ 389

(B) A person may not maintain a civil action for wrongful 390
death in a court of this state under division (A)(1) or (2) of 391

this section if either of the following applies:

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(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.

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(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.

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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~~

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a benefit in a ~~wrongful death~~ civil action for wrongful death 423
brought under this division. 424

(2) The jury, or the court if the civil action for wrongful 425
death is not tried to a jury, may award damages authorized by 426
division (B) of this section, as it determines are proportioned to 427
the injury and loss resulting to the beneficiaries described in 428
division (A)(1) of this section by reason of the wrongful death 429
and may award the reasonable funeral and burial expenses incurred 430
as a result of the wrongful death. In its verdict, the jury or 431
court shall set forth separately the amount, if any, awarded for 432
the reasonable funeral and burial expenses incurred as a result of 433
the wrongful death. 434

(3)(a) The date of the decedent's death fixes, subject to 435
division (A)(3)(b)(iii) of this section, the status of all 436
beneficiaries of the civil action for wrongful death for purposes 437
of determining the damages suffered by them and the amount of 438
damages to be awarded. A person who is conceived prior to the 439
decedent's death and who is born alive after the decedent's death 440
is a beneficiary of the action. 441

(b)(i) In determining the amount of damages to be awarded, 442
the jury or court may consider all factors existing at the time of 443
the decedent's death that are relevant to a determination of the 444
damages suffered by reason of the wrongful death. 445

(ii) Consistent with the Rules of Evidence, ~~any~~ a party to ~~an~~ 446
a civil action for wrongful death may present evidence of the cost 447
of an annuity in connection with ~~any~~ an issue of recoverable 448
future damages. If ~~such~~ that evidence is presented, then, in 449
addition to the factors described in division (A)(3)(b)(i) of this 450
section and, if applicable, division (A)(3)(b)(iii) of this 451
section, the jury or court may consider that evidence in 452
determining the future damages suffered by reason of the wrongful 453

death. If ~~such~~ that evidence is presented, the present value in 454
dollars of ~~any~~ an annuity is its cost. 455

(iii) Consistent with the Rules of Evidence, ~~any~~ a party to 456
~~an~~ a civil action for wrongful death may present evidence that the 457
surviving spouse of the decedent is remarried. If ~~such~~ that 458
evidence is presented, then, in addition to the factors described 459
in divisions (A)(3)(b)(i) and (ii) of this section, the jury or 460
court may consider that evidence in determining the damages 461
suffered by the surviving spouse by reason of the wrongful death. 462

(B) Compensatory damages may be awarded in ~~an~~ a civil action 463
for wrongful death and may include damages for the following: 464

(1) Loss of support from the reasonably expected earning 465
capacity of the decedent; 466

(2) Loss of services of the decedent; 467

(3) Loss of the society of the decedent, including loss of 468
companionship, consortium, care, assistance, attention, 469
protection, advice, guidance, counsel, instruction, training, and 470
education, suffered by the surviving spouse, ~~minor~~ dependent 471
children, parents, or next of kin of the decedent; 472

(4) Loss of prospective inheritance to the decedent's heirs 473
at law at the time of the decedent's death; 474

(5) The mental anguish incurred by the surviving spouse, 475
~~minor~~ dependent children, parents, or next of kin of the decedent. 476

(C) A personal representative appointed in this state, with 477
the consent of the court making the appointment and at any time 478
before or after the commencement of ~~an~~ a civil action for wrongful 479
death, may settle with the defendant the amount to be paid. 480

(D) ~~An~~ (1) Except as provided in division (D)(2) of this 481
section, a civil action for wrongful death shall be commenced 482
within two years after the decedent's death. 483

(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. 484
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(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. 493
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(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. 498
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(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. 505
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(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 510
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commenced within two years after the disability is removed.

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(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.

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(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.

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(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

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finding that the parent abandoned the ~~child~~ minor and is not 547
entitled to recover damages in the ~~wrongful-death~~ action based on 548
the death of the ~~deceased~~ minor ~~child~~. 549

(2) The movant who files a motion described in division 550
(E)(1) of this section shall name the parent who abandoned the 551
~~child~~ deceased minor and, whether or not that parent is a resident 552
of this state, the parent shall be served with a summons and a 553
copy of the motion in accordance with the Rules of Civil 554
Procedure. Upon the filing of the motion, the court shall conduct 555
a hearing. In the hearing on the motion, the movant has the burden 556
of proving, by a preponderance of the evidence, that the parent 557
abandoned the ~~deceased~~ minor ~~child~~. If, at the hearing, the court 558
finds that the movant has sustained that burden of proof, the 559
court shall issue an order that includes its ~~finding~~ findings that 560
the parent abandoned the ~~deceased~~ minor ~~child~~ and that, because of 561
the prohibition set forth in division (A)(1) of this section, the 562
parent is not entitled to recover damages in the ~~wrongful-death~~ 563
action based on the death of the ~~deceased~~ minor ~~child~~. 564

(3) A motion requesting a court to issue an order finding 565
that ~~the~~ a specified parent abandoned ~~the~~ a minor child and is not 566
entitled to recover damages in ~~the~~ a civil action for wrongful 567
death ~~action~~ based on the death of the ~~deceased~~ minor ~~child~~ may be 568
filed at any time during the pendency of the ~~wrongful-death~~ 569
action. 570

(F) This section does not create a new cause of action or 571
substantive legal right against any person involving a product 572
liability claim. 573

(G) As used in this section: 574

(1) "Annuity" means an annuity that would be purchased from 575
either of the following types of insurance companies: 576

(a) An insurance company that the A. M. Best Company, in its 577

most recently published rating guide of life insurance companies, 578
has rated A or better and has rated XII or higher as to financial 579
size or strength; 580

(b)(i) An insurance company that the superintendent of 581
insurance, under rules adopted pursuant to Chapter 119. of the 582
Revised Code for purposes of implementing this division, 583
determines is licensed to do business in this state and, 584
considering the factors described in division ~~(F)~~(G)(1)(b)(ii) of 585
this section, is a stable insurance company that issues annuities 586
that are safe and desirable. 587

(ii) In making determinations as described in division 588
~~(F)~~(G)(1)(b)(i) of this section, the superintendent shall be 589
guided by the principle that the jury or court in ~~an~~ a civil 590
action for wrongful death should be presented only with evidence 591
as to the cost of annuities that are safe and desirable for the 592
beneficiaries of ~~such an~~ the action who are awarded compensatory 593
damages under this section. In making ~~such~~ the determinations, the 594
superintendent shall consider the financial condition, general 595
standing, operating results, profitability, leverage, liquidity, 596
amount and soundness of reinsurance, adequacy of reserves, and the 597
management of ~~any a particular~~ insurance company ~~in question~~ 598
involved and also may consider ratings, grades, and 599
classifications of any nationally recognized rating services of 600
insurance companies and any other factors relevant to the making 601
of ~~such~~ the determinations. 602

(2) "Future damages" means damages that result from the 603
wrongful death and that will accrue after the verdict or 604
determination of liability by the jury or court is rendered in the 605
civil action for wrongful death. 606

(3) "Abandoned" means that a parent of a minor failed without 607
justifiable cause to communicate with the minor, care for the 608
minor, and provide for the maintenance or support of the minor as 609

required by law or judicial decree for a period of at least one 610
year immediately prior to the date of the death of the minor. 611

(4) "Minor" means a person who is less than eighteen years of 612
age. 613

(5) "Harm" means death. 614

(6) "Manufacturer," "product," "product liability claim," and 615
"supplier" have the same meanings as in section 2307.71 of the 616
Revised Code. 617

(H) Divisions (D) and (G)(5) to (G)(7) of this section shall 618
be considered to be purely remedial in operation and shall be 619
applied in a remedial manner in any civil action commenced on or 620
after the effective date of this amendment, in which those 621
divisions are relevant, regardless of when the cause of action 622
accrued and notwithstanding any other section of the Revised Code 623
or prior rule of law of this state, but shall not be construed to 624
apply to any civil action pending prior to the effective date of 625
this amendment. 626

Sec. 2125.04. In every civil action for wrongful death 627
commenced or attempted to be commenced within the time specified 628
by division (D)(1) or (D)(2)(c), (d), (e), or (f) of section 629
2125.02 of the Revised Code, if a judgment for the plaintiff is 630
reversed or ~~if~~ the plaintiff fails otherwise than upon the merits, 631
and if the time limited by ~~such section~~ any of those divisions for 632
the commencement of ~~such the~~ the action has expired at the date of 633
~~such the~~ the reversal or failure, the plaintiff or, if the plaintiff 634
dies and the cause of action survives, the personal representative 635
of the plaintiff may commence a new civil action for wrongful 636
death within one year after ~~such that~~ that date, subject to division 637
(B) of section 2125.01 of the Revised Code or division (D)(2) of 638
section 2125.02 of the Revised Code. 639

Sec. 2305.01. The Except as otherwise provided by this 640
section or section 2305.03 of the Revised Code, the court of 641
common pleas has original jurisdiction in all civil cases in which 642
the sum or matter in dispute exceeds the exclusive original 643
jurisdiction of county courts and appellate jurisdiction from the 644
decisions of boards of county commissioners. The court of common 645
pleas shall not have jurisdiction to award compensatory damages 646
for noneconomic loss that exceed the amount set forth in section 647
2323.43 of the Revised Code or to award punitive or exemplary 648
damages that exceed the amount set forth in section 2315.21 of the 649
Revised Code. 650

The court of common pleas may on its own motion transfer for 651
trial any action in the court to any municipal court in the county 652
having concurrent jurisdiction of the subject matter of, and the 653
parties to, the action, if the amount sought by the plaintiff does 654
not exceed one thousand dollars and if the judge or presiding 655
judge of the municipal court concurs in the proposed transfer. 656
Upon the issuance of an order of transfer, the clerk of courts 657
shall remove to the designated municipal court the entire case 658
file. Any untaxed portion of the common pleas deposit for court 659
costs shall be remitted to the municipal court by the clerk of 660
courts to be applied in accordance with section 1901.26 of the 661
Revised Code, and the costs taxed by the municipal court shall be 662
added to any costs taxed in the common pleas court. 663

The court of common pleas has jurisdiction in any action 664
brought pursuant to division (I) of section 3733.11 of the Revised 665
Code if the residential premises that are the subject of the 666
action are located within the territorial jurisdiction of the 667
court. 668

The courts of common pleas of Adams, Athens, Belmont, Brown, 669
Clermont, Columbiana, Gallia, Hamilton, Jefferson, Lawrence, 670

Meigs, Monroe, Scioto, and Washington counties have jurisdiction 671
beyond the north or northwest shore of the Ohio river extending to 672
the opposite shore line, between the extended boundary lines of 673
any adjacent counties or adjacent state. Each of those courts of 674
common pleas has concurrent jurisdiction on the Ohio river with 675
any adjacent court of common pleas that borders on that river and 676
with any court of Kentucky or of West Virginia that borders on the 677
Ohio river and that has jurisdiction on the Ohio river under the 678
law of Kentucky or the law of West Virginia, whichever is 679
applicable, or under federal law. 680

Sec. 2305.03. ~~A civil action,~~ (A) Except as provided in 681
division (B) of this section and unless a different limitation is 682
prescribed by statute, ~~can~~ a civil action may be commenced only 683
within the period prescribed in sections ~~2305.03~~ 2305.04 to 684
2305.22, ~~inclusive,~~ of the Revised Code. ~~When~~ If interposed by 685
proper plea by a party to an action mentioned in ~~such~~ any of those 686
sections, lapse of time shall be a bar ~~thereto~~ to the action. 687

(B) No civil action that is based upon a cause of action that 688
accrued in any other state, territory, district, or foreign 689
jurisdiction may be commenced and maintained in this state if the 690
period of limitation that applies to that action under the laws of 691
that other state, territory, district, or foreign jurisdiction has 692
expired or the period of limitation that applies to that action 693
under the laws of this state has expired. 694

Sec. 2305.10. ~~An~~ (A) Except as provided in division (C) of 695
this section, an action based on a product liability claim and an 696
action for bodily injury or injuring personal property shall be 697
brought within two years after the cause ~~thereof~~ arose of action 698
accrues. Except as provided in divisions (B)(1), (2), (3), and (4) 699
of this section, a cause of action accrues under this division 700
when the injury or loss to person or property occurs. 701

(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 ~~arises~~ 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~~ known that the plaintiff ~~had been injured by~~ has 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, ~~arises~~ 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 734
action for bodily injury ~~which may be~~ caused by exposure to 735
diethylstilbestrol or other nonsteroidal synthetic estrogens, 736
including exposure before birth, accrues upon the date on which 737
the plaintiff ~~learns from a licensed physician~~ is informed by 738
competent medical authority that the plaintiff has an injury ~~which~~ 739
~~may be~~ that is related to ~~such the~~ exposure, or upon the date on 740
which by the exercise of reasonable diligence the plaintiff should 741
have ~~become aware~~ known that the plaintiff has an injury ~~which may~~ 742
~~be~~ that is related to ~~such the~~ exposure, whichever date occurs 743
first. 744

(C)(1) Except as otherwise provided in divisions (C)(2), (3), 745
(4), (5), and (6) of this section, no cause of action based on a 746
product liability claim shall accrue against the manufacturer or 747
supplier of a product later than ten years from the date that the 748
product was delivered to its first purchaser or first lessee who 749
was not engaged in a business in which the product was used as a 750
component in the production, construction, creation, assembly, or 751
rebuilding of another product. 752

(2) Division (C)(1) of this section does not apply if the 753
manufacturer or supplier of a product engaged in fraud in regard 754
to information about the product and the fraud contributed to the 755
harm that is alleged in a product liability claim involving that 756
product. 757

(3) Division (C)(1) of this section does not bar an action 758
based on a product liability claim against a manufacturer or 759
supplier of a product who made an express, written warranty as to 760
the safety of the product that was for a period longer than ten 761
years and that, at the time of the accrual of the cause of action, 762
has not expired in accordance with the terms of that warranty. 763

(4) If the cause of action relative to a product liability 764

claim accrues during the ten-year period described in division 765
(C)(1) of this section but less than two years prior to the 766
expiration of that period, an action based on the product 767
liability claim may be commenced within two years after the cause 768
of action accrues. 769

(5) If a cause of action relative to a product liability 770
claim accrues during the ten-year period described in division 771
(C)(1) of this section and the claimant cannot commence an action 772
during that period due to a disability described in section 773
2305.16 of the Revised Code, an action based on the product 774
liability claim may be commenced within two years after the 775
disability is removed. 776

(6)(a) Division (C)(1) of this section does not bar an action 777
based on a product liability claim against a manufacturer or 778
supplier of a product if all of the following apply: 779

(i) The action is for bodily injury. 780

(ii) The product involved is a substance or device described 781
in division (B)(1), (2), (3), or (4) of this section. 782

(iii) The bodily injury results from exposure to the product 783
during the ten-year period described in division (C)(1) of this 784
section. 785

