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Sub. S. B. No. 80

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

A B I L L

To amend sections 1775.14, 2117.06, 2125.02, 2125.04,
2305.01, 2305.03, 2305.10, 2305.25, 2307.011,
2307.23, 2307.29, 2307.60, 2307.71, 2307.75,
2307.80, 2315.01, 2315.21, 2315.32, 2315.33,
2315.34, 2315.36, 2323.51, 2505.02, 4507.07, and
4513.263; to enact sections 2305.131, 2307.711,
2315.19, 2315.20, and 2323.44; and to repeal
sections 2315.41, 2315.42, 2315.43, 2315.44,
2315.45, and 2315.46 of the Revised Code to make
changes related to the award of certain damages,
collateral benefits evidence, and contributory
fault in tort actions; to establish a statute of
repose for certain product liability claims and
claims based on unsafe conditions of real property
improvements and to make other changes related to
product liability claims; to provide that the
product liability statutes are intended to
abrogate common law product liability causes of
action; to enact a conflicts of law provision for
statutes of limitation in civil actions; to modify
the provisions on frivolous conduct in filing
civil actions; and to make other changes related
to civil actions.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1775.14, 2117.06, 2125.02, 2125.04, 2305.01, 2305.03, 2305.10, 2305.25, 2307.011, 2307.23, 2307.29, 2307.60, 2307.71, 2307.75, 2307.80, 2315.01, 2315.21, 2315.32, 2315.33, 2315.34, 2315.36, 2323.51, 2505.02, 4507.07, and 4513.263 be amended and sections 2305.131, 2307.711, 2315.19, 2315.20, and 2323.44 of the Revised Code be enacted to read as follows:

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

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

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

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

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

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

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

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

(1) After the appointment of an executor or administrator and prior to the filing of a final account or a certificate of termination, in one of the following manners:

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

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

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

(2) If the final account or certificate of termination has
been filed, in a writing to those distributees of the decedent's
estate who may share liability for the payment of the claim.

(B) Except as provided in section 2117.061 of the Revised
Code, all claims shall be presented within six months after the
death of the decedent, whether or not the estate is released from
administration or an executor or administrator is appointed during
that six-month period. Every claim presented shall set forth the
claimant's address.

(C) Except as provided in section 2117.061 of the Revised
Code, a claim that is not presented within six months after the
death of the decedent shall be forever barred as to all parties,
including, but not limited to, devisees, legatees, and
distributees. No payment shall be made on the claim and no action
shall be maintained on the claim, except as otherwise provided in
sections 2117.37 to 2117.42 of the Revised Code with reference to
contingent claims.

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

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

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

(G) Nothing in this section or in section 2117.07 of the Revised Code shall be construed to reduce the time mentioned periods of limitation or periods prior to repose in section 2125.02, 2305.09, 2305.10, 2305.11, 2305.113, or 2305.12 Chapter 2305. of the Revised Code, provided that no portion of any recovery on a claim brought pursuant to that section or any of those sections section in that chapter shall come from the assets of an estate unless the claim has been presented against the estate in accordance with Chapter 2117. of the Revised Code.
(H) Any person whose claim has been presented and has not been rejected after presentment is a creditor as that term is used in Chapters 2113. to 2125. of the Revised Code. Claims that are contingent need not be presented except as provided in sections 2117.37 to 2117.42 of the Revised Code, but, whether presented pursuant to those sections or this section, contingent claims may be presented in any of the manners described in division (A) of this section.

(I) If a creditor presents a claim against an estate in accordance with division (A)(1)(b) of this section, the probate court shall not close the administration of the estate until that claim is allowed or rejected.

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

(K) If the executor or administrator makes a distribution of the assets of the estate pursuant to section 2113.53 of the Revised Code and prior to the expiration of the time for the presentation of claims as set forth in this section, the executor or administrator shall provide notice on the account delivered to each distributee that the distributee may be liable to the estate if a claim is presented prior to the filing of the final account and may be liable to the claimant if the claim is presented after the filing of the final account up to the value of the distribution and may be required to return all or any part of the value of the distribution if a valid claim is subsequently made against the estate within the time permitted under this section.

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

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

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

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

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

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

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

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

(2) Loss of services of the decedent;

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

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

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

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

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

(2)(a) Except as otherwise provided in divisions (D)(2)(b), (c), (d), (e), (f), and (g) of this section or in section 2125.04 of the Revised Code, no cause of action for wrongful death involving a product liability claim shall accrue against the manufacturer or supplier of a product later than ten years from the date that the product was delivered to its first purchaser or first lessee who was not engaged in a business in which the product was used as a component in the production, construction, creation, assembly, or rebuilding of another product.

