

# As Reported by the House Judiciary Committee

125th General Assembly

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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

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## A BILL

To amend sections 1775.14, 2117.06, 2125.02, 2125.04, 1  
2305.01, 2305.03, 2305.10, 2305.25, 2307.011, 2  
2307.23, 2307.29, 2307.60, 2307.71, 2307.75, 3  
2307.80, 2315.01, 2315.21, 2315.32, 2315.33, 4  
2315.34, 2315.36, 2323.51, 2505.02, 4507.07, and 5  
4513.263; to enact sections 2305.131, 2307.711, 6  
2315.19, 2315.20, and 2323.44; and to repeal 7  
sections 2315.41, 2315.42, 2315.43, 2315.44, 8  
2315.45, and 2315.46 of the Revised Code to make 9  
changes related to the award of certain damages, 10  
collateral benefits evidence, and contributory 11  
fault in tort actions; to establish a statute of 12  
repose for certain product liability claims and 13  
claims based on unsafe conditions of real property 14  
improvements and to make other changes related to 15  
product liability claims; to provide that the 16  
product liability statutes are intended to 17  
abrogate common law product liability causes of 18  
action; to enact a conflicts of law provision for 19  
statutes of limitation in civil actions; to modify 20  
the provisions on frivolous conduct in filing 21  
civil actions; and to make other changes related 22  
to civil actions. 23

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

**Section 1.** That sections 1775.14, 2117.06, 2125.02, 2125.04, 24  
2305.01, 2305.03, 2305.10, 2305.25, 2307.011, 2307.23, 2307.29, 25  
2307.60, 2307.71, 2307.75, 2307.80, 2315.01, 2315.21, 2315.32, 26  
2315.33, 2315.34, 2315.36, 2323.51, 2505.02, 4507.07, and 4513.263 27  
be amended and sections 2305.131, 2307.711, 2315.19, 2315.20, and 28  
2323.44 of the Revised Code be enacted to read as follows: 29

**Sec. 1775.14.** (A) Subject to section 1339.65 of the Revised 30  
Code and except as provided in division (B) of this section, all 31  
partners are liable as follows: 32

(1) Jointly and severally for everything chargeable to the 33  
partnership under sections 1775.12 and 1775.13 of the Revised 34  
Code. This joint and several liability is not subject to section 35  
2307.22, ~~or 2315.36, or 2315.46~~ of the Revised Code with respect 36  
to a ~~negligence or other~~ tort claim that otherwise is subject to 37  
~~any~~ either of those sections. 38

(2) Jointly for all other debts and obligations of the 39  
partnership, but any partner may enter into a separate obligation 40  
to perform a partnership contract. 41

(B) Subject to divisions (C)(1) and (2) of this section or as 42  
otherwise provided in a written agreement between the partners of 43  
a registered limited liability partnership, a partner in a 44  
registered limited liability partnership is not liable, directly 45  
or indirectly, by way of indemnification, contribution, 46  
assessment, or otherwise, for debts, obligations, or other 47  
liabilities of any kind of, or chargeable to, the partnership or 48  
another partner or partners arising from negligence or from 49  
wrongful acts, errors, omissions, or misconduct, whether or not 50  
intentional or characterized as tort, contract, or otherwise, 51

committed or occurring while the partnership is a registered 52  
limited liability partnership and committed or occurring in the 53  
course of the partnership business by another partner or an 54  
employee, agent, or representative of the partnership. 55

(C)(1) Division (B) of this section does not affect the 56  
liability of a partner in a registered limited liability 57  
partnership for that partner's own negligence, wrongful acts, 58  
errors, omissions, or misconduct, including that partner's own 59  
negligence, wrongful acts, errors, omissions, or misconduct in 60  
directly supervising any other partner or any employee, agent, or 61  
representative of the partnership. 62

(2) Division (B) of this section shall not affect the 63  
liability of a partner for liabilities imposed by Chapters 5735., 64  
5739., 5743., and 5747. and section 3734.908 of the Revised Code. 65

(D) A partner in a registered limited liability partnership 66  
is not a proper party to an action or proceeding by or against a 67  
registered limited liability partnership with respect to any debt, 68  
obligation, or other liability of any kind described in division 69  
(B) of this section, unless the partner is liable under divisions 70  
(C)(1) and (2) of this section. 71

**Sec. 2117.06.** (A) All creditors having claims against an 72  
estate, including claims arising out of contract, out of tort, on 73  
cognovit notes, or on judgments, whether due or not due, secured 74  
or unsecured, liquidated or unliquidated, shall present their 75  
claims in one of the following manners: 76

(1) After the appointment of an executor or administrator and 77  
prior to the filing of a final account or a certificate of 78  
termination, in one of the following manners: 79

(a) To the executor or administrator in a writing; 80

(b) To the executor or administrator in a writing, and to the 81

probate court by filing a copy of the writing with it; 82

(c) In a writing that is sent by ordinary mail addressed to 83  
the decedent and that is actually received by the executor or 84  
administrator within the appropriate time specified in division 85  
(B) of this section. For purposes of this division, if an executor 86  
or administrator is not a natural person, the writing shall be 87  
considered as being actually received by the executor or 88  
administrator only if the person charged with the primary 89  
responsibility of administering the estate of the decedent 90  
actually receives the writing within the appropriate time 91  
specified in division (B) of this section. 92

(2) If the final account or certificate of termination has 93  
been filed, in a writing to those distributees of the decedent's 94  
estate who may share liability for the payment of the claim. 95

(B) Except as provided in section 2117.061 of the Revised 96  
Code, all claims shall be presented within six months after the 97  
death of the decedent, whether or not the estate is released from 98  
administration or an executor or administrator is appointed during 99  
that six-month period. Every claim presented shall set forth the 100  
claimant's address. 101

(C) Except as provided in section 2117.061 of the Revised 102  
Code, a claim that is not presented within six months after the 103  
death of the decedent shall be forever barred as to all parties, 104  
including, but not limited to, devisees, legatees, and 105  
distributees. No payment shall be made on the claim and no action 106  
shall be maintained on the claim, except as otherwise provided in 107  
sections 2117.37 to 2117.42 of the Revised Code with reference to 108  
contingent claims. 109

(D) In the absence of any prior demand for allowance, the 110  
executor or administrator shall allow or reject all claims, except 111  
tax assessment claims, within thirty days after their 112

presentation, provided that failure of the executor or 113  
administrator to allow or reject within that time shall not 114  
prevent the executor or administrator from doing so after that 115  
time and shall not prejudice the rights of any claimant. Upon the 116  
allowance of a claim, the executor or the administrator, on demand 117  
of the creditor, shall furnish the creditor with a written 118  
statement or memorandum of the fact and date of the allowance. 119

(E) If the executor or administrator has actual knowledge of 120  
a pending action commenced against the decedent prior to the 121  
decedent's death in a court of record in this state, the executor 122  
or administrator shall file a notice of the appointment of the 123  
executor or administrator in the pending action within ten days 124  
after acquiring that knowledge. If the administrator or executor 125  
is not a natural person, actual knowledge of a pending suit 126  
against the decedent shall be limited to the actual knowledge of 127  
the person charged with the primary responsibility of 128  
administering the estate of the decedent. Failure to file the 129  
notice within the ten-day period does not extend the claim period 130  
established by this section. 131

(F) This section applies to any person who is required to 132  
give written notice to the executor or administrator of a motion 133  
or application to revive an action pending against the decedent at 134  
the date of the death of the decedent. 135

(G) Nothing in this section or in section 2117.07 of the 136  
Revised Code shall be construed to reduce the ~~time mentioned~~ 137  
periods of limitation or periods prior to repose in section 138  
2125.02, 2305.09, 2305.10, 2305.11, 2305.113, or 2305.12 Chapter 139  
2305. of the Revised Code, provided that no portion of any 140  
recovery on a claim brought pursuant to that section or any ~~of~~ 141  
~~those sections~~ section in that chapter shall come from the assets 142  
of an estate unless the claim has been presented against the 143  
estate in accordance with Chapter 2117. of the Revised Code. 144

(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, ~~an~~  
a civil action for wrongful death shall be brought in the name of  
the personal representative of the decedent for the exclusive  
benefit of the surviving spouse, the children, and the parents of

the decedent, all of whom are rebuttably presumed to have suffered 176  
damages by reason of the wrongful death, and for the exclusive 177  
benefit of the other next of kin of the decedent. A parent who 178  
abandoned a minor child who is the decedent shall not receive ~~any~~ 179  
a benefit in a wrongful death civil action for wrongful death 180  
brought under this division. 181

(2) The jury, or the court if the civil action for wrongful 182  
death is not tried to a jury, may award damages authorized by 183  
division (B) of this section, as it determines are proportioned to 184  
the injury and loss resulting to the beneficiaries described in 185  
division (A)(1) of this section by reason of the wrongful death 186  
and may award the reasonable funeral and burial expenses incurred 187  
as a result of the wrongful death. In its verdict, the jury or 188  
court shall set forth separately the amount, if any, awarded for 189  
the reasonable funeral and burial expenses incurred as a result of 190  
the wrongful death. 191

(3)(a) The date of the decedent's death fixes, subject to 192  
division (A)(3)(b)(iii) of this section, the status of all 193  
beneficiaries of the civil action for wrongful death for purposes 194  
of determining the damages suffered by them and the amount of 195  
damages to be awarded. A person who is conceived prior to the 196  
decedent's death and who is born alive after the decedent's death 197  
is a beneficiary of the action. 198

(b)(i) In determining the amount of damages to be awarded, 199  
the jury or court may consider all factors existing at the time of 200  
the decedent's death that are relevant to a determination of the 201  
damages suffered by reason of the wrongful death. 202

(ii) Consistent with the Rules of Evidence, ~~any a party to an~~ 203  
a civil action for wrongful death may present evidence of the cost 204  
of an annuity in connection with ~~any an~~ issue of recoverable 205  
future damages. If ~~such that~~ evidence is presented, then, in 206

addition to the factors described in division (A)(3)(b)(i) of this 207  
section and, if applicable, division (A)(3)(b)(iii) of this 208  
section, the jury or court may consider that evidence in 209  
determining the future damages suffered by reason of the wrongful 210  
death. If ~~such~~ that evidence is presented, the present value in 211  
dollars of ~~any~~ an annuity is its cost. 212