(b) If division (C)(6)(a) of this section applies regarding 786
an action, the cause of action accrues upon the date on which the 787
claimant is informed by competent medical authority that the 788
bodily injury was related to the exposure to the product, or upon 789
the date on which by the exercise of reasonable diligence the 790
claimant should have known that the bodily injury was related to 791
the exposure to the product, whichever date occurs first. The 792
action based on the product liability claim shall be commenced 793
within two years after the cause of action accrues and shall not 794
be commenced more than two years after the cause of action 795

<u>accrues.</u>	796
<u>(D) This section does not create a new cause of action or substantive legal right against any person involving a product liability claim.</u>	797 798 799
<u>(E) As used in this section:</u>	800
<u>(1) "Agent orange," "causative agent," and "veteran" have the same meanings as in section 5903.21 of the Revised Code.</u>	801 802
<u>(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.</u>	803 804 805
<u>(3) "Harm" means injury, death, or loss to person or property.</u>	806 807
<u>(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.</u>	808 809 810 811 812 813 814 815
<u>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</u>	816 817 818 819 820 821 822 823 824 825

defective and unsafe condition of an improvement to real property 826
shall accrue against a person who performed services for the 827
improvement to real property or a person who furnished the design, 828
planning, supervision of construction, or construction of the 829
improvement to real property later than ten years from the date of 830
the performance of the services or the furnishing of the design, 831
planning, supervision of construction, or construction. 832

(2) Notwithstanding an otherwise applicable period of 833
limitations specified in this chapter or in section 2125.02 of the 834
Revised Code, a claimant who discovers a defective and unsafe 835
condition of an improvement to real property during the ten-year 836
period specified in division (A)(1) of this section but less than 837
two years prior to the expiration of that period may commence a 838
civil action to recover damages as described in that division 839
within two years from the date of the discovery of that defective 840
and unsafe condition. 841

(3) Notwithstanding an otherwise applicable period of 842
limitations specified in this chapter or in section 2125.02 of the 843
Revised Code, if a cause of action that arises out of a defective 844
and unsafe condition of an improvement to real property accrues 845
during the ten-year period specified in division (A)(1) of this 846
section and the plaintiff cannot commence an action during that 847
period due to a disability described in section 2305.16 of the 848
Revised Code, the plaintiff may commence a civil action to recover 849
damages as described in that division within two years from the 850
removal of that disability. 851

(B) Division (A) of this section does not apply to a civil 852
action commenced against a person who is an owner of, tenant of, 853
or other person in possession and control of an improvement to 854
real property and who is in actual possession and control of the 855
improvement to real property at the time that the defective and 856

unsafe condition of the improvement to real property constitutes 857
the proximate cause of the bodily injury, injury to real or 858
personal property, or wrongful death that is the subject matter of 859
the civil action. 860

(C) Division (A)(1) of this section is not available as an 861
affirmative defense to a defendant in a civil action described in 862
that division if the defendant engages in fraud in regard to 863
furnishing the design, planning, supervision of construction, or 864
construction of an improvement to real property or in regard to 865
any relevant fact or other information that pertains to the act or 866
omission constituting the alleged basis of the bodily injury, 867
injury to real or personal property, or wrongful death or to the 868
defective and unsafe condition of the improvement to real 869
property. 870

(D) Division (A)(1) of this section does not prohibit the 871
commencement of a civil action for damages against a person who 872
has expressly warranted or guaranteed an improvement to real 873
property for a period longer than the period described in division 874
(A)(1) of this section and whose warranty or guarantee has not 875
expired as of the time of the alleged bodily injury, injury to 876
real or personal property, or wrongful death in accordance with 877
the terms of that warranty or guarantee. 878

(E) This section does not create a new cause of action or 879
substantive legal right against any person resulting from the 880
design, planning, supervision of construction, or construction of 881
an improvement to real property. 882

(F) This section shall be considered to be purely remedial in 883
operation and shall be applied in a remedial manner in any civil 884
action commenced on or after the effective date of this section, 885
in which this section is relevant, regardless of when the cause of 886
action accrued and notwithstanding any other section of the 887

Revised Code or prior rule of law of this state, but shall not be 888
construed to apply to any civil action pending prior to the 889
effective date of this section. 890

Sec. 2305.25. As used in this section and sections 2305.251 891
to 2305.253 of the Revised Code: 892

(A)(1) "Health care entity" means an entity, whether acting 893
on its own behalf or on behalf of or in affiliation with other 894
health care entities, that conducts as part of its regular 895
business activities professional credentialing or quality review 896
activities involving the competence of, professional conduct of, 897
or quality of care provided by health care providers, including 898
both individuals who provide health care and entities that provide 899
health care. 900

(2) "Health care entity" includes any entity described in 901
division (A)(1) of this section, regardless of whether it is a 902
government entity; for-profit or nonprofit corporation; limited 903
liability company; partnership; professional corporation; state or 904
local society composed of physicians, dentists, optometrists, 905
psychologists, or pharmacists; or other health care organization. 906

(B) "Health insuring corporation" means an entity that holds 907
a certificate of authority under Chapter 1751. of the Revised 908
Code. "Health insuring corporation" includes wholly owned 909
subsidiaries of a health insuring corporation. 910

(C) "Hospital" means either of the following: 911

(1) An institution that has been registered or licensed by 912
the department of health as a hospital; 913

(2) An entity, other than an insurance company authorized to 914
do business in this state, that owns, controls, or is affiliated 915
with an institution that has been registered or licensed by the 916
department of health as a hospital. 917

(D) "Incident report or risk management report" means a 918
report of an incident involving injury or potential injury to a 919
patient as a result of patient care provided by health care 920
providers, including both individuals who provide health care and 921
entities that provide health care, that is prepared by or for the 922
use of a peer review committee of a health care entity and is 923
within the scope of the functions of that committee. 924

(E)(1) "Peer review committee" means a utilization review 925
committee, quality assessment committee, performance improvement 926
committee, tissue committee, credentialing committee, or other 927
committee that does either of the following: 928

(a) Conducts professional credentialing or quality review 929
activities involving the competence of, professional conduct of, 930
or quality of care provided by health care providers, including 931
both individuals who provide health care and entities that provide 932
health care; 933

(b) Conducts any other attendant hearing process initiated as 934
a result of a peer review committee's recommendations or actions. 935

(2) "Peer review committee" includes all of the following: 936

(a) A peer review committee of a hospital or long-term care 937
facility or a peer review committee of a nonprofit health care 938
corporation that is a member of the hospital or long-term care 939
facility or of which the hospital or facility is a member; 940

(b) A peer review committee of a community mental health 941
center; 942

(c) A board or committee of a hospital, a long-term care 943
facility, or other health care entity when reviewing professional 944
qualifications or activities of health care providers, including 945
both individuals who provide health care and entities that provide 946
health care; 947

(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;	979
(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;	980 981 982 983 984 985
(j) Any other peer review committee of a health care entity.	986
(F) "Physician" means an individual authorized to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.	987 988 989
(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.	990 991 992
(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, <u>as defined in section 2307.71 of the Revised Code</u> , but does not include a civil action for a breach of contract or another agreement between persons.	993 994 995 996 997
Sec. 2307.011. As used in Chapters 2307. and 2315. of the Revised Code:	998 999
(A) "Conduct" means actions or omissions.	1000
(B) "Contributory fault" means contributory negligence, other contributory tortious conduct, comparative negligence , or, <u>except as provided with respect to product liability claims in section 2307.711 of the Revised Code</u> , express or implied assumption of the risk.	1001 1002 1003 1004 1005
(C) "Economic loss" means any of the following types of pecuniary harm:	1006 1007

(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

2307.22, 2307.711, and 2315.32, ~~and 2315.42~~ of the Revised Code, 1039
"intentional tort claim" does not include an intentional tort 1040
claim alleged by an employee or the employee's legal 1041
representative against the employee's employer and that arises 1042
from the tortfeasor's conduct that occurs on premises owned, 1043
leased, or supervised by the employer. 1044

~~(E) "Negligence claim" means a civil action for damages for 1045
injury, death, or loss to person or property to the extent that 1046
the damages are sought or recovered based on allegation or proof 1047
of negligence. 1048~~

~~(F)~~ "Noneconomic loss" means nonpecuniary harm that results 1049
from an injury, death, or loss to person that is a subject of a 1050
tort action, including, but not limited to, pain and suffering; 1051
loss of society, consortium, companionship, care, assistance, 1052
attention, protection, advice, guidance, counsel, instruction, 1053
training, or education; mental anguish; and any other intangible 1054
loss. 1055

~~(G)~~(F) "Person" has the same meaning as in division (C) of 1056
section 1.59 of the Revised Code and additionally includes a 1057
political subdivision and the state. 1058

~~(H)~~(G) "Persons from whom the plaintiff does not seek 1059
recovery in this action" includes, but is not limited to, the 1060
following: 1061

(1) Persons who have entered into a settlement agreement with 1062
the plaintiff; 1063

(2) Persons whom the plaintiff has dismissed from the tort 1064
action without prejudice; 1065

(3) Persons whom the plaintiff has dismissed from the tort 1066
action with prejudice; 1067

(4) Persons who are not a party to the tort action whether or 1068

not that person was or could have been a party to the tort action 1069
if the name of the person has been disclosed prior to trial. 1070

~~(I)~~(H) "Plaintiff" includes the person for whom the plaintiff 1071
is legal representative. 1072

~~(J)~~(I) "Political subdivision" and "state" have the same 1073
meanings as in section 2744.01 of the Revised Code. 1074

~~(K)~~(J) "Tort action" means a civil action for damages for 1075
injury, death, or loss to person or property. "Tort action" 1076
includes a product liability claim, as defined in section 2307.71 1077
of the Revised Code, but does not include a civil action for 1078
damages for a breach of contract or another agreement between 1079
persons. 1080

~~(L)~~(K) "Trier of fact" means the jury or, in a nonjury 1081
action, the court. 1082

Sec. 2307.23. (A) In determining the percentage of tortious 1083
conduct attributable to a party in a tort action under section 1084
2307.22, or sections 2315.32 to 2315.36, ~~or sections 2315.41 to~~ 1085
~~2315.46~~ of the Revised Code, the court in a nonjury action shall 1086
make findings of fact, and the jury in a jury action shall return 1087
a general verdict accompanied by answers to interrogatories, that 1088
shall specify all of the following: 1089

(1) The percentage of tortious conduct that proximately 1090
caused the injury or loss to person or property or the wrongful 1091
death that is attributable to the plaintiff and to each party to 1092
the tort action from whom the plaintiff seeks recovery in this 1093
action; 1094

(2) The percentage of tortious conduct that proximately 1095
caused the injury or loss to person or property or the wrongful 1096
death that is attributable to each person from whom the plaintiff 1097
does not seek recovery in this action. 1098

(B) The sum of the percentages of tortious conduct as 1099
determined pursuant to division (A) of this section shall equal 1100
one hundred per cent. 1101

(C) For purposes of division (A)(2) of this section, it is an 1102
affirmative defense for each party to the tort action from whom 1103
the plaintiff seeks recovery in this action that a specific 1104
percentage of the tortious conduct that proximately caused the 1105
injury or loss to person or property or the wrongful death is 1106
attributable to one or more persons from whom the plaintiff does 1107
not seek recovery in this action. Any party to the tort action 1108
from whom the plaintiff seeks recovery in this action may raise an 1109
affirmative defense under this division at any time before the 1110
trial of the action. 1111

Sec. 2307.29. No provision of sections 2307.25 to 2307.28 of 1112
the Revised Code applies to a ~~negligence or other~~ tort claim to 1113
the extent that sections 2307.22 to 2307.24, or sections 2315.32 1114
to 2315.36, ~~or sections 2315.41 to 2315.46~~ of the Revised Code 1115
make a party against whom a judgment is entered liable to the 1116
plaintiff only for the proportionate share of that party as 1117
described in those sections. 1118

Sec. 2307.60. (A) Anyone injured in person or property by a 1119
criminal act has, and may recover full damages in, a civil action 1120
unless specifically excepted by law, may recover the costs of 1121
maintaining the civil action and attorney's fees if authorized by 1122
any provision of the Rules of Civil Procedure or another section 1123
of the Revised Code or under the common law of this state, and may 1124
recover punitive or exemplary damages if authorized by section 1125
2315.21 or another section of the Revised Code. No record of a 1126
conviction, unless obtained by confession in open court, shall be 1127
used as evidence in a civil action brought pursuant to division 1128

(A) of this section. 1129

(B)(1) As used in division (B) of this section, "tort action" 1130
means a civil action for damages for injury, death, or loss to 1131
person or property other than a civil action for damages for a 1132
breach of contract or another agreement between persons. "Tort 1133
action" includes, but is not limited to, a product liability 1134
claim, as defined in section 2307.71 of the Revised Code, an 1135
action for wrongful death under Chapter 2125. of the Revised Code, 1136
and an action based on derivative claims for relief. 1137

(2) Recovery on a claim for relief in a tort action is barred 1138
to any person or the person's legal representative if the person 1139
has been convicted of or has pleaded guilty to a felony, or to a 1140
misdemeanor that is an offense of violence, arising out of 1141
criminal conduct that was a proximate cause of the injury or loss 1142
for which relief is claimed in the action. 1143

(3) Division (B) of this section does not apply to civil 1144
claims based upon alleged intentionally tortious conduct, alleged 1145
violations of the United States Constitution, or alleged 1146
violations of statutes of the United States pertaining to civil 1147
rights. 1148

Sec. 2307.71. (A) As used in sections 2307.71 to 2307.80 of 1149
the Revised Code: 1150

~~(A)~~(1) "Claimant" means either of the following: 1151

~~(1)~~(a) A person who asserts a product liability claim or on 1152
whose behalf such a claim is asserted; 1153

~~(2)~~(b) If a product liability claim is asserted on behalf of 1154
the surviving spouse, children, parents, or other next of kin of a 1155
decedent or on behalf of the estate of a decedent, whether as a 1156
claim in a wrongful death action under Chapter 2125. of the 1157
Revised Code or as a survivorship claim, whichever of the 1158

following is appropriate: 1159

~~(a)~~(i) The decedent, if the reference is to the person who 1160
allegedly sustained harm or economic loss for which, or in 1161
connection with which, compensatory damages or punitive or 1162
exemplary damages are sought to be recovered; 1163

~~(b)~~(ii) The personal representative of the decedent or the 1164
estate of the decedent, if the reference is to the person who is 1165
asserting or has asserted the product liability claim. 1166

~~(B)~~(2) "Economic loss" means direct, incidental, or 1167
consequential pecuniary loss, including, but not limited to, 1168
damage to the product in question, and nonphysical damage to 1169
property other than that product. Harm is not "economic loss." 1170

~~(C)~~(3) "Environment" means navigable waters, surface water, 1171
ground water, drinking water supplies, land surface, subsurface 1172
strata, and air. 1173

~~(D)~~(4) "Ethical drug" means a prescription drug that is 1174
prescribed or dispensed by a physician or any other person who is 1175
legally authorized to prescribe or dispense a prescription drug. 1176