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

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

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

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

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

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

(g) Division (D)(2)(a) of this section does not bar a civil action for wrongful death based on a product liability claim against a manufacturer or supplier of a product if the product involved is a substance or device described in division (B)(5) of section 2315.10 of the Revised Code. If division (D)(2)(g) of this section applies regarding a civil action for wrongful death, the cause of action that is the basis of the action accrues upon the
date on which the claimant is informed by competent medical
authority that the decedent's death was related to the exposure to
the product or upon the date on which by the exercise of
reasonable diligence the claimant should have known that the
decedent's death was related to the exposure to the product,
whichever date occurs first. A civil action for wrongful death
based on a cause of action described in division (D)(2)(g) of this
section shall be commenced within two years after the cause of
action accrues and shall not be commenced more than two years
after the cause of action accrues.

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

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

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

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

(G) As used in this section:

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

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

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

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

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

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

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

(5) "Harm" means death.

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

(H) Divisions (D), (G)(5), and (G)(6) of this section shall be considered to be purely remedial in operation and shall be
applied in a remedial manner in any civil action commenced on or after the effective date of this amendment, in which those divisions are relevant, regardless of when the cause of action accrued and notwithstanding any other section of the Revised Code or prior rule of law of this state, but shall not be construed to apply to any civil action pending prior to the effective date of this amendment.

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

**Sec. 2305.01.** The Except as otherwise provided by this section or section 2305.03 of the Revised Code, the court of common pleas has original jurisdiction in all civil cases in which the sum or matter in dispute exceeds the exclusive original jurisdiction of county courts and appellate jurisdiction from the decisions of boards of county commissioners. The court of common pleas shall not have jurisdiction, in any tort action to which the amounts apply, to award punitive or exemplary damages that exceed the amounts set forth in section 2315.21 of the Revised Code.

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

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

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

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

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

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

(B)(1) For purposes of division (A) of this section, a cause of action for bodily injury that is not described in division (B)(2), (3), (4), or (5) of this section and that is caused by exposure to hazardous or toxic chemicals, ethical drugs, or ethical medical devices accrues upon the date on which the plaintiff is informed by competent medical authority that the plaintiff has an injury that is related to the exposure, or upon the date on which by the exercise of reasonable diligence the plaintiff should have known that the plaintiff has an injury that is related to the exposure, whichever date occurs first.

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

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

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

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

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

(C)(1) Except as otherwise provided in divisions (C)(2), (3), (4), (5), (6), and (7) of this section or in section 2305.19 of the Revised Code, no cause of action based on a product liability claim shall accrue against the manufacturer or supplier of a product later than ten years from the date that the product was delivered to its first purchaser or first lessee who was not engaged in a business in which the product was used as a component in the production, construction, creation, assembly, or rebuilding of another product.

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

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

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

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

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

(i) The action is for bodily injury.

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

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

(b) If division (C)(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.

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

(E) As used in this section:

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

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

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

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

Sec. 2305.131. (A)(1) Notwithstanding an otherwise applicable period of limitations specified in this chapter or in section 2125.02 of the Revised Code and except as otherwise provided in divisions (A)(2), (A)(3), (C), and (D) of this section, no cause of action to recover damages for bodily injury, an injury to real or personal property, or wrongful death that arises out of a defective and unsafe condition of an improvement to real property...
and no cause of action for contribution or indemnity for damages sustained as a result of bodily injury, an injury to real or personal property, or wrongful death that arises out of a defective and unsafe condition of an improvement to real property shall accrue against a person who performed services for the improvement to real property or a person who furnished the design, planning, supervision of construction, or construction of the improvement to real property later than ten years from the date of substantial completion of such improvement.

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

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

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

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

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

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

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

(G) As used in this section, "substantial completion" means the date the improvement to real property is first used by the owner or tenant of the real property or when the real property is first available for use after having the improvement completed in accordance with the contract or agreement covering the improvement, including any agreed changes to the contract or agreement, whichever occurs first.

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

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

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

(B) "Health insuring corporation" means an entity that holds a certificate of authority under Chapter 1751. of the Revised

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

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

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

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

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

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

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

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

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

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

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

(d) A peer review committee, professional standards review committee, or arbitration committee of a state or local society composed of members who are in active practice as physicians, dentists, optometrists, psychologists, or pharmacists;

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

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

(g) A peer review committee of a sickness and accident insurer that has at least a two-thirds majority of physicians in active practice and that conducts professional credentialing and quality review activities involving the competence or professional conduct of a health care facility that has contracted with the sickness and accident insurer to provide health care services to enrollees, which conduct adversely affects, or could adversely affect, the health or welfare of any patient;
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) A peer review committee of the bureau of workers' compensation responsible for reviewing the professional qualifications and the performance of providers conducting medical examinations or file reviews for the bureau;

(k) 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, and an asbestos claim, as defined in section 2307.91 of the Revised Code, but does not include a civil action for a breach of contract or another agreement between persons.

