

**As Passed by the Senate**

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

**Sub. S. B. No. 80**

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

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**A B I L L**

To amend sections 1533.18, 1701.76, 1701.82, 1775.14, 1  
2117.06, 2125.01, 2125.02, 2125.04, 2305.01, 2  
2305.03, 2305.10, 2305.25, 2307.011, 2307.23, 3  
2307.29, 2307.60, 2307.71, 2307.75, 2307.80, 4  
2315.01, 2315.21, 2315.32, 2315.33, 2315.34, 5  
2315.36, 2323.41, 2323.43, 2323.51, 4507.07, 6  
4513.263, and 4705.15; to enact sections 901.52, 7  
1519.07, 2305.131, 2307.711, 2307.91 to 2307.97, 8  
and 4705.16; and to repeal sections 2315.41, 9  
2315.42, 2315.43, 2315.44, 2315.45, and 2315.46 of 10  
the Revised Code to make changes related to the 11  
award of certain damages, collateral benefits 12  
evidence, and contributory fault in tort actions; 13  
to establish a statute of repose for certain 14  
product liability claims and claims based on 15  
unsafe conditions of real property improvements 16  
and to make other changes related to product 17  
liability claims; to provide that the product 18  
liability statutes are intended to abrogate common 19  
law product liability causes of action; to enact a 20  
conflicts of law provision for statutes of 21  
limitation in civil actions; to modify the 22  
provisions on frivolous conduct in filing civil 23

actions; to prohibit imputing any assurances or 24  
assumption of liability regarding public access to 25  
premises used for growing agricultural produce; to 26  
enact a legal consumer's bill of rights; to limit 27  
attorney contingency fees in connection with 28  
certain tort actions; to establish minimum medical 29  
requirements for filing certain asbestos claims; 30  
to establish limitations on successor 31  
asbestos-related liabilities relating to 32  
corporations; and to make other changes related to 33  
civil actions; and to amend the version of section 34  
4513.263 of the Revised Code that is scheduled to 35  
take effect January 1, 2004, to continue the 36  
provisions of this act on and after that effective 37  
date. 38

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

**Section 1.** That sections 1533.18, 1701.76, 1701.82, 1775.14, 39  
2117.06, 2125.01, 2125.02, 2125.04, 2305.01, 2305.03, 2305.10, 40  
2305.25, 2307.011, 2307.23, 2307.29, 2307.60, 2307.71, 2307.75, 41  
2307.80, 2315.01, 2315.21, 2315.32, 2315.33, 2315.34, 2315.36, 42  
2323.41, 2323.43, 2323.51, 4507.07, 4513.263, and 4705.15 be 43  
amended and sections 901.52, 1519.07, 2305.131, 2307.711, 2307.91, 44  
2307.92, 2307.93, 2307.94, 2307.95, 2307.96, 2307.97, and 4705.16 45  
of the Revised Code be enacted to read as follows: 46

**Sec. 901.52.** (A) As used in this section, "tort action" has 47  
the same meaning as in section 2305.35 of the Revised Code. 48

(B) In a tort action, in the absence of willful or wanton 49  
misconduct or intentionally tortious conduct, no owner, lessee, 50  
renter, or operator of premises that are open to the public for 51

direct access to growing agricultural produce shall be imputed to  
do either of the following:

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

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

**Sec. 1519.07. (A) As used in this section:**

(1) "Premises" means a parcel of land together with any  
waters, buildings, or structures on it that is privately owned and  
that is directly adjacent to a recreational trail.

(2) "Recreational trail" means a public trail that is used  
for hiking, bicycling, horseback riding, ski touring, canoeing, or  
other nonmotorized forms of recreational travel and that  
interconnects state parks, forests, wildlife areas, nature  
preserves, scenic rivers, or other places of scenic or historic  
interest.

(3) "User of a recreational trail" means a person who, in the  
course of using a recreational trail, enters on premises without  
first obtaining express permission to be there from the owner,  
lessee, or occupant of the premises.

(B)(1) An owner, lessee, or occupant of premises does not owe  
any duty to a user of a recreational trail to keep the premises  
safe for entry or use by a user of a recreational trail.

(2) An owner, lessee, or occupant of premise does not assume,  
has no responsibility for, does not incur liability for, and is  
not liable for any injury to person or property caused by any act

of a user of a recreational trail.

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**Sec. 1533.18.** As used in sections 1533.18 and 1533.181 of the Revised Code:

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(A) "Premises" means all privately-owned lands, ways, and waters, and any buildings and structures thereon, and all privately owned and state-owned lands, ways, and waters leased to a private person, firm, or organization, including any buildings and structures thereon.

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(B) "Recreational user" means a person to whom permission has been granted, without the payment of a fee or consideration to the owner, lessee, or occupant of premises, other than a fee or consideration paid to the state or any agency of the state, or a lease payment paid to the owner of privately owned lands, to enter upon premises to hunt, fish, trap, camp, hike, swim, operate a snowmobile or all-purpose vehicle, or engage in other recreational pursuits.

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(C) "All-purpose vehicle" has the same meaning as in section 4519.01 of the Revised Code.

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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

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the shareholders as required in this section; and 112

(b) At a meeting of the shareholders held for ~~such~~ that 113  
purpose, by the affirmative vote of the holders of shares 114  
entitling them to exercise two-thirds of the voting power of the 115  
corporation on ~~such~~ the proposal, or, if the articles so provide 116  
or permit, by the affirmative vote of a greater or lesser 117  
proportion, but not less than a majority, of ~~such~~ the voting 118  
power, and by ~~such~~ the affirmative vote of the holders of shares 119  
of any particular class ~~as~~ that is required by the articles. 120

(2) At the shareholder meeting described in division 121  
(A)(1)(b) of this section or at any subsequent shareholder 122  
meeting, shareholders, by the same vote that is required to 123  
authorize the lease, sale, exchange, transfer, or other 124  
disposition of all, or substantially all, of the assets, with or 125  
without the good will, of the corporation, may grant authority to 126  
the directors to establish or amend any of the terms and 127  
conditions of the transaction, except that the shareholders shall 128  
not authorize the directors to do any of the following: 129

(a) Alter or change the amount or kind of shares, securities, 130  
money, property, or rights to be received in exchange for the 131  
assets; 132

(b) Alter or change to any material extent the amount or kind 133  
of liabilities to be assumed in exchange for the assets; 134

(c) Alter or change any other terms and conditions of the 135  
transaction if any of the alterations or changes, alone or in the 136  
aggregate, would materially adversely affect the shareholders or 137  
the corporation. 138

(3) Notice of the meeting of the shareholders described in 139  
division (A)(1)(b) of this section shall be given to all 140  
shareholders whether or not entitled to vote at the meeting and 141  
shall be accompanied by a copy or summary of the terms of the 142

transaction. 143

(B) The corporation by its directors may abandon ~~such the~~ 144  
transaction under this section, subject to the contract rights of 145  
other persons, if the power of abandonment is conferred upon the 146  
directors either by the terms of the transaction or by the same 147  
vote of shareholders and at the same meeting of shareholders as 148  
that referred to in division (A)(1)(b) of this section or at any 149  
subsequent meeting. 150

(C) Dissenting holders of shares of any class, whether or not 151  
entitled to vote, shall be entitled to relief under section 152  
1701.85 of the Revised Code. 153

(D) An action to set aside a conveyance by a corporation, on 154  
the ground that any section of the Revised Code applicable to the 155  
lease, sale, exchange, transfer, or other disposition of all, or 156  
substantially all, of the assets of ~~such that~~ corporation has not 157  
been complied with, shall be brought within ninety days after ~~such~~ 158  
that transaction, or ~~such the~~ action shall be forever barred. 159

(E) If a resolution of dissolution is adopted pursuant to 160  
section 1701.86 of the Revised Code, the directors may dispose of 161  
all, or substantially all, of the corporation's assets without the 162  
necessity of a shareholders' authorization under this section. 163

(F) The terms and conditions of any transaction under this 164  
section shall be subject to the limitations specified in section 165  
2307.96 of the Revised Code. 166

**Sec. 1701.82.** (A) When a merger or consolidation becomes 167  
effective, all of the following apply: 168

(1) The separate existence of each constituent entity other 169  
than the surviving entity in a merger shall cease, except that 170  
whenever a conveyance, assignment, transfer, deed, or other 171  
instrument or act is necessary to vest property or rights in the 172

surviving or new entity, the officers, general partners, or other 173  
authorized representatives of the respective constituent entities 174  
shall execute, acknowledge, and deliver ~~such~~ those instruments and 175  
do ~~such~~ those acts. For these purposes, the existence of the 176  
constituent entities and the authority of their respective 177  
officers, directors, general partners, or other authorized 178  
representatives is continued notwithstanding the merger or 179  
consolidation. 180

(2) In the case of a consolidation, the new entity exists 181  
when the consolidation becomes effective and, if it is a domestic 182  
corporation, the articles contained in or provided for in the 183  
agreement of consolidation shall be its original articles. In the 184  
case of a merger in which the surviving entity is a domestic 185  
corporation, the articles of the domestic surviving corporation in 186  
effect immediately prior to the time the merger becomes effective 187  
shall continue as its articles after the merger except as 188  
otherwise provided in the agreement of merger. 189

(3) The surviving or new entity possesses all assets and 190  
property of every description, and every interest in the assets 191  
and property, wherever located, and the rights, privileges, 192  
immunities, powers, franchises, and authority, of a public as well 193  
as of a private nature, of each constituent entity, and, subject 194  
to the limitations specified in section 2307.96 of the Revised 195  
Code, all obligations belonging to or due to each constituent 196  
entity, all of which are vested in the surviving or new entity 197  
without further act or deed. Title to any real estate or any 198  
interest in the real estate vested in any constituent entity shall 199  
not revert or in any way be impaired by reason of such merger or 200  
consolidation. 201

(4) The Subject to the limitations specified in section 202  
2307.96 of the Revised Code, the surviving or new entity is liable 203  
for all the obligations of each constituent entity, including 204

liability to dissenting shareholders. Any claim existing or any 205  
action or proceeding pending by or against any constituent entity 206  
may be prosecuted to judgment, with right of appeal, as if the 207  
merger or consolidation had not taken place, or the surviving or 208  
new entity may be substituted in its place. 209

(5) ~~All~~ Subject to the limitations specified in section 210  
2307.96 of the Revised Code, all the rights of creditors of each 211  
constituent entity are preserved unimpaired, and all liens upon 212  
the property of any constituent entity are preserved unimpaired, 213  
on only the property affected by ~~such~~ those liens immediately 214  
prior to the effective date of the merger or consolidation. If a 215  
general partner of a constituent partnership is not a general 216  
partner of the entity surviving or the new entity resulting from 217  
the merger or consolidation, then the former general partner shall 218  
have no liability for any obligation incurred after the merger or 219  
consolidation except to the extent that a former creditor of the 220  
constituent partnership in which the former general partner was a 221  
partner extends credit to the surviving or new entity reasonably 222  
believing that the former general partner continued as a general 223  
partner of the surviving or new entity. 224

(B) If a general partner of a constituent partnership is not 225  
a general partner of the entity surviving or the new entity 226  
resulting from the merger or consolidation, the provisions of 227  
division (B) of section 1782.434 of the Revised Code shall apply. 228

(C) In the case of a merger of a domestic constituent 229  
corporation into a foreign surviving corporation, limited 230  
liability company, or limited partnership that is not licensed or 231  
registered to transact business in this state or in the case of a 232  
consolidation of a domestic constituent corporation into a new 233  
foreign corporation, limited liability company, or limited 234  
partnership, if the surviving or new entity intends to transact 235  
business in this state and the certificate of merger or 236



consolidation is accompanied by the information described in 237  
division (B)(4) of section 1701.81 of the Revised Code, then, on 238  
the effective date of the merger or consolidation, the surviving 239  
or new entity shall be considered to have complied with the 240  
requirements for procuring a license or for registering to 241  
transact business in this state as a foreign corporation, limited 242  
liability company, or limited partnership, as the case may be. In 243  
such a case, a copy of the certificate of merger or consolidation 244  
certified by the secretary of state constitutes the license 245  
certificate prescribed by the laws of this state for a foreign 246  
corporation transacting business in this state or the application 247  
for registration prescribed for a foreign limited partnership or 248  
limited liability company. 249

(D) Any action to set aside any merger or consolidation on 250  
the ground that any section of the Revised Code applicable to the 251  
merger or consolidation has not been complied with shall be 252  
brought within ninety days after the effective date of ~~such~~ that 253  
merger or consolidation or be forever barred. 254

(E) As used in this section, "corporation" or "entity" 255  
applies to both domestic and foreign corporations and entities 256  
where the context so permits. In the case of a foreign constituent 257  
entity or a foreign new entity, this section is subject to the 258  
laws of the state under the laws of which the entity exists or in 259  
which it has property. 260

**Sec. 1775.14.** (A) Subject to section 1339.65 of the Revised 261  
Code and except as provided in division (B) of this section, all 262  
partners are liable as follows: 263

(1) Jointly and severally for everything chargeable to the 264  
partnership under sections 1775.12 and 1775.13 of the Revised 265  
Code. This joint and several liability is not subject to section 266  
2307.22, or 2315.36, ~~or 2315.46~~ of the Revised Code with respect 267

to a ~~negligence or other~~ tort claim that otherwise is subject to 268  
any either of those sections. 269

(2) Jointly for all other debts and obligations of the 270  
partnership, but any partner may enter into a separate obligation 271  
to perform a partnership contract. 272

(B) Subject to divisions (C)(1) and (2) of this section or as 273  
otherwise provided in a written agreement between the partners of 274  
a registered limited liability partnership, a partner in a 275  
registered limited liability partnership is not liable, directly 276  
or indirectly, by way of indemnification, contribution, 277  
assessment, or otherwise, for debts, obligations, or other 278  
liabilities of any kind of, or chargeable to, the partnership or 279  
another partner or partners arising from negligence or from 280  
wrongful acts, errors, omissions, or misconduct, whether or not 281  
intentional or characterized as tort, contract, or otherwise, 282  
committed or occurring while the partnership is a registered 283  
limited liability partnership and committed or occurring in the 284  
course of the partnership business by another partner or an 285  
employee, agent, or representative of the partnership. 286

(C)(1) Division (B) of this section does not affect the 287  
liability of a partner in a registered limited liability 288  
partnership for that partner's own negligence, wrongful acts, 289  
errors, omissions, or misconduct, including that partner's own 290  
negligence, wrongful acts, errors, omissions, or misconduct in 291  
directly supervising any other partner or any employee, agent, or 292  
representative of the partnership. 293

(2) Division (B) of this section shall not affect the 294  
liability of a partner for liabilities imposed by Chapters 5735., 295  
5739., 5743., and 5747. and section 3734.908 of the Revised Code. 296

(D) A partner in a registered limited liability partnership 297  
is not a proper party to an action or proceeding by or against a 298

registered limited liability partnership with respect to any debt, 299  
obligation, or other liability of any kind described in division 300  
(B) of this section, unless the partner is liable under divisions 301  
(C)(1) and (2) of this section. 302

**Sec. 2117.06.** (A) All creditors having claims against an 303  
estate, including claims arising out of contract, out of tort, on 304  
cognovit notes, or on judgments, whether due or not due, secured 305  
or unsecured, liquidated or unliquidated, shall present their 306  
claims in one of the following manners: 307

(1) To the executor or administrator in a writing; 308

(2) To the executor or administrator in a writing, and to the 309  
probate court by filing a copy of the writing with it; 310

(3) In a writing that is sent by ordinary mail addressed to 311  
the decedent and that is actually received by the executor or 312  
administrator within the appropriate time specified in division 313  
(B) of this section. For purposes of this division, if an executor 314  
or administrator is not a natural person, the writing shall be 315  
considered as being actually received by the executor or 316  
administrator only if the person charged with the primary 317  
responsibility of administering the estate of the decedent 318  
actually receives the writing within the appropriate time 319  
specified in division (B) of this section. 320

(B) All claims shall be presented within one year after the 321  
death of the decedent, whether or not the estate is released from 322  
administration or an executor or administrator is appointed during 323  
that one-year period. Every claim presented shall set forth the 324  
claimant's address. 325

(C) A claim that is not presented within one year after the 326  
death of the decedent shall be forever barred as to all parties, 327  
including, but not limited to, devisees, legatees, and 328

distributees. No payment shall be made on the claim and no action 329  
shall be maintained on the claim, except as otherwise provided in 330  
sections 2117.37 to 2117.42 of the Revised Code with reference to 331  
contingent claims. 332

(D) In the absence of any prior demand for allowance, the 333  
executor or administrator shall allow or reject all claims, except 334  
tax assessment claims, within thirty days after their 335  
presentation, provided that failure of the executor or 336  
administrator to allow or reject within that time shall not 337  
prevent the executor or administrator from doing so after that 338  
time and shall not prejudice the rights of any claimant. Upon the 339  
allowance of a claim, the executor or the administrator, on demand 340  
of the creditor, shall furnish the creditor with a written 341  
statement or memorandum of the fact and date of the allowance. 342

(E) If the executor or administrator has actual knowledge of 343  
a pending action commenced against the decedent prior to the 344  
decedent's death in a court of record in this state, the executor 345  
or administrator shall file a notice of the appointment of the 346  
executor or administrator in the pending action within ten days 347  
after acquiring that knowledge. If the administrator or executor 348  
is not a natural person, actual knowledge of a pending suit 349  
against the decedent shall be limited to the actual knowledge of 350  
the person charged with the primary responsibility of 351  
administering the estate of the decedent. Failure to file the 352  
notice within the ten-day period does not extend the claim period 353  
established by this section. 354

(F) This section applies to any person who is required to 355  
give written notice to the executor or administrator of a motion 356  
or application to revive an action pending against the decedent at 357  
the date of the death of the decedent. 358

(G) Nothing in this section or in section 2117.07 of the 359  
Revised Code shall be construed to reduce the ~~time mentioned~~ 360

periods of limitation or periods prior to repose in section 361  
2125.02, ~~2305.09, 2305.10, 2305.11, 2305.113,~~ or ~~2305.12~~ Chapter 362  
2305. of the Revised Code, provided that no portion of any 363  
recovery on a claim brought pursuant to that section or any of 364  
~~those sections~~ section in that chapter shall come from the assets 365  
of an estate unless the claim has been presented against the 366  
estate in accordance with Chapter 2117. of the Revised Code. 367

(H) Any person whose claim has been presented and has not 368  
been rejected after presentment is a creditor as that term is used 369  
in Chapters 2113. to 2125. of the Revised Code. Claims that are 370  
contingent need not be presented except as provided in sections 371  
2117.37 to 2117.42 of the Revised Code, but, whether presented 372  
pursuant to those sections or this section, contingent claims may 373  
be presented in any of the manners described in division (A) of 374  
this section. 375

(I) If a creditor presents a claim against an estate in 376  
accordance with division (A)(2) of this section, the probate court 377  
shall not close the administration of the estate until that claim 378  
is allowed or rejected. 379

(J) The probate court shall not require an executor or 380  
administrator to make and return into the court a schedule of 381  
claims against the estate. 382

(K) If the executor or administrator makes a distribution of 383  
the assets of the estate prior to the expiration of the time for 384  
the filing of claims as set forth in this section, the executor or 385  
administrator shall provide notice on the account delivered to 386  
each distributee that the distributee may be liable to the estate 387  
up to the value of the distribution and may be required to return 388  
all or any part of the value of the distribution if a valid claim 389  
is subsequently made against the estate within the time permitted 390  
under this section. 391

Sec. 2125.01. ~~When~~ (A)(1) Except as provided in division (B) 392  
of this section, if the death of a person is caused by wrongful 393  
act, neglect, or default ~~which~~ that would have entitled the ~~party~~ 394  
injured person to maintain ~~an~~ a civil action and recover damages 395  
if death had not ensued, the person who would have been liable if 396  
death had not ensued, or the administrator or executor of the 397  
estate of ~~such~~ the liable person, as ~~such~~ that administrator or 398  
executor, ~~shall be~~ is liable ~~to an action for~~ in damages in a 399  
civil action for wrongful death under this chapter, 400  
notwithstanding the death of the injured person ~~injured~~ and 401  
although the death was caused under circumstances ~~which~~ that make 402  
it aggravated murder, murder, or manslaughter. ~~When~~ If the civil 403  
action for wrongful death is against ~~such~~ an administrator or 404  
executor, the damages recovered shall be a valid claim against the 405  
estate of ~~such~~ the deceased liable person. No civil action for ~~the~~ 406  
wrongful death ~~of a person~~ may be maintained against the owner or 407  
lessee of the real property upon which the death occurred if the 408  
cause of the death was the violent unprovoked act of a party other 409  
than the owner, the lessee, or a person under the control of the 410  
owner or lessee, unless the acts or omissions of the owner, 411  
lessee, or person under the control of the owner or lessee 412  
constitute gross negligence. 413

~~When~~ (2) If the death of a person is caused by a wrongful 414  
act, neglect, or default in another state or foreign country, ~~for~~ 415  
~~which~~ and a right to maintain ~~an~~ a civil action for wrongful death 416  
and recover damages is given by a statute of ~~such~~ the other state 417  
or foreign country, ~~such~~ the right ~~of~~ to maintain the civil action 418  
may be enforced in this state, except as provided in division (B) 419  
of this section. Every ~~such~~ civil action of that nature shall be 420  
commenced within the time prescribed for the commencement of ~~such~~ 421  
civil actions of that nature by the statute of ~~such~~ the other 422  
state or foreign country. 423

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

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

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

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

**Sec. 2125.02.** (A)(1) Except as provided in this division, an

a civil action for wrongful death shall be brought in the name of 455  
the personal representative of the decedent for the exclusive 456  
benefit of the surviving spouse, the children, and the parents of 457  
the decedent, all of whom are rebuttably presumed to have suffered 458  
damages by reason of the wrongful death, and for the exclusive 459  
benefit of the other next of kin of the decedent. A parent who 460  
abandoned a minor child who is the decedent shall not receive ~~any~~ 461  
a benefit in a wrongful death civil action for wrongful death 462  
brought under this division. 463

(2) The jury, or the court if the civil action for wrongful 464  
death is not tried to a jury, may award damages authorized by 465  
division (B) of this section, as it determines are proportioned to 466  
the injury and loss resulting to the beneficiaries described in 467  
division (A)(1) of this section by reason of the wrongful death 468  
and may award the reasonable funeral and burial expenses incurred 469  
as a result of the wrongful death. In its verdict, the jury or 470  
court shall set forth separately the amount, if any, awarded for 471  
the reasonable funeral and burial expenses incurred as a result of 472  
the wrongful death. 473

(3)(a) The date of the decedent's death fixes, subject to 474  
division (A)(3)(b)(iii) of this section, the status of all 475  
beneficiaries of the civil action for wrongful death for purposes 476  
of determining the damages suffered by them and the amount of 477  
damages to be awarded. A person who is conceived prior to the 478  
decedent's death and who is born alive after the decedent's death 479  
is a beneficiary of the action. 480