~~(E)~~(5) "Ethical medical device" means a medical device that 1177
is prescribed, dispensed, or implanted by a physician or any other 1178
person who is legally authorized to prescribe, dispense, or 1179
implant a medical device and that is regulated under the "Federal 1180
Food, Drug, and Cosmetic Act," 52 Stat. 1040, 21 U.S.C. 301-392, 1181
as amended. 1182

~~(F)~~(6) "Foreseeable risk" means a risk of harm that satisfies 1183
both of the following: 1184

~~(1)~~(a) It is associated with an intended or reasonably 1185
foreseeable use, modification, or alteration of a product in 1186
question; 1187

~~(2)~~(b) It is a risk that the manufacturer in question should 1188

recognize while exercising both of the following: 1189

~~(a)~~(i) The attention, perception, memory, knowledge, and 1190
intelligence that a reasonable manufacturer should possess; 1191

~~(b)~~(ii) Any superior attention, perception, memory, 1192
knowledge, or intelligence that the manufacturer in question 1193
possesses. 1194

~~(G)~~(7) "Harm" means death, physical injury to person, serious 1195
emotional distress, or physical damage to property other than the 1196
product in question. Economic loss is not "harm." 1197

~~(H)~~(8) "Hazardous or toxic substances" include, but are not 1198
limited to, hazardous waste as defined in section 3734.01 of the 1199
Revised Code, hazardous waste as specified in the rules of the 1200
director of environmental protection pursuant to division (A) of 1201
section 3734.12 of the Revised Code, hazardous substances as 1202
defined in section 3716.01 of the Revised Code, and hazardous 1203
substances, pollutants, and contaminants as defined in or by 1204
regulations adopted pursuant to the "Comprehensive Environmental 1205
Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 1206
42 U.S.C. 9601, as amended. 1207

~~(I)~~(9) "Manufacturer" means a person engaged in a business to 1208
design, formulate, produce, create, make, construct, assemble, or 1209
rebuild a product or a component of a product. 1210

~~(J)~~(10) "Person" has the same meaning as in division (C) of 1211
section 1.59 of the Revised Code and also includes governmental 1212
entities. 1213

~~(K)~~(11) "Physician" means a person who is licensed to 1214
practice medicine and surgery or osteopathic medicine and surgery 1215
by the state medical board. 1216

~~(L)~~(1)(12)(a) "Product" means, subject to division 1217
~~(L)~~(2)(A)(12)(b) of this section, any object, substance, mixture, 1218

or raw material that constitutes tangible personal property and 1219
that satisfies all of the following: 1220

~~(a)~~(i) It is capable of delivery itself, or as an assembled 1221
whole in a mixed or combined state, or as a component or 1222
ingredient~~+~~. 1223

~~(b)~~(ii) It is produced, manufactured, or supplied for 1224
introduction into trade or commerce~~+~~. 1225

~~(c)~~(iii) It is intended for sale or lease to persons for 1226
commercial or personal use. 1227

~~(2)~~(b) "Product" does not include human tissue, blood, or 1228
organs. 1229

~~(M)~~(13) "Product liability claim" means a claim that is 1230
asserted in a civil action pursuant to sections 2307.71 to 2307.80 1231
of the Revised Code and that seeks to recover compensatory damages 1232
from a manufacturer or supplier for death, physical injury to 1233
person, emotional distress, or physical damage to property other 1234
than the product in question, that allegedly arose from any of the 1235
following: 1236

~~(1)~~(a) The design, formulation, production, construction, 1237
creation, assembly, rebuilding, testing, or marketing of that 1238
product; 1239

~~(2)~~(b) Any warning or instruction, or lack of warning or 1240
instruction, associated with that product; 1241

~~(3)~~(c) Any failure of that product to conform to any relevant 1242
representation or warranty. 1243

~~(N)~~(14) "Representation" means an express representation of a 1244
material fact concerning the character, quality, or safety of a 1245
product. 1246

~~(O)~~(1)(15)(a) "Supplier" means, subject to division 1247
~~(O)~~(2)(A)(15)(b) of this section, either of the following: 1248

~~(a)(i)~~ A person that, in the course of a business conducted 1249
for the purpose, sells, distributes, leases, prepares, blends, 1250
packages, labels, or otherwise participates in the placing of a 1251
product in the stream of commerce; 1252

~~(b)(ii)~~ A person that, in the course of a business conducted 1253
for the purpose, installs, repairs, or maintains any aspect of a 1254
product that allegedly causes harm. 1255

~~(2)(b)~~ "Supplier" does not include any of the following: 1256

~~(a)(i)~~ A manufacturer; 1257

~~(b)(ii)~~ A seller of real property; 1258

~~(e)(iii)~~ A provider of professional services who, incidental 1259
to a professional transaction the essence of which is the 1260
furnishing of judgment, skill, or services, sells or uses a 1261
product; 1262

~~(d)(iv)~~ Any person who acts only in a financial capacity with 1263
respect to the sale of a product, or who leases a product under a 1264
lease arrangement in which the selection, possession, maintenance, 1265
and operation of the product are controlled by a person other than 1266
the lessor. 1267

~~(P)(16)~~ "Unavoidably unsafe" means that, in the state of 1268
technical, scientific, and medical knowledge at the time a product 1269
in question left the control of its manufacturer, an aspect of 1270
that product was incapable of being made safe. 1271

(B) Sections 2307.71 to 2307.80 of the Revised Code are 1272
intended to abrogate all common law product liability causes of 1273
action. 1274

Sec. 2307.711. (A) Subject to divisions (B)(1), (2), and (3) 1275
of this section, sections 2315.32 to 2315.36 of the Revised Code 1276
apply to a product liability claim that is asserted pursuant to 1277

sections 2307.71 to 2307.80 of the Revised Code. 1278

(B)(1) Express or implied assumption of the risk may be 1279
asserted as an affirmative defense to a product liability claim 1280
under sections 2307.71 to 2307.80 of the Revised Code, except that 1281
express or implied assumption of the risk may not be asserted as 1282
an affirmative defense to an intentional tort claim. 1283

(2) Subject to division (B)(3) of this section, if express or 1284
implied assumption of the risk is asserted as an affirmative 1285
defense to a product liability claim under sections 2307.71 to 1286
2307.80 of the Revised Code and if it is determined that the 1287
claimant expressly or impliedly assumed a risk and that the 1288
express or implied assumption of the risk was a direct and 1289
proximate cause of harm for which the claimant seeks to recover 1290
damages, the express or implied assumption of the risk is a 1291
complete bar to the recovery of those damages. 1292

(3) If implied assumption of the risk is asserted as an 1293
affirmative defense to a product liability claim against a 1294
supplier under division (A)(1) of section 2307.78 of the Revised 1295
Code, sections 2315.32 to 2315.36 of the Revised Code are 1296
applicable to that affirmative defense and shall be used to 1297
determine whether the claimant is entitled to recover compensatory 1298
damages based on that claim and the amount of any recoverable 1299
compensatory damages. 1300

Sec. 2307.75. (A) Subject to divisions (D), (E), and (F) of 1301
this section, a product is defective in design or formulation if 1302
~~either of the following applies:~~ 1303

~~(1) When,~~ at the time it left the control of its 1304
manufacturer, the foreseeable risks associated with its design or 1305
formulation as determined pursuant to division (B) of this section 1306
exceeded the benefits associated with that design or formulation 1307

as determined pursuant to division (C) of this section+	1308
(2) It is more dangerous than an ordinary consumer would	1309
expect when used in an intended or reasonably foreseeable manner.	1310
(B) The foreseeable risks associated with the design or	1311
formulation of a product shall be determined by considering	1312
factors including, but not limited to, the following:	1313
(1) The nature and magnitude of the risks of harm associated	1314
with that design or formulation in light of the intended and	1315
reasonably foreseeable uses, modifications, or alterations of the	1316
product;	1317
(2) The likely awareness of product users, whether based on	1318
warnings, general knowledge, or otherwise, of those risks of harm;	1319
(3) The likelihood that that design or formulation would	1320
cause harm in light of the intended and reasonably foreseeable	1321
uses, modifications, or alterations of the product;	1322
(4) The extent to which that design or formulation conformed	1323
to any applicable public or private product standard that was in	1324
effect when the product left the control of its manufacturer.	1325
(C) The benefits associated with the design or formulation of	1326
a product shall be determined by considering factors including,	1327
but not limited to, the following:	1328
(1) The intended or actual utility of the product, including	1329
any performance or safety advantages associated with that design	1330
or formulation;	1331
(2) The technical and economic feasibility, when the product	1332
left the control of its manufacturer, of using an alternative	1333
design or formulation;	1334
(3) The nature and magnitude of any foreseeable risks	1335
associated with such an alternative design or formulation.	1336
(D) An ethical drug or ethical medical device is not	1337

defective in design or formulation because some aspect of it is 1338
unavoidably unsafe, if the manufacturer of the ethical drug or 1339
ethical medical device provides adequate warning and instruction 1340
under section 2307.76 of the Revised Code concerning that 1341
unavoidably unsafe aspect. 1342

(E) A product is not defective in design or formulation if 1343
the harm for which the claimant seeks to recover compensatory 1344
damages was caused by an inherent characteristic of the product 1345
which is a generic aspect of the product that cannot be eliminated 1346
without substantially compromising the product's usefulness or 1347
desirability and which is recognized by the ordinary person with 1348
the ordinary knowledge common to the community. 1349

(F) A product is not defective in design or formulation if, 1350
at the time the product left the control of its manufacturer, a 1351
practical and technically feasible alternative design or 1352
formulation was not available that would have prevented the harm 1353
for which the claimant seeks to recover compensatory damages 1354
without substantially impairing the usefulness or intended purpose 1355
of the product, unless the manufacturer acted unreasonably in 1356
introducing the product into trade or commerce. 1357

Sec. 2307.80. (A) Subject to ~~division~~ divisions (C) and (D) 1358
of this section, punitive or exemplary damages shall not be 1359
awarded against a manufacturer or supplier in question in 1360
connection with a product liability claim unless the claimant 1361
establishes, by clear and convincing evidence, that harm for which 1362
the claimant is entitled to recover compensatory damages in 1363
accordance with section 2307.73 or 2307.78 of the Revised Code was 1364
the result of misconduct of the manufacturer or supplier in 1365
question that manifested a flagrant disregard of the safety of 1366
persons who might be harmed by the product in question. The fact 1367
by itself that a product is defective does not establish a 1368

flagrant disregard of the safety of persons who might be harmed by 1369
that product. 1370

(B) Whether the trier of fact is a jury or the court, if the 1371
trier of fact determines that a manufacturer or supplier in 1372
question is liable for punitive or exemplary damages in connection 1373
with a product liability claim, the amount of those damages shall 1374
be determined by the court. In determining the amount of punitive 1375
or exemplary damages, the court shall consider factors including, 1376
but not limited to, the following: 1377

(1) The likelihood that serious harm would arise from the 1378
misconduct of the manufacturer or supplier in question; 1379

(2) The degree of the awareness of the manufacturer or 1380
supplier in question of that likelihood; 1381

(3) The profitability of the misconduct to the manufacturer 1382
or supplier in question; 1383

(4) The duration of the misconduct and any concealment of it 1384
by the manufacturer or supplier in question; 1385

(5) The attitude and conduct of the manufacturer or supplier 1386
in question upon the discovery of the misconduct and whether the 1387
misconduct has terminated; 1388

(6) The financial condition of the manufacturer or supplier 1389
in question; 1390

(7) The total effect of other punishment imposed or likely to 1391
be imposed upon the manufacturer or supplier in question as a 1392
result of the misconduct, including awards of punitive or 1393
exemplary damages to persons similarly situated to the claimant 1394
and the severity of criminal penalties to which the manufacturer 1395
or supplier in question has been or is likely to be subjected. 1396

(C) ~~If~~ (1) Except as provided in division (C)(2) of this 1397
section, if a claimant alleges in a product liability claim that a 1398

drug or device caused harm to the claimant, the manufacturer of 1399
the drug or device shall not be liable for punitive or exemplary 1400
damages in connection with that product liability claim if the 1401
drug or device that allegedly caused the harm satisfies either of 1402
the following: 1403

(a) It was manufactured and labeled in relevant and material 1404
respects in accordance with the terms of an approval or license 1405
issued by the federal food and drug administration under the 1406
"Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 1407
U.S.C. 301-392, as amended, or the "Public Health Service Act," 58 1408
Stat. 682 (1944), 42 U.S.C. 201-300cc-15, as amended, ~~unless it is~~ 1409
established. 1410

(b) It was an over-the-counter drug marketed pursuant to 1411
federal regulations, was generally recognized as safe and 1412
effective and as not being misbranded pursuant to the applicable 1413
federal regulations, and satisfied in relevant and material 1414
respects each of the conditions contained in the applicable 1415
regulations and each of the conditions contained in an applicable 1416
monograph. 1417

(2) Division (C)(1) of this section does not apply if the 1418
claimant establishes, by a preponderance of the evidence, that the 1419
manufacturer fraudulently and in violation of applicable 1420
regulations of the food and drug administration withheld from the 1421
food and drug administration information known to be material and 1422
relevant to the harm that the claimant allegedly suffered or 1423
misrepresented to the food and drug administration information of 1424
that type. ~~For~~ 1425

(3) For purposes of ~~this division,~~ "drug divisions (C) and 1426
(D) of this section: 1427

(a) "Drug" has the same meaning ~~given to that term as~~ in the 1428
"Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040, 1041 1429

(1938), 21 U.S.C. 321(g)(1), as amended. 1430

(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. 1431
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(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. 1438
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(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. 1441
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(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. 1450
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Sec. 2307.91. As used in sections 2307.91 to 2307.95 of the Revised Code: 1456
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(A) "AMA guides to the evaluation of permanent impairment" means the American medical association's guides to the evaluation 1458
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of permanent impairment (fifth edition 2000) as may be modified by 1460
the American medical association. 1461

(B) "Asbestos" means chrysotile, amosite, crocidolite, 1462
tremolite asbestos, anthophyllite asbestos, actinolite asbestos, 1463
and any of these minerals that have been chemically treated or 1464
altered. 1465

(C) "Asbestos claim" means any claim for damages, losses, 1466
indemnification, contribution, or other relief arising out of, 1467
based on, or in any way related to asbestos. "Asbestos claim" 1468
includes a claim made by or on behalf of any person who has been 1469
exposed to asbestos, or any representative, spouse, parent, child, 1470
or other relative of that person, for injury, including mental or 1471
emotional injury, death, or loss to person, risk of disease or 1472
other injury, costs of medical monitoring or surveillance, or any 1473
other effects on the person's health that are caused by the 1474
person's exposure to asbestos. 1475

(D) "Asbestosis" means bilateral diffuse interstitial 1476
fibrosis of the lungs caused by inhalation of asbestos fibers. 1477

(E) "Board-certified internist" means a medical doctor who is 1478
currently certified by the American board of internal medicine. 1479