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

(A) "Conduct" means actions or omissions.

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

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

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

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

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

(4) Any other expenditures incurred as a result of an injury,
death, or loss to person or property that is a subject of a tort
action, except expenditures of the injured person, the person
whose property was injured or destroyed, or another person on
behalf of the injured person or the person whose property was
injured or destroyed in relation to the actual preparation or
presentation of the claim involved.

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

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

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

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

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

1. Persons who have entered into a settlement agreement with the plaintiff;

2. Persons whom the plaintiff has dismissed from the tort action without prejudice;

3. Persons whom the plaintiff has dismissed from the tort action with prejudice;

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

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

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

(J) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in section 2307.71 of the Revised Code, and an asbestos claim, as defined in section 2307.91 of the Revised Code, but does not include a civil action for damages for a breach of contract or another agreement between persons.

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

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

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

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

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

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

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

(B)(1) As used in division (B) of this section, "tort action"
means a civil action for damages for injury, death, or loss to
person or property other than a civil action for damages for a
breach of contract or another agreement between persons. "Tort
action" includes, but is not limited to, a product liability
claim, as defined in section 2307.71 of the Revised Code, and an
asbestos claim, as defined in section 2307.91 of the Revised Code,
an action for wrongful death under Chapter 2125. of the Revised
Code, and an action based on derivative claims for relief.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Supplier" means, subject to division of this section, either of the following:

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

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

"Supplier" does not include any of the following:

(i) A manufacturer;

(ii) A seller of real property;

(iii) A provider of professional services who, incidental to a professional transaction the essence of which is the furnishing of judgment, skill, or services, sells or uses a
Any person who acts only in a financial capacity with respect to the sale of a product, or who leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Division (C)(1) of this section does not apply if the claimant establishes, by a preponderance of the evidence, that the manufacturer fraudulently and in violation of applicable regulations of the food and drug administration withheld from the food and drug administration information known to be material and relevant to the harm that the claimant allegedly suffered or misrepresented to the food and drug administration information of that type. For As used in this division, "fraudulently" means when the sponsor of the drug or medical device approval had not disclosed to the food and drug administration, in the premarket approval application or new drug application and related submissions, that which was required to be disclosed in order to secure the approval from the food and drug administration, which data came into the actual or constructive possession of the sponsor or its agents during the pendency of the investigational device exemption, investigational new drug expectation, new drug application, or premarket approval application or prior to or subsequent to the date of the actual approval of the new drug application.

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

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

(b) "Device" has the same meaning as in the "Federal Food,

(D)(1) If a claimant alleges in a product liability claim that a product other than a drug or device caused harm to the claimant, the manufacturer or supplier of the product shall not be liable for punitive or exemplary damages in connection with the claim if the manufacturer or supplier fully complied with all applicable government safety and performance standards, whether or not designated as such by the government, relative to the product's manufacture or construction, the product's design or formulation, adequate warnings or instructions, and representations when the product left the control of the manufacturer or supplier, and the claimant's injury results from an alleged defect of a product's manufacture or construction, the product's design or formulation, adequate warnings or instructions, and representations for which there is an applicable government safety or performance standard.

(2) Division (D)(1) of this section does not apply if the claimant establishes, by a preponderance of the evidence, that the manufacturer or supplier of the product other than a drug or device fraudulently and in violation of applicable government safety and performance standards withheld from an applicable government agency information known to be material and relevant to the harm that the claimant allegedly suffered or misrepresented to an applicable government agency information of that type.

(E) The bifurcated trial provisions of division (B) of section 2315.21 of the Revised Code, the ceiling on recoverable punitive or exemplary damages specified in division (D)(1) of that section, and the provisions of division (D)(3) of that section apply to awards of punitive or exemplary damages under this section.
Sec. 2315.01. (A) When the jury is sworn, unless for special reasons the court otherwise directs, the trial shall proceed in the following order except as provided in section 2315.02 of the Revised Code:

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

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

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

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

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

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

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

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

As used in this division, "tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in section 2307.71 of the Revised Code, and an asbestos claim, as defined in section 2307.91 of the Revised Code, but does not include a civil action for damages for breach of contract or another agreement between persons.