(iii) Consistent with the Rules of Evidence, ~~any~~ a party to 213  
~~an~~ a civil action for wrongful death may present evidence that the 214  
surviving spouse of the decedent is remarried. If ~~such~~ that 215  
evidence is presented, then, in addition to the factors described 216  
in divisions (A)(3)(b)(i) and (ii) of this section, the jury or 217  
court may consider that evidence in determining the damages 218  
suffered by the surviving spouse by reason of the wrongful death. 219

(B) Compensatory damages may be awarded in ~~an~~ a civil action 220  
for wrongful death and may include damages for the following: 221

(1) Loss of support from the reasonably expected earning 222  
capacity of the decedent; 223

(2) Loss of services of the decedent; 224

(3) Loss of the society of the decedent, including loss of 225  
companionship, consortium, care, assistance, attention, 226  
protection, advice, guidance, counsel, instruction, training, and 227  
education, suffered by the surviving spouse, ~~minor~~ dependent 228  
children, parents, or next of kin of the decedent; 229

(4) Loss of prospective inheritance to the decedent's heirs 230  
at law at the time of the decedent's death; 231

(5) The mental anguish incurred by the surviving spouse, 232  
~~minor~~ dependent children, parents, or next of kin of the decedent. 233

(C) A personal representative appointed in this state, with 234  
the consent of the court making the appointment and at any time 235  
before or after the commencement of ~~an~~ a civil action for wrongful 236

death, may settle with the defendant the amount to be paid. 237

(D) An (1) Except as provided in division (D)(2) of this 238  
section, a civil action for wrongful death shall be commenced 239  
within two years after the decedent's death. 240

(2)(a) Except as otherwise provided in divisions (D)(2)(b), 241  
(c), (d), (e), (f), and (g) of this section or in section 2125.04 242  
of the Revised Code, no cause of action for wrongful death 243  
involving a product liability claim shall accrue against the 244  
manufacturer or supplier of a product later than ten years from 245  
the date that the product was delivered to its first purchaser or 246  
first lessee who was not engaged in a business in which the 247  
product was used as a component in the production, construction, 248  
creation, assembly, or rebuilding of another product. 249

(b) Division (D)(2)(a) of this section does not apply if the 250  
manufacturer or supplier of a product engaged in fraud in regard 251  
to information about the product and the fraud contributed to the 252  
harm that is alleged in a product liability claim involving that 253  
product. 254

(c) Division (D)(2)(a) of this section does not bar a civil 255  
action for wrongful death involving a product liability claim 256  
against a manufacturer or supplier of a product who made an 257  
express, written warranty as to the safety of the product that was 258  
for a period longer than ten years and that, at the time of the 259  
decedent's death, has not expired in accordance with the terms of 260  
that warranty. 261

(d) If the decedent's death occurs during the ten-year period 262  
described in division (D)(2)(a) of this section but less than two 263  
years prior to the expiration of that period, a civil action for 264  
wrongful death involving a product liability claim may be 265  
commenced within two years after the decedent's death. 266

(e) If the decedent's death occurs during the ten-year period 267

described in division (D)(2)(a) of this section and the claimant 268  
cannot commence an action during that period due to a disability 269  
described in section 2305.16 of the Revised Code, a civil action 270  
for wrongful death involving a product liability claim may be 271  
commenced within two years after the disability is removed. 272

(f)(i) Division (D)(2)(a) of this section does not bar a 273  
civil action for wrongful death based on a product liability claim 274  
against a manufacturer or supplier of a product if the product 275  
involved is a substance or device described in division (B)(1), 276  
(2), (3), or (4) of section 2305.10 of the Revised Code and the 277  
decedent's death resulted from exposure to the product during the 278  
ten-year period described in division (D)(2)(a) of this section. 279

(ii) If division (D)(2)(f)(i) of this section applies 280  
regarding a civil action for wrongful death, the cause of action 281  
that is the basis of the action accrues upon the date on which the 282  
claimant is informed by competent medical authority that the 283  
decedent's death was related to the exposure to the product or 284  
upon the date on which by the exercise of reasonable diligence the 285  
claimant should have known that the decedent's death was related 286  
to the exposure to the product, whichever date occurs first. A 287  
civil action for wrongful death based on a cause of action 288  
described in division (D)(2)(f)(i) of this section shall be 289  
commenced within two years after the cause of action accrues and 290  
shall not be commenced more than two years after the cause of 291  
action accrues. 292

(g) Division (D)(2)(a) of this section does not bar a civil 293  
action for wrongful death based on a product liability claim 294  
against a manufacturer or supplier of a product if the product 295  
involved is a substance or device described in division (B)(5) of 296  
section 2315.10 of the Revised Code. If division (D)(2)(g) of this 297  
section applies regarding a civil action for wrongful death, the 298  
cause of action that is the basis of the action accrues upon the 299

date on which the claimant is informed by competent medical 300  
authority that the decedent's death was related to the exposure to 301  
the product or upon the date on which by the exercise of 302  
reasonable diligence the claimant should have known that the 303  
decedent's death was related to the exposure to the product, 304  
whichever date occurs first. A civil action for wrongful death 305  
based on a cause of action described in division (D)(2)(g) of this 306  
section shall be commenced within two years after the cause of 307  
action accrues and shall not be commenced more than two years 308  
after the cause of action accrues. 309

(E)(1) If the personal representative of a deceased minor has 310  
actual knowledge or reasonable cause to believe that the minor was 311  
abandoned by a parent seeking to benefit from ~~the~~ a civil action 312  
for wrongful death ~~action~~ or if any person listed in division 313  
(A)(1) of this section who is permitted to benefit ~~in~~ from a civil 314  
action for wrongful death ~~action~~ filed commenced in relation to a 315  
deceased minor has actual knowledge or reasonable cause to believe 316  
that the minor was abandoned by a parent seeking to benefit from 317  
the ~~wrongful death~~ action, the personal representative or the 318  
person may file a motion in the court in which the ~~wrongful death~~ 319  
action is ~~filed~~ commenced requesting the court to issue an order 320  
finding that the parent abandoned the ~~child~~ minor and is not 321  
entitled to recover damages in the ~~wrongful death~~ action based on 322  
the death of the ~~deceased~~ minor ~~child~~. 323

(2) The movant who files a motion described in division 324  
(E)(1) of this section shall name the parent who abandoned the 325  
~~child~~ deceased minor and, whether or not that parent is a resident 326  
of this state, the parent shall be served with a summons and a 327  
copy of the motion in accordance with the Rules of Civil 328  
Procedure. Upon the filing of the motion, the court shall conduct 329  
a hearing. In the hearing on the motion, the movant has the burden 330  
of proving, by a preponderance of the evidence, that the parent 331

abandoned the ~~deceased~~ minor ~~child~~. If, at the hearing, the court 332  
finds that the movant has sustained that burden of proof, the 333  
court shall issue an order that includes its ~~finding~~ findings that 334  
the parent abandoned the ~~deceased~~ minor ~~child~~ and that, because of 335  
the prohibition set forth in division (A)(1) of this section, the 336  
parent is not entitled to recover damages in the ~~wrongful-death~~ 337  
action based on the death of the ~~deceased~~ minor ~~child~~. 338

(3) A motion requesting a court to issue an order finding 339  
that ~~the~~ a specified parent abandoned ~~the~~ a minor child and is not 340  
entitled to recover damages in ~~the~~ a civil action for wrongful 341  
death ~~action~~ based on the death of the ~~deceased~~ minor ~~child~~ may be 342  
filed at any time during the pendency of the ~~wrongful-death~~ 343  
action. 344

(F) This section does not create a new cause of action or 345  
substantive legal right against any person involving a product 346  
liability claim. 347

(G) As used in this section: 348

(1) "Annuity" means an annuity that would be purchased from 349  
either of the following types of insurance companies: 350

(a) An insurance company that the A. M. Best Company, in its 351  
most recently published rating guide of life insurance companies, 352  
has rated A or better and has rated XII or higher as to financial 353  
size or strength; 354

(b)(i) An insurance company that the superintendent of 355  
insurance, under rules adopted pursuant to Chapter 119. of the 356  
Revised Code for purposes of implementing this division, 357  
determines is licensed to do business in this state and, 358  
considering the factors described in division ~~(F)~~(G)(1)(b)(ii) of 359  
this section, is a stable insurance company that issues annuities 360  
that are safe and desirable. 361

(ii) In making determinations as described in division 362

(1)(b)(i) of this section, the superintendent shall be guided by 363  
the principle that the jury or court in ~~an~~ a civil action for 364  
wrongful death should be presented only with evidence as to the 365  
cost of annuities that are safe and desirable for the 366  
beneficiaries of ~~such an~~ the action who are awarded compensatory 367  
damages under this section. In making ~~such~~ the determinations, the 368  
superintendent shall consider the financial condition, general 369  
standing, operating results, profitability, leverage, liquidity, 370  
amount and soundness of reinsurance, adequacy of reserves, and the 371  
management of ~~any a particular~~ insurance company ~~in question~~ 372  
involved and also may consider ratings, grades, and 373  
classifications of any nationally recognized rating services of 374  
insurance companies and any other factors relevant to the making 375  
of ~~such~~ the determinations. 376

(2) "Future damages" means damages that result from the 377  
wrongful death and that will accrue after the verdict or 378  
determination of liability by the jury or court is rendered in the 379  
civil action for wrongful death. 380

(3) "Abandoned" means that a parent of a minor failed without 381  
justifiable cause to communicate with the minor, care for the 382  
minor, and provide for the maintenance or support of the minor as 383  
required by law or judicial decree for a period of at least one 384  
year immediately prior to the date of the death of the minor. 385

(4) "Minor" means a person who is less than eighteen years of 386  
age. 387

(5) "Harm" means death. 388

(6) "Manufacturer," "product," "product liability claim," and 389  
"supplier" have the same meanings as in section 2307.71 of the 390  
Revised Code. 391

(H) Divisions (D), (G)(5), and (G)(6) of this section shall 392  
be considered to be purely remedial in operation and shall be 393

applied in a remedial manner in any civil action commenced on or 394  
after the effective date of this amendment, in which those 395  
divisions are relevant, regardless of when the cause of action 396  
accrued and notwithstanding any other section of the Revised Code 397  
or prior rule of law of this state, but shall not be construed to 398  
apply to any civil action pending prior to the effective date of 399  
this amendment. 400