(F) "Board-certified oncologist" means a medical doctor who 1480
is currently certified by the American board of internal medicine 1481
in the subspecialty of medical oncology. 1482

(G) "Board-certified pathologist" means a medical doctor who 1483
is currently certified by the American board of pathology. 1484

(H) "Board-certified pulmonary specialist" means a medical 1485
doctor who is currently certified by the American board of 1486
internal medicine in the subspecialty of pulmonary medicine. 1487

(I) "Certified B-reader" means an individual qualified as a 1488
"final" or "B-reader" as defined in 42 C.F.R. section 37.51(b), as 1489

<u>amended.</u>	1490
<u>(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.</u>	1491 1492 1493 1494
<u>(K) "Exposed person" means any person whose exposure to asbestos or to asbestos-containing products is the basis for an asbestos claim.</u>	1495 1496 1497
<u>(L) "Exposure years" means the following:</u>	1498
<u>(1) Each single year of exposure prior to 1972 will be counted as one year.</u>	1499 1500
<u>(2) Each single year of exposure from 1972 through 1979 will be counted as one-half year.</u>	1501 1502
<u>(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.</u>	1503 1504 1505 1506 1507 1508
<u>(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.</u>	1509 1510 1511
<u>(N) "FVC" means forced vital capacity that is maximal volume of air expired with maximum effort from a position of full inspiration.</u>	1512 1513 1514
<u>(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.</u>	1515 1516 1517 1518
<u>(P) "Lung cancer" means a malignant tumor in which the</u>	1519

primary site of origin of the cancer is inside the lungs, but that 1520
term does not include an asbestos claim based upon mesothelioma. 1521

(O) "Mesothelioma" means a malignant tumor with a primary 1522
site of origin in the pleura or the peritoneum, which has been 1523
diagnosed by a board-certified pathologist, using standardized and 1524
accepted criteria of microscopic morphology and appropriate 1525
staining techniques. 1526

(R) "Nonmalignant condition" means a condition that is caused 1527
or may be caused by asbestos other than a diagnosed cancer. 1528

(S) "Nonsmoker" means the exposed person has not smoked 1529
cigarettes or used any other tobacco products within the last 1530
fifteen years. 1531

(T) "Pathological evidence of asbestosis" means a statement 1532
by a board-certified pathologist that more than one representative 1533
section of lung tissue uninvolved with any other disease process 1534
demonstrates a pattern of peribronchiolar or parenchymal scarring 1535
in the presence of characteristic asbestos bodies and that there 1536
is no other more likely explanation for the presence of the 1537
fibrosis. 1538

(U) "Physical impairment" means a nonmalignant condition that 1539
meets the minimum requirements of division (B) of section 2307.92 1540
of the Revised Code, lung cancer that meets the minimum 1541
requirements of division (C) of section 2307.92 of the Revised 1542
Code, or cancer of the colon, rectum, larynx, pharynx, esophagus, 1543
or stomach that meets the minimum requirements of division (D) of 1544
section 2307.92 of the Revised Code. 1545

(V) "Predicted lower limit of normal" means the fifth 1546
percentile of healthy populations based on age, height, and 1547
gender, as referenced in the AMA guides to the evaluation of 1548
permanent impairment. 1549

(W) "Qualified physician" means a medical doctor who is 1550
providing a diagnosis for purposes of constituting prima-facie 1551
evidence of an exposed person's physical impairment that meets the 1552
requirements of section 2307.92 of the Revised Code and who meets 1553
the following requirements: 1554

(1) The medical doctor is a board-certified internist, 1555
pulmonary specialist, oncologist, or pathologist. 1556

(2) The medical doctor is actually treating or has treated 1557
the exposed person and has or had a doctor-patient relationship 1558
with the person. 1559

(3) The medical doctor spends not more than ten per cent of 1560
the medical doctor's professional practice time in providing 1561
consulting or expert services in connection with actual or 1562
potential civil actions, and the medical doctor's medical group, 1563
professional corporation, clinic, or other affiliated group earns 1564
not more than twenty per cent of its revenues from providing those 1565
services. 1566

(4) The medical doctor is currently licensed to practice and 1567
actively practices in the state where the plaintiff's civil action 1568
was filed. 1569

(5) The medical doctor receives or received payment for the 1570
treatment of the exposed person from that person's HMO or other 1571
medical provider. 1572

(X) "Radiological evidence of asbestosis" means a chest x-ray 1573
showing small, irregular opacities (s, t) graded by a certified 1574
B-reader as at least 1/1 on the ILO scale. 1575

(Y) "Radiological evidence of diffuse pleural thickening" 1576
means a chest x-ray showing bilateral pleural thickening graded by 1577
a certified B-reader as at least B2 on the ILO scale and blunting 1578
of at least one costophrenic angle. 1579

(Z) "Smoker" means a person who has smoked cigarettes or other tobacco products within the last fifteen years. 1580
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(AA) "Spirometry" means the measurement of volume of air inhaled or exhaled by the lung. 1582
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(BB) "Substantial contributing factor" means all of the following: 1584
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(1) Exposure to asbestos is the predominate cause of the physical impairment alleged in the asbestos claim. 1586
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(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. 1588
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(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. 1591
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(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. 1595
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(DD) "Workers' compensation law" means Chapters 4121., 4123., 4127., and 4131. of the Revised Code. 1598
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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. 1600
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(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 1604
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substantial contributing factor to the medical condition. That 1609
prima-facie showing shall include all of the following minimum 1610
requirements: 1611

(1) Evidence verifying that a qualified physician has taken a 1612
detailed occupational and exposure history of the exposed person 1613
from the exposed person or, if that person is deceased, from the 1614
person who is most knowledgeable about the exposures that form the 1615
basis of the asbestos claim for a nonmalignant condition, 1616
including all of the following: 1617

(a) All of the exposed person's principal places of 1618
employment and exposures to airborne contaminants; 1619

(b) Whether each place of employment involved exposures to 1620
airborne contaminants, including, but not limited to, asbestos 1621
fibers or other disease causing dusts, that can cause pulmonary 1622
impairment and, if that type of exposure is involved, the nature, 1623
duration, and level of the exposure. 1624

(2) Evidence verifying that a qualified physician has taken a 1625
detailed medical and smoking history of the exposed person, 1626
including a thorough review of the exposed person's past and 1627
present medical problems and the most probable causes of those 1628
medical problems; 1629

(3) A diagnosis by a qualified physician, based on a medical 1630
examination and pulmonary function testing of the exposed person, 1631
that all of the following apply to the exposed person: 1632

(a) The exposed person has a permanent respiratory impairment 1633
rating of at least class 2 as defined by and evaluated pursuant to 1634
the AMA guides to the evaluation of permanent impairment. 1635

(b) The exposed person has asbestosis or diffuse pleural 1636
thickening, based at a minimum on radiological or pathological 1637
evidence of asbestosis or radiological evidence of diffuse pleural 1638

thickening. 1639

(c) The asbestosis or diffuse pleural thickening described in 1640
division (B)(3)(b) of this section, rather than solely chronic 1641
obstructive pulmonary disease, is a substantial contributing 1642
factor to the exposed person's physical impairment, based at a 1643
minimum on a determination that the exposed person has either of 1644
the following: 1645

(i) A forced vital capacity below the predicted lower limit 1646
of normal and a ratio of FEV1 to FVC that is equal to or greater 1647
than the predicted lower limit of normal; 1648

(ii) A chest x-ray showing small, irregular opacities (s, t) 1649
graded by a certified B-reader at least 2/1 on the ILO scale. 1650

(C) No person shall bring or maintain a civil action alleging 1651
an asbestos claim based upon lung cancer in the absence of a 1652
prima-facie showing of all of the following minimum requirements: 1653

(1) A diagnosis by a board-certified pathologist, 1654
board-certified pulmonary specialist, or board-certified 1655
oncologist that the exposed person has primary lung cancer and 1656
that exposure to asbestos is a substantial contributing factor to 1657
that cancer; 1658

(2) Evidence that is sufficient to demonstrate that at least 1659
ten years have elapsed between the date of the exposed person's 1660
first exposure to asbestos and the date of diagnosis of the 1661
exposed person's primary lung cancer; 1662

(3) Either of the following: 1663

(a) In the case of an exposed person who is a nonsmoker, 1664
either of the following requirements: 1665

(i) Radiological or pathological evidence of asbestosis or 1666
radiological evidence of diffuse pleural thickening; 1667

(ii) Evidence of the exposed person's occupational exposure 1668

to asbestos for any of the applicable minimum exposure periods in 1669
the occupations as specified in divisions (D)(3)(b)(i), (ii), and 1670
(iii) of this section. 1671

(b) In the case of an exposed person who is a smoker, both of 1672
the requirements specified in divisions (C)(3)(a)(i) and (ii) of 1673
this section. 1674

(D) No person shall bring or maintain a civil action alleging 1675
an asbestos claim based upon cancer of the colon, rectum, larynx, 1676
pharynx, esophagus, or stomach, in the absence of a prima-facie 1677
showing of all of the following minimum requirements: 1678

(1) A diagnosis by a board-certified pathologist, 1679
board-certified pulmonary specialist, or board-certified 1680
oncologist, whichever is appropriate for the type of cancer 1681
claimed, that the exposed person has primary cancer of the colon, 1682
rectum, larynx, pharynx, esophagus, or stomach and that exposure 1683
to asbestos was a substantial contributing factor to that 1684
particular cancer; 1685

(2) Evidence that is sufficient to demonstrate that at least 1686
ten years have elapsed between the date of the exposed person's 1687
first exposure to asbestos and the date of diagnosis of the 1688
exposed person's particular cancer; 1689

(3) Either of the following requirements: 1690

(a) Radiological or pathological evidence of asbestos or 1691
radiological evidence of diffuse pleural thickening; 1692

(b) Evidence of the exposed person's occupational exposure to 1693
asbestos for any of the following applicable minimum exposure 1694
periods in the specified occupations: 1695

(i) Five exposure years for insulators, shipyard workers, 1696
workers in manufacturing plants handling raw asbestos, 1697
boilermakers, shipfitters, steamfitters, or other trades 1698

<u>performing similar functions;</u>	1699
<u>(ii) Ten exposure years for utility and power house workers,</u>	1700
<u>secondary manufacturing workers, or other trades performing</u>	1701
<u>similar functions;</u>	1702
<u>(iii) Fifteen exposure years for general construction,</u>	1703
<u>maintenance workers, chemical and refinery workers, marine engine</u>	1704
<u>room personnel and other personnel on vessels, stationary</u>	1705
<u>engineers and firemen, railroad engine repair workers, or other</u>	1706
<u>trades performing similar functions.</u>	1707
<u>(E) No prima-facie showing is required in a civil action</u>	1708
<u>alleging an asbestos claim based upon mesothelioma.</u>	1709
<u>(F) Evidence relating to physical impairment under this</u>	1710
<u>section, including pulmonary function testing and diffusing</u>	1711
<u>studies, shall comply with the technical recommendations for</u>	1712
<u>examinations, testing procedures, quality assurance, quality</u>	1713
<u>control, and equipment incorporated in the AMA guides to the</u>	1714
<u>evaluation of permanent impairment and reported as set forth in 20</u>	1715
<u>C.F.R. Pt. 404, Subpt. P, App. 1, Part A, Sec. 3.00 E. and F., and</u>	1716
<u>the interpretive standards set forth in the official statement of</u>	1717
<u>the American thoracic society entitled "lung function testing:</u>	1718
<u>selection of reference values and interpretive strategies" as</u>	1719
<u>published in American review of respiratory disease,</u>	1720
<u>1991:144:1202-1218.</u>	1721
<u>(G) All of the following apply to the presentation of</u>	1722
<u>prima-facie evidence that meets the requirements of division (B),</u>	1723
<u>(C), or (D) of this section:</u>	1724
<u>(1) It does not result in any presumption at trial that the</u>	1725
<u>exposed person has a physical impairment that is caused by an</u>	1726
<u>asbestos-related condition.</u>	1727
<u>(2) It is not conclusive as to the liability of any defendant</u>	1728

in the case.

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(3) It is not admissible at trial.

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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.

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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.

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(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

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risk of cancer in any civil action asserting only an asbestos 1759
claim for a nonmalignant condition. 1760

(C) No settlement of an asbestos claim for a nonmalignant 1761
condition that is concluded after the effective date of this 1762
section shall require, as a condition of settlement, the release 1763
of any future claim for asbestos-related cancer. 1764

Sec. 2307.95. Sections 2307.91 to 2307.95 of the Revised Code 1765
shall not affect the scope or operation of any workers' 1766
compensation law or veterans' benefit program or the exclusive 1767
remedy of subrogation under the provisions of that law or program 1768
and shall not authorize any lawsuit that is barred by any 1769
provision of any workers' compensation law. 1770

Sec. 2307.96. (A) As used in this section and section 2307.97 1771
of the Revised Code: 1772

(1) "Asbestos" has the same meaning as in section 2307.91 of 1773
the Revised Code. 1774

(2) "Asbestos claim" means any claim for damages, losses, 1775
indemnification, contribution, or other relief arising out of, 1776
based on, or in any way related to asbestos. "Asbestos claim" 1777
includes any of the following: 1778

(a) A claim made by or on behalf of any person who has been 1779
exposed to asbestos, or any representative, spouse, parent, child, 1780
or other relative of that person, for injury, including mental or 1781
emotional injury, death, or loss to person, risk of disease or 1782
other injury, costs of medical monitoring or surveillance, or any 1783
other effects on the person's health that are caused by the 1784
person's exposure to asbestos; 1785

(b) A claim for damage or loss to property that is caused by 1786
the installation, presence, or removal of asbestos. 1787

(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: 1788
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(a) The transaction occurred on or before July 29, 1977. 1792

(b) The purchasing domestic corporation paid less than five million dollars for the acquisition. 1793
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(c) The principal place of business of the foreign corporation was located outside the state of Ohio. 1795
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(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. 1797
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(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. 1806
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(5) "Transferor" means a foreign corporation or its shareholders from which successor asbestos-related liabilities are assumed or incurred by the successor. 1814
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(B)(1) Except as otherwise provided in division (B)(2) of 1817

this section, the cumulative successor asbestos-related 1818
liabilities of a successor shall be limited to the fair market 1819
value of the acquired assets or stock as determined on the 1820
effective date of the asset purchase or stock purchase, merger, or 1821
consolidation. 1822

(2) If a transferor had assumed or incurred successor 1823
asbestos-related liabilities in connection with a prior asset 1824
purchase, stock purchase, merger, or consolidation involving a 1825
prior transferor, the successor asbestos-related liabilities of 1826
the successor described in division (B)(1) of this section shall 1827
be limited to the fair market value of the previously acquired 1828
assets or stock as determined on the effective date of the prior 1829
asset purchase, stock purchase, merger, or consolidation. 1830

(3) The successor described in division (B)(1) or (2) of this 1831
section shall have no responsibility for any successor 1832
asbestos-related liabilities in excess of the limitation of those 1833
liabilities as described in the applicable division. 1834