Division (B) of this section shall be considered to be purely remedial in operation and shall be applied in a remedial manner in any civil action commenced on or after the effective date of this amendment, in which division (B) of this section is relevant, regardless of when the cause of action accrued and notwithstanding any other section of the Revised Code or prior rule of law of this state, but shall not be construed to apply to any civil action pending prior to the effective date of this amendment.
Sec. 2315.19. (A) As used in this section:

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

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

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

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

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

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

(B) In determining an award of compensatory damages for noneconomic loss in a tort action, the trier of fact shall not consider any of the following:

(1) Evidence of a defendant's alleged wrongdoing, misconduct, or guilt;
(2) Evidence of the defendant's wealth or financial resources;

(3) All other evidence that is offered for the purpose of punishing the defendant, rather than offered for a compensatory purpose.

(C)(1) Upon a post-judgment motion, a trial court in a tort action shall review the evidence supporting an award of compensatory damages for noneconomic loss that is challenged as inadequate or excessive. That review shall include, but is not limited to, the following factors:

(a) Whether the evidence presented or the arguments of the attorneys resulted in one or more of the following events in the determination of an award of compensatory damages for noneconomic loss:

(i) It inflamed the passion or prejudice of the trier of fact.

(ii) It resulted in the improper consideration of the wealth or lack of wealth of the defendant.

(iii) It resulted in the improper consideration of the misconduct of a party so as to punish that party improperly or in circumvention of the limitation on punitive or exemplary damages as provided in section 2315.21 of the Revised Code.

(b) Whether the verdict is less than or in excess of verdicts involving comparable injuries to similarly situated plaintiffs;

(c) Whether there were any extraordinary circumstances in the record to account for an award of compensatory damages for noneconomic loss less than or in excess of what was granted by courts to similarly situated plaintiffs, with consideration given to the type of injury, the severity of the injury, and the plaintiff's age at the time of the injury.
(2) The party that has challenged an award of compensatory damages for noneconomic loss as inadequate or excessive has the burden of proof to show that the award for damages for noneconomic loss is inadequate or excessive.

(D) A trial court upholding an award of compensatory damages for noneconomic loss that a party has challenged as inadequate or excessive shall set forth in writing its reasons for upholding the award.

(E) An appellate court shall use a de novo standard of review when considering an appeal of an award of compensatory damages for noneconomic loss on the grounds that the award is inadequate or excessive.

Sec. 2315.20. (A) In any tort action, the defendant may introduce evidence of any amount payable as a benefit to the plaintiff as a result of the damages that result from an injury, death, or loss to person or property that is the subject of the claim upon which the action is based, except if the source of collateral benefits has a mandatory self-effectuating federal right of subrogation, a contractual right of subrogation, or a statutory right of subrogation or if the source pays the plaintiff a benefit that is in the form of a life insurance payment or a disability payment.

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

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

(D) As used in this section:

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

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

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

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

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

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

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

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

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

(5) "Small employer" means an employer who employs not more than one hundred persons on a full-time permanent basis, or, if the employer is classified as being in the manufacturing sector by the North American industrial classification system, "small employer" means an employer who employs not more than five hundred persons on a full-time permanent basis.

(B)(1) In a tort action that is tried to a jury and in which a plaintiff makes a claim for compensatory damages and a claim for punitive or exemplary damages, upon the motion of any party, the trial of the tort action shall be bifurcated as follows:

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

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

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

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

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

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

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

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

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

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

(b) If the defendant is a small employer or individual, the court shall not enter judgment for punitive or exemplary damages in excess of the lesser of two times the amount of the compensatory damages awarded to the plaintiff from the defendant or ten percent of the employer's or individual's net worth when the tort was committed up to a maximum of three hundred fifty thousand dollars, as determined pursuant to division (B)(2) or (3) of this section.

(c) Any attorneys' fees awarded as a result of a claim for punitive or exemplary damages shall not be considered for purposes of determining the cap on punitive damages.

(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.

(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.

(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.

(b) Notwithstanding division (D)(5)(a) of this section and except as provided in division (D)(6) of this section, punitive or exemplary damages may be awarded against a defendant in either of the following types of tort actions:

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

(ii) In subsequent tort actions involving the same act or course of conduct for which punitive or exemplary damages have already been awarded, if the court determines by clear and
convincing evidence that the total amount of prior punitive or exemplary damages awards was totally insufficient to punish that defendant's behavior of a type described in division (C) of this section and to deter that defendant and others from similar behavior in the future. In that case, the court shall make specific findings of fact in the record to support its conclusion. The court shall reduce the amount of any punitive or exemplary damages otherwise awardable pursuant to this section by the sum of the punitive or exemplary damages awards previously rendered against that defendant in any state or federal court. The court shall not inform the jury about the court's determination and action under division (D)(5)(b)(ii) of this section.

(6) Division (D)(2) of this section does not apply to a tort action where the alleged injury, death, or loss to person or property resulted from the defendant acting with one or more of the culpable mental states of purposely and knowingly as described in section 2901.22 of the Revised Code and when the defendant has been convicted of or pleaded guilty to a criminal offense that is a felony that had as an element of the offense one or more of the culpable mental states of purposely and knowingly as described in that section.