(b)(i) In determining the amount of damages to be awarded, 481  
the jury or court may consider all factors existing at the time of 482  
the decedent's death that are relevant to a determination of the 483  
damages suffered by reason of the wrongful death. 484

(ii) Consistent with the Rules of Evidence, ~~any~~ a party to ~~an~~ 485



a civil action for wrongful death may present evidence of the cost 486  
of an annuity in connection with ~~any~~ an issue of recoverable 487  
future damages. If ~~such~~ that evidence is presented, then, in 488  
addition to the factors described in division (A)(3)(b)(i) of this 489  
section and, if applicable, division (A)(3)(b)(iii) of this 490  
section, the jury or court may consider that evidence in 491  
determining the future damages suffered by reason of the wrongful 492  
death. If ~~such~~ that evidence is presented, the present value in 493  
dollars of ~~any~~ an annuity is its cost. 494

(iii) Consistent with the Rules of Evidence, ~~any~~ a party to 495  
~~an~~ a civil action for wrongful death may present evidence that the 496  
surviving spouse of the decedent is remarried. If ~~such~~ that 497  
evidence is presented, then, in addition to the factors described 498  
in divisions (A)(3)(b)(i) and (ii) of this section, the jury or 499  
court may consider that evidence in determining the damages 500  
suffered by the surviving spouse by reason of the wrongful death. 501

(B) Compensatory damages may be awarded in ~~an~~ a civil action 502  
for wrongful death and may include damages for the following: 503

(1) Loss of support from the reasonably expected earning 504  
capacity of the decedent; 505

(2) Loss of services of the decedent; 506

(3) Loss of the society of the decedent, including loss of 507  
companionship, consortium, care, assistance, attention, 508  
protection, advice, guidance, counsel, instruction, training, and 509  
education, suffered by the surviving spouse, ~~minor~~ dependent 510  
children, parents, or next of kin of the decedent; 511

(4) Loss of prospective inheritance to the decedent's heirs 512  
at law at the time of the decedent's death; 513

(5) The mental anguish incurred by the surviving spouse, 514  
~~minor~~ dependent children, parents, or next of kin of the decedent. 515

(C) A personal representative appointed in this state, with 516  
the consent of the court making the appointment and at any time 517  
before or after the commencement of ~~an~~ a civil action for wrongful 518  
death, may settle with the defendant the amount to be paid. 519

(D) ~~An~~ (1) Except as provided in division (D)(2) of this 520  
section, a civil action for wrongful death shall be commenced 521  
within two years after the decedent's death. 522

(2)(a) Except as otherwise provided in divisions (D)(2)(b), 523  
(c), (d), (e), and (f) of this section, no cause of action for 524  
wrongful death involving a product liability claim shall accrue 525  
against the manufacturer or supplier of a product later than ten 526  
years from the date that the product was delivered to its first 527  
purchaser or first lessee who was not engaged in a business in 528  
which the product was used as a component in the production, 529  
construction, creation, assembly, or rebuilding of another 530  
product. 531

(b) Division (D)(2)(a) of this section does not apply if the 532  
manufacturer or supplier of a product engaged in fraud in regard 533  
to information about the product and the fraud contributed to the 534  
harm that is alleged in a product liability claim involving that 535  
product. 536

(c) Division (D)(2)(a) of this section does not bar a civil 537  
action for wrongful death involving a product liability claim 538  
against a manufacturer or supplier of a product who made an 539  
express, written warranty as to the safety of the product that was 540  
for a period longer than ten years and that, at the time of the 541  
decedent's death, has not expired in accordance with the terms of 542  
that warranty. 543

(d) If the decedent's death occurs during the ten-year period 544  
described in division (D)(2)(a) of this section but less than two 545  
years prior to the expiration of that period, a civil action for 546

wrongful death involving a product liability claim may be 547  
commenced within two years after the decedent's death. 548

(e) If the decedent's death occurs during the ten-year period 549  
described in division (D)(2)(a) of this section and the claimant 550  
cannot commence an action during that period due to a disability 551  
described in section 2305.16 of the Revised Code, a civil action 552  
for wrongful death involving a product liability claim may be 553  
commenced within two years after the disability is removed. 554

(f)(i) Division (D)(2)(a) of this section does not bar a 555  
civil action for wrongful death based on a product liability claim 556  
against a manufacturer or supplier of a product if the product 557  
involved is a substance or device described in division (B)(1), 558  
(2), (3), or (4) of section 2305.10 of the Revised Code and the 559  
decedent's death resulted from exposure to the product during the 560  
ten-year period described in division (D)(2)(a) of this section. 561

(ii) If division (D)(2)(f)(i) of this section applies 562  
regarding a civil action for wrongful death, the cause of action 563  
that is the basis of the action accrues upon the date on which the 564  
claimant is informed by competent medical authority that the 565  
decedent's death was related to the exposure to the product or 566  
upon the date on which by the exercise of reasonable diligence the 567  
claimant should have known that the decedent's death was related 568  
to the exposure to the product, whichever date occurs first. A 569  
civil action for wrongful death based on a cause of action 570  
described in division (D)(2)(f)(i) of this section shall be 571  
commenced within two years after the cause of action accrues and 572  
shall not be commenced more than two years after the cause of 573  
action accrues. 574

(g) Division (D)(2)(a) of this section does not bar a civil 575  
action for wrongful death based on a product liability claim 576  
against a manufacturer or supplier of a product if the product 577

involved is a substance or device described in division (B)(5) of 578  
section 2315.10 of the Revised Code. If division (D)(2)(g) of this 579  
section applies regarding a civil action for wrongful death, the 580  
cause of action that is the basis of the action accrues upon the 581  
date on which the claimant is informed by competent medical 582  
authority that the decedent's death was related to the exposure to 583  
the product or upon the date on which by the exercise of 584  
reasonable diligence the claimant should have known that the 585  
decedent's death was related to the exposure to the product, 586  
whichever date occurs first. A civil action for wrongful death 587  
based on a cause of action described in division (D)(2)(g) of this 588  
section shall be commenced within two years after the cause of 589  
action accrues and shall not be commenced more than two years 590  
after the cause of action accrues. 591

(E)(1) If the personal representative of a deceased minor has 592  
actual knowledge or reasonable cause to believe that the minor was 593  
abandoned by a parent seeking to benefit from ~~the~~ a civil action 594  
for wrongful death ~~action~~ or if any person listed in division 595  
(A)(1) of this section who is permitted to benefit ~~in~~ from a civil 596  
action for wrongful death ~~action~~ filed commenced in relation to a 597  
deceased minor has actual knowledge or reasonable cause to believe 598  
that the minor was abandoned by a parent seeking to benefit from 599  
the ~~wrongful death~~ action, the personal representative or the 600  
person may file a motion in the court in which the ~~wrongful death~~ 601  
action is ~~filed~~ commenced requesting the court to issue an order 602  
finding that the parent abandoned the ~~child~~ minor and is not 603  
entitled to recover damages in the ~~wrongful death~~ action based on 604  
the death of the ~~deceased~~ minor ~~child~~. 605

(2) The movant who files a motion described in division 606  
(E)(1) of this section shall name the parent who abandoned the 607  
~~child~~ deceased minor and, whether or not that parent is a resident 608  
of this state, the parent shall be served with a summons and a 609

copy of the motion in accordance with the Rules of Civil Procedure. Upon the filing of the motion, the court shall conduct a hearing. In the hearing on the motion, the movant has the burden of proving, by a preponderance of the evidence, that the parent abandoned the ~~deceased~~ minor ~~child~~. If, at the hearing, the court finds that the movant has sustained that burden of proof, the court shall issue an order that includes its ~~finding~~ findings that the parent abandoned the ~~deceased~~ minor ~~child~~ and that, because of the prohibition set forth in division (A)(1) of this section, the parent is not entitled to recover damages in the ~~wrongful-death~~ action based on the death of the ~~deceased~~ minor ~~child~~.

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

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

(G) As used in this section:

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

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

(b)(i) An insurance company that the superintendent of insurance, under rules adopted pursuant to Chapter 119. of the Revised Code for purposes of implementing this division, determines is licensed to do business in this state and,

considering the factors described in division ~~(F)~~(G)(1)(b)(ii) of 641  
this section, is a stable insurance company that issues annuities 642  
that are safe and desirable. 643

(ii) In making determinations as described in division 644  
~~(F)~~(G)(1)(b)(i) of this section, the superintendent shall be 645  
guided by the principle that the jury or court in ~~an~~ a civil 646  
action for wrongful death should be presented only with evidence 647  
as to the cost of annuities that are safe and desirable for the 648  
beneficiaries of ~~such an~~ the action who are awarded compensatory 649  
damages under this section. In making ~~such~~ the determinations, the 650  
superintendent shall consider the financial condition, general 651  
standing, operating results, profitability, leverage, liquidity, 652  
amount and soundness of reinsurance, adequacy of reserves, and the 653  
management of ~~any a particular~~ insurance company ~~in question~~ 654  
involved and also may consider ratings, grades, and 655  
classifications of any nationally recognized rating services of 656  
insurance companies and any other factors relevant to the making 657  
of ~~such~~ the determinations. 658

(2) "Future damages" means damages that result from the 659  
wrongful death and that will accrue after the verdict or 660  
determination of liability by the jury or court is rendered in the 661  
civil action for wrongful death. 662

(3) "Abandoned" means that a parent of a minor failed without 663  
justifiable cause to communicate with the minor, care for the 664  
minor, and provide for the maintenance or support of the minor as 665  
required by law or judicial decree for a period of at least one 666  
year immediately prior to the date of the death of the minor. 667

(4) "Minor" means a person who is less than eighteen years of 668  
age. 669

(5) "Harm" means death. 670

(6) "Manufacturer," "product," "product liability claim," and 671

"supplier" have the same meanings as in section 2307.71 of the 672  
Revised Code. 673

(H) Divisions (D) and (G)(5) to (G)(7) of this section shall 674  
be considered to be purely remedial in operation and shall be 675  
applied in a remedial manner in any civil action commenced on or 676  
after the effective date of this amendment, in which those 677  
divisions are relevant, regardless of when the cause of action 678  
accrued and notwithstanding any other section of the Revised Code 679  
or prior rule of law of this state, but shall not be construed to 680  
apply to any civil action pending prior to the effective date of 681  
this amendment. 682

**Sec. 2125.04.** In every civil action for wrongful death 683  
commenced or attempted to be commenced within the time specified 684  
by division (D)(1) or (D)(2)(c), (d), (e), or (f) of section 685  
2125.02 of the Revised Code, if a judgment for the plaintiff is 686  
reversed or ~~if~~ the plaintiff fails otherwise than upon the merits, 687  
and if the time limited by ~~such section~~ any of those divisions for 688  
the commencement of ~~such~~ the action has expired at the date of 689  
~~such~~ the reversal or failure, the plaintiff or, if the plaintiff 690  
dies and the cause of action survives, the personal representative 691  
of the plaintiff may commence a new civil action for wrongful 692  
death within one year after ~~such~~ that date, subject to division 693  
(B) of section 2125.01 of the Revised Code or division (D)(2) of 694  
section 2125.02 of the Revised Code. 695

**Sec. 2305.01.** The Except as otherwise provided by this 696  
section or section 2305.03 of the Revised Code, the court of 697  
common pleas has original jurisdiction in all civil cases in which 698  
the sum or matter in dispute exceeds the exclusive original 699  
jurisdiction of county courts and appellate jurisdiction from the 700  
decisions of boards of county commissioners. The court of common 701

pleas shall not have jurisdiction to award compensatory damages 702  
for noneconomic loss that exceed the amount set forth in section 703  
2323.43 of the Revised Code. The court of common pleas shall not 704  
have jurisdiction, in any tort action to which the amounts apply, 705  
to award punitive or exemplary damages that exceed the amounts set 706  
forth in section 2315.21 of the Revised Code. 707

The court of common pleas may on its own motion transfer for 708  
trial any action in the court to any municipal court in the county 709  
having concurrent jurisdiction of the subject matter of, and the 710  
parties to, the action, if the amount sought by the plaintiff does 711  
not exceed one thousand dollars and if the judge or presiding 712  
judge of the municipal court concurs in the proposed transfer. 713  
Upon the issuance of an order of transfer, the clerk of courts 714  
shall remove to the designated municipal court the entire case 715  
file. Any untaxed portion of the common pleas deposit for court 716  
costs shall be remitted to the municipal court by the clerk of 717  
courts to be applied in accordance with section 1901.26 of the 718  
Revised Code, and the costs taxed by the municipal court shall be 719  
added to any costs taxed in the common pleas court. 720

The court of common pleas has jurisdiction in any action 721  
brought pursuant to division (I) of section 3733.11 of the Revised 722  
Code if the residential premises that are the subject of the 723  
action are located within the territorial jurisdiction of the 724  
court. 725

The courts of common pleas of Adams, Athens, Belmont, Brown, 726  
Clermont, Columbiana, Gallia, Hamilton, Jefferson, Lawrence, 727  
Meigs, Monroe, Scioto, and Washington counties have jurisdiction 728  
beyond the north or northwest shore of the Ohio river extending to 729  
the opposite shore line, between the extended boundary lines of 730  
any adjacent counties or adjacent state. Each of those courts of 731  
common pleas has concurrent jurisdiction on the Ohio river with 732



any adjacent court of common pleas that borders on that river and 733  
with any court of Kentucky or of West Virginia that borders on the 734  
Ohio river and that has jurisdiction on the Ohio river under the 735  
law of Kentucky or the law of West Virginia, whichever is 736  
applicable, or under federal law. 737

**Sec. 2305.03.** ~~A civil action,~~ (A) Except as provided in 738  
division (B) of this section and unless a different limitation is 739  
prescribed by statute, ~~can a civil action may~~ be commenced only 740  
within the period prescribed in sections ~~2305.03~~ 2305.04 to 741  
2305.22, inclusive, of the Revised Code. ~~When~~ If interposed by 742  
proper plea by a party to an action mentioned in ~~such~~ any of those 743  
sections, lapse of time shall be a bar ~~thereto~~ to the action. 744

(B) No civil action that is based upon a cause of action that 745  
accrued in any other state, territory, district, or foreign 746  
jurisdiction may be commenced and maintained in this state if the 747  
period of limitation that applies to that action under the laws of 748  
that other state, territory, district, or foreign jurisdiction has 749  
expired or the period of limitation that applies to that action 750  
under the laws of this state has expired. 751

**Sec. 2305.10.** ~~An~~ (A) Except as provided in division (C) of 752  
this section, an action based on a product liability claim and an 753  
action for bodily injury or injuring personal property shall be 754  
brought within two years after the cause ~~thereof arose~~ of action 755  
accrues. Except as provided in divisions (B)(1), (2), (3), (4), 756  
and (5) of this section, a cause of action accrues under this 757  
division when the injury or loss to person or property occurs. 758

(B)(1) For purposes of division (A) of this section, a cause 759  
of action for bodily injury that is not described in division 760  
(B)(2), (3), (4), or (5) of this section and that is caused by 761  
exposure to hazardous or toxic chemicals, ethical drugs, or 762

ethical medical devices accrues upon the date on which the 763  
plaintiff is informed by competent medical authority that the 764  
plaintiff has an injury that is related to the exposure, or upon 765  
the date on which by the exercise of reasonable diligence the 766  
plaintiff should have known that the plaintiff has an injury that 767  
is related to the exposure, whichever date occurs first. 768

(2) For purposes of division (A) of this section, a cause of 769  
action for bodily injury caused by exposure to ~~asbestos or to~~ 770  
chromium in any of its chemical forms ~~arises~~ accrues upon the date 771  
on which the plaintiff is informed by competent medical authority 772  
that the plaintiff has ~~been injured by such an injury that is~~ 773  
related to the exposure, or upon the date on which, by the 774  
exercise of reasonable diligence, the plaintiff should have ~~become~~ 775  
aware known that the plaintiff ~~had been injured by~~ has an injury 776  
that is related to the exposure, whichever date occurs first. 777

(3) For purposes of division (A) of this section, a cause of 778  
action for bodily injury incurred by a veteran through exposure to 779  
chemical defoliants or herbicides or other causative agents, 780  
including agent orange, ~~arises~~ accrues upon the date on which the 781  
plaintiff is informed by competent medical authority that the 782  
plaintiff has ~~been injured by such an injury that is related to~~ 783  
the exposure, or upon the date on which by the exercise of 784  
reasonable diligence the plaintiff should have known that the 785  
plaintiff has an injury that is related to the exposure, whichever 786  
date occurs first. 787

~~As used in this section, "agent orange," "causative agent,"~~ 788  
~~and "veteran" have the same meanings as in section 5903.21 of the~~ 789  
~~Revised Code.~~ 790

(4) For purposes of division (A) of this section, a cause of 791  
action for bodily injury ~~which may be~~ caused by exposure to 792  
diethylstilbestrol or other nonsteroidal synthetic estrogens, 793

including exposure before birth, accrues upon the date on which 794  
the plaintiff ~~learns from a licensed physician~~ is informed by 795  
competent medical authority that the plaintiff has an injury ~~which~~ 796  
~~may be~~ that is related to ~~such~~ the exposure, or upon the date on 797  
which by the exercise of reasonable diligence the plaintiff should 798  
have ~~become aware~~ known that the plaintiff has an injury ~~which may~~ 799  
~~be~~ that is related to ~~such~~ the exposure, whichever date occurs 800  
first. 801

(5) For purposes of division (A) of this section, a cause of 802  
action for bodily injury caused by exposure to asbestos accrues 803  
upon the date on which the plaintiff is informed by competent 804  
medical authority that the plaintiff has an injury that is related 805  
to the exposure, or upon the date on which by the exercise of 806  
reasonable diligence the plaintiff should have known that the 807  
plaintiff has an injury that is related to the exposure, whichever 808  
date occurs first. 809

(C)(1) Except as otherwise provided in divisions (C)(2), (3), 810  
(4), (5), (6), and (7) of this section, no cause of action based 811  
on a product liability claim shall accrue against the manufacturer 812  
or supplier of a product later than ten years from the date that 813  
the product was delivered to its first purchaser or first lessee 814  
who was not engaged in a business in which the product was used as 815  
a component in the production, construction, creation, assembly, 816  
or rebuilding of another product. 817

(2) Division (C)(1) of this section does not apply if the 818  
manufacturer or supplier of a product engaged in fraud in regard 819  
to information about the product and the fraud contributed to the 820  
harm that is alleged in a product liability claim involving that 821  
product. 822

(3) Division (C)(1) of this section does not bar an action 823  
based on a product liability claim against a manufacturer or 824  
supplier of a product who made an express, written warranty as to 825

the safety of the product that was for a period longer than ten 826  
years and that, at the time of the accrual of the cause of action, 827  
has not expired in accordance with the terms of that warranty. 828

(4) If the cause of action relative to a product liability 829  
claim accrues during the ten-year period described in division 830  
(C)(1) of this section but less than two years prior to the 831  
expiration of that period, an action based on the product 832  
liability claim may be commenced within two years after the cause 833  
of action accrues. 834

(5) If a cause of action relative to a product liability 835  
claim accrues during the ten-year period described in division 836  
(C)(1) of this section and the claimant cannot commence an action 837  
during that period due to a disability described in section 838  
2305.16 of the Revised Code, an action based on the product 839  
liability claim may be commenced within two years after the 840  
disability is removed. 841

(6) Division (C)(1) of this section does not bar an action 842  
for bodily injury caused by exposure to asbestos if the cause of 843  
action that is the basis of the action accrues upon the date on 844  
which the plaintiff is informed by competent medical authority 845  
that the plaintiff has an injury that is related to the exposure, 846  
or upon the date on which by the exercise of reasonable diligence 847  
the plaintiff should have known that the plaintiff has an injury 848  
that is related to the exposure, whichever date occurs first. 849

(7)(a) Division (C)(1) of this section does not bar an action 850  
based on a product liability claim against a manufacturer or 851  
supplier of a product if all of the following apply: 852

(i) The action is for bodily injury. 853

(ii) The product involved is a substance or device described 854  
in division (B)(1), (2), (3), or (4) of this section. 855

(iii) The bodily injury results from exposure to the product during the ten-year period described in division (C)(1) of this section. 856  
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(b) If division (C)(7)(a) of this section applies regarding an action, the cause of action accrues upon the date on which the claimant is informed by competent medical authority that the bodily injury was related to the exposure to the product, or upon the date on which by the exercise of reasonable diligence the claimant should have known that the bodily injury was related to the exposure to the product, whichever date occurs first. The action based on the product liability claim shall be commenced within two years after the cause of action accrues and shall not be commenced more than two years after the cause of action accrues. 859  
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(D) This section does not create a new cause of action or substantive legal right against any person involving a product liability claim. 870  
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(E) As used in this section: 873

(1) "Agent orange," "causative agent," and "veteran" have the same meanings as in section 5903.21 of the Revised Code. 874  
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(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. 876  
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(3) "Harm" means injury, death, or loss to person or property. 879  
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(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 881  
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Revised Code or prior rule of law of this state, but shall not be 886  
construed to apply to any civil action pending prior to the 887  
effective date of this amendment. 888

Sec. 2305.131. (A)(1) Notwithstanding an otherwise applicable 889  
period of limitations specified in this chapter or in section 890  
2125.02 of the Revised Code and except as otherwise provided in 891  
divisions (A)(2), (A)(3), (C), and (D) of this section, no cause 892  
of action to recover damages for bodily injury, an injury to real 893  
or personal property, or wrongful death that arises out of a 894  
defective and unsafe condition of an improvement to real property 895  
and no cause of action for contribution or indemnity for damages 896  
sustained as a result of bodily injury, an injury to real or 897  
personal property, or wrongful death that arises out of a 898  
defective and unsafe condition of an improvement to real property 899  
shall accrue against a person who performed services for the 900  
improvement to real property or a person who furnished the design, 901  
planning, supervision of construction, or construction of the 902  
improvement to real property later than ten years from the date of 903  
the performance of the services or the furnishing of the design, 904  
planning, supervision of construction, or construction. 905

(2) Notwithstanding an otherwise applicable period of 906  
limitations specified in this chapter or in section 2125.02 of the 907  
Revised Code, a claimant who discovers a defective and unsafe 908  
condition of an improvement to real property during the ten-year 909  
period specified in division (A)(1) of this section but less than 910  
two years prior to the expiration of that period may commence a 911  
civil action to recover damages as described in that division 912  
within two years from the date of the discovery of that defective 913  
and unsafe condition. 914

(3) Notwithstanding an otherwise applicable period of 915  
limitations specified in this chapter or in section 2125.02 of the 916

Revised Code, if a cause of action that arises out of a defective 917  
and unsafe condition of an improvement to real property accrues 918  
during the ten-year period specified in division (A)(1) of this 919  
section and the plaintiff cannot commence an action during that 920  
period due to a disability described in section 2305.16 of the 921  
Revised Code, the plaintiff may commence a civil action to recover 922  
damages as described in that division within two years from the 923  
removal of that disability. 924