(C)(1) Except as otherwise provided in division (C)(2) of 1835
this section, the assets of a successor shall be exempt from 1836
restraint, attachment, or execution on any judgment entered in 1837
this state or another jurisdiction related to any claim for 1838
successor asbestos-related liabilities if the cumulative amounts 1839
of those liabilities that, after the effective date of the asset 1840
purchase or stock purchase that is covered by division (B) of this 1841
section, are paid or committed to be paid by or on behalf of the 1842
successor, or by or on behalf of the transferor, in connection 1843
with any judgment, settlement, or other discharge of claims of 1844
asbestos-related liabilities exceed the fair market value of the 1845
assets or stock as determined on the effective date of the asset 1846
purchase or stock purchase, merger, or consolidation. 1847

(2) If a transferor had assumed or incurred successor 1848

asbestos-related liabilities in connection with a prior asset 1849
purchase, stock purchase, merger, or consolidation involving a 1850
prior transferor, the assets of the successor described in 1851
division (C)(1) of this section shall be exempt from restraint, 1852
attachment, or execution on any judgment entered in this state or 1853
another jurisdiction related to any claim for successor 1854
asbestos-related liabilities if the cumulative amounts of those 1855
liabilities that, after the effective date of the prior asset 1856
purchase, stock purchase, merger, or consolidation, are paid or 1857
committed to be paid by or on behalf of the successor, or by or on 1858
behalf of the prior transferor, in connection with any judgment, 1859
settlement, or other discharge of claims of asbestos-related 1860
liabilities, exceed the fair market value of the previously 1861
acquired assets or stock as determined on the effective date of 1862
the prior asset purchase, stock purchase, merger, or 1863
consolidation. 1864

(D)(1) A successor may establish the fair market value of 1865
total assets under division (B) or (C) of this section by means of 1866
any method that is reasonable under the circumstances, including 1867
by reference to the going-concern value of those assets, to the 1868
purchase price attributable to or paid for the assets in an arm's 1869
length transaction, or, in the absence of other readily available 1870
information from which fair market value can be determined, to the 1871
value of those assets recorded on a balance sheet. Total assets 1872
shall include intangible assets. A showing by the successor of a 1873
reasonable determination of the fair market value of total assets 1874
is prima-facie evidence of the fair market value of those assets. 1875

(2) After a successor has established a reasonable 1876
determination of the fair market value of total assets under 1877
division (D)(1) of this section, a claimant that disputes that 1878
determination of the fair market value has the burden of 1879
establishing a different fair market value of those assets. 1880

(3) For the purpose of adjusting the limitations set forth in 1881
division (B) or (C) of this section to account for the passage of 1882
time, the fair market value of total assets on the effective date 1883
of the applicable asset purchase or stock purchase under the 1884
applicable division shall be increased annually, at the rate equal 1885
to the prime rate as listed in the first edition of the Wall 1886
Street Journal published for each calendar year since the asset 1887
purchase or stock purchase plus one per cent, not compounded, 1888
until the earlier of either of the following: 1889

(a) The date of the judgment, settlement, or other discharge 1890
of claims of successor asbestos-related liabilities to which the 1891
limitations in division (B) or (C) of this section are being 1892
applied; 1893

(b) The date on which the adjusted fair market value of total 1894
assets under division (D)(3) of this section is first exceeded by 1895
the cumulative amounts of successor asbestos-related liabilities 1896
that are paid or committed to be paid by or on behalf of the 1897
successor, or by or on behalf of a transferor, after the effective 1898
date of the asset purchase or stock purchase in connection with 1899
any judgment, settlement, or other discharge of the successor 1900
asbestos-related liabilities. 1901

(E)(1) The limitations set forth in divisions (B) and (C) of 1902
this section shall apply to the following: 1903

(a) All asbestos claims, including asbestos claims that are 1904
pending on the effective date of this section, and all litigation 1905
involving asbestos claims, including litigation that is pending on 1906
the effective date of this section; 1907

(b) Successors of a successor to which this section applies. 1908

(2) The limitations set forth in divisions (B) and (C) of 1909
this section do not apply to any of the following: 1910

(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; 1911
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(b) Any claim against a successor that does not constitute a claim for a successor asbestos-related liability; 1915
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(c) An insurance corporation; 1917

(d) Any obligations arising under the "National Labor Relations Act," 49 Stat. 449, 29 U.S.C. 151 et seq., as amended, or under any collective bargaining agreement. 1918
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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. 1921
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(B) Any liability of the holder, owner, or subscriber of 1940

shares of a corporation described in division (A) of this section 1941
or any affiliate or holding company of that holder, owner, or 1942
subscriber or of the corporation for an obligation or liability 1943
that is limited by that division is exclusive and preempts any 1944
other obligation or liability imposed upon a holder, owner, or 1945
subscriber of shares of a corporation described in that division 1946
or any affiliate or holding company of that holder, owner, or 1947
subscriber or of the corporation for that obligation or liability 1948
under common law or otherwise. 1949

Sec. 2315.01. (A) When the jury is sworn, unless for special 1950
reasons the court otherwise directs, the trial shall proceed in 1951
the following order except as provided in section 2315.02 of the 1952
Revised Code: 1953

~~(A)~~(1) The plaintiff concisely ~~must~~ shall state the 1954
plaintiff's claim, and briefly may state the plaintiff's evidence 1955
to sustain it. 1956

~~(B)~~(2) The defendant ~~must then~~ briefly shall state the 1957
defendant's defense, and briefly may state the defendant's 1958
evidence in support of it. 1959

~~(C)~~(3) The party who would be defeated if no evidence were 1960
offered on either side, first, ~~must~~ shall produce that party's 1961
evidence, and the adverse party ~~must~~ shall then produce the 1962
adverse party's evidence. 1963

~~(D)~~(4) The parties then shall be confined to rebutting 1964
evidence, unless the court for good reasons, and in the 1965
furtherance of justice, permits them to offer evidence in their 1966
original cases. 1967

~~(E)~~(5) When the evidence is concluded, either party may 1968
present written instructions to the court on matters of law and 1969
request them to be given to the jury, ~~which instructions shall be~~ 1970

~~given or refused by the.~~ The court shall give or refuse to give 1971
the written instructions to the jury before the argument to the 1972
jury is commenced. 1973

~~(F)(6)~~ The parties then may submit or argue the case to the 1974
jury. The party required first to produce that party's evidence 1975
shall have the opening and closing arguments. If several 1976
defendants, ~~having~~ have separate defenses, ~~and~~ appear by different 1977
counsel, the court shall arrange their relative order. 1978

~~(G)(7)~~ The court, after the argument is concluded, ~~and~~ before 1979
proceeding with other business, shall charge the jury. ~~Any charge~~ 1980
~~shall be reduced to writing by the~~ The court shall reduce a charge 1981
to writing if either party, before the argument to the jury is 1982
commenced, requests it. ~~Such charge may be examined by the~~ The 1983
parties may examine that charge before any closing argument is 1984
made by any of the parties. ~~A~~ If a charge or instruction, when so 1985
is written and given, as prescribed in this division, the court 1986
shall not be orally ~~qualified, modified~~ qualify, modify, or in any 1987
manner ~~explained~~ explain the charge or instruction to the jury ~~by~~ 1988
~~the court~~. All written charges and instructions shall be taken by 1989
the jurors in their retirement, shall be returned with their 1990
verdict into court, and shall remain on file with the papers of 1991
the case. 1992

(B) In all tort actions, the court shall instruct the jury 1993
regarding the extent to which an award of compensatory damages or 1994
punitive or exemplary damages is not subject to taxation under 1995
federal or state income tax laws. 1996

As used in this division, "tort action" means a civil action 1997
for damages for injury, death, or loss to person or property. 1998
"Tort action" includes a product liability claim, as defined in 1999
section 2307.71 of the Revised Code, but does not include a civil 2000
action for damages for breach of contract or another agreement 2001
between persons. 2002

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. 2065

(C) Subject to division ~~(D)~~(E) of this section, punitive or 2066
exemplary damages are not recoverable from a defendant in question 2067
in a tort action unless both of the following apply: 2068

(1) The actions or omissions of that defendant demonstrate 2069
malice, aggravated or egregious fraud, ~~oppression~~, or insult, or 2070
that defendant as principal or master authorized, participated in, 2071
or ratified actions or omissions of an agent or servant that so 2072
demonstrate. 2073

(2) The trier of fact has returned a verdict or has made a 2074
determination pursuant to division (B)(2) or (3) of this section 2075
of the total compensatory damages recoverable by the plaintiff in 2076
question has adduced proof of actual damages that resulted from 2077
actions or omissions as described in division (B)(1) of this 2078
section from that defendant. 2079

~~(C)~~(D)(1) In a tort action, the trier of fact shall determine 2080
the liability of any defendant for punitive or exemplary damages 2081
and the amount of those damages. Both of the following apply 2082
regarding any award of punitive or exemplary damages in a tort 2083
action: 2084

(a) The court shall not enter judgment for punitive or 2085
exemplary damages in excess of the greater of the amount of the 2086
compensatory damages awarded to the plaintiff from that defendant 2087
or one hundred thousand dollars, as determined pursuant to 2088
division (B)(2) or (3) of this section. 2089

(b) If the defendant is a small employer, the court shall not 2090
enter judgment for punitive or exemplary damages in excess of the 2091
lesser of the amount of the compensatory damages awarded to the 2092
plaintiff from the defendant or one hundred thousand dollars, as 2093
determined pursuant to division (B)(2) or (3) of this section. 2094

(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. 2095
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(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. 2099
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(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. 2103
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(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: 2116
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(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 2119
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which the plaintiff seeks compensatory damages. In that case, the 2126
court shall make specific findings of fact in the record to 2127
support its conclusion. The court shall reduce the amount of any 2128
punitive or exemplary damages otherwise awardable pursuant to this 2129
section by the sum of the punitive or exemplary damages awards 2130
previously rendered against that defendant in any state or federal 2131
court. The court shall not inform the jury about the court's 2132
determination and action under division (D)(4)(b)(i) of this 2133
section. 2134

(ii) In subsequent tort actions involving the same act or 2135
course of conduct for which punitive or exemplary damages have 2136
already been awarded, if the court determines by clear and 2137
convincing evidence that the total amount of prior punitive or 2138
exemplary damages awards was totally insufficient to punish that 2139
defendant's behavior of a type described in division (C) of this 2140
section and to deter that defendant and others from similar 2141
behavior in the future. In that case, the court shall make 2142
specific findings of fact in the record to support its conclusion. 2143
The court shall reduce the amount of any punitive or exemplary 2144
damages otherwise awardable pursuant to this section by the sum of 2145
the punitive or exemplary damages awards previously rendered 2146
against that defendant in any state or federal court. The court 2147
shall not inform the jury about the court's determination and 2148
action under division (D)(4)(b)(ii) of this section. 2149

~~(D)~~(E) This section does not apply to tort actions against 2150
the state in the court of claims or to the extent that another 2151
section of the Revised Code expressly provides any of the 2152
following: 2153

(1) Punitive or exemplary damages are recoverable from a 2154
defendant in question in a tort action on a basis other than that 2155
the actions or omissions of that defendant demonstrate malice, 2156
aggravated or egregious fraud, ~~oppression~~, or insult, or on a 2157

basis other than that the defendant in question as principal or 2158
master authorized, participated in, or ratified actions or 2159
omissions of an agent or servant that so demonstrate. 2160

(2) Punitive or exemplary damages are recoverable from a 2161
defendant in question in a tort action irrespective of whether the 2162
plaintiff in question has adduced proof of actual damages. 2163

(3) The burden of proof upon a plaintiff in question to 2164
recover punitive or exemplary damages from a defendant in question 2165
in a tort action is one other than clear and convincing evidence. 2166

(4) Punitive or exemplary damages are not recoverable from a 2167
defendant in question in a tort action. 2168

~~(E)~~(F) When determining the amount of an award of punitive or 2169
exemplary damages against either a home or a residential facility 2170
licensed under section 5123.19 of the Revised Code, the trier of 2171
fact shall consider all of the following: 2172

(1) The ability of the home or residential facility to pay 2173
the award of punitive or exemplary damages based on the home's or 2174
residential facility's assets, income, and net worth; 2175

(2) Whether the amount of punitive or exemplary damages is 2176
sufficient to deter future tortious conduct; 2177

(3) The financial ability of the home or residential 2178
facility, both currently and in the future, to provide 2179
accommodations, personal care services, and skilled nursing care. 2180

Sec. 2315.32. (A) Sections 2315.32 to 2315.36 of the Revised 2181
Code do not apply to ~~tort~~ actions ~~based on a product liability~~ 2182
~~claim~~ described in section 4113.03 of the Revised Code. 2183

(B) The contributory fault of the plaintiff may be asserted 2184
as an affirmative defense to a ~~negligence claim or to a tort claim~~ 2185
~~other than a negligence claim~~, except that the contributory fault 2186
of the plaintiff may not be asserted as an affirmative defense to 2187

an intentional tort claim. 2188

Sec. 2315.33. The contributory fault of a person does not bar 2189
the person as plaintiff from recovering damages that have directly 2190
and proximately resulted from the tortious conduct of one or more 2191
other persons, if the contributory fault of the plaintiff was not 2192
greater than the combined tortious conduct of all other persons 2193
from whom the plaintiff seeks recovery in this action and of all 2194
other persons from whom the plaintiff does not seek recovery in 2195
this action. The court shall diminish any compensatory damages 2196
recoverable by the plaintiff by an amount that is proportionately 2197
equal to the percentage of tortious conduct of the plaintiff as 2198
determined pursuant to section 2315.34 of the Revised Code. ~~This~~ 2199
~~section does not apply to actions described in section 4113.03 of~~ 2200
~~the Revised Code.~~ 2201

Sec. 2315.34. If contributory fault is asserted and 2202
established as an affirmative defense to a negligence tort claim, 2203
the court in a nonjury action shall make findings of fact, and the 2204
jury in a jury action shall return a general verdict accompanied 2205
by answers to interrogatories, that shall specify the following: 2206

(A) The total amount of the compensatory damages that would 2207
have been recoverable on that negligence tort claim but for the 2208
tortious conduct of the plaintiff; 2209

(B) The portion of the compensatory damages specified under 2210
division (A) of this section that represents economic loss; 2211

(C) The portion of the compensatory damages specified under 2212
division (A) of this section that represents noneconomic loss; 2213

(D) The percentage of tortious conduct attributable to all 2214
persons as determined pursuant to section 2307.23 of the Revised 2215
Code. 2216

Sec. 2315.36. If contributory fault is asserted as an 2217
affirmative defense to a ~~negligence~~ tort claim, if it is 2218
determined that the plaintiff was contributorily at fault and that 2219
contributory fault was a direct and proximate cause of the injury, 2220
death, or loss to person or property that is the subject of the 2221
tort action, and if the plaintiff is entitled to recover 2222
compensatory damages pursuant to section 2315.33 of the Revised 2223
Code from more than one party, after it makes findings of fact or 2224
after the jury returns its general verdict accompanied by answers 2225
to interrogatories as described in section 2315.34 of the Revised 2226
Code, the court shall enter a judgment that is in favor of the 2227
plaintiff and that imposes liability pursuant to section 2307.22 2228
of the Revised Code. 2229