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

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

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

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

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

(F) If the trier of fact is a jury, the court shall not instruct the jury with respect to the limits on punitive or exemplary damages pursuant to division (D) of this section, and neither counsel for any party or a witness shall inform the jury or potential jurors of those limits.

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2323.44. (A) As used in this section:

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

(2) "Claimant" means a person, or the person's spouse, next of kin, or estate, who is eligible to receive compensation, medical benefits, or lost wage benefits under any health insurance plan, reimbursement plan, or wage continuation plan that is purchased by or on behalf of the claimant or is purchased, paid for, or purchased and paid for by the claimant's employer.

(3) "Medical claim," "dental claim," "optometric claim," and "chiropractic claim" have the same meanings as in section 2305.113 of the Revised Code.
(4) "Net amount recovered" means the amount of any award, settlement, compromise, or recovery by a claimant against a third party, minus attorney fees, costs, or other expenses incurred by the claimant in securing the award, settlement, compromise, or recovery. "Net amount recovered" does not include any punitive damages that may be awarded by a judge or jury.

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

(6) "Subrogation interest" includes past, present, and estimated future payments of compensation, medical benefits, or lost wage or wage continuation benefits paid or payable to or on behalf of the claimant by the subrogee.

(7) "Subrogee" means the source of payment of compensation, medical benefits, or lost wage benefits payable to or on behalf of a claimant as a result of a health insurance plan, reimbursement plan, or lost wage payment or wage continuation plan that is purchased by or on behalf of a claimant or is purchased, paid for, or purchased and paid for by the claimant's employer.

(8) "Third party" means an individual, private insurer, or public or private entity that is or may be liable to make payments to a claimant as a result of a civil action for damages for injury, death, or loss to person or property.

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

(10) "Uncompensated damages" means the claimant's demonstrated or proven damages as a result of a tort action for
injury, death, or loss to person or property minus the subrogee's subrogation interest.

(B) Notwithstanding any contract or policy language to the contrary, a subrogee shall have the right to recover its subrogation interest against a third party and is subrogated to the rights of a claimant against that third party only as follows:

(1) The claimant shall receive an amount equal to the uncompensated damages divided by the sum of the subrogation interest plus the uncompensated damages, multiplied by the net amount recovered.

(2) The subrogee shall receive an amount equal to the subrogation interest divided by the sum of the subrogation interest plus the uncompensated damages, multiplied by the net amount recovered.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B)(1) Subject to divisions (B)(2) and (3), (C), and (D) of
this section and except as otherwise provided in division
(E)(2)(b) of section 101.15 or division (I)(2)(b) of section
121.22 of the Revised Code, at any time prior to the commencement
of the trial in a civil action or within twenty-one days after the
entry of judgment in a civil action or at any time prior to the
hearing in an appeal of the type described in division (A)(1)(b)
of this section that is filed by an inmate or within twenty-one
days after the entry of judgment in an appeal of that nature, the
court may file a motion for an award of court costs, reasonable attorney's fees, and other reasonable expenses incurred
in connection with the civil action or appeal to any party to the
civil action or appeal who was adversely affected by frivolous conduct. The court may assess and make an award may be assessed to
any party to the civil action or appeal who was adversely affected
by frivolous conduct, as provided in division (B)(4) of this
section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2505.02. (A) As used in this section:

(1) "Substantial right" means a right that the United States
Constitution, the Ohio Constitution, a statute, the common law, or
a rule of procedure entitles a person to enforce or protect.

(2) "Special proceeding" means an action or proceeding that
is specially created by statute and that prior to 1853 was not
denoted as an action at law or a suit in equity.

(3) "Provisional remedy" means a proceeding ancillary to an
action, including, but not limited to, a proceeding for a
preliminary injunction, attachment, discovery of privileged
matter, suppression of evidence, or a prima-facie showing pursuant
to section 2307.85 or 2307.86 of the Revised Code, a prima-facie
showing pursuant to section 2307.92 of the Revised Code, or a finding made pursuant to division (A)(3) of section 2307.93 of the Revised Code.

(B) An order is a final order that may be reviewed, affirmed, modified, or reversed, with or without retrial, when it is one of the following:

(1) An order that affects a substantial right in an action that in effect determines the action and prevents a judgment;

(2) An order that affects a substantial right made in a special proceeding or upon a summary application in an action after judgment;

(3) An order that vacates or sets aside a judgment or grants a new trial;

(4) An order that grants or denies a provisional remedy and to which both of the following apply:

(a) The order in effect determines the action with respect to the provisional remedy and prevents a judgment in the action in favor of the appealing party with respect to the provisional remedy.