**Sec. 2125.04.** In every civil action for wrongful death 401  
commenced or attempted to be commenced within the time specified 402  
by division (D)(1) or (D)(2)(c), (d), (e), (f), or (g) of section 403  
2125.02 of the Revised Code, if a judgment for the plaintiff is 404  
reversed or ~~if~~ the plaintiff fails otherwise than upon the merits, 405  
and if the time limited by ~~such section~~ any of those divisions for 406  
the commencement of ~~such~~ the action has expired at the date of 407  
~~such~~ the reversal or failure, the plaintiff or, if the plaintiff 408  
dies and the cause of action survives, the personal representative 409  
of the plaintiff may commence a new civil action for wrongful 410  
death within one year after ~~such~~ that date. 411

**Sec. 2305.01.** The Except as otherwise provided by this 412  
section or section 2305.03 of the Revised Code, the court of 413  
common pleas has original jurisdiction in all civil cases in which 414  
the sum or matter in dispute exceeds the exclusive original 415  
jurisdiction of county courts and appellate jurisdiction from the 416  
decisions of boards of county commissioners. The court of common 417  
pleas shall not have jurisdiction, in any tort action to which the 418  
amounts apply, to award punitive or exemplary damages that exceed 419  
the amounts set forth in section 2315.21 of the Revised Code. 420

The court of common pleas may on its own motion transfer for 421  
trial any action in the court to any municipal court in the county 422  
having concurrent jurisdiction of the subject matter of, and the 423

parties to, the action, if the amount sought by the plaintiff does 424  
not exceed one thousand dollars and if the judge or presiding 425  
judge of the municipal court concurs in the proposed transfer. 426  
Upon the issuance of an order of transfer, the clerk of courts 427  
shall remove to the designated municipal court the entire case 428  
file. Any untaxed portion of the common pleas deposit for court 429  
costs shall be remitted to the municipal court by the clerk of 430  
courts to be applied in accordance with section 1901.26 of the 431  
Revised Code, and the costs taxed by the municipal court shall be 432  
added to any costs taxed in the common pleas court. 433

The court of common pleas has jurisdiction in any action 434  
brought pursuant to division (I) of section 3733.11 of the Revised 435  
Code if the residential premises that are the subject of the 436  
action are located within the territorial jurisdiction of the 437  
court. 438

The courts of common pleas of Adams, Athens, Belmont, Brown, 439  
Clermont, Columbiana, Gallia, Hamilton, Jefferson, Lawrence, 440  
Meigs, Monroe, Scioto, and Washington counties have jurisdiction 441  
beyond the north or northwest shore of the Ohio river extending to 442  
the opposite shore line, between the extended boundary lines of 443  
any adjacent counties or adjacent state. Each of those courts of 444  
common pleas has concurrent jurisdiction on the Ohio river with 445  
any adjacent court of common pleas that borders on that river and 446  
with any court of Kentucky or of West Virginia that borders on the 447  
Ohio river and that has jurisdiction on the Ohio river under the 448  
law of Kentucky or the law of West Virginia, whichever is 449  
applicable, or under federal law. 450

**Sec. 2305.03.** ~~A civil action,~~ (A) Except as provided in 451  
division (B) of this section and unless a different limitation is 452  
prescribed by statute, ~~can~~ a civil action may be commenced only 453  
within the period prescribed in sections ~~2305.03~~ 2305.04 to 454

2305.22, ~~inclusive,~~ of the Revised Code. ~~When~~ If interposed by 455  
proper plea by a party to an action mentioned in ~~such~~ any of those 456  
sections, lapse of time shall be a bar ~~thereto~~ to the action. 457

(B) No civil action that is based upon a cause of action that 458  
accrued in any other state, territory, district, or foreign 459  
jurisdiction may be commenced and maintained in this state if the 460  
period of limitation that applies to that action under the laws of 461  
that other state, territory, district, or foreign jurisdiction has 462  
expired or the period of limitation that applies to that action 463  
under the laws of this state has expired. 464

**Sec. 2305.10.** ~~An~~ (A) Except as provided in division (C) of 465  
this section, an action based on a product liability claim and an 466  
action for bodily injury or injuring personal property shall be 467  
brought within two years after the cause thereof ~~arose~~ of action 468  
accrues. Except as provided in divisions (B)(1), (2), (3), (4), 469  
and (5) of this section, a cause of action accrues under this 470  
division when the injury or loss to person or property occurs. 471

(B)(1) For purposes of division (A) of this section, a cause 472  
of action for bodily injury that is not described in division 473  
(B)(2), (3), (4), or (5) of this section and that is caused by 474  
exposure to hazardous or toxic chemicals, ethical drugs, or 475  
ethical medical devices accrues upon the date on which the 476  
plaintiff is informed by competent medical authority that the 477  
plaintiff has an injury that is related to the exposure, or upon 478  
the date on which by the exercise of reasonable diligence the 479  
plaintiff should have known that the plaintiff has an injury that 480  
is related to the exposure, whichever date occurs first. 481

(2) For purposes of division (A) of this section, a cause of 482  
action for bodily injury caused by exposure to ~~asbestos or to~~ 483  
chromium in any of its chemical forms ~~arises~~ accrues upon the date 484  
on which the plaintiff is informed by competent medical authority 485

that the plaintiff has ~~been injured by such an injury that is~~ 486  
~~related to the~~ exposure, or upon the date on which, by the 487  
exercise of reasonable diligence, the plaintiff should have ~~become~~ 488  
~~aware known~~ that the plaintiff ~~had been injured by~~ has an injury 489  
that is related to the exposure, whichever date occurs first. 490

(3) For purposes of division (A) of this section, a cause of 491  
action for bodily injury incurred by a veteran through exposure to 492  
chemical defoliants or herbicides or other causative agents, 493  
including agent orange, ~~arises~~ accrues upon the date on which the 494  
plaintiff is informed by competent medical authority that the 495  
plaintiff has ~~been injured by such an injury that is related to~~ 496  
the exposure, or upon the date on which by the exercise of 497  
reasonable diligence the plaintiff should have known that the 498  
plaintiff has an injury that is related to the exposure, whichever 499  
date occurs first. 500

~~As used in this section, "agent orange," "causative agent,"~~ 501  
~~and "veteran" have the same meanings as in section 5903.21 of the~~ 502  
~~Revised Code.~~ 503

(4) For purposes of division (A) of this section, a cause of 504  
action for bodily injury ~~which may be~~ caused by exposure to 505  
diethylstilbestrol or other nonsteroidal synthetic estrogens, 506  
including exposure before birth, accrues upon the date on which 507  
the plaintiff ~~learns from a licensed physician is informed by~~ 508  
competent medical authority that the plaintiff has an injury ~~which~~ 509  
~~may be~~ that is related to ~~such the~~ exposure, or upon the date on 510  
which by the exercise of reasonable diligence the plaintiff should 511  
have ~~become aware known~~ that the plaintiff has an injury ~~which may~~ 512  
~~be~~ that is related to ~~such the~~ exposure, whichever date occurs 513  
first. 514

(5) For purposes of division (A) of this section, a cause of 515  
action for bodily injury caused by exposure to asbestos accrues 516  
upon the date on which the plaintiff is informed by competent 517

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.

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(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.

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(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.

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(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.

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(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.

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(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. 549  
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(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. 556  
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(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: 564  
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(i) The action is for bodily injury. 567

(ii) The product involved is a substance or device described in division (B)(1), (2), (3), or (4) of this section. 568  
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(iii) The bodily injury results from exposure to the product during the ten-year period described in division (C)(1) of this section. 570  
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(b) If division (C)(7)(a) of this section applies regarding an action, the cause of action accrues upon the date on which the claimant is informed by competent medical authority that the bodily injury was related to the exposure to the product, or upon the date on which by the exercise of reasonable diligence the claimant should have known that the bodily injury was related to the exposure to the product, whichever date occurs first. The 573  
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action based on the product liability claim shall be commenced 580  
within two years after the cause of action accrues and shall not 581  
be commenced more than two years after the cause of action 582  
accrues. 583

(D) This section does not create a new cause of action or 584  
substantive legal right against any person involving a product 585  
liability claim. 586

(E) As used in this section: 587

(1) "Agent orange," "causative agent," and "veteran" have the 588  
same meanings as in section 5903.21 of the Revised Code. 589

(2) "Ethical drug," "ethical medical device," "manufacturer," 590  
"product," "product liability claim," and "supplier" have the same 591  
meanings as in section 2307.71 of the Revised Code. 592

(3) "Harm" means injury, death, or loss to person or 593  
property. 594

(F) This section shall be considered to be purely remedial in 595  
operation and shall be applied in a remedial manner in any civil 596  
action commenced on or after the effective date of this amendment, 597  
in which this section is relevant, regardless of when the cause of 598  
action accrued and notwithstanding any other section of the 599  
Revised Code or prior rule of law of this state, but shall not be 600  
construed to apply to any civil action pending prior to the 601  
effective date of this amendment. 602

**Sec. 2305.131.** (A)(1) Notwithstanding an otherwise applicable 603  
period of limitations specified in this chapter or in section 604  
2125.02 of the Revised Code and except as otherwise provided in 605  
divisions (A)(2), (A)(3), (C), and (D) of this section, no cause 606  
of action to recover damages for bodily injury, an injury to real 607  
or personal property, or wrongful death that arises out of a 608  
defective and unsafe condition of an improvement to real property 609

and no cause of action for contribution or indemnity for damages 610  
sustained as a result of bodily injury, an injury to real or 611  
personal property, or wrongful death that arises out of a 612  
defective and unsafe condition of an improvement to real property 613  
shall accrue against a person who performed services for the 614  
improvement to real property or a person who furnished the design, 615  
planning, supervision of construction, or construction of the 616  
improvement to real property later than ten years from the date of 617  
substantial completion of such improvement. 618

(2) Notwithstanding an otherwise applicable period of 619  
limitations specified in this chapter or in section 2125.02 of the 620  
Revised Code, a claimant who discovers a defective and unsafe 621  
condition of an improvement to real property during the ten-year 622  
period specified in division (A)(1) of this section but less than 623  
two years prior to the expiration of that period may commence a 624  
civil action to recover damages as described in that division 625  
within two years from the date of the discovery of that defective 626  
and unsafe condition. 627

(3) Notwithstanding an otherwise applicable period of 628  
limitations specified in this chapter or in section 2125.02 of the 629  
Revised Code, if a cause of action that arises out of a defective 630  
and unsafe condition of an improvement to real property accrues 631  
during the ten-year period specified in division (A)(1) of this 632  
section and the plaintiff cannot commence an action during that 633  
period due to a disability described in section 2305.16 of the 634  
Revised Code, the plaintiff may commence a civil action to recover 635  
damages as described in that division within two years from the 636  
removal of that disability. 637