Sec. 2323.41. (A) In any ~~civil tort~~ tort action ~~upon a medical,~~ 2230
~~dental, optometric, or chiropractic claim,~~ the defendant may 2231
introduce evidence of any amount payable as a benefit to the 2232
plaintiff as a result of the damages that result from an injury, 2233
death, or loss to person or property that is the subject of the 2234
claim upon which the action is based, except if the source of 2235
collateral benefits has a mandatory self-effectuating federal 2236
right of subrogation, a contractual right of subrogation, or a 2237
statutory right of subrogation. 2238

(B) If the defendant elects to introduce evidence described 2239
in division (A) of this section, the plaintiff may introduce 2240
evidence of any amount that the plaintiff has paid or contributed 2241
to secure the plaintiff's right to receive the benefits of which 2242
the defendant has introduced evidence. 2243

(C) A source of collateral benefits of which evidence is 2244
introduced pursuant to division (A) of this section shall not 2245
recover any amount against the plaintiff nor shall it be 2246

subrogated to the rights of the plaintiff against a defendant. 2247

(D) As used in this section, ~~"medical:~~ 2248

(1) "Tort action" means a civil action for damages for 2249
injury, death, or loss to person or property. "Tort action" 2250
includes a civil action upon a product liability claim or a civil 2251
action upon a medical claim, dental claim, optometric claim, or 2252
chiropractic claim. "Tort action" does not include a civil action 2253
for damages for a breach of contract or another agreement between 2254
persons. 2255

(2) "Medical claim," "dental claim," "optometric claim," and 2256
"chiropractic claim" have the same meanings as in section 2305.113 2257
of the Revised Code. 2258

(3) "Product liability claim" has the same meaning as in 2259
section 2307.71 of the Revised Code. 2260

Sec. 2323.43. (A) In a ~~civil tort~~ action ~~upon a medical,~~ 2261
~~dental, optometric, or chiropractic claim~~ to recover damages for 2262
injury, ~~death,~~ or loss to person or property, all of the following 2263
apply: 2264

(1) There shall not be any limitation on the amount of 2265
compensatory damages that ~~represent~~ represents the economic loss 2266
of the person who is awarded the damages in the ~~civil tort~~ action. 2267

(2) Except as otherwise provided in division (A)(3) of this 2268
section, the amount of compensatory damages that represents 2269
damages for noneconomic loss that is recoverable in a ~~civil tort~~ 2270
action under this section to recover damages for injury, ~~death,~~ or 2271
loss to person or property shall not exceed the greater of two 2272
hundred fifty thousand dollars or an amount that is equal to three 2273
times the ~~plaintiff's~~ economic loss, as determined by the trier of 2274
fact, of the plaintiff in that tort action to a maximum of three 2275
hundred fifty thousand dollars for each plaintiff in that tort 2276

action or a maximum of five hundred thousand dollars for each 2277
occurrence that is the basis of that tort action. 2278

(3) The amount recoverable for noneconomic loss in a ~~civil~~ 2279
tort action under this section may exceed the amount described in 2280
division (A)(2) of this section but shall not exceed five hundred 2281
thousand dollars for each plaintiff in that tort action or one 2282
million dollars for each occurrence that is the basis of that tort 2283
action if the noneconomic losses of the plaintiff in that tort 2284
action are for either of the following: 2285

(a) Permanent and substantial physical deformity, loss of use 2286
of a limb, or loss of a bodily organ system; 2287

(b) Permanent physical functional injury that permanently 2288
prevents the injured person from being able to independently care 2289
for self and perform life sustaining activities. 2290

(B) If a trial is conducted in a ~~civil tort~~ action ~~upon a~~ 2291
~~medical, dental, optometric, or chiropractic claim~~ to recover 2292
damages for injury, ~~death~~, or loss to person or property and a 2293
plaintiff prevails ~~with respect to~~ in that claim action, the court 2294
in a nonjury trial shall make findings of fact, and the jury in a 2295
jury trial shall return a general verdict accompanied by answers 2296
to interrogatories, that shall specify all of the following: 2297

(1) The total compensatory damages recoverable by the 2298
plaintiff; 2299

(2) The portion of the total compensatory damages that 2300
represents damages for economic loss; 2301

(3) The portion of the total compensatory damages that 2302
represents damages for noneconomic loss. 2303

(C)(1) After the trier of fact in a ~~civil tort~~ action ~~upon a~~ 2304
~~medical, dental, optometric, or chiropractic claim~~ to recover 2305
damages for injury, ~~death~~, or loss to person or property complies 2306

with division (B) of this section, the court shall enter a 2307
judgment in favor of the plaintiff for compensatory damages for 2308
economic loss in the amount determined pursuant to division (B)(2) 2309
of this section, and, subject to division (D)(1) of this section, 2310
the court shall enter a judgment in favor of the plaintiff for 2311
compensatory damages for noneconomic loss. In no event shall a 2312
judgment for compensatory damages for noneconomic loss exceed the 2313
maximum recoverable amount that represents damages for noneconomic 2314
loss as provided in divisions (A)(2) and (3) of this section. 2315
Division (A) of this section shall be applied in a jury trial only 2316
after the jury has made its factual findings and determination as 2317
to the damages. 2318

(2) Prior to the trial in the ~~civil~~ tort action, any party 2319
may seek summary judgment with respect to the nature of the 2320
alleged injury or loss to person or property, seeking a 2321
determination of the damages as described in division (A)(2) or 2322
(3) of this section. 2323

(D)(1) A court of common pleas has no jurisdiction to enter 2324
judgment on an award of compensatory damages for noneconomic loss 2325
in excess of the limits set forth in this section. 2326

(2) If the trier of fact is a jury, the court shall not 2327
instruct the jury with respect to the limit on compensatory 2328
damages for noneconomic loss described in divisions (A)(2) and (3) 2329
of this section, and neither counsel for any party nor a witness 2330
shall inform the jury or potential jurors of that limit. 2331

(E) Any excess amount of compensatory damages for noneconomic 2332
loss that is greater than the applicable amount specified in 2333
division (A)(2) or (3) of this section shall not be reallocated to 2334
any other tortfeasor beyond the amount of compensatory damages 2335
that that tortfeasor would otherwise be responsible for under the 2336
laws of this state. 2337

(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; 2369

(2) ~~Civil Tort~~ actions ~~upon a medical, dental, optometric, or~~ 2370
~~chiropractic claim~~ that are brought against political subdivisions 2371
of this state and that are commenced under or are subject to 2372
Chapter 2744. of the Revised Code. Division (C) of section 2744.05 2373
of the Revised Code applies to recoverable damages in those 2374
actions; 2375

(3) Wrongful death actions brought pursuant to Chapter 2125. 2376
of the Revised Code. 2377

(H) As used in this section: 2378

(1) "Economic loss" means any of the following types of 2379
pecuniary harm: 2380

(a) All wages, salaries, or other compensation lost as a 2381
result of an injury, ~~death~~, or loss to person or property that is 2382
a subject of a ~~civil tort~~ action ~~upon a medical, dental,~~ 2383
~~optometric, or chiropractic claim;~~ 2384

(b) All expenditures for medical care or treatment, 2385
rehabilitation services, or other care, treatment, services, 2386
products, or accommodations as a result of an injury, ~~death~~, or 2387
loss to person or property that is a subject of a ~~civil tort~~ 2388
action ~~upon a medical, dental, optometric, or chiropractic claim;~~ 2389

(c) Any other expenditures incurred as a result of an injury, ~~death~~, 2390
or loss to person or property that is a subject of a ~~civil~~ 2391
~~tort~~ action ~~upon a medical, dental, optometric, or chiropractic~~ 2392
~~claim~~, other than attorney's fees incurred in connection with that 2393
action. 2394

(2) "Medical claim," "dental claim," "optometric claim," and 2395
"chiropractic claim" have the same meanings as in section 2305.113 2396
of the Revised Code. 2397

(3) "Noneconomic loss" means nonpecuniary harm that results 2398

from an injury,~~death,~~ or loss to person or property that is a 2399
subject of a civil tort action ~~upon a medical, dental, optometric,~~ 2400
~~or chiropractic claim,~~ including, but not limited to, pain and 2401
suffering, loss of society, consortium, companionship, care, 2402
assistance, attention, protection, advice, guidance, counsel, 2403
instruction, training, or education, disfigurement, mental 2404
anguish, and any other intangible loss. 2405

(4) "Tort action" means a civil action for damages for injury 2406
or loss to person or property. "Tort action" includes a civil 2407
action upon a product liability claim, as defined in section 2408
2307.71 of the Revised Code, or a civil action upon a medical 2409
claim, dental claim, optometric claim, or chiropractic claim. 2410
"Tort action" does not include a civil action for damages for a 2411
breach of contract or another agreement between persons. 2412

(5) "Trier of fact" means the jury or, in a nonjury action, 2413
the court. 2414

Sec. 2323.51. (A) As used in this section: 2415

(1) "Conduct" means any of the following: 2416

(a) The filing of a civil action, the assertion of a claim, 2417
defense, or other position in connection with a civil action, the 2418
filing of a pleading, motion, or other paper in a civil action, 2419
including, but not limited to, a motion or paper filed for 2420
discovery purposes, or the taking of any other action in 2421
connection with a civil action; 2422

(b) The filing by an inmate of a civil action or appeal 2423
against a government entity or employee, the assertion of a claim, 2424
defense or other position in connection with a civil action of 2425
that nature or the assertion of issues of law in an appeal of that 2426
nature, or the taking of any other action in connection with a 2427
civil action or appeal of that nature. 2428

(2) "Frivolous conduct" means either of the following: 2429

(a) Conduct of an inmate or other party to a civil action, of 2430
an inmate who has filed an appeal of the type described in 2431
division (A)(1)(b) of this section, or of the inmate's or other 2432
party's counsel of record that satisfies ~~either~~ any of the 2433
following: 2434

(i) It obviously serves merely to harass or maliciously 2435
injure another party to the civil action or appeal or is for 2436
another improper purpose, including, but not limited to, causing 2437
unnecessary delay or a needless increase in the cost of 2438
litigation. 2439

(ii) It is not warranted under existing law and, cannot be 2440
supported by a good faith argument for an extension, modification, 2441
or reversal of existing law, or cannot be supported by a good 2442
faith argument for the establishment of new law. 2443

(iii) The conduct consists of allegations or other factual 2444
contentions that have no evidentiary support or, if specifically 2445
so identified, are not likely to have evidentiary support after a 2446
reasonable opportunity for further investigation or discovery. 2447

(iv) The conduct consists of denials or factual contentions 2448
that are not warranted by the evidence or, if specifically so 2449
identified, are not reasonably based on a lack of information or 2450
belief. 2451

(b) An inmate's commencement of a civil action or appeal 2452
against a government entity or employee when any of the following 2453
applies: 2454

(i) The claim that is the basis of the civil action fails to 2455
state a claim or the issues of law that are the basis of the 2456
appeal fail to state any issues of law. 2457

(ii) It is clear that the inmate cannot prove material facts 2458

in support of the claim that is the basis of the civil action or 2459
in support of the issues of law that are the basis of the appeal. 2460

(iii) The claim that is the basis of the civil action is 2461
substantially similar to a claim in a previous civil action 2462
commenced by the inmate or the issues of law that are the basis of 2463
the appeal are substantially similar to issues of law raised in a 2464
previous appeal commenced by the inmate, in that the claim that is 2465
the basis of the current civil action or the issues of law that 2466
are the basis of the current appeal involve the same parties or 2467
arise from the same operative facts as the claim or issues of law 2468
in the previous civil action or appeal. 2469

(3) "Civil action or appeal against a government entity or 2470
employee," "inmate," "political subdivision," and "employee" have 2471
the same meanings as in section 2969.21 of the Revised Code. 2472

(4) "Reasonable attorney's fees" or "attorney's fees," when 2473
used in relation to a civil action or appeal against a government 2474
entity or employee, includes both of the following, as applicable: 2475

(a) The approximate amount of the compensation, and the 2476
fringe benefits, if any, of the attorney general, an assistant 2477
attorney general, or special counsel appointed by the attorney 2478
general that has been or will be paid by the state in connection 2479
with the legal services that were rendered by the attorney 2480
general, assistant attorney general, or special counsel in the 2481
civil action or appeal against the government entity or employee, 2482
including, but not limited to, a civil action or appeal commenced 2483
pro se by an inmate, and that were necessitated by frivolous 2484
conduct of an inmate represented by counsel of record, the counsel 2485
of record of an inmate, or a pro se inmate. 2486

(b) The approximate amount of the compensation, and the 2487
fringe benefits, if any, of a prosecuting attorney or other chief 2488
legal officer of a political subdivision, or an assistant to a 2489

chief legal officer of those natures, who has been or will be paid 2490
by a political subdivision in connection with the legal services 2491
that were rendered by the chief legal officer or assistant in the 2492
civil action or appeal against the government entity or employee, 2493
including, but not limited to, a civil action or appeal commenced 2494
pro se by an inmate, and that were necessitated by frivolous 2495
conduct of an inmate represented by counsel of record, the counsel 2496
of record of an inmate, or a pro se inmate. 2497

(5) "State" has the same meaning as in section 2743.01 of the 2498
Revised Code. 2499

(6) "State correctional institution" has the same meaning as 2500
in section 2967.01 of the Revised Code. 2501

(B)(1) Subject to divisions (B)(2) and (3), (C), and (D) of 2502
this section and except as otherwise provided in division 2503
(E)(2)(b) of section 101.15 or division (I)(2)(b) of section 2504
121.22 of the Revised Code, at any time ~~prior to the commencement~~ 2505
~~of the trial in a civil action or within twenty one days after the~~ 2506
~~entry of judgment in a civil action or at any time prior to the~~ 2507
~~hearing in an appeal of the type described in division (A)(1)(b)~~ 2508
~~of this section that is filed by an inmate or within twenty one~~ 2509
~~days after the entry of judgment in an appeal of that nature, the~~ 2510
~~court~~ not more than thirty days after the entry of final judgment 2511
in a civil action or appeal, any party adversely affected by 2512
frivolous conduct may file a motion for an award of court costs, 2513
reasonable attorney's fees, and other reasonable expenses incurred 2514
in connection with the civil action or appeal ~~to any party to the~~ 2515
~~civil action or appeal who was adversely affected by frivolous~~ 2516
~~conduct. The court may assess and make an award may be assessed to~~ 2517
any party to the civil action or appeal who was adversely affected 2518
by frivolous conduct, as provided in division (B)(4) of this 2519
section. 2520

(2) An award may be made pursuant to division (B)(1) of this 2521

section upon the motion of a party to a civil action or an appeal 2522
of the type described in that division or on the court's own 2523
initiative, but only after the court does all of the following: 2524