(b) The appealing party would not be afforded a meaningful or effective remedy by an appeal following final judgment as to all proceedings, issues, claims, and parties in the action.

(5) An order that determines that an action may or may not be maintained as a class action;

(6) An order determining the constitutionality of any changes to the Revised Code made by Am. Sub. S.B. 281 of the 124th general assembly, including the amendment of sections 1751.67, 2117.06, 2305.11, 2305.15, 2305.234, 2317.02, 2317.54, 2323.56, 2711.21, 2711.22, 2711.23, 2711.24, 2743.02, 2743.43, 2919.16, 3923.63, 3923.64, 3929.71, 4705.15, and 5111.018, and the enactment of
sections 2305.113, 2323.41, 2323.43, and 2323.55 of the Revised Code or any changes made by Sub. S.B. 80 of the 125th general assembly, including the amendment of sections 2125.02, 2305.10, 2315.19, and 2315.21 of the Revised Code.

(C) When a court issues an order that vacates or sets aside a judgment or grants a new trial, the court, upon the request of either party, shall state in the order the grounds upon which the new trial is granted or the judgment vacated or set aside.

(D) This section applies to and governs any action, including an appeal, that is pending in any court on July 22, 1998, and all claims filed or actions commenced on or after July 22, 1998, notwithstanding any provision of any prior statute or rule of law of this state.

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

At the time a minor under eighteen years of age submits an application for a license or permit at a driver's license examining station, the adult who signs the application shall present identification establishing that the adult is the individual whose signature appears on the application. The registrar shall prescribe, by rule, the types of identification that are suitable for the purposes of this paragraph. If the adult who signs the application does not provide identification as required by this paragraph, the application shall not be accepted.
When a minor under eighteen years of age applies for a probationary license, a restricted license, or a temporary instruction permit, the registrar shall give the adult who signs the application notice of the potential liability that may be imputed to the adult pursuant to division (B) of this section and notice of how the adult may prevent any liability from being imputed to the adult pursuant to that division.

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

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

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

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

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

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

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

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

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

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

(6) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in section 2307.71 of the Revised Code, and an asbestos claim, as defined in section 2307.91 of the Revised Code, but does not include a civil action for damages for breach of contract or another agreement between persons.

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

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

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

(3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;
(4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.

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

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

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

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

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

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

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

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

(F) (1) Subject to division (F)(2) of this section, the The failure of a person to wear all of the available elements of a properly adjusted occupant restraining device in violation of division (B)(1) or (3) of this section or the failure of a person to ensure that each minor who is a passenger of an automobile being operated by the that person is wearing all of the available
elements of such a properly adjusted occupant restraining device, in violation of division (B)(2) of this section, shall not be considered or used by the trier of fact in a tort action as evidence of negligence or contributory negligence, shall not. But, the trier of fact may determine based on evidence admitted consistent with the Ohio rules of evidence that the failure contributed to the harm alleged in the tort action and may diminish a recovery for of compensatory damages that represents noneconomic loss, as defined in section 2307.011 of the Revised Code, in any civil a tort action involving the person arising from the ownership, maintenance, or operation of an automobile; that could have been recovered but for the plaintiff's failure to wear all of the available elements of a properly adjusted occupant restraining device. Evidence of that failure 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
(b) The defendant in question is the manufacturer, designer, distributor, or seller of the passenger car.

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

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

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

(2) Whoever violates division (B)(3) of this section shall be fined twenty dollars.

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

Section 2. That existing sections 1775.14, 2117.06, 2125.02, 2125.04, 2305.01, 2305.03, 2305.10, 2305.25, 2307.011, 2307.23, 2307.29, 2307.60, 2307.71, 2307.75, 2307.80, 2315.01, 2315.21, 2315.32, 2315.33, 2315.34, 2315.36, 2323.51, 2505.02, 4507.07, and 4513.263 and sections 2315.41, 2315.42, 2315.43, 2315.44, 2315.45, and 2315.46 of the Revised Code are hereby repealed.
Section 3. The General Assembly makes the following statement of findings and intent:

(A) The General Assembly finds:

(1) The current civil litigation system represents a challenge to the economic viability of the state of Ohio.

(2) The General Assembly recognizes that a fair system of civil justice strikes an essential balance between the rights of those who have been legitimately harmed and the rights of those who have been unfairly sued.