(B) Division (A) of this section does not apply to a civil 925  
action commenced against a person who is an owner of, tenant of, 926  
landlord of, or other person in possession and control of an 927  
improvement to real property and who is in actual possession and 928  
control of the improvement to real property at the time that the 929  
defective and unsafe condition of the improvement to real property 930  
constitutes the proximate cause of the bodily injury, injury to 931  
real or personal property, or wrongful death that is the subject 932  
matter of the civil action. 933

(C) Division (A)(1) of this section is not available as an 934  
affirmative defense to a defendant in a civil action described in 935  
that division if the defendant engages in fraud in regard to 936  
furnishing the design, planning, supervision of construction, or 937  
construction of an improvement to real property or in regard to 938  
any relevant fact or other information that pertains to the act or 939  
omission constituting the alleged basis of the bodily injury, 940  
injury to real or personal property, or wrongful death or to the 941  
defective and unsafe condition of the improvement to real 942  
property. 943

(D) Division (A)(1) of this section does not prohibit the 944  
commencement of a civil action for damages against a person who 945  
has expressly warranted or guaranteed an improvement to real 946  
property for a period longer than the period described in division 947  
(A)(1) of this section and whose warranty or guarantee has not 948

expired as of the time of the alleged bodily injury, injury to 949  
real or personal property, or wrongful death in accordance with 950  
the terms of that warranty or guarantee. 951

(E) This section does not create a new cause of action or 952  
substantive legal right against any person resulting from the 953  
design, planning, supervision of construction, or construction of 954  
an improvement to real property. 955

(F) This section shall be considered to be purely remedial in 956  
operation and shall be applied in a remedial manner in any civil 957  
action commenced on or after the effective date of this section, 958  
in which this section is relevant, regardless of when the cause of 959  
action accrued and notwithstanding any other section of the 960  
Revised Code or prior rule of law of this state, but shall not be 961  
construed to apply to any civil action pending prior to the 962  
effective date of this section. 963

**Sec. 2305.25.** As used in this section and sections 2305.251 964  
to 2305.253 of the Revised Code: 965

(A)(1) "Health care entity" means an entity, whether acting 966  
on its own behalf or on behalf of or in affiliation with other 967  
health care entities, that conducts as part of its regular 968  
business activities professional credentialing or quality review 969  
activities involving the competence of, professional conduct of, 970  
or quality of care provided by health care providers, including 971  
both individuals who provide health care and entities that provide 972  
health care. 973

(2) "Health care entity" includes any entity described in 974  
division (A)(1) of this section, regardless of whether it is a 975  
government entity; for-profit or nonprofit corporation; limited 976  
liability company; partnership; professional corporation; state or 977  
local society composed of physicians, dentists, optometrists, 978



psychologists, or pharmacists; or other health care organization.	979
(B) "Health insuring corporation" means an entity that holds	980
a certificate of authority under Chapter 1751. of the Revised	981
Code. "Health insuring corporation" includes wholly owned	982
subsidiaries of a health insuring corporation.	983
(C) "Hospital" means either of the following:	984
(1) An institution that has been registered or licensed by	985
the department of health as a hospital;	986
(2) An entity, other than an insurance company authorized to	987
do business in this state, that owns, controls, or is affiliated	988
with an institution that has been registered or licensed by the	989
department of health as a hospital.	990
(D) "Incident report or risk management report" means a	991
report of an incident involving injury or potential injury to a	992
patient as a result of patient care provided by health care	993
providers, including both individuals who provide health care and	994
entities that provide health care, that is prepared by or for the	995
use of a peer review committee of a health care entity and is	996
within the scope of the functions of that committee.	997
(E)(1) "Peer review committee" means a utilization review	998
committee, quality assessment committee, performance improvement	999
committee, tissue committee, credentialing committee, or other	1000
committee that does either of the following:	1001
(a) Conducts professional credentialing or quality review	1002
activities involving the competence of, professional conduct of,	1003
or quality of care provided by health care providers, including	1004
both individuals who provide health care and entities that provide	1005
health care;	1006
(b) Conducts any other attendant hearing process initiated as	1007
a result of a peer review committee's recommendations or actions.	1008

(2) "Peer review committee" includes all of the following:	1009
(a) A peer review committee of a hospital or long-term care facility or a peer review committee of a nonprofit health care corporation that is a member of the hospital or long-term care facility or of which the hospital or facility is a member;	1010 1011 1012 1013
(b) A peer review committee of a community mental health center;	1014 1015
(c) A board or committee of a hospital, a long-term care facility, or other health care entity when reviewing professional qualifications or activities of health care providers, including both individuals who provide health care and entities that provide health care;	1016 1017 1018 1019 1020
(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;	1021 1022 1023 1024
(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;	1025 1026 1027 1028 1029 1030
(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;	1031 1032 1033 1034 1035 1036 1037 1038

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

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

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

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

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

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

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

for a breach of contract or another agreement between persons. 1070

**Sec. 2307.011.** As used in Chapters 2307. and 2315. of the 1071  
Revised Code: 1072

(A) "Conduct" means actions or omissions. 1073

(B) "Contributory fault" means contributory negligence, other 1074  
contributory tortious conduct, ~~comparative negligence~~, or, except 1075  
as provided with respect to product liability claims in section 1076  
2307.711 of the Revised Code, express or implied assumption of the 1077  
risk. 1078

(C) "Economic loss" means any of the following types of 1079  
pecuniary harm: 1080

(1) All wages, salaries, or other compensation lost as a 1081  
result of an injury, death, or loss to person or property that is 1082  
a subject of a tort action, including wages, salaries, or other 1083  
compensation lost as of the date of a judgment and future expected 1084  
lost earnings; 1085

(2) All expenditures for medical care or treatment, 1086  
rehabilitation services, or other care, treatment, services, 1087  
products, or accommodations incurred as a result of an injury, 1088  
death, or loss to person that is a subject of a tort action, 1089  
including expenditures for those purposes that were incurred as of 1090  
the date of a judgment and expenditures for those purposes that, 1091  
in the determination of the trier of fact, will be incurred in the 1092  
future because of the injury, whether paid by the injured person 1093  
or by another person on behalf of the injured person; 1094

(3) All expenditures of a person whose property was injured 1095  
or destroyed or of another person on behalf of the person whose 1096  
property was injured or destroyed in order to repair or replace 1097  
the property; 1098

(4) Any other expenditures incurred as a result of an injury, 1099

death, or loss to person or property that is a subject of a tort 1100  
action, except expenditures of the injured person, the person 1101  
whose property was injured or destroyed, or another person on 1102  
behalf of the injured person or the person whose property was 1103  
injured or destroyed in relation to the actual preparation or 1104  
presentation of the claim involved. 1105

(D) "Intentional tort claim" means a claim alleging that a 1106  
tortfeasor intentionally caused or intentionally contributed to 1107  
the injury or loss to person or property or the wrongful death or 1108  
that a tortfeasor knew or believed that the injury or loss to 1109  
person or property or the wrongful death was substantially certain 1110  
to result from the tortfeasor's conduct. As used in sections 1111  
2307.22, 2307.711, and 2315.32, ~~and 2315.42~~ of the Revised Code, 1112  
"intentional tort claim" does not include an intentional tort 1113  
claim alleged by an employee or the employee's legal 1114  
representative against the employee's employer and that arises 1115  
from the tortfeasor's conduct that occurs on premises owned, 1116  
leased, or supervised by the employer. 1117

~~(E) "Negligence claim" means a civil action for damages for 1118  
injury, death, or loss to person or property to the extent that 1119  
the damages are sought or recovered based on allegation or proof 1120  
of negligence. 1121~~

~~(F)~~ "Noneconomic loss" means nonpecuniary harm that results 1122  
from an injury, death, or loss to person that is a subject of a 1123  
tort action, including, but not limited to, pain and suffering; 1124  
loss of society, consortium, companionship, care, assistance, 1125  
attention, protection, advice, guidance, counsel, instruction, 1126  
training, or education; mental anguish; and any other intangible 1127  
loss. 1128

~~(G)~~(F) "Person" has the same meaning as in division (C) of 1129  
section 1.59 of the Revised Code and additionally includes a 1130  
political subdivision and the state. 1131

~~(H)~~(G) "Persons from whom the plaintiff does not seek 1132  
recovery in this action" includes, but is not limited to, the 1133  
following: 1134

(1) Persons who have entered into a settlement agreement with 1135  
the plaintiff; 1136

(2) Persons whom the plaintiff has dismissed from the tort 1137  
action without prejudice; 1138

(3) Persons whom the plaintiff has dismissed from the tort 1139  
action with prejudice; 1140

(4) Persons who are not a party to the tort action whether or 1141  
not that person was or could have been a party to the tort action 1142  
if the name of the person has been disclosed prior to trial. 1143

~~(I)~~(H) "Plaintiff" includes the person for whom the plaintiff 1144  
is legal representative. 1145

~~(J)~~(I) "Political subdivision" and "state" have the same 1146  
meanings as in section 2744.01 of the Revised Code. 1147

~~(K)~~(J) "Tort action" means a civil action for damages for 1148  
injury, death, or loss to person or property. "Tort action" 1149  
includes a product liability claim, as defined in section 2307.71 1150  
of the Revised Code, but does not include a civil action for 1151  
damages for a breach of contract or another agreement between 1152  
persons. 1153

~~(L)~~(K) "Trier of fact" means the jury or, in a nonjury 1154  
action, the court. 1155

**Sec. 2307.23.** (A) In determining the percentage of tortious 1156  
conduct attributable to a party in a tort action under section 1157  
2307.22, or sections 2315.32 to 2315.36, ~~or sections 2315.41 to~~ 1158  
~~2315.46~~ of the Revised Code, the court in a nonjury action shall 1159  
make findings of fact, and the jury in a jury action shall return 1160

a general verdict accompanied by answers to interrogatories, that 1161  
shall specify all of the following: 1162

(1) The percentage of tortious conduct that proximately 1163  
caused the injury or loss to person or property or the wrongful 1164  
death that is attributable to the plaintiff and to each party to 1165  
the tort action from whom the plaintiff seeks recovery in this 1166  
action; 1167

(2) The percentage of tortious conduct that proximately 1168  
caused the injury or loss to person or property or the wrongful 1169  
death that is attributable to each person from whom the plaintiff 1170  
does not seek recovery in this action. 1171

(B) The sum of the percentages of tortious conduct as 1172  
determined pursuant to division (A) of this section shall equal 1173  
one hundred per cent. 1174

(C) For purposes of division (A)(2) of this section, it is an 1175  
affirmative defense for each party to the tort action from whom 1176  
the plaintiff seeks recovery in this action that a specific 1177  
percentage of the tortious conduct that proximately caused the 1178  
injury or loss to person or property or the wrongful death is 1179  
attributable to one or more persons from whom the plaintiff does 1180  
not seek recovery in this action. Any party to the tort action 1181  
from whom the plaintiff seeks recovery in this action may raise an 1182  
affirmative defense under this division at any time before the 1183  
trial of the action. 1184

**Sec. 2307.29.** No provision of sections 2307.25 to 2307.28 of 1185  
the Revised Code applies to a ~~negligence or other~~ tort claim to 1186  
the extent that sections 2307.22 to 2307.24, or sections 2315.32 1187  
to 2315.36, ~~or sections 2315.41 to 2315.46~~ of the Revised Code 1188  
make a party against whom a judgment is entered liable to the 1189  
plaintiff only for the proportionate share of that party as 1190

described in those sections. 1191

**Sec. 2307.60.** (A) Anyone injured in person or property by a 1192  
criminal act has, and may recover full damages in, a civil action 1193  
unless specifically excepted by law, may recover the costs of 1194  
maintaining the civil action and attorney's fees if authorized by 1195  
any provision of the Rules of Civil Procedure or another section 1196  
of the Revised Code or under the common law of this state, and may 1197  
recover punitive or exemplary damages if authorized by section 1198  
2315.21 or another section of the Revised Code. No record of a 1199  
conviction, unless obtained by confession in open court, shall be 1200  
used as evidence in a civil action brought pursuant to division 1201  
(A) of this section. 1202

(B)(1) As used in division (B) of this section, "tort action" 1203  
means a civil action for damages for injury, death, or loss to 1204  
person or property other than a civil action for damages for a 1205  
breach of contract or another agreement between persons. "Tort 1206  
action" includes, but is not limited to, a product liability 1207  
claim, as defined in section 2307.71 of the Revised Code, an 1208  
action for wrongful death under Chapter 2125. of the Revised Code, 1209  
and an action based on derivative claims for relief. 1210

(2) Recovery on a claim for relief in a tort action is barred 1211  
to any person or the person's legal representative if the person 1212  
has been convicted of or has pleaded guilty to a felony, or to a 1213  
misdemeanor that is an offense of violence, arising out of 1214  
criminal conduct that was a proximate cause of the injury or loss 1215  
for which relief is claimed in the action. 1216

(3) Division (B) of this section does not apply to civil 1217  
claims based upon alleged intentionally tortious conduct, alleged 1218  
violations of the United States Constitution, or alleged 1219  
violations of statutes of the United States pertaining to civil 1220



rights. 1221

**Sec. 2307.71.** (A) As used in sections 2307.71 to 2307.80 of 1222  
the Revised Code: 1223

~~(A)~~(1) "Claimant" means either of the following: 1224

~~(1)~~(a) A person who asserts a product liability claim or on 1225  
whose behalf such a claim is asserted; 1226

~~(2)~~(b) If a product liability claim is asserted on behalf of 1227  
the surviving spouse, children, parents, or other next of kin of a 1228  
decedent or on behalf of the estate of a decedent, whether as a 1229  
claim in a wrongful death action under Chapter 2125. of the 1230  
Revised Code or as a survivorship claim, whichever of the 1231  
following is appropriate: 1232

~~(a)~~(i) The decedent, if the reference is to the person who 1233  
allegedly sustained harm or economic loss for which, or in 1234  
connection with which, compensatory damages or punitive or 1235  
exemplary damages are sought to be recovered; 1236

~~(b)~~(ii) The personal representative of the decedent or the 1237  
estate of the decedent, if the reference is to the person who is 1238  
asserting or has asserted the product liability claim. 1239

~~(B)~~(2) "Economic loss" means direct, incidental, or 1240  
consequential pecuniary loss, including, but not limited to, 1241  
damage to the product in question, and nonphysical damage to 1242  
property other than that product. Harm is not "economic loss." 1243

~~(C)~~(3) "Environment" means navigable waters, surface water, 1244  
ground water, drinking water supplies, land surface, subsurface 1245  
strata, and air. 1246

~~(D)~~(4) "Ethical drug" means a prescription drug that is 1247  
prescribed or dispensed by a physician or any other person who is 1248  
legally authorized to prescribe or dispense a prescription drug. 1249

~~(E)~~(5) "Ethical medical device" means a medical device that 1250  
is prescribed, dispensed, or implanted by a physician or any other 1251  
person who is legally authorized to prescribe, dispense, or 1252  
implant a medical device and that is regulated under the "Federal 1253  
Food, Drug, and Cosmetic Act," 52 Stat. 1040, 21 U.S.C. 301-392, 1254  
as amended. 1255

~~(F)~~(6) "Foreseeable risk" means a risk of harm that satisfies 1256  
both of the following: 1257

~~(1)~~(a) It is associated with an intended or reasonably 1258  
foreseeable use, modification, or alteration of a product in 1259  
question. 1260

~~(2)~~(b) It is a risk that the manufacturer in question should 1261  
recognize while exercising both of the following: 1262

~~(a)~~(i) The attention, perception, memory, knowledge, and 1263  
intelligence that a reasonable manufacturer should possess; 1264

~~(b)~~(ii) Any superior attention, perception, memory, 1265  
knowledge, or intelligence that the manufacturer in question 1266  
possesses. 1267

~~(G)~~(7) "Harm" means death, physical injury to person, serious 1268  
emotional distress, or physical damage to property other than the 1269  
product in question. Economic loss is not "harm." 1270

~~(H)~~(8) "Hazardous or toxic substances" include, but are not 1271  
limited to, hazardous waste as defined in section 3734.01 of the 1272  
Revised Code, hazardous waste as specified in the rules of the 1273  
director of environmental protection pursuant to division (A) of 1274  
section 3734.12 of the Revised Code, hazardous substances as 1275  
defined in section 3716.01 of the Revised Code, and hazardous 1276  
substances, pollutants, and contaminants as defined in or by 1277  
regulations adopted pursuant to the "Comprehensive Environmental 1278  
Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 1279

42 U.S.C. 9601, as amended. 1280

~~(I)~~(9) "Manufacturer" means a person engaged in a business to 1281  
design, formulate, produce, create, make, construct, assemble, or 1282  
rebuild a product or a component of a product. 1283

~~(J)~~(10) "Person" has the same meaning as in division (C) of 1284  
section 1.59 of the Revised Code and also includes governmental 1285  
entities. 1286

~~(K)~~(11) "Physician" means a person who is licensed to 1287  
practice medicine and surgery or osteopathic medicine and surgery 1288  
by the state medical board. 1289

~~(L)~~(1)(12)(a) "Product" means, subject to division 1290  
~~(L)~~(2)(A)(12)(b) of this section, any object, substance, mixture, 1291  
or raw material that constitutes tangible personal property and 1292  
that satisfies all of the following: 1293

~~(a)~~(i) It is capable of delivery itself, or as an assembled 1294  
whole in a mixed or combined state, or as a component or 1295  
ingredient~~+~~. 1296

~~(b)~~(ii) It is produced, manufactured, or supplied for 1297  
introduction into trade or commerce~~+~~. 1298

~~(c)~~(iii) It is intended for sale or lease to persons for 1299  
commercial or personal use. 1300

~~(2)~~(b) "Product" does not include human tissue, blood, or 1301  
organs. 1302

~~(M)~~(13) "Product liability claim" means a claim that is 1303  
asserted in a civil action pursuant to sections 2307.71 to 2307.80 1304  
of the Revised Code and that seeks to recover compensatory damages 1305  
from a manufacturer or supplier for death, physical injury to 1306  
person, emotional distress, or physical damage to property other 1307  
than the product in question, that allegedly arose from any of the 1308  
following: 1309

<del>(1)</del> <u>(a)</u> The design, formulation, production, construction,	1310
creation, assembly, rebuilding, testing, or marketing of that	1311
product;	1312
<del>(2)</del> <u>(b)</u> Any warning or instruction, or lack of warning or	1313
instruction, associated with that product;	1314
<del>(3)</del> <u>(c)</u> Any failure of that product to conform to any relevant	1315
representation or warranty.	1316
<del>(N)</del> <u>(14)</u> "Representation" means an express representation of a	1317
material fact concerning the character, quality, or safety of a	1318
product.	1319
<del>(0)</del> <del>(1)</del> <u>(15)(a)</u> "Supplier" means, subject to division	1320
<del>(0)</del> <del>(2)</del> <u>(A)(15)(b)</u> of this section, either of the following:	1321
<del>(a)</del> <u>(i)</u> A person that, in the course of a business conducted	1322
for the purpose, sells, distributes, leases, prepares, blends,	1323
packages, labels, or otherwise participates in the placing of a	1324
product in the stream of commerce;	1325
<del>(b)</del> <u>(ii)</u> A person that, in the course of a business conducted	1326
for the purpose, installs, repairs, or maintains any aspect of a	1327
product that allegedly causes harm.	1328
<del>(2)</del> <u>(b)</u> "Supplier" does not include any of the following:	1329
<del>(a)</del> <u>(i)</u> A manufacturer;	1330
<del>(b)</del> <u>(ii)</u> A seller of real property;	1331
<del>(c)</del> <u>(iii)</u> A provider of professional services who, incidental	1332
to a professional transaction the essence of which is the	1333
furnishing of judgment, skill, or services, sells or uses a	1334
product;	1335
<del>(d)</del> <u>(iv)</u> Any person who acts only in a financial capacity with	1336
respect to the sale of a product, or who leases a product under a	1337
lease arrangement in which the selection, possession, maintenance,	1338

and operation of the product are controlled by a person other than 1339  
the lessor. 1340

~~(P)~~(16) "Unavoidably unsafe" means that, in the state of 1341  
technical, scientific, and medical knowledge at the time a product 1342  
in question left the control of its manufacturer, an aspect of 1343  
that product was incapable of being made safe. 1344

(B) Sections 2307.71 to 2307.80 of the Revised Code are 1345  
intended to abrogate all common law product liability causes of 1346  
action. 1347

**Sec. 2307.711.** (A) Subject to divisions (B)(1), (2), and (3) 1348  
of this section, sections 2315.32 to 2315.36 of the Revised Code 1349  
apply to a product liability claim that is asserted pursuant to 1350  
sections 2307.71 to 2307.80 of the Revised Code. 1351

(B)(1) Express or implied assumption of the risk may be 1352  
asserted as an affirmative defense to a product liability claim 1353  
under sections 2307.71 to 2307.80 of the Revised Code, except that 1354  
express or implied assumption of the risk may not be asserted as 1355  
an affirmative defense to an intentional tort claim. 1356

(2) Subject to division (B)(3) of this section, if express or 1357  
implied assumption of the risk is asserted as an affirmative 1358  
defense to a product liability claim under sections 2307.71 to 1359  
2307.80 of the Revised Code and if it is determined that the 1360  
claimant expressly or impliedly assumed a risk and that the 1361  
express or implied assumption of the risk was a direct and 1362  
proximate cause of harm for which the claimant seeks to recover 1363  
damages, the express or implied assumption of the risk is a 1364  
complete bar to the recovery of those damages. 1365

(3) If implied assumption of the risk is asserted as an 1366  
affirmative defense to a product liability claim against a 1367  
supplier under division (A)(1) of section 2307.78 of the Revised 1368

Code, sections 2315.32 to 2315.36 of the Revised Code are 1369  
applicable to that affirmative defense and shall be used to 1370  
determine whether the claimant is entitled to recover compensatory 1371  
damages based on that claim and the amount of any recoverable 1372  
compensatory damages. 1373

**Sec. 2307.75.** (A) Subject to divisions (D), (E), and (F) of 1374  
this section, a product is defective in design or formulation if 1375  
~~either of the following applies:~~ 1376

~~(1) When, at the time it left the control of its~~ 1377  
manufacturer, the foreseeable risks associated with its design or 1378  
formulation as determined pursuant to division (B) of this section 1379  
exceeded the benefits associated with that design or formulation 1380  
as determined pursuant to division (C) of this section: 1381

~~(2) It is more dangerous than an ordinary consumer would~~ 1382  
~~expect when used in an intended or reasonably foreseeable manner.~~ 1383

(B) The foreseeable risks associated with the design or 1384  
formulation of a product shall be determined by considering 1385  
factors including, but not limited to, the following: 1386

(1) The nature and magnitude of the risks of harm associated 1387  
with that design or formulation in light of the intended and 1388  
reasonably foreseeable uses, modifications, or alterations of the 1389  
product; 1390

(2) The likely awareness of product users, whether based on 1391  
warnings, general knowledge, or otherwise, of those risks of harm; 1392

(3) The likelihood that that design or formulation would 1393  
cause harm in light of the intended and reasonably foreseeable 1394  
uses, modifications, or alterations of the product; 1395