(B) Division (A) of this section does not apply to a civil 638  
action commenced against a person who is an owner of, tenant of, 639  
landlord of, or other person in possession and control of an 640

improvement to real property and who is in actual possession and 641  
control of the improvement to real property at the time that the 642  
defective and unsafe condition of the improvement to real property 643  
constitutes the proximate cause of the bodily injury, injury to 644  
real or personal property, or wrongful death that is the subject 645  
matter of the civil action. 646

(C) Division (A)(1) of this section is not available as an 647  
affirmative defense to a defendant in a civil action described in 648  
that division if the defendant engages in fraud in regard to 649  
furnishing the design, planning, supervision of construction, or 650  
construction of an improvement to real property or in regard to 651  
any relevant fact or other information that pertains to the act or 652  
omission constituting the alleged basis of the bodily injury, 653  
injury to real or personal property, or wrongful death or to the 654  
defective and unsafe condition of the improvement to real 655  
property. 656

(D) Division (A)(1) of this section does not prohibit the 657  
commencement of a civil action for damages against a person who 658  
has expressly warranted or guaranteed an improvement to real 659  
property for a period longer than the period described in division 660  
(A)(1) of this section and whose warranty or guarantee has not 661  
expired as of the time of the alleged bodily injury, injury to 662  
real or personal property, or wrongful death in accordance with 663  
the terms of that warranty or guarantee. 664

(E) This section does not create a new cause of action or 665  
substantive legal right against any person resulting from the 666  
design, planning, supervision of construction, or construction of 667  
an improvement to real property. 668

(F) This section shall be considered to be purely remedial in 669  
operation and shall be applied in a remedial manner in any civil 670  
action commenced on or after the effective date of this section, 671

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.

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(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.

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

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(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.

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(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.

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

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Code. "Health insuring corporation" includes wholly owned 702  
subsidiaries of a health insuring corporation. 703

(C) "Hospital" means either of the following: 704

(1) An institution that has been registered or licensed by 705  
the department of health as a hospital; 706

(2) An entity, other than an insurance company authorized to 707  
do business in this state, that owns, controls, or is affiliated 708  
with an institution that has been registered or licensed by the 709  
department of health as a hospital. 710

(D) "Incident report or risk management report" means a 711  
report of an incident involving injury or potential injury to a 712  
patient as a result of patient care provided by health care 713  
providers, including both individuals who provide health care and 714  
entities that provide health care, that is prepared by or for the 715  
use of a peer review committee of a health care entity and is 716  
within the scope of the functions of that committee. 717

(E)(1) "Peer review committee" means a utilization review 718  
committee, quality assessment committee, performance improvement 719  
committee, tissue committee, credentialing committee, or other 720  
committee that does either of the following: 721

(a) Conducts professional credentialing or quality review 722  
activities involving the competence of, professional conduct of, 723  
or quality of care provided by health care providers, including 724  
both individuals who provide health care and entities that provide 725  
health care; 726

(b) Conducts any other attendant hearing process initiated as 727  
a result of a peer review committee's recommendations or actions. 728

(2) "Peer review committee" includes all of the following: 729

(a) A peer review committee of a hospital or long-term care 730  
facility or a peer review committee of a nonprofit health care 731

corporation that is a member of the hospital or long-term care	732
facility or of which the hospital or facility is a member;	733
(b) A peer review committee of a community mental health	734
center;	735
(c) A board or committee of a hospital, a long-term care	736
facility, or other health care entity when reviewing professional	737
qualifications or activities of health care providers, including	738
both individuals who provide health care and entities that provide	739
health care;	740
(d) A peer review committee, professional standards review	741
committee, or arbitration committee of a state or local society	742
composed of members who are in active practice as physicians,	743
dentists, optometrists, psychologists, or pharmacists;	744
(e) A peer review committee of a health insuring corporation	745
that has at least a two-thirds majority of member physicians in	746
active practice and that conducts professional credentialing and	747
quality review activities involving the competence or professional	748
conduct of health care providers that adversely affects or could	749
adversely affect the health or welfare of any patient;	750
(f) A peer review committee of a health insuring corporation	751
that has at least a two-thirds majority of member physicians in	752
active practice and that conducts professional credentialing and	753
quality review activities involving the competence or professional	754
conduct of a health care facility that has contracted with the	755
health insuring corporation to provide health care services to	756
enrollees, which conduct adversely affects, or could adversely	757
affect, the health or welfare of any patient;	758
(g) A peer review committee of a sickness and accident	759
insurer that has at least a two-thirds majority of physicians in	760
active practice and that conducts professional credentialing and	761
quality review activities involving the competence or professional	762

conduct of health care providers that adversely affects or could 763  
adversely affect the health or welfare of any patient; 764

(h) A peer review committee of a sickness and accident 765  
insurer that has at least a two-thirds majority of physicians in 766  
active practice and that conducts professional credentialing and 767  
quality review activities involving the competence or professional 768  
conduct of a health care facility that has contracted with the 769  
insurer to provide health care services to insureds, which conduct 770  
adversely affects, or could adversely affect, the health or 771  
welfare of any patient; 772

(i) A peer review committee of any insurer authorized under 773  
Title XXXIX of the Revised Code to do the business of medical 774  
professional liability insurance in this state that conducts 775  
professional quality review activities involving the competence or 776  
professional conduct of health care providers that adversely 777  
affects or could affect the health or welfare of any patient; 778

(j) A peer review committee of the bureau of workers' 779  
compensation responsible for reviewing the professional 780  
qualifications and the performance of providers conducting medical 781  
examinations or file reviews for the bureau; 782

(k) Any other peer review committee of a health care entity. 783

(F) "Physician" means an individual authorized to practice 784  
medicine and surgery, osteopathic medicine and surgery, or 785  
podiatric medicine and surgery. 786

(G) "Sickness and accident insurer" means an entity 787  
authorized under Title XXXIX of the Revised Code to do the 788  
business of sickness and accident insurance in this state. 789

(H) "Tort action" means a civil action for damages for 790  
injury, death, or loss to a patient of a health care entity. "Tort 791  
action" includes a product liability claim, as defined in section 792

2307.71 of the Revised Code, and an asbestos claim, as defined in 793  
section 2307.91 of the Revised Code, but does not include a civil 794  
action for a breach of contract or another agreement between 795  
persons. 796

**Sec. 2307.011.** As used in Chapters 2307. and 2315. of the 797  
Revised Code: 798

(A) "Conduct" means actions or omissions. 799

(B) "Contributory fault" means contributory negligence, other 800  
contributory tortious conduct, ~~comparative negligence,~~ or, except 801  
as provided with respect to product liability claims in section 802  
2307.711 of the Revised Code, express or implied assumption of the 803  
risk. 804

(C) "Economic loss" means any of the following types of 805  
pecuniary harm: 806

(1) All wages, salaries, or other compensation lost as a 807  
result of an injury, death, or loss to person or property that is 808  
a subject of a tort action, including wages, salaries, or other 809  
compensation lost as of the date of a judgment and future expected 810  
lost earnings; 811

(2) All expenditures for medical care or treatment, 812  
rehabilitation services, or other care, treatment, services, 813  
products, or accommodations incurred as a result of an injury, 814  
death, or loss to person that is a subject of a tort action, 815  
including expenditures for those purposes that were incurred as of 816  
the date of a judgment and expenditures for those purposes that, 817  
in the determination of the trier of fact, will be incurred in the 818  
future because of the injury, whether paid by the injured person 819  
or by another person on behalf of the injured person; 820

(3) All expenditures of a person whose property was injured 821  
or destroyed or of another person on behalf of the person whose 822

property was injured or destroyed in order to repair or replace 823  
the property; 824

(4) Any other expenditures incurred as a result of an injury, 825  
death, or loss to person or property that is a subject of a tort 826  
action, except expenditures of the injured person, the person 827  
whose property was injured or destroyed, or another person on 828  
behalf of the injured person or the person whose property was 829  
injured or destroyed in relation to the actual preparation or 830  
presentation of the claim involved. 831

(D) "Intentional tort claim" means a claim alleging that a 832  
tortfeasor intentionally caused or intentionally contributed to 833  
the injury or loss to person or property or the wrongful death or 834  
that a tortfeasor knew or believed that the injury or loss to 835  
person or property or the wrongful death was substantially certain 836  
to result from the tortfeasor's conduct. As used in sections 837  
2307.22, 2307.711, and 2315.32, ~~and 2315.42~~ of the Revised Code, 838  
"intentional tort claim" does not include an intentional tort 839  
claim alleged by an employee or the employee's legal 840  
representative against the employee's employer and that arises 841  
from the tortfeasor's conduct that occurs on premises owned, 842  
leased, or supervised by the employer. 843

~~(E) "Negligence claim" means a civil action for damages for 844  
injury, death, or loss to person or property to the extent that 845  
the damages are sought or recovered based on allegation or proof 846  
of negligence. 847~~

~~(F)~~ "Noneconomic loss" means nonpecuniary harm that results 848  
from an injury, death, or loss to person that is a subject of a 849  
tort action, including, but not limited to, pain and suffering; 850  
loss of society, consortium, companionship, care, assistance, 851  
attention, protection, advice, guidance, counsel, instruction, 852  
training, or education; mental anguish; and any other intangible 853

loss. 854

~~(G)~~(F) "Person" has the same meaning as in division (C) of 855  
section 1.59 of the Revised Code and additionally includes a 856  
political subdivision and the state. 857

~~(H)~~(G) "Persons from whom the plaintiff does not seek 858  
recovery in this action" includes, but is not limited to, the 859  
following: 860

(1) Persons who have entered into a settlement agreement with 861  
the plaintiff; 862

(2) Persons whom the plaintiff has dismissed from the tort 863  
action without prejudice; 864

(3) Persons whom the plaintiff has dismissed from the tort 865  
action with prejudice; 866

(4) Persons who are not a party to the tort action whether or 867  
not that person was or could have been a party to the tort action 868  
if the name of the person has been disclosed prior to trial. 869

~~(I)~~(H) "Plaintiff" includes the person for whom the plaintiff 870  
is legal representative. 871

~~(J)~~(I) "Political subdivision" and "state" have the same 872  
meanings as in section 2744.01 of the Revised Code. 873

~~(K)~~(J) "Tort action" means a civil action for damages for 874  
injury, death, or loss to person or property. "Tort action" 875  
includes a product liability claim, as defined in section 2307.71 876  
of the Revised Code, and an asbestos claim, as defined in section 877  
2307.91 of the Revised Code, but does not include a civil action 878  
for damages for a breach of contract or another agreement between 879  
persons. 880