(a) Sets a date for a hearing to be conducted in accordance 2525
with division (B)(2)(c) of this section, to determine whether 2526
particular conduct was frivolous, to determine, if the conduct was 2527
frivolous, whether any party was adversely affected by it, and to 2528
determine, if an award is to be made, the amount of that award; 2529

(b) Gives notice of the date of the hearing described in 2530
division (B)(2)(a) of this section to each party or counsel of 2531
record who allegedly engaged in frivolous conduct and to each 2532
party who allegedly was adversely affected by frivolous conduct; 2533

(c) Conducts the hearing described in division (B)(2)(a) of 2534
this section in accordance with this division, allows the parties 2535
and counsel of record involved to present any relevant evidence at 2536
the hearing, including evidence of the type described in division 2537
(B)(5) of this section, determines that the conduct involved was 2538
frivolous and that a party was adversely affected by it, and then 2539
determines the amount of the award to be made. If any party or 2540
counsel of record who allegedly engaged in or allegedly was 2541
adversely affected by frivolous conduct is confined in a state 2542
correctional institution or in a county, multicounty, municipal, 2543
municipal-county, or multicounty-municipal jail or workhouse, the 2544
court, if practicable, may hold the hearing by telephone or, in 2545
the alternative, at the institution, jail, or workhouse in which 2546
the party or counsel is confined. 2547

(3) The amount of an award made pursuant to division (B)(1) 2548
of this section that represents reasonable attorney's fees shall 2549
not exceed, and may be equal to or less than, whichever of the 2550
following is applicable: 2551

(a) If the party is being represented on a contingent fee 2552

basis, an amount that corresponds to reasonable fees that would 2553
have been charged for legal services had the party been 2554
represented on an hourly fee basis or another basis other than a 2555
contingent fee basis; 2556

(b) In all situations other than that described in division 2557
(B)(3)(a) of this section, the attorney's fees that were 2558
reasonably incurred by a party. 2559

(4) An award made pursuant to division (B)(1) of this section 2560
may be made against a party, the party's counsel of record, or 2561
both. 2562

(5)(a) In connection with the hearing described in division 2563
(B)(2)(a) of this section, each party who may be awarded 2564
reasonable attorney's fees and the party's counsel of record may 2565
submit to the court or be ordered by the court to submit to it, 2566
for consideration in determining the amount of the reasonable 2567
attorney's fees, an itemized list or other evidence of the legal 2568
services rendered, the time expended in rendering the services, 2569
and whichever of the following is applicable: 2570

(i) If the party is being represented by that counsel on a 2571
contingent fee basis, the reasonable attorney's fees that would 2572
have been associated with those services had the party been 2573
represented by that counsel on an hourly fee basis or another 2574
basis other than a contingent fee basis; 2575

(ii) In all situations other than those described in division 2576
(B)(5)(a)(i) of this section, the attorney's fees associated with 2577
those services. 2578

(b) In connection with the hearing described in division 2579
(B)(2)(a) of this section, each party who may be awarded court 2580
costs and other reasonable expenses incurred in connection with 2581
the civil action or appeal may submit to the court or be ordered 2582
by the court to submit to it, for consideration in determining the 2583

amount of the costs and expenses, an itemized list or other 2584
evidence of the costs and expenses that were incurred in 2585
connection with that action or appeal and that were necessitated 2586
by the frivolous conduct, including, but not limited to, expert 2587
witness fees and expenses associated with discovery. 2588

(C) An award of reasonable attorney's fees under this section 2589
does not affect or determine the amount of or the manner of 2590
computation of attorney's fees as between an attorney and the 2591
attorney's client. 2592

(D) This section does not affect or limit the application of 2593
any provision of the Rules of Civil Procedure, the Rules of 2594
Appellate Procedure, or another court rule or section of the 2595
Revised Code to the extent that the provision prohibits an award 2596
of court costs, attorney's fees, or other expenses incurred in 2597
connection with a particular civil action or appeal or authorizes 2598
an award of court costs, attorney's fees, or other expenses 2599
incurred in connection with a particular civil action or appeal in 2600
a specified manner, generally, or subject to limitations. 2601

Sec. 4507.07. (A) The registrar of motor vehicles shall not 2602
grant the application of any minor under eighteen years of age for 2603
a probationary license, a restricted license, or a temporary 2604
instruction permit, unless the application is signed by one of the 2605
minor's parents, the minor's guardian, another person having 2606
custody of the applicant, or, if there is no parent or guardian, a 2607
responsible person who is willing to assume the obligation imposed 2608
under this section. 2609

At the time a minor under eighteen years of age submits an 2610
application for a license or permit at a driver's license 2611
examining station, the adult who signs the application shall 2612
present identification establishing that the adult is the 2613
individual whose signature appears on the application. The 2614

registrar shall prescribe, by rule, the types of identification 2615
that are suitable for the purposes of this paragraph. If the adult 2616
who signs the application does not provide identification as 2617
required by this paragraph, the application shall not be accepted. 2618

When a minor under eighteen years of age applies for a 2619
probationary license, a restricted license, or a temporary 2620
instruction permit, the registrar shall give the adult who signs 2621
the application notice of the potential liability that may be 2622
imputed to the adult pursuant to division (B) of this section and 2623
notice of how the adult may prevent any liability from being 2624
imputed to the adult pursuant to that division. 2625

(B) Any negligence, or willful or wanton misconduct, that is 2626
committed by a minor under eighteen years of age when driving a 2627
motor vehicle upon a highway shall be imputed to the person who 2628
has signed the application of the minor for a probationary 2629
license, restricted license, or temporary instruction permit, 2630
which person shall be jointly and severally liable with the minor 2631
for any damages caused by the negligence or the willful or wanton 2632
misconduct. This joint and several liability is not subject to 2633
section 2307.22, or 2315.36, ~~or 2315.46~~ of the Revised Code with 2634
respect to a ~~negligence~~ tort claim that otherwise is subject to 2635
that section. 2636

There shall be no imputed liability imposed under this 2637
division if a minor under eighteen years of age has proof of 2638
financial responsibility with respect to the operation of a motor 2639
vehicle owned by the minor or, if the minor is not the owner of a 2640
motor vehicle, with respect to the minor's operation of any motor 2641
vehicle, in the form and in the amounts required under Chapter 2642
4509. of the Revised Code. 2643

(C) Any person who has signed the application of a minor 2644
under eighteen years of age for a license or permit subsequently 2645
may surrender to the registrar the license or temporary 2646

instruction permit of the minor and request that the license or 2647
permit be canceled. The registrar then shall cancel the license or 2648
temporary instruction permit, and the person who signed the 2649
application of the minor shall be relieved from the liability 2650
imposed by division (B) of this section. 2651

(D) Any minor under eighteen years of age whose probationary 2652
license, restricted license, or temporary instruction permit is 2653
surrendered to the registrar by the person who signed the 2654
application for the license or permit and whose license or 2655
temporary instruction permit subsequently is canceled by the 2656
registrar may obtain a new license or temporary instruction permit 2657
without having to undergo the examinations otherwise required by 2658
sections 4507.11 and 4507.12 of the Revised Code and without 2659
having to tender the fee for that license or temporary instruction 2660
permit, if the minor is able to produce another parent, guardian, 2661
other person having custody of the minor, or other adult, and that 2662
adult is willing to assume the liability imposed under division 2663
(B) of this section. That adult shall comply with the procedures 2664
contained in division (A) of this section. 2665

Sec. 4513.263. (A) As used in this section and in section 2666
4513.99 of the Revised Code: 2667

(1) "Automobile" means any commercial tractor, passenger car, 2668
commercial car, or truck that is required to be factory-equipped 2669
with an occupant restraining device for the operator or any 2670
passenger by regulations adopted by the United States secretary of 2671
transportation pursuant to the "National Traffic and Motor Vehicle 2672
Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392. 2673

(2) "Occupant restraining device" means a seat safety belt, 2674
shoulder belt, harness, or other safety device for restraining a 2675
person who is an operator of or passenger in an automobile and 2676
that satisfies the minimum federal vehicle safety standards 2677

established by the United States department of transportation. 2678

(3) "Passenger" means any person in an automobile, other than 2679
its operator, who is occupying a seating position for which an 2680
occupant restraining device is provided. 2681

(4) "Commercial tractor," "passenger car," and "commercial 2682
car" have the same meanings as in section 4501.01 of the Revised 2683
Code. 2684

(5) "Vehicle" and "motor vehicle," as used in the definitions 2685
of the terms set forth in division (A)(4) of this section, have 2686
the same meanings as in section 4511.01 of the Revised Code. 2687

(6) "Tort action" means a civil action for damages for 2688
injury, death, or loss to person or property. "Tort action" 2689
includes a product liability claim, as defined in section 2307.71 2690
of the Revised Code, but does not include a civil action for 2691
damages for a breach of contract or another agreement between 2692
persons. 2693

(B) No person shall do any of the following: 2694

(1) Operate an automobile on any street or highway unless 2695
that person is wearing all of the available elements of a properly 2696
adjusted occupant restraining device, or operate a school bus that 2697
has an occupant restraining device installed for use in its 2698
operator's seat unless that person is wearing all of the available 2699
elements of the device, as properly adjusted; 2700

(2) Operate an automobile on any street or highway unless 2701
each passenger in the automobile who is subject to the requirement 2702
set forth in division (B)(3) of this section is wearing all of the 2703
available elements of a properly adjusted occupant restraining 2704
device; 2705

(3) Occupy, as a passenger, a seating position on the front 2706
seat of an automobile being operated on any street or highway 2707

unless that person is wearing all of the available elements of a 2708
properly adjusted occupant restraining device; 2709

(4) Operate a taxicab on any street or highway unless all 2710
factory-equipped occupant restraining devices in the taxicab are 2711
maintained in usable form. 2712

(C) Division (B)(3) of this section does not apply to a 2713
person who is required by section 4511.81 of the Revised Code to 2714
be secured in a child restraint device. Division (B)(1) of this 2715
section does not apply to a person who is an employee of the 2716
United States postal service or of a newspaper home delivery 2717
service, during any period in which the person is engaged in the 2718
operation of an automobile to deliver mail or newspapers to 2719
addressees. Divisions (B)(1) and (3) of this section do not apply 2720
to a person who has an affidavit signed by a physician licensed to 2721
practice in this state under Chapter 4731. of the Revised Code or 2722
a chiropractor licensed to practice in this state under Chapter 2723
4734. of the Revised Code that states that the person has a 2724
physical impairment that makes use of an occupant restraining 2725
device impossible or impractical. 2726

(D) Notwithstanding any provision of law to the contrary, no 2727
law enforcement officer shall cause an operator of an automobile 2728
being operated on any street or highway to stop the automobile for 2729
the sole purpose of determining whether a violation of division 2730
(B) of this section has been or is being committed or for the sole 2731
purpose of issuing a ticket, citation, or summons for a violation 2732
of that nature or causing the arrest of or commencing a 2733
prosecution of a person for a violation of that nature, and no law 2734
enforcement officer shall view the interior or visually inspect 2735
any automobile being operated on any street or highway for the 2736
sole purpose of determining whether a violation of that nature has 2737
been or is being committed. 2738

(E) All fines collected for violations of division (B) of 2739

this section, or for violations of any ordinance or resolution of 2740
a political subdivision that is substantively comparable to that 2741
division, shall be forwarded to the treasurer of state for deposit 2742
as follows: 2743

(1) Eight per cent shall be deposited into the seat belt 2744
education fund, which is hereby created in the state treasury, and 2745
shall be used by the department of public safety to establish a 2746
seat belt education program. 2747

(2) Eight per cent shall be deposited into the elementary 2748
school program fund, which is hereby created in the state 2749
treasury, and shall be used by the department of public safety to 2750
establish and administer elementary school programs that encourage 2751
seat safety belt use. 2752

(3) Two per cent shall be deposited into the Ohio ambulance 2753
licensing trust fund created by section 4766.05 of the Revised 2754
Code. 2755

(4) Twenty-eight per cent shall be deposited into the trauma 2756
and emergency medical services fund, which is hereby created in 2757
the state treasury, and shall be used by the department of public 2758
safety for the administration of the division of emergency medical 2759
services and the state board of emergency medical services. 2760

(5) Fifty-four per cent shall be deposited into the trauma 2761
and emergency medical services grants fund, which is hereby 2762
created in the state treasury, and shall be used by the state 2763
board of emergency medical services to make grants, in accordance 2764
with section 4765.07 of the Revised Code and the rules that the 2765
board adopts under section 4765.11 of the Revised Code. 2766

~~(F)(1) Subject to division (F)(2) of this section, the~~ 2767
failure of a person to wear all of the available elements of a 2768
properly adjusted occupant restraining device in violation of 2769
division (B)(1) or (3) of this section or the failure of a person 2770

to ensure that each minor who is a passenger of an automobile 2771
being operated by ~~the~~ that person is wearing all of the available 2772
elements of ~~such a~~ properly adjusted occupant restraining device, 2773
in violation of division (B)(2) of this section, shall ~~not~~ be 2774
considered ~~or used by the trier of fact in a tort action as~~ 2775
~~evidence of negligence or contributory negligence, shall not~~ fault 2776
or other tortious conduct or considered for any other relevant 2777
purpose if the failure contributed to the harm alleged in the tort 2778
action and may diminish pursuant to sections 2315.32 to 2315.36 of 2779
the Revised Code a recovery for of compensatory damages in any 2780
civil a tort action involving the person arising from the 2781
ownership, maintenance, or operation of an automobile; shall not 2782
be used as a basis for a criminal prosecution of the person other 2783
than a prosecution for a violation of this section; and shall not 2784
be admissible as evidence in ~~any civil or a~~ criminal action 2785
involving the person other than a prosecution for a violation of 2786
this section. 2787

~~(2) If, at the time of an accident involving a passenger car~~ 2788
~~equipped with occupant restraining devices, any occupant of the~~ 2789
~~passenger car who sustained injury or death was not wearing an~~ 2790
~~available occupant restraining device, was not wearing all of the~~ 2791
~~available elements of such a device, or was not wearing such a~~ 2792
~~device as properly adjusted, then, consistent with the Rules of~~ 2793
~~Evidence, the fact that the occupant was not wearing the available~~ 2794
~~occupant restraining device, was not wearing all of the available~~ 2795
~~elements of such a device, or was not wearing such a device as~~ 2796
~~properly adjusted is admissible in evidence in relation to any~~ 2797
~~claim for relief in a tort action to the extent that the claim for~~ 2798
~~relief satisfies all of the following:~~ 2799

~~(a) It seeks to recover damages for injury or death to the~~ 2800
~~occupant.~~ 2801

~~(b) The defendant in question is the manufacturer, designer,~~ 2802

distributor, or seller of the passenger car. 2803

~~(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.~~ 2804
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~~(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.~~ 2808
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Sec. 4705.15. (A) As used in this section: 2814