(3) This state has a rational and legitimate state interest in making certain that Ohio has a fair, predictable system of civil justice that preserves the rights of those who have been harmed by negligent behavior, while curbing the number of frivolous lawsuits. The General Assembly bases its findings on this state interest upon the following evidence:

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

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

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

(d) The cost of the United States tort system grew at a
record rate in 2001, according to a February 2003 study published
by Tillinghast-Towers Perrin. The system, however, failed to
return even fifty cents for every dollar to people who were
injured. Tillinghast-Towers Perrin also found that fifty-four per
cent of the total cost accounted for attorney's fees, both for
plaintiffs and defendants, and administration. Only twenty-two per
cent of the tort system's cost was used directly to reimburse
people for the economic damages associated with injuries and
losses they sustain.

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

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

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

(b) In prohibiting a court from entering judgment for punitive or exemplary damages in excess of the two times the amount of compensatory damages awarded to the plaintiff and, with respect to an individual or small employer that employs not more than one hundred persons or if the employer is classified as being in the manufacturing sector not more than five hundred persons, from entering judgment for punitive or exemplary damages in excess of the lesser of two times the amount of compensatory damages awarded to the plaintiff or ten per cent of the individual's or employer's net worth when the tort was committed up to a maximum of three hundred fifty thousand dollars, the General Assembly finds the following:

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

(ii) The absence of a statutory ceiling upon recoverable punitive or exemplary damages in tort actions has resulted in occasional multiple awards of punitive or exemplary damages that have no rational connection to the wrongful actions or omissions of the tortfeasor.

(iii) The distinction between small employers and other defendants based on the number of full-time permanent employees distinguishes all other defendants including individuals and nonemployers. This distinction is rationally based on size considering both the economic capacity of an employer to maintain that number of employees and to impact the community at large, as exemplified by the United States Small Business Administration's Office of Advocacy.
(c) The limits on punitive or exemplary damages as specified in section 2315.21 of the Revised Code, as amended by this act, are based on guidance recently provided by the United States Supreme Court in *State Farm Mutual Insurance v. Campbell* (2003), 123 S.Ct. 1513. In determining whether a one hundred and forty-five million dollar award of punitive damages was appropriate, the United States Supreme Court referred to the three guideposts for punitive damages articulated in *BMW of North America Inc. v. Gore* (1996), 517 U.S. 599: (1) the degree of reprehensibility of the defendant's misconduct; (2) the disparity between the actual or potential harm suffered by the plaintiff and the punitive damages awarded; and (3) the difference between the punitive damages awarded by the jury and the civil penalties authorized or imposed in comparable cases. According to the United States Supreme Court, "few awards exceeding a single digit ratio between punitive damages and compensatory damages. . . will satisfy due process." *Id.* at 31.

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

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

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

(c) As stated in testimony by Jack Pottmeyer, architect and
managing principal of MKC Associates, Inc., this unlimited
liability forces professionals to maintain records in perpetuity,
because those professionals cannot reasonably predict when a
record from fifteen or twenty years earlier may become the subject
of a civil action. Those actions occur despite the fact that, over
the course of many years, owners of the property or those
responsible for its maintenance could make modifications or other
substantial changes that would significantly change the intent or
scope of the original design of the property designed by an
architectural firm. The problem is compounded by the fact that
professional liability insurance for architects and engineers is
offered by relatively few insurance carriers and is written on
what is known as a "claims made basis," meaning a policy must be
in effect when the claim is made, not at the time of the service,
in order for the claim to be paid. Without a statute of repose,
professional liability insurance must be maintained forever to
ensure coverage of any potential claim on previous services. These
minimum annual premiums can add up, averaging between three
thousand five hundred dollars and five thousand dollars annually,
which is especially burdensome for a retired design professional.

(6)(a) The collateral source rule prohibits a defendant from
introducing evidence that the plaintiff received any benefits from
sources outside the dispute.

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

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

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

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

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

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

(c) They have no right or opportunity to be made aware of, to evaluate the effect of, or to take action to overcome the effect of the forces, uses, and intervening causes described in division (E)(5)(b) of this section.

(3) To recognize that, more than ten years after the completion of the construction of an improvement to real property, the availability of relevant evidence pertaining to the improvement and the availability of witnesses knowledgeable with respect to the improvement is problematic;
(4) To recognize that maintaining records and other documentation pertaining to services provided for an improvement to real property or the design, planning, supervision of construction, or construction of an improvement to real property for a reasonable period of time is appropriate and to recognize that, because the useful life of an improvement to real property may be substantially longer than ten years after the completion of the construction of the improvement, it is an unacceptable burden to require the maintenance of those types of records and other documentation for a period in excess of ten years after that completion;

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

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

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

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

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

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

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

(6) To recognize the inappropriateness of applying current legal and technological standards to products manufactured many years prior to the commencement of an action based on a product liability claim;

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

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

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

(E) The Ohio General Assembly respectfully requests the Ohio Supreme Court to uphold this intent in the courts of Ohio, to reconsider its holding on damage caps in State v. Sheward (1999), Ohio St. 3d 451, to reconsider its holding on the deductibility of collateral source benefits in Sorrel v. Thevenir (1994), 69 Ohio St. 3d 415, and to reconsider its holding on statutes of repose in Brenneman v. R.M.I. Co. (1994), 70 Ohio St. 3d 460.