~~(L)~~(K) "Trier of fact" means the jury or, in a nonjury 881  
action, the court. 882

**Sec. 2307.23.** (A) In determining the percentage of tortious 883  
conduct attributable to a party in a tort action under section 884  
2307.22, or sections 2315.32 to 2315.36, ~~or sections 2315.41 to~~ 885  
~~2315.46~~ of the Revised Code, the court in a nonjury action shall 886  
make findings of fact, and the jury in a jury action shall return 887  
a general verdict accompanied by answers to interrogatories, that 888  
shall specify all of the following: 889

(1) The percentage of tortious conduct that proximately 890  
caused the injury or loss to person or property or the wrongful 891  
death that is attributable to the plaintiff and to each party to 892  
the tort action from whom the plaintiff seeks recovery in this 893  
action; 894

(2) The percentage of tortious conduct that proximately 895  
caused the injury or loss to person or property or the wrongful 896  
death that is attributable to each person from whom the plaintiff 897  
does not seek recovery in this action. 898

(B) The sum of the percentages of tortious conduct as 899  
determined pursuant to division (A) of this section shall equal 900  
one hundred per cent. 901

(C) For purposes of division (A)(2) of this section, it is an 902  
affirmative defense for each party to the tort action from whom 903  
the plaintiff seeks recovery in this action that a specific 904  
percentage of the tortious conduct that proximately caused the 905  
injury or loss to person or property or the wrongful death is 906  
attributable to one or more persons from whom the plaintiff does 907  
not seek recovery in this action. Any party to the tort action 908  
from whom the plaintiff seeks recovery in this action may raise an 909  
affirmative defense under this division at any time before the 910  
trial of the action. 911

**Sec. 2307.29.** No provision of sections 2307.25 to 2307.28 of 912

the Revised Code applies to a ~~negligence or other~~ tort claim to 913  
the extent that sections 2307.22 to 2307.24, or sections 2315.32 914  
to 2315.36, ~~or sections 2315.41 to 2315.46~~ of the Revised Code 915  
make a party against whom a judgment is entered liable to the 916  
plaintiff only for the proportionate share of that party as 917  
described in those sections. 918

**Sec. 2307.60.** (A) Anyone injured in person or property by a 919  
criminal act has, and may recover full damages in, a civil action 920  
unless specifically excepted by law, may recover the costs of 921  
maintaining the civil action and attorney's fees if authorized by 922  
any provision of the Rules of Civil Procedure or another section 923  
of the Revised Code or under the common law of this state, and may 924  
recover punitive or exemplary damages if authorized by section 925  
2315.21 or another section of the Revised Code. No record of a 926  
conviction, unless obtained by confession in open court, shall be 927  
used as evidence in a civil action brought pursuant to division 928  
(A) of this section. 929

(B)(1) As used in division (B) of this section, "tort action" 930  
means a civil action for damages for injury, death, or loss to 931  
person or property other than a civil action for damages for a 932  
breach of contract or another agreement between persons. "Tort 933  
action" includes, but is not limited to, a product liability 934  
claim, as defined in section 2307.71 of the Revised Code, and an 935  
asbestos claim, as defined in section 2307.91 of the Revised Code, 936  
an action for wrongful death under Chapter 2125. of the Revised 937  
Code, and an action based on derivative claims for relief. 938

(2) Recovery on a claim for relief in a tort action is barred 939  
to any person or the person's legal representative if the person 940  
has been convicted of or has pleaded guilty to a felony, or to a 941  
misdemeanor that is an offense of violence, arising out of 942  
criminal conduct that was a proximate cause of the injury or loss 943

for which relief is claimed in the action. 944

(3) Division (B) of this section does not apply to civil 945  
claims based upon alleged intentionally tortious conduct, alleged 946  
violations of the United States Constitution, or alleged 947  
violations of statutes of the United States pertaining to civil 948  
rights. 949

**Sec. 2307.71. (A)** As used in sections 2307.71 to 2307.80 of 950  
the Revised Code: 951

~~(A)(1)~~ "Claimant" means either of the following: 952

~~(1)(a)~~ A person who asserts a product liability claim or on 953  
whose behalf such a claim is asserted; 954

~~(2)(b)~~ If a product liability claim is asserted on behalf of 955  
the surviving spouse, children, parents, or other next of kin of a 956  
decedent or on behalf of the estate of a decedent, whether as a 957  
claim in a wrongful death action under Chapter 2125. of the 958  
Revised Code or as a survivorship claim, whichever of the 959  
following is appropriate: 960

~~(a)(i)~~ The decedent, if the reference is to the person who 961  
allegedly sustained harm or economic loss for which, or in 962  
connection with which, compensatory damages or punitive or 963  
exemplary damages are sought to be recovered; 964

~~(b)(ii)~~ The personal representative of the decedent or the 965  
estate of the decedent, if the reference is to the person who is 966  
asserting or has asserted the product liability claim. 967

~~(B)(2)~~ "Economic loss" means direct, incidental, or 968  
consequential pecuniary loss, including, but not limited to, 969  
damage to the product in question, and nonphysical damage to 970  
property other than that product. Harm is not "economic loss." 971

~~(C)(3)~~ "Environment" means navigable waters, surface water, 972

ground water, drinking water supplies, land surface, subsurface 973  
strata, and air. 974

~~(D)~~(4) "Ethical drug" means a prescription drug that is 975  
prescribed or dispensed by a physician or any other person who is 976  
legally authorized to prescribe or dispense a prescription drug. 977

~~(E)~~(5) "Ethical medical device" means a medical device that 978  
is prescribed, dispensed, or implanted by a physician or any other 979  
person who is legally authorized to prescribe, dispense, or 980  
implant a medical device and that is regulated under the "Federal 981  
Food, Drug, and Cosmetic Act," 52 Stat. 1040, 21 U.S.C. 301-392, 982  
as amended. 983

~~(F)~~(6) "Foreseeable risk" means a risk of harm that satisfies 984  
both of the following: 985

~~(1)~~(a) It is associated with an intended or reasonably 986  
foreseeable use, modification, or alteration of a product in 987  
question. 988

~~(2)~~(b) It is a risk that the manufacturer in question should 989  
recognize while exercising both of the following: 990

~~(a)~~(i) The attention, perception, memory, knowledge, and 991  
intelligence that a reasonable manufacturer should possess; 992

~~(b)~~(ii) Any superior attention, perception, memory, 993  
knowledge, or intelligence that the manufacturer in question 994  
possesses. 995

~~(G)~~(7) "Harm" means death, physical injury to person, serious 996  
emotional distress, or physical damage to property other than the 997  
product in question. Economic loss is not "harm." 998

~~(H)~~(8) "Hazardous or toxic substances" include, but are not 999  
limited to, hazardous waste as defined in section 3734.01 of the 1000  
Revised Code, hazardous waste as specified in the rules of the 1001  
director of environmental protection pursuant to division (A) of 1002

section 3734.12 of the Revised Code, hazardous substances as 1003  
defined in section 3716.01 of the Revised Code, and hazardous 1004  
substances, pollutants, and contaminants as defined in or by 1005  
regulations adopted pursuant to the "Comprehensive Environmental 1006  
Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 1007  
42 U.S.C. 9601, as amended. 1008

~~(I)~~(9) "Manufacturer" means a person engaged in a business to 1009  
design, formulate, produce, create, make, construct, assemble, or 1010  
rebuild a product or a component of a product. 1011

~~(J)~~(10) "Person" has the same meaning as in division (C) of 1012  
section 1.59 of the Revised Code and also includes governmental 1013  
entities. 1014

~~(K)~~(11) "Physician" means a person who is licensed to 1015  
practice medicine and surgery or osteopathic medicine and surgery 1016  
by the state medical board. 1017

~~(L)~~~~(1)~~(12)(a) "Product" means, subject to division 1018  
~~(L)~~~~(2)~~(A)(12)(b) of this section, any object, substance, mixture, 1019  
or raw material that constitutes tangible personal property and 1020  
that satisfies all of the following: 1021

~~(a)~~(i) It is capable of delivery itself, or as an assembled 1022  
whole in a mixed or combined state, or as a component or 1023  
ingredient~~+~~. 1024

~~(b)~~(ii) It is produced, manufactured, or supplied for 1025  
introduction into trade or commerce~~+~~. 1026

~~(c)~~(iii) It is intended for sale or lease to persons for 1027  
commercial or personal use. 1028

~~(2)~~(b) "Product" does not include human tissue, blood, or 1029  
organs. 1030

~~(M)~~(13) "Product liability claim" means a claim that is 1031  
asserted in a civil action pursuant to sections 2307.71 to 2307.80 1032

of the Revised Code and that seeks to recover compensatory damages 1033  
from a manufacturer or supplier for death, physical injury to 1034  
person, emotional distress, or physical damage to property other 1035  
than the product in question, that allegedly arose from any of the 1036  
following: 1037

~~(1)~~(a) The design, formulation, production, construction, 1038  
creation, assembly, rebuilding, testing, or marketing of that 1039  
product; 1040

~~(2)~~(b) Any warning or instruction, or lack of warning or 1041  
instruction, associated with that product; 1042

~~(3)~~(c) Any failure of that product to conform to any relevant 1043  
representation or warranty. 1044

~~(N)~~(14) "Representation" means an express representation of a 1045  
material fact concerning the character, quality, or safety of a 1046  
product. 1047

~~(O)~~~~(1)~~(15)(a) "Supplier" means, subject to division 1048  
~~(O)~~~~(2)~~(A)(15)(b) of this section, either of the following: 1049

~~(a)~~(i) A person that, in the course of a business conducted 1050  
for the purpose, sells, distributes, leases, prepares, blends, 1051  
packages, labels, or otherwise participates in the placing of a 1052  
product in the stream of commerce; 1053

~~(b)~~(ii) A person that, in the course of a business conducted 1054  
for the purpose, installs, repairs, or maintains any aspect of a 1055  
product that allegedly causes harm. 1056

~~(2)~~(b) "Supplier" does not include any of the following: 1057

~~(a)~~(i) A manufacturer; 1058

~~(b)~~(ii) A seller of real property; 1059

~~(c)~~(iii) A provider of professional services who, incidental 1060  
to a professional transaction the essence of which is the 1061  
furnishing of judgment, skill, or services, sells or uses a 1062

product; 1063

~~(d)~~(iv) Any person who acts only in a financial capacity with 1064  
respect to the sale of a product, or who leases a product under a 1065  
lease arrangement in which the selection, possession, maintenance, 1066  
and operation of the product are controlled by a person other than 1067  
the lessor. 1068