(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. 2815
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(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, as defined in section 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. 2823
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(3) "Medical claim," "dental claim," "optometric claim," and "chiropractic claim" have the same meanings as in section 2305.113 2831
2832

of the Revised Code. 2833

(4) "Recovered" means the net sum recovered on a claim after 2834
deducting any disbursements, costs, and expenses incurred in 2835
connection with the prosecution or settlement of the claim. Costs 2836
of medical care incurred by the plaintiff and the attorney's 2837
office overhead costs or charges are not deductible disbursements 2838
or costs for the purposes of this division. 2839

(B) If an attorney and a client contract for the provision of 2840
legal services in connection with a claim that is or may become 2841
the basis of a tort action or in connection with a medical claim, 2842
dental claim, optometric claim, or chiropractic claim and if the 2843
contract includes a contingent fee agreement, that agreement shall 2844
be reduced to writing and signed by the attorney and the client. 2845
The attorney shall provide a copy of the signed writing to the 2846
client. 2847

(C)(1) If an attorney and a client contract for the provision 2848
of legal services in connection with a claim that may become the 2849
basis of a tort action and if the contract includes a contingent 2850
fee agreement, that agreement shall not provide for the payment of 2851
a fee that exceeds, and the attorney shall not collect a 2852
contingency fee for representing the client in excess of, the 2853
following limits: 2854

(a) Thirty-five per cent of the first one hundred thousand 2855
dollars recovered on the claim; 2856

(b) Twenty-five per cent of the next five hundred thousand 2857
dollars recovered on the claim; 2858

(c) Fifteen per cent of any amount on which the recovery on 2859
the claim exceeds six hundred thousand dollars. 2860

(2) The limits in division (C)(1) of this section shall apply 2861
regardless of whether the recovery is by settlement, arbitration, 2862

or judgment or whether the person for whom the recovery is made is 2863
a responsible adult, an infant, or a person of unsound mind. 2864

(D) If an attorney represents a client in connection with a 2865
any claim as described in division (B) of this section, if their 2866
contract for the provision of legal services includes a contingent 2867
fee agreement, and if the attorney becomes entitled to 2868
compensation under that agreement, the attorney shall prepare a 2869
signed closing statement and shall provide the client with that 2870
statement at the ~~within a reasonable time of or prior to the~~ 2871
~~receipt of compensation under that agreement, but not later than~~ 2872
~~thirty days, after the claim is finally adjudicated or settled.~~ 2873
The closing statement shall specify ~~the~~ all of the following: 2874

(1) The manner in which the compensation of the attorney was 2875
determined under that agreement,~~any;~~ 2876

(2) The actual number of hours of the attorney's legal 2877
services that were spent in connection with the claim; 2878

(3) The total amount of the hourly fees or contingent fee for 2879
the attorney's legal services in connection with the claim; 2880

(4) The actual fee per hour of the attorney's legal services 2881
in connection with the claim, determined by dividing the total 2882
amount of the hourly fees specified in division (D)(3) of this 2883
section, less itemized costs and expenses, or the total contingent 2884
fee specified in that division by the actual number of hours of 2885
the attorney's legal services specified in division (D)(2) of this 2886
section; 2887

(5) Any costs and expenses deducted by the attorney from the 2888
judgment or settlement involved,~~any;~~ 2889

(6) Any proposed division of the attorney's fees, costs, and 2890
expenses with referring or associated counsel,~~and any;~~ 2891

(7) Any other information that the attorney considers 2892

appropriate. 2893

Sec. 4705.16. (A) Each attorney who is licensed to practice 2894
law in this state shall append to every written retainer agreement 2895
or contract for legal services a legal consumer's bill of rights 2896
that shall be substantially in the following form: 2897

"LEGAL CONSUMER'S BILL OF RIGHTS 2898

(A) You have the right to control your own legal affairs. 2899

(1) Your attorney, at your request, must do all of the 2900
following: 2901

(a) Keep you informed about the status of your matter; 2902

(b) Promptly answer your questions; 2903

(c) Promptly return your phone calls; 2904

(d) Disclose any alternatives available to you for resolving 2905
your matter; 2906

(e) Disclose the risks and benefits of each decision and 2907
alternative. 2908

(2) You have the right and duty to make all of the key 2909
decisions in your matter, including whether, and on what terms, to 2910
settle a dispute or lawsuit. 2911

(B) You have the right to be fully informed about the costs 2912
and fees associated with your legal matter and you have the rights 2913
specified in paragraph (D), below, if you have a contingent fee 2914
agreement with your attorney. 2915

(1) Your attorney must disclose all of the following to you: 2916

(a) All alternative fee arrangements; 2917

(b) Total anticipated fees and expenses through trial; 2918

(c) Total anticipated costs; 2919

(d) Referral fees paid to other attorneys. 2920

<u>(2) Your attorney must do all of the following:</u>	2921
<u>(a) Sign a written agreement that spells out the terms of every representation of you, including the fee arrangements;</u>	2922 2923
<u>(b) Agree not to exceed estimated costs and fees without your consent;</u>	2924 2925
<u>(c) Agree to return any unexpended portion of your retainer or other advanced payments;</u>	2926 2927
<u>(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.</u>	2928 2929 2930 2931
<u>(C) You have the right to retain qualified legal representation.</u>	2932 2933
<u>(1) Your attorney must do all of the following:</u>	2934
<u>(a) Provide timely, thorough, and professional legal services;</u>	2935 2936
<u>(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;</u>	2937 2938 2939
<u>(c) Respect your right to privacy and your confidential information;</u>	2940 2941
<u>(d) Not neglect your matter;</u>	2942
<u>(e) Ensure that your attorney does not have a conflict of interest in representing you;</u>	2943 2944
<u>(f) Maintain accurate records;</u>	2945
<u>(g) Upon your request, provide you with copies of all court documents and letters that your attorney produces or receives while representing you.</u>	2946 2947 2948

(2) You have the right to an accessible legal system. 2949

If you are not satisfied with the legal services that you 2950
have retained, or with how your matter is being handled, you have 2951
the right to file a grievance with the Certified Grievance 2952
Committee of your local bar association or the Ohio State Bar 2953
Association or with the Board of Commissioners on Grievances and 2954
Discipline of the Supreme Court of Ohio. The Committee and the 2955
Board include non-attorneys as members. The Board of Commissioners 2956
on Grievances and Discipline of the Supreme Court of Ohio has the 2957
authority to discipline, and to impose sanctions on, attorneys in 2958
Ohio. 2959

(D) You have the following rights if you have a contingent 2960
fee agreement, as defined in section 4705.15 of the Revised Code, 2961
with your attorney for the provision of legal services in 2962
connection with a claim that is or may become the basis of a tort 2963
action, as defined in that section: 2964

(1) The agreement must be in writing and signed by you and 2965
your attorney. 2966

(2) Your attorney must provide a copy of the signed agreement 2967
to you. 2968

(3) If your attorney becomes entitled to compensation under 2969
the contingent fee agreement, your attorney must prepare a signed 2970
closing statement and provide you with that statement within a 2971
reasonable time, but not later than thirty (30) days, after the 2972
claim is finally adjudicated and settled. 2973

(4) Your attorney's closing statement must specify all of the 2974
following: 2975

(a) The manner in which your attorney's compensation was 2976
determined under the agreement; 2977

(b) The actual number of hours of your attorney's legal 2978

<u>services that were spent in connection with the claim;</u>	2979
<u>(c) The total amount of the hourly fees or contingent fee for your attorney's legal services in connection with the claim;</u>	2980
<u>(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;</u>	2981
<u>(e) Any costs and expenses deducted by your attorney from the judgment or settlement involved;</u>	2982
<u>(f) Any proposed division of your attorney's fees, costs, and expenses with referring or associated counsel;</u>	2983
<u>(g) Any other information that your attorney considers appropriate."</u>	2984
<u>(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.</u>	2985
<u>(C) This section shall be called and may be cited as the "Legal Consumer's Bill of Rights."</u>	2986
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.	2987
Section 3. That the version of section 4513.263 of the	2988

Revised Code that is scheduled to take effect January 1, 2004, be 3008
amended to read as follows: 3009

Sec. 4513.263. (A) As used in this section and in section 3010
4513.99 of the Revised Code: 3011

(1) "Automobile" means any commercial tractor, passenger car, 3012
commercial car, or truck that is required to be factory-equipped 3013
with an occupant restraining device for the operator or any 3014
passenger by regulations adopted by the United States secretary of 3015
transportation pursuant to the "National Traffic and Motor Vehicle 3016
Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392. 3017

(2) "Occupant restraining device" means a seat safety belt, 3018
shoulder belt, harness, or other safety device for restraining a 3019
person who is an operator of or passenger in an automobile and 3020
that satisfies the minimum federal vehicle safety standards 3021
established by the United States department of transportation. 3022

(3) "Passenger" means any person in an automobile, other than 3023
its operator, who is occupying a seating position for which an 3024
occupant restraining device is provided. 3025

(4) "Commercial tractor," "passenger car," and "commercial 3026
car" have the same meanings as in section 4501.01 of the Revised 3027
Code. 3028

(5) "Vehicle" and "motor vehicle," as used in the definitions 3029
of the terms set forth in division (A)(4) of this section, have 3030
the same meanings as in section 4511.01 of the Revised Code. 3031

(6) "Tort action" means a civil action for damages for 3032
injury, death, or loss to person or property. "Tort action" 3033
includes a product liability claim, as defined in section 2307.71 3034
of the Revised Code, but does not include a civil action for 3035
damages for a breach of contract or another agreement between 3036
persons. 3037

(B) No person shall do any of the following: 3038

(1) Operate an automobile on any street or highway unless 3039
that person is wearing all of the available elements of a properly 3040
adjusted occupant restraining device, or operate a school bus that 3041
has an occupant restraining device installed for use in its 3042
operator's seat unless that person is wearing all of the available 3043
elements of the device, as properly adjusted; 3044

(2) Operate an automobile on any street or highway unless 3045
each passenger in the automobile who is subject to the requirement 3046
set forth in division (B)(3) of this section is wearing all of the 3047
available elements of a properly adjusted occupant restraining 3048
device; 3049

(3) Occupy, as a passenger, a seating position on the front 3050
seat of an automobile being operated on any street or highway 3051
unless that person is wearing all of the available elements of a 3052
properly adjusted occupant restraining device; 3053

(4) Operate a taxicab on any street or highway unless all 3054
factory-equipped occupant restraining devices in the taxicab are 3055
maintained in usable form. 3056

(C) Division (B)(3) of this section does not apply to a 3057
person who is required by section 4511.81 of the Revised Code to 3058
be secured in a child restraint device. Division (B)(1) of this 3059
section does not apply to a person who is an employee of the 3060
United States postal service or of a newspaper home delivery 3061
service, during any period in which the person is engaged in the 3062
operation of an automobile to deliver mail or newspapers to 3063
addressees. Divisions (B)(1) and (3) of this section do not apply 3064
to a person who has an affidavit signed by a physician licensed to 3065
practice in this state under Chapter 4731. of the Revised Code or 3066
a chiropractor licensed to practice in this state under Chapter 3067
4734. of the Revised Code that states that the person has a 3068

physical impairment that makes use of an occupant restraining 3069
device impossible or impractical. 3070

(D) Notwithstanding any provision of law to the contrary, no 3071
law enforcement officer shall cause an operator of an automobile 3072
being operated on any street or highway to stop the automobile for 3073
the sole purpose of determining whether a violation of division 3074
(B) of this section has been or is being committed or for the sole 3075
purpose of issuing a ticket, citation, or summons for a violation 3076
of that nature or causing the arrest of or commencing a 3077
prosecution of a person for a violation of that nature, and no law 3078
enforcement officer shall view the interior or visually inspect 3079
any automobile being operated on any street or highway for the 3080
sole purpose of determining whether a violation of that nature has 3081
been or is being committed. 3082

(E) All fines collected for violations of division (B) of 3083
this section, or for violations of any ordinance or resolution of 3084
a political subdivision that is substantively comparable to that 3085
division, shall be forwarded to the treasurer of state for deposit 3086
as follows: 3087

(1) Eight per cent shall be deposited into the seat belt 3088
education fund, which is hereby created in the state treasury, and 3089
shall be used by the department of public safety to establish a 3090
seat belt education program. 3091

(2) Eight per cent shall be deposited into the elementary 3092
school program fund, which is hereby created in the state 3093
treasury, and shall be used by the department of public safety to 3094
establish and administer elementary school programs that encourage 3095
seat safety belt use. 3096

(3) Two per cent shall be deposited into the Ohio ambulance 3097
licensing trust fund created by section 4766.05 of the Revised 3098
Code. 3099

(4) Twenty-eight per cent shall be deposited into the trauma 3100
and emergency medical services fund, which is hereby created in 3101
the state treasury, and shall be used by the department of public 3102
safety for the administration of the division of emergency medical 3103
services and the state board of emergency medical services. 3104

(5) Fifty-four per cent shall be deposited into the trauma 3105
and emergency medical services grants fund, which is hereby 3106
created in the state treasury, and shall be used by the state 3107
board of emergency medical services to make grants, in accordance 3108
with section 4765.07 of the Revised Code and the rules that the 3109
board adopts under section 4765.11 of the Revised Code. 3110

~~(F)(1) Subject to division (F)(2) of this section, the~~ The 3111
failure of a person to wear all of the available elements of a 3112
properly adjusted occupant restraining device in violation of 3113
division (B)(1) or (3) of this section or the failure of a person 3114
to ensure that each minor who is a passenger of an automobile 3115
being operated by ~~the~~ that person is wearing all of the available 3116
elements of ~~such a~~ properly adjusted occupant restraining device, 3117
in violation of division (B)(2) of this section, shall ~~not~~ be 3118
considered ~~or used~~ by the trier of fact in a tort action as 3119
evidence of negligence or contributory negligence, shall not fault 3120
or other tortious conduct or considered for any other relevant 3121
purpose if the failure contributed to the harm alleged in the tort 3122
action and may diminish pursuant to sections 2315.32 to 2315.36 of 3123
the Revised Code a recovery for of compensatory damages in any 3124
civil a tort action involving the person arising from the 3125
ownership, maintenance, or operation of an automobile; shall not 3126
be used as a basis for a criminal prosecution of the person other 3127
than a prosecution for a violation of this section; and shall not 3128
be admissible as evidence in ~~any civil or a~~ a criminal action 3129
involving the person other than a prosecution for a violation of 3130
this section. 3131

~~(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.~~

~~(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 3191
be domiciled in Ohio or that Ohio is the state in which the 3192
plaintiff's exposure to asbestos is a substantial contributing 3193
factor. 3194

(D) With respect to procedures for consolidation of asbestos 3195
claims, the General Assembly hereby requests the Supreme Court to 3196
adopt a rule that permits consolidation of asbestos claims only 3197
with the consent of all parties, and in absence of that consent, 3198
permits a court to consolidate for trial only those asbestos 3199
claims that relate to the same exposed person and members of the 3200
exposed person's household. 3201