Section 4. (A) The General Assembly acknowledges the Court's
authority in prescribing rules governing practice and procedure in the courts of this state, as provided by Section 5 of Article IV of the Ohio Constitution.

(B) The General Assembly hereby requests the Supreme Court to adopt a "Legal Consumer's Bill of Rights" that would substantially conform with the following language:

Each attorney who is licensed to practice law in this state shall append to every written retainer agreement or contract for legal services a legal consumer's bill of rights that shall be substantially in the following form:

"LEGAL CONSUMER'S BILL OF RIGHTS"

Consumers of legal services have both rights and responsibilities in the resolution of legal disputes. Lawyers, as well, have duties and rights related to the clients they represent. This listing is designed to provide consumers with an overview of their rights and responsibilities in relating to their lawyers and in the resolution of their legal matters.

Client rights and lawyer duties:

1. COURTESY

You can expect to be treated with courtesy and consideration by your lawyer and by others under the supervision of your lawyer involved in your legal matter.

2. PROFESSIONALISM

You can expect competent and diligent representation by your lawyer, in accord with accepted aspirational standards of professionalism.

3. ATTENTION

You can expect your lawyer's independent professional judgment and loyalty uncompromised by conflicts of interest. Your
lawyer will maintain accurate records and protect any funds you provide regarding your legal matter.

4. FEE DISCLOSURE

You can expect your lawyer to fully disclose fee arrangements and other costs at the onset of your relationship, and to provide a written fee agreement or contingency fee contract.

5. RESPONSIVENESS

You can expect to have your questions answered and telephone calls returned by your lawyer in a reasonable time in accordance with professional standards.

6. CONTROL

You can expect your lawyer to keep you informed about the progress of your legal matter, to disclose alternative approaches to resolving your legal matter, and to have you participate meaningfully in the resolution process.

7. RESPECT

You can expect to have your lawyer respect your legitimate objectives and to include you in making settlement decisions regarding your legal dispute.

8. CONFIDENTIALITY

You can expect to have your lawyer honor the attorney-client privilege, protect your right to privacy and preserve your secrets and confidences.

9. ETHICS

You can expect ethical conduct from your lawyer in accord with the Code of Professional Responsibility.

10. NON-DISCRIMINATION

You may not be refused representation based upon race, creed,
color, religion, sex, age, national origin or disability.

11. GRIEVANCES

You may file a grievance with the certified grievance committee of your local bar association or the Ohio State Bar Association or with the Board of Commissioners on Grievances and Discipline of the Supreme Court if you are not satisfied with the legal services you have retained. The committee and the board include nonattorneys as members. The Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio has the authority to discipline and to impose sanctions on attorneys in Ohio.

Client responsibilities

1. TRUTHFULNESS

Your lawyer can expect you to be truthful and to have you provide a full disclosure of pertinent information needed to handle your legal matter.

2. RESPONSIVENESS

Your lawyer can expect you to provide timely responses to reasonable requests for information, and to be on time for legal proceedings. Your lawyer can expect you to pay your legal bills in a timely manner.

3. COURTESY

Just as you expect to be treated with respect and courtesy, your lawyer can expect you to set appointments in advance to meet with your lawyer, to be responsible for making reasonable requests of your lawyer's time, and to be treated respectfully.

4. COMMUNICATION

Your lawyers can expect you to communicate in a timely manner about your legal matter, or if you are unhappy with the way your
matter is being handled. There is a grievance procedure in place to handle disputes with your lawyer that you are not able to resolve on your own.

5. ETHICS

Your lawyer can expect not to be asked to engage in behavior that is unethical, inappropriate, unprofessional, or illegal."

(C) The General Assembly hereby requests the Supreme Court to amend Ohio Rules of Civil Procedure Rule 68 to conform to Federal Rules of Civil Procedure Rule 68.

Section 5. If any item of law that constitutes the whole or part of a section of law contained in this act, or if any application of any item of law that constitutes the whole or part of a section of law contained in this act, is held invalid, the invalidity does not affect other items of law or applications of items of law that can be given effect without the invalid item of law or application. To this end, the items of law of which the sections contained in this act are composed, and their applications, are independent and severable.

Section 6. If any item of law that constitutes the whole or part of a section of law contained in this act, or if any application of any item of law contained in this act, is held to be preempted by federal law, the preemption of the item of law or its application does not affect other items of law or applications that can be given affect. The items of law of which the sections of this act are composed, and their applications, are independent and severable.

stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.