(4) The extent to which that design or formulation conformed 1396  
to any applicable public or private product standard that was in 1397  
effect when the product left the control of its manufacturer. 1398

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

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

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

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

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

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

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

introducing the product into trade or commerce. 1430

**Sec. 2307.80.** (A) Subject to ~~division~~ divisions (C) and (D) 1431  
of this section, punitive or exemplary damages shall not be 1432  
awarded against a manufacturer or supplier in question in 1433  
connection with a product liability claim unless the claimant 1434  
establishes, by clear and convincing evidence, that harm for which 1435  
the claimant is entitled to recover compensatory damages in 1436  
accordance with section 2307.73 or 2307.78 of the Revised Code was 1437  
the result of misconduct of the manufacturer or supplier in 1438  
question that manifested a flagrant disregard of the safety of 1439  
persons who might be harmed by the product in question. The fact 1440  
by itself that a product is defective does not establish a 1441  
flagrant disregard of the safety of persons who might be harmed by 1442  
that product. 1443

(B) Whether the trier of fact is a jury or the court, if the 1444  
trier of fact determines that a manufacturer or supplier in 1445  
question is liable for punitive or exemplary damages in connection 1446  
with a product liability claim, the amount of those damages shall 1447  
be determined by the court. In determining the amount of punitive 1448  
or exemplary damages, the court shall consider factors including, 1449  
but not limited to, the following: 1450

(1) The likelihood that serious harm would arise from the 1451  
misconduct of the manufacturer or supplier in question; 1452

(2) The degree of the awareness of the manufacturer or 1453  
supplier in question of that likelihood; 1454

(3) The profitability of the misconduct to the manufacturer 1455  
or supplier in question; 1456

(4) The duration of the misconduct and any concealment of it 1457  
by the manufacturer or supplier in question; 1458

(5) The attitude and conduct of the manufacturer or supplier 1459



in question upon the discovery of the misconduct and whether the 1460  
misconduct has terminated; 1461

(6) The financial condition of the manufacturer or supplier 1462  
in question; 1463

(7) The total effect of other punishment imposed or likely to 1464  
be imposed upon the manufacturer or supplier in question as a 1465  
result of the misconduct, including awards of punitive or 1466  
exemplary damages to persons similarly situated to the claimant 1467  
and the severity of criminal penalties to which the manufacturer 1468  
or supplier in question has been or is likely to be subjected. 1469

(C) ~~If~~ (1) Except as provided in division (C)(2) of this 1470  
section, if a claimant alleges in a product liability claim that a 1471  
drug or device caused harm to the claimant, the manufacturer of 1472  
the drug or device shall not be liable for punitive or exemplary 1473  
damages in connection with that product liability claim if the 1474  
drug or device that allegedly caused the harm satisfies either of 1475  
the following: 1476

(a) It was manufactured and labeled in relevant and material 1477  
respects in accordance with the terms of an approval or license 1478  
issued by the federal food and drug administration under the 1479  
"Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 1480  
U.S.C. 301-392, as amended, or the "Public Health Service Act," 58 1481  
Stat. 682 (1944), 42 U.S.C. 201-300cc-15, as amended, ~~unless it is~~ 1482  
established. 1483

(b) It was an over-the-counter drug marketed pursuant to 1484  
federal regulations, was generally recognized as safe and 1485  
effective and as not being misbranded pursuant to the applicable 1486  
federal regulations, and satisfied in relevant and material 1487  
respects each of the conditions contained in the applicable 1488  
regulations and each of the conditions contained in an applicable 1489  
monograph. 1490

(2) Division (C)(1) of this section does not apply if the 1491  
claimant establishes, by a preponderance of the evidence, that the 1492  
manufacturer fraudulently and in violation of applicable 1493  
regulations of the food and drug administration withheld from the 1494  
food and drug administration information known to be material and 1495  
relevant to the harm that the claimant allegedly suffered or 1496  
misrepresented to the food and drug administration information of 1497  
that type. For 1498

(3) For purposes of this division, "drug divisions (C) and 1499  
(D) of this section: 1500

(a) "Drug" has the same meaning given to that term as in the 1501  
"Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040, 1041 1502  
(1938), 21 U.S.C. 321(g)(1), as amended. 1503

(b) "Federal regulations" means regulations of the United 1504  
States food and drug administration that are adopted pursuant to 1505  
the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 1506  
21 U.S.C. 301-392, as amended, and that are set forth in Parts 1507  
300, 400, 600, 800, and 1000 of Chapter I of Title 21 of the Code 1508  
of Federal Regulations, 21 C.F.R. 300, 400, 600, 800, and 1000, as 1509  
amended. 1510

(c) "Device" has the same meaning as in the "Federal Food, 1511  
Drug, and Cosmetic Act," 52 Stat. 1040, 1041 (1938), 21 U.S.C. 1512  
321(h), as amended. 1513

(D) If a claimant alleges in a product liability claim that a 1514  
product other than a drug or device caused harm to the claimant, 1515  
the manufacturer or supplier of the product shall not be liable 1516  
for punitive or exemplary damages in connection with the claim if 1517  
the manufacturer or supplier fully complied with all applicable 1518  
government standards relative to the product's manufacture or 1519  
construction, the product's design or formulation, adequate 1520  
warnings or instructions, and representations when the product 1521

left the control of the manufacturer or supplier. 1522

(E) The bifurcated trial provisions of division (B) of 1523  
section 2315.21 of the Revised Code, the ceiling on recoverable 1524  
punitive or exemplary damages specified in division (D)(1) of that 1525  
section, and the provisions of division (D)(3) of that section 1526  
apply to awards of punitive or exemplary damages under this 1527  
section. 1528

**Sec. 2307.91.** As used in sections 2307.91 to 2307.95 of the 1529  
Revised Code: 1530

(A) "AMA guides to the evaluation of permanent impairment" 1531  
means the American medical association's guides to the evaluation 1532  
of permanent impairment (fifth edition 2000) as may be modified by 1533  
the American medical association. 1534

(B) "Asbestos" means chrysotile, amosite, crocidolite, 1535  
tremolite asbestos, anthophyllite asbestos, actinolite asbestos, 1536  
and any of these minerals that have been chemically treated or 1537  
altered. 1538

(C) "Asbestos claim" means any claim for damages, losses, 1539  
indemnification, contribution, or other relief arising out of, 1540  
based on, or in any way related to asbestos. "Asbestos claim" 1541  
includes a claim made by or on behalf of any person who has been 1542  
exposed to asbestos, or any representative, spouse, parent, child, 1543  
or other relative of that person, for injury, including mental or 1544  
emotional injury, death, or loss to person, risk of disease or 1545  
other injury, costs of medical monitoring or surveillance, or any 1546  
other effects on the person's health that are caused by the 1547  
person's exposure to asbestos. 1548

(D) "Asbestosis" means bilateral diffuse interstitial 1549  
fibrosis of the lungs caused by inhalation of asbestos fibers. 1550

(E) "Board-certified internist" means a medical doctor who is 1551

currently certified by the American board of internal medicine. 1552

(F) "Board-certified oncologist" means a medical doctor who 1553  
is currently certified by the American board of internal medicine 1554  
in the subspecialty of medical oncology. 1555

(G) "Board-certified pathologist" means a medical doctor who 1556  
is currently certified by the American board of pathology. 1557

(H) "Board-certified pulmonary specialist" means a medical 1558  
doctor who is currently certified by the American board of 1559  
internal medicine in the subspecialty of pulmonary medicine. 1560

(I) "Certified B-reader" means an individual qualified as a 1561  
"final" or "B-reader" as defined in 42 C.F.R. section 37.51(b), as 1562  
amended. 1563

(J) "Civil action" means all suits or claims of a civil 1564  
nature in state or federal court, whether cognizable as cases at 1565  
law or in equity or admiralty. The term "civil action" does not 1566  
include an action relating to any workers' compensation law. 1567

(K) "Exposed person" means any person whose exposure to 1568  
asbestos or to asbestos-containing products is the basis for an 1569  
asbestos claim. 1570

(L) "Exposure years" means the following: 1571

(1) Each single year of exposure prior to 1972 will be 1572  
counted as one year. 1573

(2) Each single year of exposure from 1972 through 1979 will 1574  
be counted as one-half year. 1575

(3) Exposure after 1979 will not be counted, except that each 1576  
year from 1972 forward for which the plaintiff can establish 1577  
exposure exceeding the occupational safety and health 1578  
administration (OSHA) limit for eight-hour time-weighted average 1579  
airborne concentration for a substantial portion of the year will 1580  
count as one year. 1581

(M) "FEV1" means forced expiratory volume in the first 1582  
second, which is the maximal volume of air expelled in one second 1583  
during performance of simple spirometric tests. 1584

(N) "FVC" means forced vital capacity that is maximal volume 1585  
of air expired with maximum effort from a position of full 1586  
inspiration. 1587

(O) "ILO scale" means the system for the classification of 1588  
chest x-rays set forth in the international labour office's 1589  
guidelines for the use of ILO international classification of 1590  
radiographs of pneumoconioses (1980), as amended. 1591

(P) "Lung cancer" means a malignant tumor in which the 1592  
primary site of origin of the cancer is inside the lungs, but that 1593  
term does not include an asbestos claim based upon mesothelioma. 1594

(Q) "Mesothelioma" means a malignant tumor with a primary 1595  
site of origin in the pleura or the peritoneum, which has been 1596  
diagnosed by a board-certified pathologist, using standardized and 1597  
accepted criteria of microscopic morphology and appropriate 1598  
staining techniques. 1599

(R) "Nonmalignant condition" means a condition that is caused 1600  
or may be caused by asbestos other than a diagnosed cancer. 1601

(S) "Nonsmoker" means the exposed person has not smoked 1602  
cigarettes or used any other tobacco products within the last 1603  
fifteen years. 1604

(T) "Pathological evidence of asbestosis" means a statement 1605  
by a board-certified pathologist that more than one representative 1606  
section of lung tissue uninvolved with any other disease process 1607  
demonstrates a pattern of peribronchiolar or parenchymal scarring 1608  
in the presence of characteristic asbestos bodies and that there 1609  
is no other more likely explanation for the presence of the 1610  
fibrosis. 1611

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

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

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

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

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

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

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

(5) The medical doctor receives or received payment for the treatment of the exposed person from that person's HMO or other medical provider. 1643  
1644  
1645

(X) "Radiological evidence of asbestosis" means a chest x-ray showing small, irregular opacities (s, t) graded by a certified B-reader as at least 1/1 on the ILO scale. 1646  
1647  
1648

(Y) "Radiological evidence of diffuse pleural thickening" means a chest x-ray showing bilateral pleural thickening graded by a certified B-reader as at least B2 on the ILO scale and blunting of at least one costophrenic angle. 1649  
1650  
1651  
1652

(Z) "Smoker" means a person who has smoked cigarettes or other tobacco products within the last fifteen years. 1653  
1654

(AA) "Spirometry" means the measurement of volume of air inhaled or exhaled by the lung. 1655  
1656

(BB) "Substantial contributing factor" means all of the following: 1657  
1658

(1) Exposure to asbestos is the predominate cause of the physical impairment alleged in the asbestos claim. 1659  
1660

(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. 1661  
1662  
1663

(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. 1664  
1665  
1666  
1667

(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. 1668  
1669  
1670

(DD) "Workers' compensation law" means Chapters 4121., 4123., 4127., and 4131. of the Revised Code. 1671  
1672

Sec. 2307.92. (A) Physical impairment of the exposed person, 1673  
to which the person's exposure to asbestos is a substantial 1674  
contributing factor, shall be an essential element of an asbestos 1675  
claim. 1676

(B) No person shall bring or maintain a civil action alleging 1677  
an asbestos claim based on a nonmalignant condition in the absence 1678  
of a prima-facie showing that the exposed person has a physical 1679  
impairment, that the physical impairment is a result of a medical 1680  
condition, and that the person's exposure to asbestos is a 1681  
substantial contributing factor to the medical condition. That 1682  
prima-facie showing shall include all of the following minimum 1683  
requirements: 1684

(1) Evidence verifying that a qualified physician has taken a 1685  
detailed occupational and exposure history of the exposed person 1686  
from the exposed person or, if that person is deceased, from the 1687  
person who is most knowledgeable about the exposures that form the 1688  
basis of the asbestos claim for a nonmalignant condition, 1689  
including all of the following: 1690

(a) All of the exposed person's principal places of 1691  
employment and exposures to airborne contaminants; 1692

(b) Whether each place of employment involved exposures to 1693  
airborne contaminants, including, but not limited to, asbestos 1694  
fibers or other disease causing dusts, that can cause pulmonary 1695  
impairment and, if that type of exposure is involved, the nature, 1696  
duration, and level of the exposure. 1697

(2) Evidence verifying that a qualified physician has taken a 1698  
detailed medical and smoking history of the exposed person, 1699  
including a thorough review of the exposed person's past and 1700  
present medical problems and the most probable causes of those 1701  
medical problems; 1702



(3) A diagnosis by a qualified physician, based on a medical examination and pulmonary function testing of the exposed person, that all of the following apply to the exposed person: 1703  
1704  
1705

(a) The exposed person has a permanent respiratory impairment rating of at least class 2 as defined by and evaluated pursuant to the AMA guides to the evaluation of permanent impairment. 1706  
1707  
1708

(b) The exposed person has asbestosis or diffuse pleural thickening, based at a minimum on radiological or pathological evidence of asbestosis or radiological evidence of diffuse pleural thickening. 1709  
1710  
1711  
1712

(c) The asbestosis or diffuse pleural thickening described in division (B)(3)(b) of this section, rather than solely chronic obstructive pulmonary disease, is a substantial contributing factor to the exposed person's physical impairment, based at a minimum on a determination that the exposed person has either of the following: 1713  
1714  
1715  
1716  
1717  
1718

(i) A forced vital capacity below the predicted lower limit of normal and a ratio of FEV1 to FVC that is equal to or greater than the predicted lower limit of normal; 1719  
1720  
1721

(ii) A chest x-ray showing small, irregular opacities (s, t) graded by a certified B-reader at least 2/1 on the ILO scale. 1722  
1723

(C) No person shall bring or maintain a civil action alleging an asbestos claim based upon lung cancer in the absence of a prima-facie showing of all of the following minimum requirements: 1724  
1725  
1726

(1) A diagnosis by a board-certified pathologist, board-certified pulmonary specialist, or board-certified oncologist that the exposed person has primary lung cancer and that exposure to asbestos is a substantial contributing factor to that cancer; 1727  
1728  
1729  
1730  
1731

(2) Evidence that is sufficient to demonstrate that at least 1732

<u>ten years have elapsed between the date of the exposed person's</u>	1733
<u>first exposure to asbestos and the date of diagnosis of the</u>	1734
<u>exposed person's primary lung cancer;</u>	1735
<u>(3) Either of the following:</u>	1736
<u>(a) In the case of an exposed person who is a nonsmoker,</u>	1737
<u>either of the following requirements:</u>	1738
<u>(i) Radiological or pathological evidence of asbestosis or</u>	1739
<u>radiological evidence of diffuse pleural thickening;</u>	1740
<u>(ii) Evidence of the exposed person's occupational exposure</u>	1741
<u>to asbestos for any of the applicable minimum exposure periods in</u>	1742
<u>the occupations as specified in divisions (D)(3)(b)(i), (ii), and</u>	1743
<u>(iii) of this section.</u>	1744
<u>(b) In the case of an exposed person who is a smoker, both of</u>	1745
<u>the requirements specified in divisions (C)(3)(a)(i) and (ii) of</u>	1746
<u>this section.</u>	1747
<u>(D) No person shall bring or maintain a civil action alleging</u>	1748
<u>an asbestos claim based upon cancer of the colon, rectum, larynx,</u>	1749
<u>pharynx, esophagus, or stomach, in the absence of a prima-facie</u>	1750
<u>showing of all of the following minimum requirements:</u>	1751
<u>(1) A diagnosis by a board-certified pathologist,</u>	1752
<u>board-certified pulmonary specialist, or board-certified</u>	1753
<u>oncologist, whichever is appropriate for the type of cancer</u>	1754
<u>claimed, that the exposed person has primary cancer of the colon,</u>	1755
<u>rectum, larynx, pharynx, esophagus, or stomach and that exposure</u>	1756
<u>to asbestos was a substantial contributing factor to that</u>	1757
<u>particular cancer;</u>	1758
<u>(2) Evidence that is sufficient to demonstrate that at least</u>	1759
<u>ten years have elapsed between the date of the exposed person's</u>	1760
<u>first exposure to asbestos and the date of diagnosis of the</u>	1761
<u>exposed person's particular cancer;</u>	1762

<u>(3) Either of the following requirements:</u>	1763
<u>(a) Radiological or pathological evidence of asbestos or radiological evidence of diffuse pleural thickening;</u>	1764
<u>(b) Evidence of the exposed person's occupational exposure to asbestos for any of the following applicable minimum exposure periods in the specified occupations:</u>	1766
<u>(i) Five exposure years for insulators, shipyard workers, workers in manufacturing plants handling raw asbestos, boilermakers, shipfitters, steamfitters, or other trades performing similar functions;</u>	1769
<u>(ii) Ten exposure years for utility and power house workers, secondary manufacturing workers, or other trades performing similar functions;</u>	1773
<u>(iii) Fifteen exposure years for general construction, maintenance workers, chemical and refinery workers, marine engine room personnel and other personnel on vessels, stationary engineers and firemen, railroad engine repair workers, or other trades performing similar functions.</u>	1776
<u>(E) No prima-facie showing is required in a civil action alleging an asbestos claim based upon mesothelioma.</u>	1781
<u>(F) Evidence relating to physical impairment under this section, including pulmonary function testing and diffusing studies, shall comply with the technical recommendations for examinations, testing procedures, quality assurance, quality control, and equipment incorporated in the AMA guides to the evaluation of permanent impairment and reported as set forth in 20 C.F.R. Pt. 404, Subpt. P, App. 1, Part A, Sec. 3.00 E. and F., and the interpretive standards set forth in the official statement of the American thoracic society entitled "lung function testing: selection of reference values and interpretive strategies" as</u>	1783
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published in American review of respiratory disease, 1793  
1991:144:1202-1218. 1794

(G) All of the following apply to the presentation of 1795  
prima-facie evidence that meets the requirements of division (B), 1796  
(C), or (D) of this section: 1797

(1) It does not result in any presumption at trial that the 1798  
exposed person has a physical impairment that is caused by an 1799  
asbestos-related condition. 1800

(2) It is not conclusive as to the liability of any defendant 1801  
in the case. 1802

(3) It is not admissible at trial. 1803

**Sec. 2307.93.** The plaintiff in any civil action who alleges 1804  
an asbestos claim shall file together with the complaint or other 1805  
initial pleading a written report and supporting test results 1806  
constituting prima-facie evidence of the exposed person's physical 1807  
impairment that meets the minimum requirements of division (B), 1808  
(C), or (D) of section 2307.92 of the Revised Code, whichever is 1809  
applicable. With respect to any asbestos claim that is pending on 1810  
the effective date of this section, the plaintiff shall file the 1811  
written report and supporting test results described in this 1812  
section sixty days following the effective date of this section or 1813  
thirty days prior to trial, whichever is earlier. The defendant in 1814  
the case shall be afforded a reasonable opportunity to challenge 1815  
the adequacy of the proffered prima-facie evidence of the physical 1816  
impairment. The court shall dismiss the plaintiff's claim without 1817  
prejudice upon a finding of failure to make the prima-facie 1818  
showing required by division (B), (C), or (D) of section 2307.92 1819  
of the Revised Code. 1820

**Sec. 2307.94.** (A) Notwithstanding any other provision of the 1821  
Revised Code, with respect to any asbestos claim based upon a 1822

nonmalignant condition that is not barred as of the effective date 1823  
of this section, the period of limitations shall not begin to run 1824  
until the exposed person discovers, or through the exercise of 1825  
reasonable diligence should have discovered, that the person has a 1826  
physical impairment due to a nonmalignant condition. 1827

(B) An asbestos claim that arises out of a nonmalignant 1828  
condition shall be a distinct cause of action from an asbestos 1829  
claim relating to the same exposed person that arises out of 1830  
asbestos-related cancer. No damages shall be awarded for fear or 1831  
risk of cancer in any civil action asserting only an asbestos 1832  
claim for a nonmalignant condition. 1833

(C) No settlement of an asbestos claim for a nonmalignant 1834  
condition that is concluded after the effective date of this 1835  
section shall require, as a condition of settlement, the release 1836  
of any future claim for asbestos-related cancer. 1837

**Sec. 2307.95.** Sections 2307.91 to 2307.95 of the Revised Code 1838  
shall not affect the scope or operation of any workers' 1839  
compensation law or veterans' benefit program or the exclusive 1840  
remedy of subrogation under the provisions of that law or program 1841  
and shall not authorize any lawsuit that is barred by any 1842  
provision of any workers' compensation law. 1843

**Sec. 2307.96.** (A) As used in this section and section 2307.97 1844  
of the Revised Code: 1845

(1) "Asbestos" has the same meaning as in section 2307.91 of 1846  
the Revised Code. 1847

(2) "Asbestos claim" means any claim for damages, losses, 1848  
indemnification, contribution, or other relief arising out of, 1849  
based on, or in any way related to asbestos. "Asbestos claim" 1850  
includes any of the following: 1851

(a) A claim made by or on behalf of any person who has been exposed to asbestos, or any representative, spouse, parent, child, or other relative of that person, for injury, including mental or emotional injury, death, or loss to person, risk of disease or other injury, costs of medical monitoring or surveillance, or any other effects on the person's health that are caused by the person's exposure to asbestos; 1852  
1853  
1854  
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1858

(b) A claim for damage or loss to property that is caused by the installation, presence, or removal of asbestos. 1859  
1860

(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: 1861  
1862  
1863  
1864

(a) The transaction occurred on or before July 29, 1977. 1865

(b) The purchasing domestic corporation paid less than five million dollars for the acquisition. 1866  
1867

(c) The principal place of business of the foreign corporation was located outside the state of Ohio. 1868  
1869

(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. 1870  
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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, 1879  
1880  
1881

are paid, otherwise discharged, committed to be paid, or committed 1882  
to be otherwise discharged by or on behalf of the successor, or by 1883  
or on behalf of a transferor, in connection with any judgment, 1884  
settlement, or other discharge of those liabilities in this state 1885  
or another jurisdiction. 1886

(5) "Transferor" means a foreign corporation or its 1887  
shareholders from which successor asbestos-related liabilities are 1888  
assumed or incurred by the successor. 1889

(B)(1) Except as otherwise provided in division (B)(2) of 1890  
this section, the cumulative successor asbestos-related 1891  
liabilities of a successor shall be limited to the fair market 1892  
value of the acquired assets or stock as determined on the 1893  
effective date of the asset purchase or stock purchase, merger, or 1894  
consolidation. 1895