~~(P)~~(16) "Unavoidably unsafe" means that, in the state of 1069  
technical, scientific, and medical knowledge at the time a product 1070  
in question left the control of its manufacturer, an aspect of 1071  
that product was incapable of being made safe. 1072

(B) Sections 2307.71 to 2307.80 of the Revised Code are 1073  
intended to abrogate all common law product liability causes of 1074  
action. 1075

Sec. 2307.711. (A) Subject to divisions (B)(1), (2), and (3) 1076  
of this section, sections 2315.32 to 2315.36 of the Revised Code 1077  
apply to a product liability claim that is asserted pursuant to 1078  
sections 2307.71 to 2307.80 of the Revised Code. 1079

(B)(1) Express or implied assumption of the risk may be 1080  
asserted as an affirmative defense to a product liability claim 1081  
under sections 2307.71 to 2307.80 of the Revised Code, except that 1082  
express or implied assumption of the risk may not be asserted as 1083  
an affirmative defense to an intentional tort claim. 1084

(2) Subject to division (B)(3) of this section, if express or 1085  
implied assumption of the risk is asserted as an affirmative 1086  
defense to a product liability claim under sections 2307.71 to 1087  
2307.80 of the Revised Code and if it is determined that the 1088  
claimant expressly or impliedly assumed a risk and that the 1089  
express or implied assumption of the risk was a direct and 1090  
proximate cause of harm for which the claimant seeks to recover 1091  
damages, the express or implied assumption of the risk is a 1092

complete bar to the recovery of those damages. 1093

(3) If implied assumption of the risk is asserted as an 1094  
affirmative defense to a product liability claim against a 1095  
supplier under division (A)(1) of section 2307.78 of the Revised 1096  
Code, sections 2315.32 to 2315.36 of the Revised Code are 1097  
applicable to that affirmative defense and shall be used to 1098  
determine whether the claimant is entitled to recover compensatory 1099  
damages based on that claim and the amount of any recoverable 1100  
compensatory damages. 1101

**Sec. 2307.75.** (A) Subject to divisions (D), (E), and (F) of 1102  
this section, a product is defective in design or formulation if 1103  
~~either of the following applies:~~ 1104

~~(1) When, at the time it left the control of its~~ 1105  
~~manufacturer, the foreseeable risks associated with its design or~~ 1106  
~~formulation as determined pursuant to division (B) of this section~~ 1107  
~~exceeded the benefits associated with that design or formulation~~ 1108  
~~as determined pursuant to division (C) of this section:~~ 1109

~~(2) It is more dangerous than an ordinary consumer would~~ 1110  
~~expect when used in an intended or reasonably foreseeable manner.~~ 1111

(B) The foreseeable risks associated with the design or 1112  
formulation of a product shall be determined by considering 1113  
factors including, but not limited to, the following: 1114

(1) The nature and magnitude of the risks of harm associated 1115  
with that design or formulation in light of the intended and 1116  
reasonably foreseeable uses, modifications, or alterations of the 1117  
product; 1118

(2) The likely awareness of product users, whether based on 1119  
warnings, general knowledge, or otherwise, of those risks of harm; 1120

(3) The likelihood that that design or formulation would 1121  
cause harm in light of the intended and reasonably foreseeable 1122

uses, modifications, or alterations of the product; 1123

(4) The extent to which that design or formulation conformed 1124  
to any applicable public or private product standard that was in 1125  
effect when the product left the control of its manufacturer. 1126

(C) The benefits associated with the design or formulation of 1127  
a product shall be determined by considering factors including, 1128  
but not limited to, the following: 1129

(1) The intended or actual utility of the product, including 1130  
any performance or safety advantages associated with that design 1131  
or formulation; 1132

(2) The technical and economic feasibility, when the product 1133  
left the control of its manufacturer, of using an alternative 1134  
design or formulation; 1135

(3) The nature and magnitude of any foreseeable risks 1136  
associated with ~~such~~ an alternative design or formulation. 1137

(D) An ethical drug or ethical medical device is not 1138  
defective in design or formulation because some aspect of it is 1139  
unavoidably unsafe, if the manufacturer of the ethical drug or 1140  
ethical medical device provides adequate warning and instruction 1141  
under section 2307.76 of the Revised Code concerning that 1142  
unavoidably unsafe aspect. 1143

(E) A product is not defective in design or formulation if 1144  
the harm for which the claimant seeks to recover compensatory 1145  
damages was caused by an inherent characteristic of the product 1146  
which is a generic aspect of the product that cannot be eliminated 1147  
without substantially compromising the product's usefulness or 1148  
desirability and which is recognized by the ordinary person with 1149  
the ordinary knowledge common to the community. 1150

(F) A product is not defective in design or formulation if, 1151  
at the time the product left the control of its manufacturer, a 1152

practical and technically feasible alternative design or 1153  
formulation was not available that would have prevented the harm 1154  
for which the claimant seeks to recover compensatory damages 1155  
without substantially impairing the usefulness or intended purpose 1156  
of the product, unless the manufacturer acted unreasonably in 1157  
introducing the product into trade or commerce. 1158

**Sec. 2307.80.** (A) Subject to ~~division~~ divisions (C) and (D) 1159  
of this section, punitive or exemplary damages shall not be 1160  
awarded against a manufacturer or supplier in question in 1161  
connection with a product liability claim unless the claimant 1162  
establishes, by clear and convincing evidence, that harm for which 1163  
the claimant is entitled to recover compensatory damages in 1164  
accordance with section 2307.73 or 2307.78 of the Revised Code was 1165  
the result of misconduct of the manufacturer or supplier in 1166  
question that manifested a flagrant disregard of the safety of 1167  
persons who might be harmed by the product in question. The fact 1168  
by itself that a product is defective does not establish a 1169  
flagrant disregard of the safety of persons who might be harmed by 1170  
that product. 1171

(B) Whether the trier of fact is a jury or the court, if the 1172  
trier of fact determines that a manufacturer or supplier in 1173  
question is liable for punitive or exemplary damages in connection 1174  
with a product liability claim, the amount of those damages shall 1175  
be determined by the court. In determining the amount of punitive 1176  
or exemplary damages, the court shall consider factors including, 1177  
but not limited to, the following: 1178

(1) The likelihood that serious harm would arise from the 1179  
misconduct of the manufacturer or supplier in question; 1180

(2) The degree of the awareness of the manufacturer or 1181  
supplier in question of that likelihood; 1182

(3) The profitability of the misconduct to the manufacturer 1183  
or supplier in question; 1184

(4) The duration of the misconduct and any concealment of it 1185  
by the manufacturer or supplier in question; 1186

(5) The attitude and conduct of the manufacturer or supplier 1187  
in question upon the discovery of the misconduct and whether the 1188  
misconduct has terminated; 1189

(6) The financial condition of the manufacturer or supplier 1190  
in question; 1191

(7) The total effect of other punishment imposed or likely to 1192  
be imposed upon the manufacturer or supplier in question as a 1193  
result of the misconduct, including awards of punitive or 1194  
exemplary damages to persons similarly situated to the claimant 1195  
and the severity of criminal penalties to which the manufacturer 1196  
or supplier in question has been or is likely to be subjected. 1197

(C) ~~If~~ (1) Except as provided in division (C)(2) of this 1198  
section, if a claimant alleges in a product liability claim that a 1199  
drug or device caused harm to the claimant, the manufacturer of 1200  
the drug or device shall not be liable for punitive or exemplary 1201  
damages in connection with that product liability claim if the 1202  
drug or device that allegedly caused the harm satisfies either of 1203  
the following: 1204

(a) It was manufactured and labeled in relevant and material 1205  
respects in accordance with the terms of an approval or license 1206  
issued by the federal food and drug administration under the 1207  
"Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 1208  
U.S.C. 301-392, as amended, or the "Public Health Service Act," 58 1209  
Stat. 682 (1944), 42 U.S.C. 201-300cc-15, as amended, ~~unless it is~~ 1210  
established. 1211

(b) It was an over-the-counter drug marketed pursuant to 1212

federal regulations, was generally recognized as safe and 1213  
effective and as not being misbranded pursuant to the applicable 1214  
federal regulations, and satisfied in relevant and material 1215  
respects each of the conditions contained in the applicable 1216  
regulations and each of the conditions contained in an applicable 1217  
monograph. 1218

(2) Division (C)(1) of this section does not apply if the 1219  
claimant establishes, by a preponderance of the evidence, that the 1220  
manufacturer fraudulently and in violation of applicable 1221  
regulations of the food and drug administration withheld from the 1222  
food and drug administration information known to be material and 1223  
relevant to the harm that the claimant allegedly suffered or 1224  
misrepresented to the food and drug administration information of 1225  
that type. ~~For~~ 1226

As used in this division, "fraudulently" means when the 1227  
sponsor of the drug or medical device approval had not disclosed 1228  
to the food and drug administration, in the premarket approval 1229  
application or new drug application and related submissions, that 1230  
which was required to be disclosed in order to secure the approval 1231  
from the food and drug administration, which data came into the 1232  
actual or constructive possession of the sponsor or its agents 1233  
during the pendency of the investigational device exemption, 1234  
investigational new drug expectation, new drug application, or 1235  
premarket approval application or prior to or subsequent to the 1236  
date of the actual approval of the new drug application. 1237

(3) For purposes of this division, "drug divisions (C) and 1238  
(D) of this section: 1239

(a) "Drug" has the same meaning given to that term as in the 1240  
"Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040, 1041 1241  
(1938), 21 U.S.C. 321(g)(1), as amended. 1242

(b) "Device" has the same meaning as in the "Federal Food, 1243

Drug, and Cosmetic Act," 52 Stat. 1040, 1041 (1938), 21 U.S.C. 1244  
321(h), as amended. 1245

(D)(1) If a claimant alleges in a product liability claim 1246  
that a product other than a drug or device caused harm to the 1247  
claimant, the manufacturer or supplier of the product shall not be 1248  
liable for punitive or exemplary damages in connection with the 1249  
claim if the manufacturer or supplier fully complied with all 1250  
applicable government safety and performance standards, whether or 1251  
not designated as such by the government, relative to the 1252  
product's manufacture or construction, the product's design or 1253  
formulation, adequate warnings or instructions, and 1254  
representations when the product left the control of the 1255  
manufacturer or supplier, and the claimant's injury results from 1256  
an alleged defect of a product's manufacture or construction, the 1257  
product's design or formulation, adequate warnings or 1258  
instructions, and representations for which there is an applicable 1259  
government safety or performance standard. 1260

(2) Division (D)(1) of this section does not apply if the 1261  
claimant establishes, by a preponderance of the evidence, that the 1262  
manufacturer or supplier of the product other than a drug or 1263  
device fraudulently and in violation of applicable government 1264  
safety and performance standards withheld from an applicable 1265  
government agency information known to be material and relevant to 1266  
the harm that the claimant allegedly suffered or misrepresented to 1267  
an applicable government agency information of that type. 1268

(E) The bifurcated trial provisions of division (B) of 1269  
section 2315.21 of the Revised Code, the ceiling on recoverable 1270  
punitive or exemplary damages specified in division (D)(1) of that 1271  
section, and the provisions of division (D)(3) of that section 1272  
apply to awards of punitive or exemplary damages under this 1273  
section. 1274

Sec. 2315.01. (A) When the jury is sworn, unless for special 1275  
reasons the court otherwise directs, the trial shall proceed in 1276  
the following order except as provided in section 2315.02 of the 1277  
Revised Code: 1278

~~(A)~~(1) The plaintiff concisely ~~must~~ shall state the 1279  
plaintiff's claim, and briefly may state the plaintiff's evidence 1280  
to sustain it. 1281

~~(B)~~(2) The defendant ~~must then~~ briefly shall state the 1282  
defendant's defense, and briefly may state the defendant's 1283  
evidence in support of it. 1284

~~(C)~~(3) The party who would be defeated if no evidence were 1285  
offered on either side, first, ~~must~~ shall produce that party's 1286  
evidence, and the adverse party ~~must~~ shall then produce the 1287  
adverse party's evidence. 1288

~~(D)~~(4) The parties then shall be confined to rebutting 1289  
evidence, unless the court for good reasons, and in the 1290  
furtherance of justice, permits them to offer evidence in their 1291  
original cases. 1292

~~(E)~~(5) When the evidence is concluded, either party may 1293  
present written instructions to the court on matters of law and 1294  
request them to be given to the jury, ~~which instructions shall be~~ 1295  
~~given or refused by the.~~ The court shall give or refuse to give 1296  
the written instructions to the jury before the argument to the 1297  
jury is commenced. 1298

~~(F)~~(6) The parties then may submit or argue the case to the 1299  
jury. The party required first to produce that party's evidence 1300  
shall have the opening and closing arguments. If several 1301  
defendants, ~~having~~ have separate defenses, ~~and~~ appear by different 1302  
counsel, the court shall arrange their relative order. 1303

~~(G)~~(7) The court, after the argument is concluded, and before 1304

proceeding with other business, shall charge the jury. ~~Any charge~~ 1305  
~~shall be reduced to writing by the~~ The court shall reduce a charge 1306  
to writing if either party, before the argument to the jury is 1307  
commenced, requests it. ~~Such charge may be examined by the~~ The 1308  
~~parties may examine that charge~~ before any closing argument is 1309  
made by any of the parties. ~~A~~ If a charge or instruction, ~~when so~~ 1310  
is written and given, ~~as prescribed in this division,~~ the court 1311  
shall not be orally ~~qualified, modified~~ qualify, modify, or in any 1312  
manner ~~explained~~ explain the charge or instruction to the jury ~~by~~ 1313  
~~the court~~. All written charges and instructions shall be taken by 1314  
the jurors in their retirement, shall be returned with their 1315  
verdict into court, and shall remain on file with the papers of 1316  
the case. 1317

(B) In all tort actions, the court shall instruct the jury 1318  
regarding the extent to which an award of compensatory damages or 1319  
punitive or exemplary damages is or is not subject to taxation 1320  
under federal or state income tax laws. 1321

As used in this division, "tort action" means a civil action 1322  
for damages for injury, death, or loss to person or property. 1323  
"Tort action" includes a product liability claim, as defined in 1324  
section 2307.71 of the Revised Code, and an asbestos claim, as 1325  
defined in section 2307.91 of the Revised Code, but does not 1326  
include a civil action for damages for breach of contract or 1327  
another agreement between persons. 1328

Division (B) of this section shall be considered to be purely 1329  
remedial in operation and shall be applied in a remedial manner in 1330  
any civil action commenced on or after the effective date of this 1331  
amendment, in which division (B) of this section is relevant, 1332  
regardless of when the cause of action accrued and notwithstanding 1333  
any other section of the Revised Code or prior rule of law of this 1334  
state, but shall not be construed to apply to any civil action 1335  
pending prior to the effective date of this amendment. 1336

<u>Sec. 2315.19. (A) As used in this section:</u>	1337
<u>(1) "Medical claim," "dental claim," "optometric claim," and</u>	1338
<u>"chiropractic claim" have the same meanings as in section 2305.113</u>	1339
<u>of the Revised Code.</u>	1340
<u>(2) "Noneconomic loss" means nonpecuniary harm that results</u>	1341
<u>from an injury or loss to person or property that is a subject of</u>	1342
<u>a tort action, including, but not limited to, pain and suffering,</u>	1343
<u>loss of society, consortium, companionship, care, assistance,</u>	1344
<u>attention, protection, advice, guidance, counsel, instruction,</u>	1345
<u>training, or education, disfigurement, mental anguish, and any</u>	1346
<u>other intangible loss.</u>	1347
<u>(3) "Product liability claim" has the same meaning as in</u>	1348
<u>section 2307.71 of the Revised Code.</u>	1349
<u>(4) "Tort action" means a civil action for damages for</u>	1350
<u>injury, death, or loss to person or property. "Tort action"</u>	1351
<u>includes a civil action upon a product liability claim or an</u>	1352
<u>asbestos claim. "Tort action" does not include a civil action upon</u>	1353
<u>a medical claim, dental claim, optometric claim, or chiropractic</u>	1354
<u>claim or a civil action for damages for a breach of contract or</u>	1355
<u>another agreement between persons.</u>	1356
<u>(5) "Trier of fact" means the jury or, in a nonjury action,</u>	1357
<u>the court.</u>	1358
<u>(6) "Asbestos claim" has the same meaning as in section</u>	1359
<u>2307.91 of the Revised Code.</u>	1360
<u>(B) In determining an award of compensatory damages for</u>	1361
<u>noneconomic loss in a tort action, the trier of fact shall not</u>	1362
<u>consider any of the following:</u>	1363
<u>(1) Evidence of a defendant's alleged wrongdoing, misconduct,</u>	1364
<u>or guilt;</u>	1365

<u>(2) Evidence of the defendant's wealth or financial resources;</u>	1366
	1367
<u>(3) All other evidence that is offered for the purpose of punishing the defendant, rather than offered for a compensatory purpose.</u>	1368
	1369
	1370
<u>(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:</u>	1371
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<u>(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:</u>	1376
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<u>(i) It inflamed the passion or prejudice of the trier of fact.</u>	1380
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<u>(ii) It resulted in the improper consideration of the wealth or lack of wealth of the defendant.</u>	1382
	1383
<u>(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.</u>	1384
	1385
	1386
	1387
<u>(b) Whether the verdict is less than or in excess of verdicts involving comparable injuries to similarly situated plaintiffs;</u>	1388
	1389
<u>(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.</u>	1390
	1391
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(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. 1396  
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(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. 1400  
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(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. 1404  
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**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. 1408  
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(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. 1418  
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(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 1423  
1424  
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<u>subrogated to the rights of the plaintiff against a defendant.</u>	1426
<u>(D) As used in this section:</u>	1427
<u>(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.</u>	1428 1429 1430 1431 1432 1433 1434
<u>(2) "Medical claim," "dental claim," "optometric claim," and "chiropractic claim" have the same meanings as in section 2305.113 of the Revised Code.</u>	1435 1436 1437
<u>(3) "Product liability claim" has the same meaning as in section 2307.71 of the Revised Code.</u>	1438 1439
<u>(4) "Asbestos claim" has the same meaning as in section 2307.91 of the Revised Code.</u>	1440 1441
<b>Sec. 2315.21.</b> (A) As used in this section:	1442
<u>(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.</u>	1443 1444 1445 1446 1447 1448
<u>(2) "Trier of fact" means the jury or, in a nonjury action, the court.</u>	1449 1450
<u>(3) "Home" has the same meaning as in section 3721.10 of the Revised Code.</u>	1451 1452
<u>(4) "Employer" includes, but is not limited to, a parent, subsidiary, affiliate, division, or department of the employer. If</u>	1453 1454

the employer is an individual, the individual shall be considered 1455  
an employer under this section only if the subject of the tort 1456  
action is related to the individual's capacity as an employer. 1457

(5) "Small employer" means an employer who employs not more 1458  
than one hundred persons on a full-time permanent basis, or, if 1459  
the employer is classified as being in the manufacturing sector by 1460  
the North American industrial classification system, "small 1461  
employer" means an employer who employs not more than five hundred 1462  
persons on a full-time permanent basis. 1463

(B)(1) In a tort action that is tried to a jury and in which 1464  
a plaintiff makes a claim for compensatory damages and a claim for 1465  
punitive or exemplary damages, upon the motion of any party, the 1466  
trial of the tort action shall be bifurcated as follows: 1467

(a) The initial stage of the trial shall relate only to the 1468  
presentation of evidence, and a determination by the jury, with 1469  
respect to whether the plaintiff is entitled to recover 1470  
compensatory damages for the injury or loss to person or property 1471  
from the defendant. During this stage, no party to the tort action 1472  
shall present, and the court shall not permit a party to present, 1473  
evidence that relates solely to the issue of whether the plaintiff 1474  
is entitled to recover punitive or exemplary damages for the 1475  
injury or loss to person or property from the defendant. 1476

(b) If the jury determines in the initial stage of the trial 1477  
that the plaintiff is entitled to recover compensatory damages for 1478  
the injury or loss to person or property from the defendant, 1479  
evidence may be presented in the second stage of the trial, and a 1480  
determination by that jury shall be made, with respect to whether 1481  
the plaintiff additionally is entitled to recover punitive or 1482  
exemplary damages for the injury or loss to person or property 1483  
from the defendant. 1484

(2) In a tort action that is tried to a jury and in which a 1485

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. 1486  
1487  
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(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. 1492  
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(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: 1501  
1502  
1503

(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. 1504  
1505  
1506  
1507  
1508

(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. 1509  
1510  
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1513  
1514