(2) If a transferor had assumed or incurred successor 1896  
asbestos-related liabilities in connection with a prior asset 1897  
purchase, stock purchase, merger, or consolidation involving a 1898  
prior transferor, the successor asbestos-related liabilities of 1899  
the successor described in division (B)(1) of this section shall 1900  
be limited to the fair market value of the previously acquired 1901  
assets or stock as determined on the effective date of the prior 1902  
asset purchase, stock purchase, merger, or consolidation. 1903

(3) The successor described in division (B)(1) or (2) of this 1904  
section shall have no responsibility for any successor 1905  
asbestos-related liabilities in excess of the limitation of those 1906  
liabilities as described in the applicable division. 1907

(C)(1) Except as otherwise provided in division (C)(2) of 1908  
this section, the assets of a successor shall be exempt from 1909  
restraint, attachment, or execution on any judgment entered in 1910  
this state or another jurisdiction related to any claim for 1911  
successor asbestos-related liabilities if the cumulative amounts 1912

of those liabilities that, after the effective date of the asset 1913  
purchase or stock purchase that is covered by division (B) of this 1914  
section, are paid or committed to be paid by or on behalf of the 1915  
successor, or by or on behalf of the transferor, in connection 1916  
with any judgment, settlement, or other discharge of claims of 1917  
asbestos-related liabilities exceed the fair market value of the 1918  
assets or stock as determined on the effective date of the asset 1919  
purchase or stock purchase, merger, or consolidation. 1920

(2) If a transferor had assumed or incurred successor 1921  
asbestos-related liabilities in connection with a prior asset 1922  
purchase, stock purchase, merger, or consolidation involving a 1923  
prior transferor, the assets of the successor described in 1924  
division (C)(1) of this section shall be exempt from restraint, 1925  
attachment, or execution on any judgment entered in this state or 1926  
another jurisdiction related to any claim for successor 1927  
asbestos-related liabilities if the cumulative amounts of those 1928  
liabilities that, after the effective date of the prior asset 1929  
purchase, stock purchase, merger, or consolidation, are paid or 1930  
committed to be paid by or on behalf of the successor, or by or on 1931  
behalf of the prior transferor, in connection with any judgment, 1932  
settlement, or other discharge of claims of asbestos-related 1933  
liabilities, exceed the fair market value of the previously 1934  
acquired assets or stock as determined on the effective date of 1935  
the prior asset purchase, stock purchase, merger, or 1936  
consolidation. 1937

(D)(1) A successor may establish the fair market value of 1938  
total assets under division (B) or (C) of this section by means of 1939  
any method that is reasonable under the circumstances, including 1940  
by reference to the going-concern value of those assets, to the 1941  
purchase price attributable to or paid for the assets in an arm's 1942  
length transaction, or, in the absence of other readily available 1943  
information from which fair market value can be determined, to the 1944



value of those assets recorded on a balance sheet. Total assets 1945  
shall include intangible assets. A showing by the successor of a 1946  
reasonable determination of the fair market value of total assets 1947  
is prima-facie evidence of the fair market value of those assets. 1948

(2) After a successor has established a reasonable 1949  
determination of the fair market value of total assets under 1950  
division (D)(1) of this section, a claimant that disputes that 1951  
determination of the fair market value has the burden of 1952  
establishing a different fair market value of those assets. 1953

(3) For the purpose of adjusting the limitations set forth in 1954  
division (B) or (C) of this section to account for the passage of 1955  
time, the fair market value of total assets on the effective date 1956  
of the applicable asset purchase or stock purchase under the 1957  
applicable division shall be increased annually, at the rate equal 1958  
to the prime rate as listed in the first edition of the Wall 1959  
Street Journal published for each calendar year since the asset 1960  
purchase or stock purchase plus one per cent, not compounded, 1961  
until the earlier of either of the following: 1962

(a) The date of the judgment, settlement, or other discharge 1963  
of claims of successor asbestos-related liabilities to which the 1964  
limitations in division (B) or (C) of this section are being 1965  
applied; 1966

(b) The date on which the adjusted fair market value of total 1967  
assets under division (D)(3) of this section is first exceeded by 1968  
the cumulative amounts of successor asbestos-related liabilities 1969  
that are paid or committed to be paid by or on behalf of the 1970  
successor, or by or on behalf of a transferor, after the effective 1971  
date of the asset purchase or stock purchase in connection with 1972  
any judgment, settlement, or other discharge of the successor 1973  
asbestos-related liabilities. 1974

(E)(1) The limitations set forth in divisions (B) and (C) of 1975

<u>this section shall apply to the following:</u>	1976
<u>(a) All asbestos claims, including asbestos claims that are pending on the effective date of this section, and all litigation involving asbestos claims, including litigation that is pending on the effective date of this section;</u>	1977 1978 1979 1980
<u>(b) Successors of a successor to which this section applies.</u>	1981
<u>(2) The limitations set forth in divisions (B) and (C) of this section do not apply to any of the following:</u>	1982 1983
<u>(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;</u>	1984 1985 1986 1987
<u>(b) Any claim against a successor that does not constitute a claim for a successor asbestos-related liability;</u>	1988 1989
<u>(c) An insurance corporation;</u>	1990
<u>(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.</u>	1991 1992 1993
<b><u>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,</u></b>	1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005

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.

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

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

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

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

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

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adverse party's evidence. 2036

~~(D)~~(4) The parties then shall be confined to rebutting 2037  
evidence, unless the court for good reasons, and in the 2038  
furtherance of justice, permits them to offer evidence in their 2039  
original cases. 2040

~~(E)~~(5) When the evidence is concluded, either party may 2041  
present written instructions to the court on matters of law and 2042  
request them to be given to the jury, ~~which instructions shall be~~ 2043  
~~given or refused by the.~~ The court shall give or refuse to give 2044  
the written instructions to the jury before the argument to the 2045  
jury is commenced. 2046

~~(F)~~(6) The parties then may submit or argue the case to the 2047  
jury. The party required first to produce that party's evidence 2048  
shall have the opening and closing arguments. If several 2049  
defendants, ~~having~~ have separate defenses, ~~and~~ appear by different 2050  
counsel, the court shall arrange their relative order. 2051

~~(G)~~(7) The court, after the argument is concluded, and before 2052  
proceeding with other business, shall charge the jury. ~~Any charge~~ 2053  
~~shall be reduced to writing by the~~ The court shall reduce a charge 2054  
to writing if either party, before the argument to the jury is 2055  
commenced, requests it. ~~Such charge may be examined by the~~ The 2056  
parties may examine that charge before any closing argument is 2057  
made by any of the parties. ~~A~~ If a charge or instruction, ~~when so~~ 2058  
is written and given, as prescribed in this division, the court 2059  
shall not ~~be~~ orally ~~qualified, modified~~ qualify, modify, or in any 2060  
manner ~~explained~~ explain the charge or instruction to the jury ~~by~~ 2061  
~~the court~~. All written charges and instructions shall be taken by 2062  
the jurors in their retirement, shall be returned with their 2063  
verdict into court, and shall remain on file with the papers of 2064  
the case. 2065

(B) In all tort actions, the court shall instruct the jury 2066

regarding the extent to which an award of compensatory damages or 2067  
punitive or exemplary damages is not subject to taxation under 2068  
federal or state income tax laws. 2069

As used in this division, "tort action" means a civil action 2070  
for damages for injury, death, or loss to person or property. 2071  
"Tort action" includes a product liability claim, as defined in 2072  
section 2307.71 of the Revised Code, but does not include a civil 2073  
action for damages for breach of contract or another agreement 2074  
between persons. 2075

Division (B) of this section shall be considered to be purely 2076  
remedial in operation and shall be applied in a remedial manner in 2077  
any civil action commenced on or after the effective date of this 2078  
amendment, in which division (B) of this section is relevant, 2079  
regardless of when the cause of action accrued and notwithstanding 2080  
any other section of the Revised Code or prior rule of law of this 2081  
state, but shall not be construed to apply to any civil action 2082  
pending prior to the effective date of this amendment. 2083

**Sec. 2315.21.** (A) As used in this section: 2084

(1) "Tort action" means a civil action for damages for injury 2085  
or loss to person or property. "Tort action" includes a product 2086  
liability claim for damages for injury or loss to person or 2087  
property that is subject to sections 2307.71 to 2307.80 of the 2088  
Revised Code, but does not include a civil action for damages for 2089  
a breach of contract or another agreement between persons. 2090

(2) "Trier of fact" means the jury or, in a nonjury action, 2091  
the court. 2092

(3) "Home" has the same meaning as in section 3721.10 of the 2093  
Revised Code. 2094

(4) "Employer" includes, but is not limited to, a parent, 2095  
subsidiary, affiliate, division, or department of the employer. If 2096

the employer is an individual, the individual shall be considered 2097  
an employer under this section only if the subject of the tort 2098  
action is related to the individual's capacity as an employer. 2099

(5) "Small employer" means an employer who employs not more 2100  
than five hundred persons on a full-time permanent basis. 2101

(B)(1) In a tort action in which a plaintiff makes a claim 2102  
for compensatory damages and a claim for punitive or exemplary 2103  
damages, upon the motion of any party, the trial of the tort 2104  
action shall be bifurcated as follows: 2105

(a) The initial stage of the trial shall relate only to the 2106  
presentation of evidence, and a determination by the trier of 2107  
fact, with respect to whether the plaintiff is entitled to recover 2108  
compensatory damages for the injury or loss to person or property 2109  
from the defendant. During this stage, no party to the tort action 2110  
shall present, and the court shall not permit a party to present, 2111  
evidence that relates solely to the issue of whether the plaintiff 2112  
is entitled to recover punitive or exemplary damages for the 2113  
injury or loss to person or property from the defendant. 2114

(b) If the trier of fact determines in the initial stage of 2115  
the trial that the plaintiff is entitled to recover compensatory 2116  
damages for the injury or loss to person or property from the 2117  
defendant, evidence may be presented in the second stage of the 2118  
trial, and a determination by the trier of fact shall be made, 2119  
with respect to whether the plaintiff additionally is entitled to 2120  
recover punitive or exemplary damages for the injury or loss to 2121  
person or property from the defendant. 2122

(2) In a tort action that is tried to a jury and in which a 2123  
plaintiff makes a claim for both compensatory damages and punitive 2124  
or exemplary damages, the court shall instruct the jury to return, 2125  
and the jury shall return, a general verdict and, if that verdict 2126  
is in favor of the plaintiff, answers to an interrogatory that 2127

specifies the total compensatory damages recoverable by the 2128  
plaintiff from each defendant. 2129

(3) In a tort action that is tried to a court and in which a 2130  
plaintiff makes a claim for both compensatory damages and punitive 2131  
or exemplary damages, the court shall make its determination with 2132  
respect to whether the plaintiff is entitled to recover 2133  
compensatory damages for the injury or loss to person or property 2134  
from the defendant and, if that determination is in favor of the 2135  
plaintiff, shall make findings of fact that specify the total 2136  
compensatory damages recoverable by the plaintiff from the 2137  
defendant. 2138

(C) Subject to division ~~(D)~~(E) of this section, punitive or 2139  
exemplary damages are not recoverable from a defendant in question 2140  
in a tort action unless both of the following apply: 2141

(1) The actions or omissions of that defendant demonstrate 2142  
malice, aggravated or egregious fraud, ~~oppression~~, or insult, or 2143  
that defendant as principal or master knowingly authorized, 2144  
participated in, or ratified actions or omissions of an agent or 2145  
servant that so demonstrate. 2146

(2) The trier of fact has returned a verdict or has made a 2147  
determination pursuant to division (B)(2) or (3) of this section 2148  
of the total compensatory damages recoverable by the plaintiff in 2149  
question has adduced proof of actual damages that resulted from 2150  
actions or omissions as described in division (B)(1) of this 2151  
section from that defendant. 2152

~~(C)~~(D)(1) In a tort action, the trier of fact shall determine 2153  
the liability of any defendant for punitive or exemplary damages 2154  
and the amount of those damages. 2155

(2) Except as provided in division (D)(6) of this section, 2156  
both of the following apply regarding any award of punitive or 2157  
exemplary damages in a tort action: 2158

(a) The court shall not enter judgment for punitive or exemplary damages in excess of the greater of the amount of the compensatory damages awarded to the plaintiff from that defendant or one hundred thousand dollars, as determined pursuant to division (B)(2) or (3) of this section. 2159  
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(b) If the defendant is a small employer, the court shall not enter judgment for punitive or exemplary damages in excess of the lesser of the amount of the compensatory damages awarded to the plaintiff from the defendant or one hundred thousand dollars, as determined pursuant to division (B)(2) or (3) of this section. 2164  
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(3) 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. 2169  
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(4) 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. 2173  
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(5)(a) In any tort action, except as provided in division (D)(5)(b) or (6) 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)(2) of this section against that defendant in the tort action. 2177  
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(b) Notwithstanding division (D)(5)(a) of this section and 2190  
except as provided in division (D)(6) of this section, punitive or 2191  
exemplary damages may be awarded against a defendant in either of 2192  
the following types of tort actions: 2193

(i) In subsequent tort actions involving the same act or 2194  
course of conduct for which punitive or exemplary damages have 2195  
already been awarded, if the court determines by clear and 2196  
convincing evidence that the plaintiff will offer new and 2197  
substantial evidence of previously undiscovered, additional 2198  
behavior of a type described in division (C) of this section on 2199  
the part of that defendant, other than the injury or loss for 2200  
which the plaintiff seeks compensatory damages. In that case, the 2201  
court shall make specific findings of fact in the record to 2202  
support its conclusion. The court shall reduce the amount of any 2203  
punitive or exemplary damages otherwise awardable pursuant to this 2204  
section by the sum of the punitive or exemplary damages awards 2205  
previously rendered against that defendant in any state or federal 2206  
court. The court shall not inform the jury about the court's 2207  
determination and action under division (D)(5)(b)(i) of this 2208  
section. 2209

(ii) In subsequent tort actions involving the same act or 2210  
course of conduct for which punitive or exemplary damages have 2211  
already been awarded, if the court determines by clear and 2212  
convincing evidence that the total amount of prior punitive or 2213  
exemplary damages awards was totally insufficient to punish that 2214  
defendant's behavior of a type described in division (C) of this 2215  
section and to deter that defendant and others from similar 2216  
behavior in the future. In that case, the court shall make 2217  
specific findings of fact in the record to support its conclusion. 2218  
The court shall reduce the amount of any punitive or exemplary 2219  
damages otherwise awardable pursuant to this section by the sum of 2220  
the punitive or exemplary damages awards previously rendered 2221

against that defendant in any state or federal court. The court 2222  
shall not inform the jury about the court's determination and 2223  
action under division (D)(5)(b)(ii) of this section. 2224

(6) Division (D)(2) of this section does not apply to a tort 2225  
action for bodily injury against a defendant who has been 2226  
convicted of or pleaded guilty to a criminal offense that is a 2227  
violation of section 2907.02, 2907.03, 2907.04, or 4511.19 of the 2228  
Revised Code if the bodily injury that is the basis of the tort 2229  
action was caused by that defendant. 2230

~~(D)~~(E) This section does not apply to tort actions against 2231  
the state in the court of claims, including, but not limited to, 2232  
tort actions against a state university or college that are 2233  
subject to division (B)(1) of section 3345.40 of the Revised Code, 2234  
to tort actions against political subdivisions of this state that 2235  
are commenced under or are subject to Chapter 2744. of the Revised 2236  
Code, or to the extent that another section of the Revised Code 2237  
expressly provides any of the following: 2238

(1) Punitive or exemplary damages are recoverable from a 2239  
defendant in question in a tort action on a basis other than that 2240  
the actions or omissions of that defendant demonstrate malice, 2241  
aggravated or egregious fraud, ~~oppression~~, or insult, or on a 2242  
basis other than that the defendant in question as principal or 2243  
master knowingly authorized, participated in, or ratified actions 2244  
or omissions of an agent or servant that so demonstrate. 2245

(2) Punitive or exemplary damages are recoverable from a 2246  
defendant in question in a tort action irrespective of whether the 2247  
plaintiff in question has adduced proof of actual damages. 2248

(3) The burden of proof upon a plaintiff in question to 2249  
recover punitive or exemplary damages from a defendant in question 2250  
in a tort action is one other than clear and convincing evidence. 2251

(4) Punitive or exemplary damages are not recoverable from a 2252

defendant in question in a tort action. 2253

~~(E)~~(F) When determining the amount of an award of punitive or 2254  
exemplary damages against either a home or a residential facility 2255  
licensed under section 5123.19 of the Revised Code, the trier of 2256  
fact shall consider all of the following: 2257

(1) The ability of the home or residential facility to pay 2258  
the award of punitive or exemplary damages based on the home's or 2259  
residential facility's assets, income, and net worth; 2260

(2) Whether the amount of punitive or exemplary damages is 2261  
sufficient to deter future tortious conduct; 2262

(3) The financial ability of the home or residential 2263  
facility, both currently and in the future, to provide 2264  
accommodations, personal care services, and skilled nursing care. 2265

**Sec. 2315.32.** (A) Sections 2315.32 to 2315.36 of the Revised 2266  
Code do not apply to ~~tort~~ actions ~~based on a product liability~~ 2267  
claim described in section 4113.03 of the Revised Code. 2268

(B) The contributory fault of the plaintiff may be asserted 2269  
as an affirmative defense to a ~~negligence claim or to a tort claim~~ 2270  
~~other than a negligence claim~~, except that the contributory fault 2271  
of the plaintiff may not be asserted as an affirmative defense to 2272  
an intentional tort claim. 2273

**Sec. 2315.33.** The contributory fault of a person does not bar 2274  
the person as plaintiff from recovering damages that have directly 2275  
and proximately resulted from the tortious conduct of one or more 2276  
other persons, if the contributory fault of the plaintiff was not 2277  
greater than the combined tortious conduct of all other persons 2278  
from whom the plaintiff seeks recovery in this action and of all 2279  
other persons from whom the plaintiff does not seek recovery in 2280  
this action. The court shall diminish any compensatory damages 2281  
recoverable by the plaintiff by an amount that is proportionately 2282

equal to the percentage of tortious conduct of the plaintiff as 2283  
determined pursuant to section 2315.34 of the Revised Code. ~~This~~ 2284  
~~section does not apply to actions described in section 4113.03 of~~ 2285  
~~the Revised Code.~~ 2286

**Sec. 2315.34.** If contributory fault is asserted and 2287  
established as an affirmative defense to a ~~negligence~~ tort claim, 2288  
the court in a nonjury action shall make findings of fact, and the 2289  
jury in a jury action shall return a general verdict accompanied 2290  
by answers to interrogatories, that shall specify the following: 2291

(A) The total amount of the compensatory damages that would 2292  
have been recoverable on that ~~negligence~~ tort claim but for the 2293  
tortious conduct of the plaintiff; 2294

(B) The portion of the compensatory damages specified under 2295  
division (A) of this section that represents economic loss; 2296

(C) The portion of the compensatory damages specified under 2297  
division (A) of this section that represents noneconomic loss; 2298

(D) The percentage of tortious conduct attributable to all 2299  
persons as determined pursuant to section 2307.23 of the Revised 2300  
Code. 2301

**Sec. 2315.36.** If contributory fault is asserted as an 2302  
affirmative defense to a ~~negligence~~ tort claim, if it is 2303  
determined that the plaintiff was contributorily at fault and that 2304  
contributory fault was a direct and proximate cause of the injury, 2305  
death, or loss to person or property that is the subject of the 2306  
tort action, and if the plaintiff is entitled to recover 2307  
compensatory damages pursuant to section 2315.33 of the Revised 2308  
Code from more than one party, after it makes findings of fact or 2309  
after the jury returns its general verdict accompanied by answers 2310  
to interrogatories as described in section 2315.34 of the Revised 2311

Code, the court shall enter a judgment that is in favor of the 2312  
plaintiff and that imposes liability pursuant to section 2307.22 2313  
of the Revised Code. 2314

**Sec. 2323.41.** (A) In any ~~civil tort~~ action upon a medical, 2315  
~~dental, optometric, or chiropractic claim,~~ the defendant may 2316  
introduce evidence of any amount payable as a benefit to the 2317  
plaintiff as a result of the damages that result from an injury, 2318  
death, or loss to person or property that is the subject of the 2319  
claim upon which the action is based, except if the source of 2320  
collateral benefits has a mandatory self-effectuating federal 2321  
right of subrogation, a contractual right of subrogation, or a 2322  
statutory right of subrogation. 2323

(B) If the defendant elects to introduce evidence described 2324  
in division (A) of this section, the plaintiff may introduce 2325  
evidence of any amount that the plaintiff has paid or contributed 2326  
to secure the plaintiff's right to receive the benefits of which 2327  
the defendant has introduced evidence. 2328

(C) A source of collateral benefits of which evidence is 2329  
introduced pursuant to division (A) of this section shall not 2330  
recover any amount against the plaintiff nor shall it be 2331  
subrogated to the rights of the plaintiff against a defendant. 2332

(D) As used in this section, ~~"medical:~~ 2333

(1) "Tort action" means a civil action for damages for 2334  
injury, death, or loss to person or property. "Tort action" 2335  
includes a civil action upon a product liability claim or a civil 2336  
action upon a medical claim, dental claim, optometric claim, or 2337  
chiropractic claim. "Tort action" does not include a civil action 2338  
for damages for a breach of contract or another agreement between 2339  
persons. 2340

(2) "Medical claim," "dental claim," "optometric claim," and 2341

"chiropractic claim" have the same meanings as in section 2305.113 2342  
of the Revised Code. 2343

(3) "Product liability claim" has the same meaning as in 2344  
section 2307.71 of the Revised Code. 2345

**Sec. 2323.43.** (A) In a ~~civil tort~~ action ~~upon a medical,~~ 2346  
~~dental, optometric, or chiropractic claim~~ to recover damages for 2347  
injury, ~~death,~~ or loss to person or property, all of the following 2348  
apply: 2349

(1) There shall not be any limitation on the amount of 2350  
compensatory damages that ~~represent~~ represents the economic loss 2351  
of the person who is awarded the damages in the ~~civil tort~~ action. 2352

(2) Except as otherwise provided in division (A)(3) of this 2353  
section, the amount of compensatory damages that represents 2354  
damages for noneconomic loss that is recoverable in a ~~civil tort~~ 2355  
action under this section to recover damages for injury, ~~death,~~ 2356  
or loss to person or property shall not exceed the greater of two 2357  
hundred fifty thousand dollars or an amount that is equal to three 2358  
times the ~~plaintiff's~~ economic loss, as determined by the trier of 2359  
fact, of the plaintiff in that tort action to a maximum of three 2360  
hundred fifty thousand dollars for each plaintiff in that tort 2361  
action or a maximum of five hundred thousand dollars for each 2362  
occurrence that is the basis of that tort action. 2363

(3) The amount recoverable for noneconomic loss in a ~~civil~~ 2364  
~~tort~~ action under this section may exceed the amount described in 2365  
division (A)(2) of this section but shall not exceed five hundred 2366  
thousand dollars for each plaintiff in that tort action or one 2367  
million dollars for each occurrence that is the basis of that tort 2368  
action if the noneconomic losses of the plaintiff in that tort 2369  
action are for either of the following: 2370

(a) Permanent and substantial physical deformity, loss of use 2371

of a limb, or loss of a bodily organ system; 2372

(b) Permanent physical functional injury that permanently 2373  
prevents the injured person from being able to independently care 2374  
for self and perform life sustaining activities. 2375

(B) If a trial is conducted in a ~~civil tort~~ action ~~upon a~~ 2376  
~~medical, dental, optometric, or chiropractic claim~~ to recover 2377  
damages for injury, ~~death~~, or loss to person or property and a 2378  
plaintiff prevails ~~with respect to~~ in that ~~claim~~ action, the court 2379  
in a nonjury trial shall make findings of fact, and the jury in a 2380  
jury trial shall return a general verdict accompanied by answers 2381  
to interrogatories, that shall specify all of the following: 2382

(1) The total compensatory damages recoverable by the 2383  
plaintiff; 2384

(2) The portion of the total compensatory damages that 2385  
represents damages for economic loss; 2386

(3) The portion of the total compensatory damages that 2387  
represents damages for noneconomic loss. 2388

(C)(1) After the trier of fact in a ~~civil tort~~ action ~~upon a~~ 2389  
~~medical, dental, optometric, or chiropractic claim~~ to recover 2390  
damages for injury, ~~death~~, or loss to person or property complies 2391  
with division (B) of this section, the court shall enter a 2392  
judgment in favor of the plaintiff for compensatory damages for 2393  
economic loss in the amount determined pursuant to division (B)(2) 2394  
of this section, and, subject to division (D)(1) of this section, 2395  
the court shall enter a judgment in favor of the plaintiff for 2396  
compensatory damages for noneconomic loss. In no event shall a 2397  
judgment for compensatory damages for noneconomic loss exceed the 2398  
maximum recoverable amount that represents damages for noneconomic 2399  
loss as provided in divisions (A)(2) and (3) of this section. 2400  
Division (A) of this section shall be applied in a jury trial only 2401  
after the jury has made its factual findings and determination as 2402

to the damages. 2403

(2) Prior to the trial in the ~~civil~~ tort action, any party 2404  
may seek summary judgment with respect to the nature of the 2405  
alleged injury or loss to person or property, seeking a 2406  
determination of the damages as described in division (A)(2) or 2407  
(3) of this section. 2408

(D)(1) A court of common pleas has no jurisdiction to enter 2409  
judgment on an award of compensatory damages for noneconomic loss 2410  
in excess of the limits set forth in this section. 2411

(2) If the trier of fact is a jury, the court shall not 2412  
instruct the jury with respect to the limit on compensatory 2413  
damages for noneconomic loss described in divisions (A)(2) and (3) 2414  
of this section, and neither counsel for any party nor a witness 2415  
shall inform the jury or potential jurors of that limit. 2416

(E) Any excess amount of compensatory damages for noneconomic 2417  
loss that is greater than the applicable amount specified in 2418  
division (A)(2) or (3) of this section shall not be reallocated to 2419  
any other tortfeasor beyond the amount of compensatory damages 2420  
that that tortfeasor would otherwise be responsible for under the 2421  
laws of this state. 2422

(F)(1) If pursuant to a contingency fee agreement between an 2423  
attorney and a plaintiff in a civil action upon a medical claim, 2424  
dental claim, optometric claim, or chiropractic claim, the amount 2425  
of the attorney's fees exceed the applicable amount of the limits 2426  
on compensatory damages for noneconomic loss as provided in 2427  
division (A)(2) or (3) of this section, the attorney shall make an 2428  
application in the probate court of the county in which the civil 2429  
action was commenced or in which the settlement was entered. The 2430  
application shall contain a statement of facts, including the 2431  
amount to be allocated to the settlement of the claim, the amount 2432  
of the settlement or judgment that represents the compensatory 2433



damages for economic loss and noneconomic loss, the relevant 2434  
provision in the contingency fee agreement, and the dollar amount 2435  
of the attorney's fees under the contingency fee agreement. The 2436  
application shall include the proposed distribution of the amount 2437  
of the judgment or settlement. 2438

(2) The attorney shall give written notice of the hearing and 2439  
a copy of the application under division (F)(1) of this section to 2440  
all interested persons who have not waived notice of the hearing. 2441  
Notwithstanding the waivers and consents of the interested 2442  
persons, the probate court shall retain jurisdiction over the 2443  
settlement, allocation, and distribution of the claim. 2444

(3) The application under division (F)(1) of this section 2445  
shall state the arrangements, if any, that have been made with 2446  
respect to the attorney's fees. The attorney's fees shall be 2447  
subject to the approval of the probate court. 2448

(G) This section does not apply to any of the following: 2449

(1) ~~Civil Tort~~ actions ~~upon a medical, dental, optometric, or~~ 2450  
~~chiropractic claim~~ that are brought against the state in the court 2451  
of claims, including, but not limited to, those actions in which a 2452  
state university or college is a defendant and to which division 2453  
(B)(3) of section 3345.40 of the Revised Code applies; 2454

(2) ~~Civil Tort~~ actions ~~upon a medical, dental, optometric, or~~ 2455  
~~chiropractic claim~~ that are brought against political subdivisions 2456  
of this state and that are commenced under or are subject to 2457  
Chapter 2744. of the Revised Code. Division (C) of section 2744.05 2458  
of the Revised Code applies to recoverable damages in those 2459  
actions; 2460

(3) Wrongful death actions brought pursuant to Chapter 2125. 2461  
of the Revised Code. 2462

(H) As used in this section: 2463

(1) "Economic loss" means any of the following types of pecuniary harm: 2464  
2465

(a) All wages, salaries, or other compensation lost as a result of an injury, ~~death~~, or loss to person or property that is a subject of a civil tort action ~~upon a medical, dental, optometric, or chiropractic claim~~; 2466  
2467  
2468  
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(b) All expenditures for medical care or treatment, rehabilitation services, or other care, treatment, services, products, or accommodations as a result of an injury, ~~death~~, or loss to person or property that is a subject of a civil tort action ~~upon a medical, dental, optometric, or chiropractic claim~~; 2470  
2471  
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(c) Any other expenditures incurred as a result of an injury, ~~death~~, or loss to person or property that is a subject of a civil tort action ~~upon a medical, dental, optometric, or chiropractic claim~~, other than attorney's fees incurred in connection with that action. 2475  
2476  
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(2) "Medical claim," "dental claim," "optometric claim," and "chiropractic claim" have the same meanings as in section 2305.113 of the Revised Code. 2480  
2481  
2482

(3) "Noneconomic loss" means nonpecuniary harm that results from an injury, ~~death~~, or loss to person or property that is a subject of a civil tort action ~~upon a medical, dental, optometric, or chiropractic claim~~, including, but not limited to, pain and suffering, loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education, disfigurement, mental anguish, and any other intangible loss. 2483  
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(4) "Occurrence" means all claims resulting from or arising out of any one person's bodily injury. 2491  
2492

(5) "Tort action" means a civil action for damages for injury 2493

or loss to person or property. "Tort action" includes a civil 2494  
action upon a product liability claim, as defined in section 2495  
2307.71 of the Revised Code, or a civil action upon a medical 2496  
claim, dental claim, optometric claim, or chiropractic claim. 2497  
"Tort action" does not include a civil action for damages for a 2498  
breach of contract or another agreement between persons. 2499

(6) "Trier of fact" means the jury or, in a nonjury action, 2500  
the court. 2501

**Sec. 2323.51.** (A) As used in this section: 2502

(1) "Conduct" means any of the following: 2503

(a) The filing of a civil action, the assertion of a claim, 2504  
defense, or other position in connection with a civil action, the 2505  
filing of a pleading, motion, or other paper in a civil action, 2506  
including, but not limited to, a motion or paper filed for 2507  
discovery purposes, or the taking of any other action in 2508  
connection with a civil action; 2509

(b) The filing by an inmate of a civil action or appeal 2510  
against a government entity or employee, the assertion of a claim, 2511  
defense or other position in connection with a civil action of 2512  
that nature or the assertion of issues of law in an appeal of that 2513  
nature, or the taking of any other action in connection with a 2514  
civil action or appeal of that nature. 2515

(2) "Frivolous conduct" means either of the following: 2516

(a) Conduct of an inmate or other party to a civil action, of 2517  
an inmate who has filed an appeal of the type described in 2518  
division (A)(1)(b) of this section, or of the inmate's or other 2519  
party's counsel of record that satisfies ~~either~~ any of the 2520  
following: 2521

(i) It obviously serves merely to harass or maliciously 2522  
injure another party to the civil action or appeal or is for 2523

another improper purpose, including, but not limited to, causing unnecessary delay or a needless increase in the cost of litigation. 2524  
2525  
2526

(ii) It is not warranted under existing law ~~and~~, cannot be supported by a good faith argument for an extension, modification, or reversal of existing law, or cannot be supported by a good faith argument for the establishment of new law. 2527  
2528  
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(iii) The conduct consists of allegations or other factual contentions that have no evidentiary support or, if specifically so identified, are not likely to have evidentiary support after a reasonable opportunity for further investigation or discovery. 2531  
2532  
2533  
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(iv) The conduct consists of denials or factual contentions that are not warranted by the evidence or, if specifically so identified, are not reasonably based on a lack of information or belief. 2535  
2536  
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(b) An inmate's commencement of a civil action or appeal against a government entity or employee when any of the following applies: 2539  
2540  
2541

(i) The claim that is the basis of the civil action fails to state a claim or the issues of law that are the basis of the appeal fail to state any issues of law. 2542  
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(ii) It is clear that the inmate cannot prove material facts in support of the claim that is the basis of the civil action or in support of the issues of law that are the basis of the appeal. 2545  
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(iii) The claim that is the basis of the civil action is substantially similar to a claim in a previous civil action commenced by the inmate or the issues of law that are the basis of the appeal are substantially similar to issues of law raised in a previous appeal commenced by the inmate, in that the claim that is the basis of the current civil action or the issues of law that are the basis of the current appeal involve the same parties or 2548  
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arise from the same operative facts as the claim or issues of law 2555  
in the previous civil action or appeal. 2556

(3) "Civil action or appeal against a government entity or 2557  
employee," "inmate," "political subdivision," and "employee" have 2558  
the same meanings as in section 2969.21 of the Revised Code. 2559

(4) "Reasonable attorney's fees" or "attorney's fees," when 2560  
used in relation to a civil action or appeal against a government 2561  
entity or employee, includes both of the following, as applicable: 2562

(a) The approximate amount of the compensation, and the 2563  
fringe benefits, if any, of the attorney general, an assistant 2564  
attorney general, or special counsel appointed by the attorney 2565  
general that has been or will be paid by the state in connection 2566  
with the legal services that were rendered by the attorney 2567  
general, assistant attorney general, or special counsel in the 2568  
civil action or appeal against the government entity or employee, 2569  
including, but not limited to, a civil action or appeal commenced 2570  
pro se by an inmate, and that were necessitated by frivolous 2571  
conduct of an inmate represented by counsel of record, the counsel 2572  
of record of an inmate, or a pro se inmate. 2573

(b) The approximate amount of the compensation, and the 2574  
fringe benefits, if any, of a prosecuting attorney or other chief 2575  
legal officer of a political subdivision, or an assistant to a 2576  
chief legal officer of those natures, who has been or will be paid 2577  
by a political subdivision in connection with the legal services 2578  
that were rendered by the chief legal officer or assistant in the 2579  
civil action or appeal against the government entity or employee, 2580  
including, but not limited to, a civil action or appeal commenced 2581  
pro se by an inmate, and that were necessitated by frivolous 2582  
conduct of an inmate represented by counsel of record, the counsel 2583  
of record of an inmate, or a pro se inmate. 2584

(5) "State" has the same meaning as in section 2743.01 of the 2585

Revised Code. 2586

(6) "State correctional institution" has the same meaning as 2587  
in section 2967.01 of the Revised Code. 2588

(B)(1) Subject to divisions (B)(2) and (3), (C), and (D) of 2589  
this section and except as otherwise provided in division 2590  
(E)(2)(b) of section 101.15 or division (I)(2)(b) of section 2591  
121.22 of the Revised Code, at any time ~~prior to the commencement~~ 2592  
~~of the trial in a civil action or within twenty one days after the~~ 2593  
~~entry of judgment in a civil action or at any time prior to the~~ 2594  
~~hearing in an appeal of the type described in division (A)(1)(b)~~ 2595  
~~of this section that is filed by an inmate or within twenty one~~ 2596  
~~days after the entry of judgment in an appeal of that nature, the~~ 2597  
~~court~~ not more than thirty days after the entry of final judgment 2598  
in a civil action or appeal, any party adversely affected by 2599  
frivolous conduct may file a motion for an award of court costs, 2600  
reasonable attorney's fees, and other reasonable expenses incurred 2601  
in connection with the civil action or appeal ~~to any party to the~~ 2602  
~~civil action or appeal who was adversely affected by frivolous~~ 2603  
~~conduct. The court may assess and make an award may be assessed to~~ 2604  
any party to the civil action or appeal who was adversely affected 2605  
by frivolous conduct, as provided in division (B)(4) of this 2606  
section. 2607

(2) An award may be made pursuant to division (B)(1) of this 2608  
section upon the motion of a party to a civil action or an appeal 2609  
of the type described in that division or on the court's own 2610  
initiative, but only after the court does all of the following: 2611

(a) Sets a date for a hearing to be conducted in accordance 2612  
with division (B)(2)(c) of this section, to determine whether 2613  
particular conduct was frivolous, to determine, if the conduct was 2614  
frivolous, whether any party was adversely affected by it, and to 2615  
determine, if an award is to be made, the amount of that award; 2616

(b) Gives notice of the date of the hearing described in 2617  
division (B)(2)(a) of this section to each party or counsel of 2618  
record who allegedly engaged in frivolous conduct and to each 2619  
party who allegedly was adversely affected by frivolous conduct; 2620

(c) Conducts the hearing described in division (B)(2)(a) of 2621  
this section in accordance with this division, allows the parties 2622  
and counsel of record involved to present any relevant evidence at 2623  
the hearing, including evidence of the type described in division 2624  
(B)(5) of this section, determines that the conduct involved was 2625  
frivolous and that a party was adversely affected by it, and then 2626  
determines the amount of the award to be made. If any party or 2627  
counsel of record who allegedly engaged in or allegedly was 2628  
adversely affected by frivolous conduct is confined in a state 2629  
correctional institution or in a county, multicounty, municipal, 2630  
municipal-county, or multicounty-municipal jail or workhouse, the 2631  
court, if practicable, may hold the hearing by telephone or, in 2632  
the alternative, at the institution, jail, or workhouse in which 2633  
the party or counsel is confined. 2634

(3) The amount of an award made pursuant to division (B)(1) 2635  
of this section that represents reasonable attorney's fees shall 2636  
not exceed, and may be equal to or less than, whichever of the 2637  
following is applicable: 2638

(a) If the party is being represented on a contingent fee 2639  
basis, an amount that corresponds to reasonable fees that would 2640  
have been charged for legal services had the party been 2641  
represented on an hourly fee basis or another basis other than a 2642  
contingent fee basis; 2643

(b) In all situations other than that described in division 2644  
(B)(3)(a) of this section, the attorney's fees that were 2645  
reasonably incurred by a party. 2646

(4) An award made pursuant to division (B)(1) of this section 2647

may be made against a party, the party's counsel of record, or 2648  
both. 2649

(5)(a) In connection with the hearing described in division 2650  
(B)(2)(a) of this section, each party who may be awarded 2651  
reasonable attorney's fees and the party's counsel of record may 2652  
submit to the court or be ordered by the court to submit to it, 2653  
for consideration in determining the amount of the reasonable 2654  
attorney's fees, an itemized list or other evidence of the legal 2655  
services rendered, the time expended in rendering the services, 2656  
and whichever of the following is applicable: 2657

(i) If the party is being represented by that counsel on a 2658  
contingent fee basis, the reasonable attorney's fees that would 2659  
have been associated with those services had the party been 2660  
represented by that counsel on an hourly fee basis or another 2661  
basis other than a contingent fee basis; 2662

(ii) In all situations other than those described in division 2663  
(B)(5)(a)(i) of this section, the attorney's fees associated with 2664  
those services. 2665

(b) In connection with the hearing described in division 2666  
(B)(2)(a) of this section, each party who may be awarded court 2667  
costs and other reasonable expenses incurred in connection with 2668  
the civil action or appeal may submit to the court or be ordered 2669  
by the court to submit to it, for consideration in determining the 2670  
amount of the costs and expenses, an itemized list or other 2671  
evidence of the costs and expenses that were incurred in 2672  
connection with that action or appeal and that were necessitated 2673  
by the frivolous conduct, including, but not limited to, expert 2674  
witness fees and expenses associated with discovery. 2675

(C) An award of reasonable attorney's fees under this section 2676  
does not affect or determine the amount of or the manner of 2677  
computation of attorney's fees as between an attorney and the 2678



attorney's client. 2679

(D) This section does not affect or limit the application of 2680  
any provision of the Rules of Civil Procedure, the Rules of 2681  
Appellate Procedure, or another court rule or section of the 2682  
Revised Code to the extent that the provision prohibits an award 2683  
of court costs, attorney's fees, or other expenses incurred in 2684  
connection with a particular civil action or appeal or authorizes 2685  
an award of court costs, attorney's fees, or other expenses 2686  
incurred in connection with a particular civil action or appeal in 2687  
a specified manner, generally, or subject to limitations. 2688

**Sec. 4507.07.** (A) The registrar of motor vehicles shall not 2689  
grant the application of any minor under eighteen years of age for 2690  
a probationary license, a restricted license, or a temporary 2691  
instruction permit, unless the application is signed by one of the 2692  
minor's parents, the minor's guardian, another person having 2693  
custody of the applicant, or, if there is no parent or guardian, a 2694  
responsible person who is willing to assume the obligation imposed 2695  
under this section. 2696

At the time a minor under eighteen years of age submits an 2697  
application for a license or permit at a driver's license 2698  
examining station, the adult who signs the application shall 2699  
present identification establishing that the adult is the 2700  
individual whose signature appears on the application. The 2701  
registrar shall prescribe, by rule, the types of identification 2702  
that are suitable for the purposes of this paragraph. If the adult 2703  
who signs the application does not provide identification as 2704  
required by this paragraph, the application shall not be accepted. 2705

When a minor under eighteen years of age applies for a 2706  
probationary license, a restricted license, or a temporary 2707  
instruction permit, the registrar shall give the adult who signs 2708  
the application notice of the potential liability that may be 2709

imputed to the adult pursuant to division (B) of this section and 2710  
notice of how the adult may prevent any liability from being 2711  
imputed to the adult pursuant to that division. 2712

(B) Any negligence, or willful or wanton misconduct, that is 2713  
committed by a minor under eighteen years of age when driving a 2714  
motor vehicle upon a highway shall be imputed to the person who 2715  
has signed the application of the minor for a probationary 2716  
license, restricted license, or temporary instruction permit, 2717  
which person shall be jointly and severally liable with the minor 2718  
for any damages caused by the negligence or the willful or wanton 2719  
misconduct. This joint and several liability is not subject to 2720  
section 2307.22, or 2315.36, ~~or 2315.46~~ of the Revised Code with 2721  
respect to a negligence tort claim that otherwise is subject to 2722  
that section. 2723

There shall be no imputed liability imposed under this 2724  
division if a minor under eighteen years of age has proof of 2725  
financial responsibility with respect to the operation of a motor 2726  
vehicle owned by the minor or, if the minor is not the owner of a 2727  
motor vehicle, with respect to the minor's operation of any motor 2728  
vehicle, in the form and in the amounts required under Chapter 2729  
4509. of the Revised Code. 2730

(C) Any person who has signed the application of a minor 2731  
under eighteen years of age for a license or permit subsequently 2732  
may surrender to the registrar the license or temporary 2733  
instruction permit of the minor and request that the license or 2734  
permit be canceled. The registrar then shall cancel the license or 2735  
temporary instruction permit, and the person who signed the 2736  
application of the minor shall be relieved from the liability 2737  
imposed by division (B) of this section. 2738

(D) Any minor under eighteen years of age whose probationary 2739  
license, restricted license, or temporary instruction permit is 2740  
surrendered to the registrar by the person who signed the 2741

application for the license or permit and whose license or 2742  
temporary instruction permit subsequently is canceled by the 2743  
registrar may obtain a new license or temporary instruction permit 2744  
without having to undergo the examinations otherwise required by 2745  
sections 4507.11 and 4507.12 of the Revised Code and without 2746  
having to tender the fee for that license or temporary instruction 2747  
permit, if the minor is able to produce another parent, guardian, 2748  
other person having custody of the minor, or other adult, and that 2749  
adult is willing to assume the liability imposed under division 2750  
(B) of this section. That adult shall comply with the procedures 2751  
contained in division (A) of this section. 2752

**Sec. 4513.263.** (A) As used in this section and in section 2753  
4513.99 of the Revised Code: 2754

(1) "Automobile" means any commercial tractor, passenger car, 2755  
commercial car, or truck that is required to be factory-equipped 2756  
with an occupant restraining device for the operator or any 2757  
passenger by regulations adopted by the United States secretary of 2758  
transportation pursuant to the "National Traffic and Motor Vehicle 2759  
Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392. 2760

(2) "Occupant restraining device" means a seat safety belt, 2761  
shoulder belt, harness, or other safety device for restraining a 2762  
person who is an operator of or passenger in an automobile and 2763  
that satisfies the minimum federal vehicle safety standards 2764  
established by the United States department of transportation. 2765

(3) "Passenger" means any person in an automobile, other than 2766  
its operator, who is occupying a seating position for which an 2767  
occupant restraining device is provided. 2768

(4) "Commercial tractor," "passenger car," and "commercial 2769  
car" have the same meanings as in section 4501.01 of the Revised 2770  
Code. 2771

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

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

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

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

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

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

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

(C) Division (B)(3) of this section does not apply to a person who is required by section 4511.81 of the Revised Code to

be secured in a child restraint device. Division (B)(1) of this 2802  
section does not apply to a person who is an employee of the 2803  
United States postal service or of a newspaper home delivery 2804  
service, during any period in which the person is engaged in the 2805  
operation of an automobile to deliver mail or newspapers to 2806  
addressees. Divisions (B)(1) and (3) of this section do not apply 2807  
to a person who has an affidavit signed by a physician licensed to 2808  
practice in this state under Chapter 4731. of the Revised Code or 2809  
a chiropractor licensed to practice in this state under Chapter 2810  
4734. of the Revised Code that states that the person has a 2811  
physical impairment that makes use of an occupant restraining 2812  
device impossible or impractical. 2813

(D) Notwithstanding any provision of law to the contrary, no 2814  
law enforcement officer shall cause an operator of an automobile 2815  
being operated on any street or highway to stop the automobile for 2816  
the sole purpose of determining whether a violation of division 2817  
(B) of this section has been or is being committed or for the sole 2818  
purpose of issuing a ticket, citation, or summons for a violation 2819  
of that nature or causing the arrest of or commencing a 2820  
prosecution of a person for a violation of that nature, and no law 2821  
enforcement officer shall view the interior or visually inspect 2822  
any automobile being operated on any street or highway for the 2823  
sole purpose of determining whether a violation of that nature has 2824  
been or is being committed. 2825

(E) All fines collected for violations of division (B) of 2826  
this section, or for violations of any ordinance or resolution of 2827  
a political subdivision that is substantively comparable to that 2828  
division, shall be forwarded to the treasurer of state for deposit 2829  
as follows: 2830

(1) Eight per cent shall be deposited into the seat belt 2831  
education fund, which is hereby created in the state treasury, and 2832  
shall be used by the department of public safety to establish a 2833

seat belt education program. 2834

(2) Eight per cent shall be deposited into the elementary 2835  
school program fund, which is hereby created in the state 2836  
treasury, and shall be used by the department of public safety to 2837  
establish and administer elementary school programs that encourage 2838  
seat safety belt use. 2839

(3) Two per cent shall be deposited into the Ohio ambulance 2840  
licensing trust fund created by section 4766.05 of the Revised 2841  
Code. 2842

(4) Twenty-eight per cent shall be deposited into the trauma 2843  
and emergency medical services fund, which is hereby created in 2844  
the state treasury, and shall be used by the department of public 2845  
safety for the administration of the division of emergency medical 2846  
services and the state board of emergency medical services. 2847

(5) Fifty-four per cent shall be deposited into the trauma 2848  
and emergency medical services grants fund, which is hereby 2849  
created in the state treasury, and shall be used by the state 2850  
board of emergency medical services to make grants, in accordance 2851  
with section 4765.07 of the Revised Code and the rules that the 2852  
board adopts under section 4765.11 of the Revised Code. 2853

~~(F)(1) Subject to division (F)(2) of this section, the~~ 2854  
~~The~~ failure of a person to wear all of the available elements of a 2855  
properly adjusted occupant restraining device in violation of 2856  
division (B)(1) or (3) of this section or the failure of a person 2857  
to ensure that each minor who is a passenger of an automobile 2858  
being operated by ~~the~~ that person is wearing all of the available 2859  
elements of ~~such a~~ properly adjusted occupant restraining device, 2860  
in violation of division (B)(2) of this section, shall ~~not~~ be 2861  
considered ~~or used by the trier of fact in a tort action as~~ 2862  
~~evidence of negligence or contributory negligence, shall not~~ fault 2863  
or other tortious conduct or considered for any other relevant 2864

~~purpose if the failure contributed to the harm alleged in the tort  
action and may diminish pursuant to sections 2315.32 to 2315.36 of  
the Revised Code a recovery for of compensatory damages in any  
civil a tort action involving the person arising from the  
ownership, maintenance, or operation of an automobile; shall not  
be used as a basis for a criminal prosecution of the person other  
than a prosecution for a violation of this section; and shall not  
be admissible as evidence in any civil or a criminal action  
involving the person other than a prosecution for a violation of  
this section.~~

~~(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 2896  
person or property. "Tort action" includes a product liability 2897  
claim that is subject to sections 2307.71 to 2307.80 of the 2898  
Revised Code, but does not include a civil action for damages for 2899  
a breach of a contract or another agreement between persons. 2900

**Sec. 4705.15.** (A) As used in this section: 2901

(1) "Contingent fee agreement" means an agreement for the 2902  
provision of legal services by an attorney under which the 2903  
compensation of the attorney is contingent, in whole or in part, 2904  
upon a judgment being rendered in favor of or a settlement being 2905  
obtained for the client and is either a fixed amount or an amount 2906  
to be determined by a specified formula, including, but not 2907  
limited to, a percentage of any judgment rendered in favor of or 2908  
settlement obtained for the client. 2909

(2) "Tort action" means a civil action for damages for 2910  
injury, death, or loss to person or property. "Tort action" 2911  
includes a product liability claim ~~that is subject to sections~~, as 2912  
defined in section 2307.71 ~~to 2307.80~~ of the Revised Code, but 2913  
does not include a civil action for damages for a breach of 2914  
contract or another agreement between persons or a civil action 2915  
based upon a medical claim, dental claim, optometric claim, or 2916  
chiropractic claim. 2917

(3) "Medical claim," "dental claim," "optometric claim," and 2918  
"chiropractic claim" have the same meanings as in section 2305.113 2919  
of the Revised Code. 2920

(4) "Recovered" means the net sum recovered on a claim after 2921  
deducting any disbursements, costs, and expenses incurred in 2922  
connection with the prosecution or settlement of the claim. Costs 2923  
of medical care incurred by the plaintiff and the attorney's 2924  
office overhead costs or charges are not deductible disbursements 2925



or costs for the purposes of this division.

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

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

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

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

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

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

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(D) If an attorney represents a client in connection with a any claim as described in division (B) of this section, if their contract for the provision of legal services includes a contingent fee agreement, and if the attorney becomes entitled to

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compensation under that agreement, the attorney shall prepare a 2956  
signed closing statement and shall provide the client with that 2957  
statement ~~at the~~ within a reasonable time of or prior to the 2958  
~~receipt of compensation under that agreement,~~ but not later than 2959  
thirty days, after the claim is finally adjudicated or settled. 2960  
The closing statement shall specify ~~the~~ all of the following: 2961

(1) The manner in which the compensation of the attorney was 2962  
determined under that agreement,~~any;~~ 2963

(2) The actual number of hours of the attorney's legal 2964  
services that were spent in connection with the claim; 2965

(3) The total amount of the hourly fees or contingent fee for 2966  
the attorney's legal services in connection with the claim; 2967

(4) The actual fee per hour of the attorney's legal services 2968  
in connection with the claim, determined by dividing the total 2969  
amount of the hourly fees specified in division (D)(3) of this 2970  
section, less itemized costs and expenses, or the total contingent 2971  
fee specified in that division by the actual number of hours of 2972  
the attorney's legal services specified in division (D)(2) of this 2973  
section; 2974

(5) Any costs and expenses deducted by the attorney from the 2975  
judgment or settlement involved,~~any;~~ 2976

(6) Any proposed division of the attorney's fees, costs, and 2977  
expenses with referring or associated counsel,~~and any;~~ 2978

(7) Any other information that the attorney considers 2979  
appropriate. 2980

**Sec. 4705.16.** (A) Each attorney who is licensed to practice 2981  
law in this state shall append to every written retainer agreement 2982  
or contract for legal services a legal consumer's bill of rights 2983  
that shall be substantially in the following form: 2984

"LEGAL CONSUMER'S BILL OF RIGHTS 2985

<u>(A) You have the right to control your own legal affairs.</u>	2986
<u>(1) Your attorney, at your request, must do all of the following:</u>	2987
	2988
<u>(a) Keep you informed about the status of your legal matter;</u>	2989
<u>(b) Promptly answer your questions;</u>	2990
<u>(c) Promptly return your phone calls;</u>	2991
<u>(d) Disclose any alternatives available to you for resolving your legal matter;</u>	2992
	2993
<u>(e) Inform you of all relevant and legal considerations to assist you in making a decision and advise you of the possible effect of each legal alternative, including any harsh consequences that might result.</u>	2994
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<u>(2) You have the right and duty to make decisions in your matter, including whether, and on what terms, to settle a dispute or lawsuit.</u>	2998
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<u>(B) You have the right to be fully informed about the costs and fees associated with your legal matter and you have the rights specified in paragraph (D), below, if you have a contingent fee agreement with your attorney.</u>	3001
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<u>(1) Your attorney must disclose all of the following to you:</u>	3005
<u>(a) All alternative fee arrangements and the reasons for the particular fee arrangement proposed by the attorney;</u>	3006
	3007
<u>(b) Total anticipated fees and expenses through trial;</u>	3008
<u>(c) Total anticipated costs;</u>	3009
<u>(d) The basis of the fee charges to be made.</u>	3010
<u>(2) Your attorney must do all of the following:</u>	3011
<u>(a) Sign a written agreement that spells out the terms of every representation of you, including the fee arrangements;</u>	3012
	3013

<u>(b) Agree not to exceed estimated costs and fees without your consent;</u>	3014 3015
<u>(c) Agree to return any unexpended portion of your retainer or other advanced payments;</u>	3016 3017
<u>(d) Make full use of economical and efficient legal support services under your attorney's supervision, 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>	3018 3019 3020 3021
<u>(e) Agree to charge a reasonable fee based on the factors specified in Disciplinary Rule 2-106(B) of the Code of Professional Responsibility.</u>	3022 3023 3024
<u>(C) You have the right to retain qualified and competent legal representation.</u>	3025 3026
<u>(1) Your attorney must do all of the following:</u>	3027
<u>(a) Provide timely, thorough, competent and professional legal services;</u>	3028 3029
<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>	3030 3031 3032
<u>(c) Respect your right to privacy and your confidential information that is protected by the attorney-client privilege and not reveal your confidences and secrets except under any of the circumstances specified in Disciplinary Rule 4-101(C) of the Code of Professional Conduct;</u>	3033 3034 3035 3036 3037
<u>(d) Not neglect your legal matter;</u>	3038
<u>(e) Ensure that your attorney does not have a conflict of interest in representing you;</u>	3039 3040
<u>(f) Maintain accurate records;</u>	3041
<u>(g) Upon your request, provide you with copies of all court</u>	3042

documents and letters that your attorney produces or receives 3043  
while representing you. 3044

(2) You have the right to an accessible legal system. 3045

If you are not satisfied with the legal services that you 3046  
have retained, or with how your matter is being handled, you have 3047  
the right to file a grievance with the Certified Grievance 3048  
Committee of your local bar association or the Ohio State Bar 3049  
Association or with the Board of Commissioners on Grievances and 3050  
Discipline of the Supreme Court of Ohio. The Committee and the 3051  
Board include non-attorneys as members. The Board of Commissioners 3052  
on Grievances and Discipline of the Supreme Court of Ohio has the 3053  
authority to discipline, and to impose sanctions on, attorneys in 3054  
Ohio. 3055

(D) You have the following rights if you have a contingent 3056  
fee agreement, as defined in section 4705.15 of the Revised Code, 3057  
with your attorney for the provision of legal services in 3058  
connection with a claim that is or may become the basis of a tort 3059  
action, as defined in that section: 3060

(1) The agreement must be in writing and signed by you and 3061  
your attorney. 3062

(2) Your attorney must provide a copy of the signed agreement 3063  
to you. 3064

(3) If your attorney becomes entitled to compensation under 3065  
the contingent fee agreement, your attorney must prepare a signed 3066  
closing statement and provide you with that statement within a 3067  
reasonable time, but not later than thirty (30) days, after the 3068  
claim is finally adjudicated and settled. 3069

(4) Your attorney's closing statement must specify all of the 3070  
following: 3071

(a) The manner in which your attorney's compensation was 3072

<u>determined under the agreement;</u>	3073
<u>(b) The actual number of hours of your attorney's legal services that were spent in connection with the claim;</u>	3074
<u>(c) The total amount of the hourly fees or contingent fee for your attorney's legal services in connection with the claim;</u>	3076
<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>	3078
<u>(e) Any costs and expenses deducted by your attorney from the judgment or settlement involved;</u>	3084
<u>(f) Any proposed division of your attorney's fees, costs, and expenses with referring or associated counsel;</u>	3086
<u>(g) Any other information that your attorney considers appropriate."</u>	3088
<u>(B) Your attorney must deposit in an interest-bearing trust account identified as IOLTA or an interest on lawyer's trust account any client funds held by the attorney that are nominal in amount or are to be held for a short period of time in accordance with sections 4705.09 and 4705.10 of the Revised Code and any applicable provisions of the Code of Professional Conduct.</u>	3090
<u>(C) This section shall be called and may be cited as the "Legal Consumer's Bill of Rights."</u>	3096
<b>Section 2.</b> That existing sections 1533.18, 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,	3098

2315.36, 2323.41, 2323.43, 2323.51, 4507.07, 4513.263, and 4705.15 3102  
and sections 2315.41, 2315.42, 2315.43, 2315.44, 2315.45, and 3103  
2315.46 of the Revised Code are hereby repealed. 3104

**Section 3.** That the version of section 4513.263 of the 3105  
Revised Code that is scheduled to take effect January 1, 2004, be 3106  
amended to read as follows: 3107

**Sec. 4513.263.** (A) As used in this section and in section 3108  
4513.99 of the Revised Code: 3109

(1) "Automobile" means any commercial tractor, passenger car, 3110  
commercial car, or truck that is required to be factory-equipped 3111  
with an occupant restraining device for the operator or any 3112  
passenger by regulations adopted by the United States secretary of 3113  
transportation pursuant to the "National Traffic and Motor Vehicle 3114  
Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392. 3115

(2) "Occupant restraining device" means a seat safety belt, 3116  
shoulder belt, harness, or other safety device for restraining a 3117  
person who is an operator of or passenger in an automobile and 3118  
that satisfies the minimum federal vehicle safety standards 3119  
established by the United States department of transportation. 3120

(3) "Passenger" means any person in an automobile, other than 3121  
its operator, who is occupying a seating position for which an 3122  
occupant restraining device is provided. 3123

(4) "Commercial tractor," "passenger car," and "commercial 3124  
car" have the same meanings as in section 4501.01 of the Revised 3125  
Code. 3126

(5) "Vehicle" and "motor vehicle," as used in the definitions 3127  
of the terms set forth in division (A)(4) of this section, have 3128  
the same meanings as in section 4511.01 of the Revised Code. 3129

(6) "Tort action" means a civil action for damages for 3130

injury, death, or loss to person or property. "Tort action" 3131  
includes a product liability claim, as defined in section 2307.71 3132  
of the Revised Code, but does not include a civil action for 3133  
damages for a breach of contract or another agreement between 3134  
persons. 3135

(B) No person shall do any of the following: 3136

(1) Operate an automobile on any street or highway unless 3137  
that person is wearing all of the available elements of a properly 3138  
adjusted occupant restraining device, or operate a school bus that 3139  
has an occupant restraining device installed for use in its 3140  
operator's seat unless that person is wearing all of the available 3141  
elements of the device, as properly adjusted; 3142

(2) Operate an automobile on any street or highway unless 3143  
each passenger in the automobile who is subject to the requirement 3144  
set forth in division (B)(3) of this section is wearing all of the 3145  
available elements of a properly adjusted occupant restraining 3146  
device; 3147

(3) Occupy, as a passenger, a seating position on the front 3148  
seat of an automobile being operated on any street or highway 3149  
unless that person is wearing all of the available elements of a 3150  
properly adjusted occupant restraining device; 3151

(4) Operate a taxicab on any street or highway unless all 3152  
factory-equipped occupant restraining devices in the taxicab are 3153  
maintained in usable form. 3154

(C) Division (B)(3) of this section does not apply to a 3155  
person who is required by section 4511.81 of the Revised Code to 3156  
be secured in a child restraint device. Division (B)(1) of this 3157  
section does not apply to a person who is an employee of the 3158  
United States postal service or of a newspaper home delivery 3159  
service, during any period in which the person is engaged in the 3160  
operation of an automobile to deliver mail or newspapers to 3161



addressees. Divisions (B)(1) and (3) of this section do not apply 3162  
to a person who has an affidavit signed by a physician licensed to 3163  
practice in this state under Chapter 4731. of the Revised Code or 3164  
a chiropractor licensed to practice in this state under Chapter 3165  
4734. of the Revised Code that states that the person has a 3166  
physical impairment that makes use of an occupant restraining 3167  
device impossible or impractical. 3168

(D) Notwithstanding any provision of law to the contrary, no 3169  
law enforcement officer shall cause an operator of an automobile 3170  
being operated on any street or highway to stop the automobile for 3171  
the sole purpose of determining whether a violation of division 3172  
(B) of this section has been or is being committed or for the sole 3173  
purpose of issuing a ticket, citation, or summons for a violation 3174  
of that nature or causing the arrest of or commencing a 3175  
prosecution of a person for a violation of that nature, and no law 3176  
enforcement officer shall view the interior or visually inspect 3177  
any automobile being operated on any street or highway for the 3178  
sole purpose of determining whether a violation of that nature has 3179  
been or is being committed. 3180

(E) All fines collected for violations of division (B) of 3181  
this section, or for violations of any ordinance or resolution of 3182  
a political subdivision that is substantively comparable to that 3183  
division, shall be forwarded to the treasurer of state for deposit 3184  
as follows: 3185

(1) Eight per cent shall be deposited into the seat belt 3186  
education fund, which is hereby created in the state treasury, and 3187  
shall be used by the department of public safety to establish a 3188  
seat belt education program. 3189

(2) Eight per cent shall be deposited into the elementary 3190  
school program fund, which is hereby created in the state 3191  
treasury, and shall be used by the department of public safety to 3192  
establish and administer elementary school programs that encourage 3193

seat safety belt use. 3194

(3) Two per cent shall be deposited into the Ohio ambulance 3195  
licensing trust fund created by section 4766.05 of the Revised 3196  
Code. 3197

(4) Twenty-eight per cent shall be deposited into the trauma 3198  
and emergency medical services fund, which is hereby created in 3199  
the state treasury, and shall be used by the department of public 3200  
safety for the administration of the division of emergency medical 3201  
services and the state board of emergency medical services. 3202

(5) Fifty-four per cent shall be deposited into the trauma 3203  
and emergency medical services grants fund, which is hereby 3204  
created in the state treasury, and shall be used by the state 3205  
board of emergency medical services to make grants, in accordance 3206  
with section 4765.07 of the Revised Code and the rules that the 3207  
board adopts under section 4765.11 of the Revised Code. 3208

~~(F)(1) Subject to division (F)(2) of this section, the~~ The 3209  
failure of a person to wear all of the available elements of a 3210  
properly adjusted occupant restraining device in violation of 3211  
division (B)(1) or (3) of this section or the failure of a person 3212  
to ensure that each minor who is a passenger of an automobile 3213  
being operated by ~~the~~ that person is wearing all of the available 3214  
elements of ~~such a~~ properly adjusted occupant restraining device, 3215  
in violation of division (B)(2) of this section, shall ~~not~~ be 3216  
considered ~~or used by the trier of fact in a tort action as~~ 3217  
~~evidence of negligence or contributory negligence, shall not~~ fault 3218  
or other tortious conduct or considered for any other relevant 3219  
purpose if the failure contributed to the harm alleged in the tort 3220  
action and may diminish pursuant to sections 2315.32 to 2315.36 of 3221  
the Revised Code a recovery for of compensatory damages in any 3222  
~~civil a tort action involving the person arising from the~~ 3223  
~~ownership, maintenance, or operation of an automobile;~~ shall not 3224  
be used as a basis for a criminal prosecution of the person other 3225

than a prosecution for a violation of this section; and shall not 3226  
be admissible as evidence in ~~any civil or~~ a criminal action 3227  
involving the person other than a prosecution for a violation of 3228  
this section. 3229

~~(2) If, at the time of an accident involving a passenger car 3230  
equipped with occupant restraining devices, any occupant of the 3231  
passenger car who sustained injury or death was not wearing an 3232  
available occupant restraining device, was not wearing all of the 3233  
available elements of such a device, or was not wearing such a 3234  
device as properly adjusted, then, consistent with the Rules of 3235  
Evidence, the fact that the occupant was not wearing the available 3236  
occupant restraining device, was not wearing all of the available 3237  
elements of such a device, or was not wearing such a device as 3238  
properly adjusted is admissible in evidence in relation to any 3239  
claim for relief in a tort action to the extent that the claim for 3240  
relief satisfies all of the following: 3241~~

~~(a) It seeks to recover damages for injury or death to the 3242  
occupant. 3243~~

~~(b) The defendant in question is the manufacturer, designer, 3244  
distributor, or seller of the passenger car. 3245~~

~~(c) The claim for relief against the defendant in question is 3246  
that the injury or death sustained by the occupant was enhanced or 3247  
aggravated by some design defect in the passenger car or that the 3248  
passenger car was not crashworthy. 3249~~

~~(3) As used in division (F)(2) of this section, "tort action" 3250  
means a civil action for damages for injury, death, or loss to 3251  
person or property. "Tort action" includes a product liability 3252  
claim that is subject to sections 2307.71 to 2307.80 of the 3253  
Revised Code, but does not include a civil action for damages for 3254  
a breach of a contract or another agreement between persons. 3255~~

(G)(1) Whoever violates division (B)(1) of this section shall 3256

be fined thirty dollars.	3257
(2) Whoever violates division (B)(3) of this section shall be fined twenty dollars.	3258 3259
(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.	3260 3261 3262 3263 3264 3265
<b>Section 4.</b> That the existing version of section 4513.263 of the Revised Code that is scheduled to take effect January 1, 2004, is hereby repealed.	3266 3267 3268
<b>Section 5.</b> Sections 3 and 4 of this act shall take effect January 1, 2004.	3269 3270
<b>Section 6.</b> The General Assembly makes the following statement of findings and intent:	3271 3272
(A) The General Assembly finds:	3273
(1) The current civil litigation system represents an increasing danger to the economic viability of the state of Ohio.	3274 3275
(2) The current tort system forces companies into bankruptcy, deprives Ohioans of essential jobs, and stifles further innovation.	3276 3277 3278
(3) The General Assembly recognizes that civil justice reform strikes an essential balance between the rights of those who have been legitimately harmed and the rights of those who have been unfairly sued.	3279 3280 3281 3282
(4) This state has a rational and legitimate state interest in making certain that Ohio has a fair, predictable system of	3283 3284

civil justice that preserves the rights of those who have been 3285  
harmed by negligent behavior, while curbing the number of 3286  
frivolous lawsuits that clog the court system, threaten Ohio jobs, 3287  
drive up costs to consumers, and stifle innovation. The General 3288  
Assembly bases its findings on this state interest upon the 3289  
following evidence: 3290

(a) A National Bureau of Economic Research study estimates 3291  
that states that have adopted abuse reforms have experienced 3292  
employment growth between eleven and twelve per cent, productivity 3293  
growth of seven to eight per cent, and total output growth between 3294  
ten and twenty per cent for liability reducing reforms. 3295

(b) According to a 2002 study from the White House Council of 3296  
Economic Advisors, the cost of tort litigation is equal to a two 3297  
and one tenth per cent wage and salary tax, a one and three tenth 3298  
per cent tax on personal consumption, and a three and one tenth 3299  
per cent tax on capital investment income. 3300

(c) The 2003 Harris Poll of nine hundred and twenty-eight 3301  
senior corporate attorneys conducted by the United States Chamber 3302  
of Commerce's Institute for Legal Reform reports that eight out of 3303  
ten respondents claim that the litigation environment in a state 3304  
could affect important business decisions about their company, 3305  
such as where to locate or do business. In addition, one in four 3306  
senior attorneys surveyed cited limits on damages as one specific 3307  
means for state policy makers to improve the litigation 3308  
environment in their state and promote economic development. 3309

(d) The cost of the United States tort system grew at a 3310  
record rate in 2001, according to a February 2003 study published 3311  
by Tillinghast-Towers Perrin. The system, however, failed to 3312  
return even fifty cents for every dollar to people who were 3313  
injured. Tillinghast-Towers Perrin also found that fifty-four per 3314  
cent of the total cost accounted for attorney's fees, both for 3315

plaintiffs and defendants, and administration. Only twenty-two per 3316  
cent of the tort system's cost was used directly to reimburse 3317  
people for the economic damages associated with injuries and 3318  
losses they sustain. 3319

(e) The Tillinghast-Towers Perrin study also found that the 3320  
cost of the United States tort system grew fourteen and three 3321  
tenths of a per cent in 2001, the highest increase since 1986, 3322  
greatly exceeding overall economic growth of two and six tenth per 3323  
cent. As a result, the cost of the United States tort system rose 3324  
to two hundred and five billion dollars total or seven hundred and 3325  
twenty-one dollars per citizen, equal to a five per cent tax on 3326  
wages. 3327

(f) As stated in testimony by Ohio Department of Development 3328  
Director Bruce Johnson, as a percentage of the gross domestic 3329  
product, United States tort costs have grown from six tenths of a 3330  
per cent to two per cent since 1950, about double the percentage 3331  
that other industrialized nations pay annually. These tort costs 3332  
put Ohio businesses at a disadvantage vis-a-vis foreign 3333  
competition and are not helpful to development. 3334

(5)(a) Reform to the punitive damages law in Ohio is urgently 3335  
needed to restore balance, fairness, and predictability to the 3336  
civil justice system. 3337

(b) In prohibiting a court from entering judgment for 3338  
punitive or exemplary damages in excess of the greater of the 3339  
amount of compensatory damages awarded to the plaintiff or one 3340  
hundred thousand dollars and, with respect to an employer with 3341  
five hundred or fewer employees, from entering judgment for 3342  
punitive or exemplary damages in excess of the lesser of the 3343  
amount of compensatory damages awarded to the plaintiff or one 3344  
hundred thousand dollars, the General Assembly finds the 3345  
following: 3346

(i) Punitive or exemplary damages awarded in tort actions are 3347  
similar in nature to fines and additional court costs imposed in 3348  
criminal actions, because punitive or exemplary damages, fines, 3349  
and additional court costs are designed to punish a tortfeasor for 3350  
certain wrongful actions or omissions. 3351

(ii) The absence of a statutory ceiling upon recoverable 3352  
punitive or exemplary damages in tort actions has resulted in 3353  
excessive and occasionally multiple awards of punitive or 3354  
exemplary damages that have no rational connection to the wrongful 3355  
actions or omissions of the tortfeasor. 3356

(iii) The distinction between small employers and other 3357  
defendants based on the number of full-time permanent employees 3358  
distinguishes all other defendants including individuals and 3359  
nonemployers. This distinction is rationally based on size 3360  
considering both the economic capacity of an employer to maintain 3361  
that number of employees and to impact the community at large, as 3362  
exemplified by the United States Small Business Administration's 3363  
Office of Advocacy. 3364

(c) The limits on punitive or exemplary damages as specified 3365  
in section 2315.21 of the Revised Code, as amended by this act, 3366  
are based on guidance recently provided by the United States 3367  
Supreme Court in *State Farm Mutual Insurance v. Campbell* (2003), 3368  
123 S.Ct. 1513. In determining whether a one hundred and 3369  
forty-five million dollar award of punitive damages was 3370  
appropriate, the United States Supreme Court referred to the three 3371  
guideposts for punitive damages articulated in *BMW of North* 3372  
*America Inc. v. Gore* (1996), 517 U.S. 599: (1) the degree of 3373  
reprehensibility of the defendant's misconduct; (2) the disparity 3374  
between the actual or potential harm suffered by the plaintiff and 3375  
the punitive damages awarded; and (3) the difference between the 3376  
punitive damages awarded by the jury and the civil penalties 3377  
authorized or imposed in comparable cases. According to the United 3378

States Supreme Court, "few awards exceeding a single digit ratio 3379  
between punitive damages and compensatory damages. . . will 3380  
satisfy due process." *Id.* at 31. 3381

(d) The limits on punitive or exemplary damages as specified 3382  
in section 2315.21 of the Revised Code, as amended by this act, 3383  
are based on testimony asking members of the General Assembly to 3384  
recognize the economic impact of excessive and occasionally 3385  
multiple punitive damages awards and stating that a number of 3386  
other states have imposed limits on punitive or exemplary damage 3387  
awards. 3388

(6)(a) Noneconomic damages include such things as pain and 3389  
suffering, emotional distress, and loss of consortium or 3390  
companionship, which do not involve an economic loss and have, 3391  
therefore, no precise economic value. The General Assembly 3392  
recognizes that it is very difficult for juries to assign a dollar 3393  
value to these losses, particularly with the minimal guidance the 3394  
juries are normally given. As a result, these awards tend to be 3395  
erratic and, because of the highly charged environment of personal 3396  
injury trials, excessive. 3397

(b) The limits on compensatory damages representing 3398  
noneconomic loss, as specified in section 2323.43 of the Revised 3399  
Code, as amended by this act, are based on testimony asking 3400  
members of the General Assembly to recognize these distinctions 3401  
and stating that the cap amounts are similar to caps on awards 3402  
adopted by other states. 3403

(c) In *Schiller v. Wal-Mart Stores, Inc.* (1997), 949 P.2d 89, 3404  
one of the issues addressed by the Court of Appeals of Colorado is 3405  
whether the caps on noneconomic damages constitute a violation of 3406  
the rights to equal protection and due process as provided under 3407  
the United States and Colorado Constitutions, as well as the 3408  
right, pursuant to Article 2, Section 6 of the Colorado 3409  
Constitution, to access to the courts. Article 2, Section 6 3410



provides that "courts of justice shall be open to every person, 3411  
and a speedy remedy afforded for every injury to person, property, 3412  
or character; and right and justice should be administered without 3413  
sale, denial, or delay." 3414

(d) On a question of law certified from the United States 3415  
District Court for the District of Idaho, the Supreme Court of 3416  
Idaho held that the cap on noneconomic damages was constitutional. 3417  
In *Kirkland v. Blaine County Medical Center* (2000), 134 Idaho 464, 3418  
the Supreme Court of Idaho addressed the issue of whether the 3419  
limit on noneconomic damages was unconstitutional under the Idaho 3420  
Constitution. The Court held that the limit on noneconomic damages 3421  
was constitutional and did not violate the right to a jury trial 3422  
in that the limit on noneconomic damages was a modification of a 3423  
common law remedy that was within the powers of the legislature 3424  
and did not infringe upon the jury's right to decide cases. 3425

(e) In *Edmonds v. Murphy* (1990), 83 Md. App. 133, the Court 3426  
of Special Appeals held that the limit on noneconomic damages did 3427  
not violate Article 19 of the Maryland Declaration of Rights, 3428  
which provides "[t]hat every man, for any injury done to him in 3429  
his person or property, ought to have remedy by the course of the 3430  
Law of the land, and ought to have justice and right, freely 3431  
without sale, fully without any denial, and speedily without 3432  
delay, according to the Law of the land." The Court held that 3433  
"[t]he majority of courts that have addressed [noneconomic 3434  
damages] caps under either a Fourteenth Amendment due process 3435  
analysis or an analysis under state constitutional provisions 3436  
similar to Article 19 have upheld caps." The Court agreed with the 3437  
"sound reasoning of the majority of courts that have analyzed caps 3438  
under due process analysis or under constitutional provisions 3439  
similar to Article 19 and found no constitutional violation." 3440  
Accordingly, the Court of Special Appeals of Maryland held that 3441  
the limits on noneconomic damages did not violate the state's 3442

"open courts" provision. 3443

(7)(a) Statutes of repose are vital instruments that provide 3444  
time limits, closure, and peace of mind to potential parties of 3445  
lawsuits. 3446

(b) Forty-seven other states have adopted statutes of repose 3447  
to protect architects, engineers, and constructors of improvements 3448  
to real property from lawsuits arising after a specific number of 3449  
years after completion of an improvement to real property. The 3450  
General Assembly recognizes that Kentucky, New York, and Ohio are 3451  
the only three states that do not have a statute of repose. The 3452  
General Assembly also acknowledges that Ohio stands by itself, due 3453  
to the fact that both Kentucky and New York have a rebuttable 3454  
presumption that exists and only if a plaintiff can overcome that 3455  
presumption can a claim continue. 3456

(c) As stated in testimony by Jack Pottmeyer, architect and 3457  
managing principal of MKC Associates, Inc., this unlimited 3458  
liability forces professionals to maintain records in perpetuity, 3459  
because those professionals cannot reasonably predict when a 3460  
record from fifteen or twenty years earlier may become the subject 3461  
of a civil action. Those actions occur despite the fact that, over 3462  
the course of many years, owners of the property or those 3463  
responsible for its maintenance could make modifications or other 3464  
substantial changes that would significantly change the intent or 3465  
scope of the original design of the property designed by an 3466  
architectural firm. The problem is compounded by the fact that 3467  
professional liability insurance for architects and engineers is 3468  
offered by relatively few insurance carriers and is written on 3469  
what is known as a "claims made basis," meaning a policy must be 3470  
in effect when the claim is made, not at the time of the service, 3471  
in order for the claim to be paid. Without a statute of repose, 3472  
professional liability insurance must be maintained forever to 3473  
ensure coverage of any potential claim on previous services. These 3474

minimum annual premiums can add up, averaging between three 3475  
thousand five hundred dollars and five thousand dollars annually, 3476  
which is especially burdensome for a retired design professional. 3477

(8)(a) The collateral source rule prohibits a defendant from 3478  
introducing evidence that the plaintiff received any benefits from 3479  
sources outside the dispute. The General Assembly recognizes that 3480  
this rule allows a plaintiff to recover the full amount of damages 3481  
twice and also undermines the basis of a fault-based liability 3482  
system. 3483

(b) Twenty-one states have modified or abolished the 3484  
collateral source rule. 3485

(9)(a) Asbestos claims have created an increased amount of 3486  
litigation in state and federal courts that the United States 3487  
Supreme Court has characterized as "an elephant mass" of cases 3488  
that "defies customary judicial administration and calls for 3489  
national legislation." *Ortiz v. Fibreboard Corporation* (1999), 119 3490  
S.Ct. 2295, 2303. 3491

(b) The current asbestos personal injury litigation system is 3492  
unfair and inefficient, imposing a severe burden on litigants and 3493  
taxpayers alike. 3494

(c) The extraordinary volume of nonmalignant asbestos cases 3495  
continue to strain federal and state courts, with over two hundred 3496  
thousand cases pending and over fifty thousand new cases filed 3497  
each year. 3498

(d) Asbestos personal injury litigation has already 3499  
contributed to the bankruptcy of more than sixty companies, 3500  
including nearly all manufacturers of asbestos textile and 3501  
insulation products, and the ratio of asbestos-driven bankruptcies 3502  
is accelerating. 3503

(e) The General Assembly recognizes that the vast majority of 3504  
asbestos claims are filed by individuals who allege they have been 3505

exposed to asbestos and who have some physical sign of exposure to 3506  
asbestos, but who do not suffer from an asbestos-related 3507  
impairment. 3508

(f) The cost of compensating exposed individuals who are not 3509  
ill jeopardizes the ability of defendants to compensate people 3510  
with cancer and other serious asbestos-related diseases, now and 3511  
in the future; threatens savings, retirement benefits, and jobs of 3512  
the state's current and retired employees; adversely affects the 3513  
communities in which these defendants operate; and impairs Ohio's 3514  
economy. 3515

(g) As stated in testimony by Robert Bunda, a trial lawyer 3516  
who has been involved with the defense of asbestos claims on 3517  
behalf of Owens-Illinois, Inc. for twenty-four years, there is 3518  
something terribly wrong with the current civil justice system, 3519  
evidenced by the fact that Owens-Illinois has been sued over three 3520  
hundred thousand times for its brief involvement in manufacturing 3521  
asbestos. According to Mr. Bunda, at least five Ohio-based 3522  
companies have gone bankrupt because of the cost of paying people 3523  
who are not sick. These bankruptcies have imperiled the 3524  
availability of even modest compensation for the most seriously 3525  
injured asbestos workers. They have also imperiled jobs, the 3526  
health benefits, and the retirement funds of tens of thousands of 3527  
blue-collar workers. New jobs are not being created in Ohio, and 3528  
existing Ohio jobs are being destroyed. 3529

(h) According to a study conducted by NERA Economic 3530  
Consulting, in 2000, Owens-Corning laid off two hundred and 3531  
seventy-five employees from its Granville, Ohio plant. The ripple 3532  
effect of those job losses predicts total employment in the county 3533  
of almost five hundred jobs and a fifteen million to twenty 3534  
million dollar annual reduction in regional income. 3535

(i) The public interest requires the deferring of claims of 3536

exposed individuals who are not ill in order to preserve, now and 3537  
for the future, defendants' ability to compensate people who 3538  
develop cancer and other serious asbestos-related injuries and to 3539  
safeguard the jobs, benefits, and savings of the state's employees 3540  
and the well being of the Ohio economy. 3541

(B) In enacting section 2305.131 of the Revised Code in this 3542  
act, it is the intent of the General Assembly to do all of the 3543  
following: 3544

(1) To declare that the ten-year statute of repose prescribed 3545  
by section 2305.131 of the Revised Code, as enacted by this act, 3546  
is a specific provision intended to promote a greater interest 3547  
than the interest underlying the general four-year statute of 3548  
limitations prescribed by section 2305.09 of the Revised Code, the 3549  
general two-year statute of limitations prescribed by section 3550  
2305.10 of the Revised Code, and other general statutes of 3551  
limitation prescribed by the Revised Code; 3552

(2) To recognize that, subsequent to the completion of the 3553  
construction of an improvement to real property, all of the 3554  
following generally apply to the persons who provided services for 3555  
the improvement or who furnished the design, planning, supervision 3556  
of construction, or construction of the improvement: 3557

(a) They lack control over the improvement, the ability to 3558  
make determinations with respect to the improvement, and the 3559  
opportunity or responsibility to maintain or undertake the 3560  
maintenance of the improvement. 3561

(b) They lack control over other forces, uses, and 3562  
intervening causes that may cause stress, strain, or wear and tear 3563  
to the improvement. 3564

(c) They have no right or opportunity to be made aware of, to 3565  
evaluate the effect of, or to take action to overcome the effect 3566  
of the forces, uses, and intervening causes described in division 3567

(E)(5)(b) of this section. 3568

(3) To recognize that, more than ten years after the 3569  
completion of the construction of an improvement to real property, 3570  
the availability of relevant evidence pertaining to the 3571  
improvement and the availability of witnesses knowledgeable with 3572  
respect to the improvement is problematic; 3573

(4) To recognize that maintaining records and other 3574  
documentation pertaining to services provided for an improvement 3575  
to real property or the design, planning, supervision of 3576  
construction, or construction of an improvement to real property 3577  
for a reasonable period of time is appropriate and to recognize 3578  
that, because the useful life of an improvement to real property 3579  
may be substantially longer than ten years after the completion of 3580  
the construction of the improvement, it is an unacceptable burden 3581  
to require the maintenance of those types of records and other 3582  
documentation for a period in excess of ten years after that 3583  
completion; 3584

(5) To declare that section 2305.131 of the Revised Code, as 3585  
enacted by this act, strikes a rational balance between the rights 3586  
of prospective claimants and the rights of design professionals, 3587  
construction contractors, and construction subcontractors and to 3588  
declare that the ten-year statute of repose prescribed in that 3589  
section is a rational period of repose intended to preclude the 3590  
pitfalls of stale litigation but not to affect civil actions 3591  
against those in actual control and possession of an improvement 3592  
to real property at the time that a defective and unsafe condition 3593  
of that improvement causes an injury to real or personal property, 3594  
bodily injury, or wrongful death. 3595

(C) In enacting division (D)(2) of section 2125.02 and 3596  
division (C) of section 2305.10 of the Revised Code in this act, 3597  
it is the intent of the General Assembly to do all of the 3598  
following: 3599

(1) To declare that the ten-year statute of repose prescribed 3600  
by division (D)(2) of section 2125.02 and division (C) of section 3601  
2305.10 of the Revised Code, as enacted by this act, are specific 3602  
provisions intended to promote a greater interest than the 3603  
interest underlying the general four-year statute of limitations 3604  
prescribed by section 2305.09 of the Revised Code, the general 3605  
two-year statutes of limitations prescribed by sections 2125.02 3606  
and 2305.10 of the Revised Code, and other general statutes of 3607  
limitations prescribed by the Revised Code; 3608

(2) To declare that, subject to the two-year exceptions 3609  
prescribed in division (D)(2)(d) of section 2125.02 and in 3610  
division (C)(4) of section 2305.10 of the Revised Code, the 3611  
ten-year statutes of repose shall serve as a limitation upon the 3612  
commencement of a civil action in accordance with an otherwise 3613  
applicable statute of limitations prescribed by the Revised Code; 3614

(3) To recognize that subsequent to the delivery of a 3615  
product, the manufacturer or supplier lacks control over the 3616  
product, over the uses made of the product, and over the 3617  
conditions under which the product is used; 3618

(4) To recognize that under the circumstances described in 3619  
division (C)(3) of this section, it is more appropriate for the 3620  
party or parties who have had control over the product during the 3621  
intervening time period to be responsible for any harm caused by 3622  
the product; 3623

(5) To recognize that, more than ten years after a product 3624  
has been delivered, it is very difficult for a manufacturer or 3625  
supplier to locate reliable evidence and witnesses regarding the 3626  
design, production, or marketing of the product, thus severely 3627  
disadvantaging manufacturers or suppliers in their efforts to 3628  
defend actions based on a product liability claim; 3629

(6) To recognize the inappropriateness of applying current 3630

legal and technological standards to products manufactured many 3631  
years prior to the commencement of an action based on a product 3632  
liability claim; 3633

(7) To recognize that a statute of repose for product 3634  
liability claims would enhance the competitiveness of Ohio 3635  
manufacturers by reducing their exposure to disruptive and 3636  
protracted liability with respect to products long out of their 3637  
control, by increasing finality in commercial transactions, and by 3638  
allowing manufacturers to conduct their affairs with increased 3639  
certainty; 3640

(8) To declare that division (D)(2) of section 2125.02 and 3641  
division (C) of section 2305.10 of the Revised Code, as enacted by 3642  
this act, strike a rational balance between the rights of 3643  
prospective claimants and the rights of product manufacturers and 3644  
suppliers and to declare that the ten-year statutes of repose 3645  
prescribed in those sections are rational periods of repose 3646  
intended to preclude the problems of stale litigation but not to 3647  
affect civil actions against those in actual control and 3648  
possession of a product at the time that the product causes an 3649  
injury to real or personal property, bodily injury, or wrongful 3650  
death; 3651

(D) In enacting sections 2307.91 to 2307.97 of the Revised 3652  
Code, it is the intent of the General Assembly to: (1) give 3653  
priority to those asbestos claimants who can demonstrate actual 3654  
physical harm or illness caused by exposure to asbestos; (2) fully 3655  
preserve the rights of claimants who were exposed to asbestos to 3656  
pursue compensation should those claimants become impaired in the 3657  
future as a result of such exposure; (3) enhance the ability of 3658  
the state's judicial systems and federal judicial systems to 3659  
supervise and control litigation and asbestos-related bankruptcy 3660  
proceedings; and (4) conserve the scarce resources of the 3661  
defendants to allow compensation of cancer victims and others who 3662



are physically impaired by exposure to asbestos while securing the 3663  
right to similar compensation for those who may suffer physical 3664  
impairment in the future. 3665

(E) The General Assembly declares its intent that the 3666  
amendment made by this act to section 2307.71 of the Revised Code 3667  
is intended to supersede the holding of the Ohio Supreme Court in 3668  
*Carrel v. Allied Products Corp.* (1997), 78 Ohio St.3d 284, that 3669  
the common law product liability cause of action of negligent 3670  
design survives the enactment of the Ohio Product Liability Act, 3671  
sections 2307.71 to 2307.80 of the Revised Code, and to abrogate 3672  
all common law product liability causes of action. 3673

(F) The Ohio General Assembly respectfully requests the Ohio 3674  
Supreme Court to uphold this intent in the courts of Ohio, to 3675  
reconsider its holding on damage caps in *State v. Sheward* (1999), 3676  
Ohio St. 3d 451, to reconsider its holding on the deductibility of 3677  
collateral source benefits in *Sorrel v. Thevenir* (1994), 69 Ohio 3678  
St. 3d 415, and to reconsider its holding on statutes of repose in 3679  
*Sedar v. Knowlton Constr. Co.* (1990) 49 Ohio St. 3d 193. 3680

**Section 7.** (A) As used in this section, "asbestos," "asbestos 3681  
claim," "exposed person," and "substantial contributing factor" 3682  
have the same meanings as in section 2307.91 of the Revised Code. 3683

(B) The General Assembly acknowledges the Court's authority 3684  
in prescribing rules governing practice and procedure in the 3685  
courts of this state, as provided by Section 5 of Article IV of 3686  
the Ohio Constitution. 3687

3688

(C) The General Assembly hereby requests the Supreme Court to 3689  
adopt a "Legal Consumer's Bill of Rights." 3690

(D) The General Assembly hereby requests the Supreme Court to 3691  
adopt rules to specify procedures for venue and consolidation of 3692

asbestos claims brought pursuant to sections 2307.91 to 2307.95 of 3693  
the Revised Code. 3694

(E) With respect procedures for venue in regard to asbestos 3695  
claims, the General Assembly hereby requests the Supreme Court to 3696  
adopt a rule that requires that an asbestos claim meet specific 3697  
nexus requirements, including the requirement that the plaintiff 3698  
be domiciled in Ohio or that Ohio is the state in which the 3699  
plaintiff's exposure to asbestos is a substantial contributing 3700  
factor. 3701

(F) With respect to procedures for consolidation of asbestos 3702  
claims, the General Assembly hereby requests the Supreme Court to 3703  
adopt a rule that permits consolidation of asbestos claims only 3704  
with the consent of all parties, and in absence of that consent, 3705  
permits a court to consolidate for trial only those asbestos 3706  
claims that relate to the same exposed person and members of the 3707  
exposed person's household. 3708

**Section 8.** If any item of law that constitutes the whole or 3709  
part of a section of law contained in this act, or if any 3710  
application of any item of law that constitutes the whole or part 3711  
of a section of law contained in this act, is held invalid, the 3712  
invalidity does not affect other items of law or applications of 3713  
items of law that can be given effect without the invalid item of 3714  
law or application. To this end, the items of law of which the 3715  
sections contained in this act are composed, and their 3716  
applications, are independent and severable. 3717

**Section 9.** If any item of law that constitutes the whole or 3718  
part of a section of law contained in this act, or if any 3719  
application of any item of law contained in this act, is held to 3720  
be preempted by federal law, the preemption of the item of law or 3721  
its application does not affect other items of law or applications 3722  
that can be given affect. The items of law of which the sections 3723

of this act are composed, and their applications, are independent 3724  
and severable. 3725