~~(C)~~(D)(1) In a tort action, the trier of fact shall determine the liability of any defendant for punitive or exemplary damages 1515  
1516

and the amount of those damages. 1517

(2) Except as provided in division (D)(6) of this section, 1518  
all of the following apply regarding any award of punitive or 1519  
exemplary damages in a tort action: 1520

(a) The court shall not enter judgment for punitive or 1521  
exemplary damages in excess of two times the amount of the 1522  
compensatory damages awarded to the plaintiff from that defendant, 1523  
as determined pursuant to division (B)(2) or (3) of this section. 1524

(b) If the defendant is a small employer or individual, the 1525  
court shall not enter judgment for punitive or exemplary damages 1526  
in excess of the lesser of two times the amount of the 1527  
compensatory damages awarded to the plaintiff from the defendant 1528  
or ten percent of the employer's or individual's net worth when 1529  
the tort was committed up to a maximum of three hundred fifty 1530  
thousand dollars, as determined pursuant to division (B)(2) or (3) 1531  
of this section. 1532

(c) Any attorneys fees awarded as a result of a claim for 1533  
punitive or exemplary damages shall not be considered for purposes 1534  
of determining the cap on punitive damages. 1535

(3) No award of prejudgment interest under division (C)(1) of 1536  
section 1343.03 of the Revised Code shall include any prejudgment 1537  
interest on punitive or exemplary damages found by the trier of 1538  
fact. 1539

(4) In a tort action, the burden of proof shall be upon a 1540  
plaintiff in question, by clear and convincing evidence, to 1541  
establish that the plaintiff is entitled to recover punitive or 1542  
exemplary damages. 1543

(5)(a) In any tort action, except as provided in division 1544  
(D)(5)(b) or (6) of this section, punitive or exemplary damages 1545  
shall not be awarded against a defendant if that defendant files 1546  
with the court a certified judgment, judgment entries, or other 1547

evidence showing that punitive or exemplary damages have already 1548  
been awarded and have been collected, in any state or federal 1549  
court, against that defendant based on the same act or course of 1550  
conduct that is alleged to have caused the injury or loss to 1551  
person or property for which the plaintiff seeks compensatory 1552  
damages and that the aggregate of those previous punitive or 1553  
exemplary damage awards exceeds the maximum amount of punitive or 1554  
exemplary damages that may be awarded under division (D)(2) of 1555  
this section against that defendant in the tort action. 1556

(b) Notwithstanding division (D)(5)(a) of this section and 1557  
except as provided in division (D)(6) of this section, punitive or 1558  
exemplary damages may be awarded against a defendant in either of 1559  
the following types of tort actions: 1560

(i) In subsequent tort actions involving the same act or 1561  
course of conduct for which punitive or exemplary damages have 1562  
already been awarded, if the court determines by clear and 1563  
convincing evidence that the plaintiff will offer new and 1564  
substantial evidence of previously undiscovered, additional 1565  
behavior of a type described in division (C) of this section on 1566  
the part of that defendant, other than the injury or loss for 1567  
which the plaintiff seeks compensatory damages. In that case, the 1568  
court shall make specific findings of fact in the record to 1569  
support its conclusion. The court shall reduce the amount of any 1570  
punitive or exemplary damages otherwise awardable pursuant to this 1571  
section by the sum of the punitive or exemplary damages awards 1572  
previously rendered against that defendant in any state or federal 1573  
court. The court shall not inform the jury about the court's 1574  
determination and action under division (D)(5)(b)(i) of this 1575  
section. 1576

(ii) In subsequent tort actions involving the same act or 1577  
course of conduct for which punitive or exemplary damages have 1578  
already been awarded, if the court determines by clear and 1579

convincing evidence that the total amount of prior punitive or 1580  
exemplary damages awards was totally insufficient to punish that 1581  
defendant's behavior of a type described in division (C) of this 1582  
section and to deter that defendant and others from similar 1583  
behavior in the future. In that case, the court shall make 1584  
specific findings of fact in the record to support its conclusion. 1585  
The court shall reduce the amount of any punitive or exemplary 1586  
damages otherwise awardable pursuant to this section by the sum of 1587  
the punitive or exemplary damages awards previously rendered 1588  
against that defendant in any state or federal court. The court 1589  
shall not inform the jury about the court's determination and 1590  
action under division (D)(5)(b)(ii) of this section. 1591

(6) Division (D)(2) of this section does not apply to a tort 1592  
action where the alleged injury, death, or loss to person or 1593  
property resulted from the defendant acting with one or more of 1594  
the culpable mental states of purposely and knowingly as described 1595  
in section 2901.22 of the Revised Code and when the defendant has 1596  
been convicted of or pleaded guilty to a criminal offense that is 1597  
a felony that had as an element of the offense one or more of the 1598  
culpable mental states of purposely and knowingly as described in 1599  
that section. 1600

~~(D)~~(E) This section does not apply to tort actions against 1601  
the state in the court of claims, including, but not limited to, 1602  
tort actions against a state university or college that are 1603  
subject to division (B)(1) of section 3345.40 of the Revised Code, 1604  
to tort actions against political subdivisions of this state that 1605  
are commenced under or are subject to Chapter 2744. of the Revised 1606  
Code, or to the extent that another section of the Revised Code 1607  
expressly provides any of the following: 1608

(1) Punitive or exemplary damages are recoverable from a 1609  
defendant in question in a tort action on a basis other than that 1610  
the actions or omissions of that defendant demonstrate malice, or 1611

aggravated or egregious fraud, ~~oppression, or insult~~, or on a 1612  
basis other than that the defendant in question as principal or 1613  
master knowingly authorized, participated in, or ratified actions 1614  
or omissions of an agent or servant that so demonstrate. 1615

(2) Punitive or exemplary damages are recoverable from a 1616  
defendant in question in a tort action irrespective of whether the 1617  
plaintiff in question has adduced proof of actual damages. 1618

(3) The burden of proof upon a plaintiff in question to 1619  
recover punitive or exemplary damages from a defendant in question 1620  
in a tort action is one other than clear and convincing evidence. 1621

(4) Punitive or exemplary damages are not recoverable from a 1622  
defendant in question in a tort action. 1623

~~(E)~~(F) If the trier of fact is a jury, the court shall not 1624  
instruct the jury with respect to the limits on punitive or 1625  
exemplary damages pursuant to division (D) of this section, and 1626  
neither counsel for any party or a witness shall inform the jury 1627  
or potential jurors of those limits. 1628

(G) When determining the amount of an award of punitive or 1629  
exemplary damages against either a home or a residential facility 1630  
licensed under section 5123.19 of the Revised Code, the trier of 1631  
fact shall consider all of the following: 1632

(1) The ability of the home or residential facility to pay 1633  
the award of punitive or exemplary damages based on the home's or 1634  
residential facility's assets, income, and net worth; 1635

(2) Whether the amount of punitive or exemplary damages is 1636  
sufficient to deter future tortious conduct; 1637

(3) The financial ability of the home or residential 1638  
facility, both currently and in the future, to provide 1639  
accommodations, personal care services, and skilled nursing care. 1640

**Sec. 2315.32.** (A) Sections 2315.32 to 2315.36 of the Revised 1641

Code do not apply to ~~tort~~ actions based on a product liability  
claim described in section 4113.03 of the Revised Code. 1642  
1643

(B) The contributory fault of the plaintiff may be asserted 1644  
as an affirmative defense to a ~~negligence claim or to a~~ tort claim 1645  
~~other than a negligence claim~~, except that the contributory fault 1646  
of the plaintiff may not be asserted as an affirmative defense to 1647  
an intentional tort claim. 1648

**Sec. 2315.33.** The contributory fault of a person does not bar 1649  
the person as plaintiff from recovering damages that have directly 1650  
and proximately resulted from the tortious conduct of one or more 1651  
other persons, if the contributory fault of the plaintiff was not 1652  
greater than the combined tortious conduct of all other persons 1653  
from whom the plaintiff seeks recovery in this action and of all 1654  
other persons from whom the plaintiff does not seek recovery in 1655  
this action. The court shall diminish any compensatory damages 1656  
recoverable by the plaintiff by an amount that is proportionately 1657  
equal to the percentage of tortious conduct of the plaintiff as 1658  
determined pursuant to section 2315.34 of the Revised Code. ~~This~~ 1659  
~~section does not apply to actions described in section 4113.03 of~~ 1660  
~~the Revised Code.~~ 1661

**Sec. 2315.34.** If contributory fault is asserted and 1662  
established as an affirmative defense to a ~~negligence~~ tort claim, 1663  
the court in a nonjury action shall make findings of fact, and the 1664  
jury in a jury action shall return a general verdict accompanied 1665  
by answers to interrogatories, that shall specify the following: 1666

(A) The total amount of the compensatory damages that would 1667  
have been recoverable on that ~~negligence~~ tort claim but for the 1668  
tortious conduct of the plaintiff; 1669

(B) The portion of the compensatory damages specified under 1670  
division (A) of this section that represents economic loss; 1671

(C) The portion of the compensatory damages specified under 1672  
division (A) of this section that represents noneconomic loss; 1673

(D) The percentage of tortious conduct attributable to all 1674  
persons as determined pursuant to section 2307.23 of the Revised 1675  
Code. 1676

**Sec. 2315.36.** If contributory fault is asserted as an 1677  
affirmative defense to a ~~negligence~~ tort claim, if it is 1678  
determined that the plaintiff was contributorily at fault and that 1679  
contributory fault was a direct and proximate cause of the injury, 1680  
death, or loss to person or property that is the subject of the 1681  
tort action, and if the plaintiff is entitled to recover 1682  
compensatory damages pursuant to section 2315.33 of the Revised 1683  
Code from more than one party, after it makes findings of fact or 1684  
after the jury returns its general verdict accompanied by answers 1685  
to interrogatories as described in section 2315.34 of the Revised 1686  
Code, the court shall enter a judgment that is in favor of the 1687  
plaintiff and that imposes liability pursuant to section 2307.22 1688  
of the Revised Code. 1689

**Sec. 2323.44.** (A) As used in this section: 1690

(1) "Asbestos claim" has the same meaning as in section 1691  
2307.91 of the Revised Code. 1692

(2) "Claimant" means a person, or the person's spouse, next 1693  
of kin, or estate, who is eligible to receive compensation, 1694  
medical benefits, or lost wage benefits under any health insurance 1695  
plan, reimbursement plan, or wage continuation plan that is 1696  
purchased by or on behalf of the claimant or is purchased, paid 1697  
for, or purchased and paid for by the claimant's employer. 1698

(3) "Medical claim," "dental claim," "optometric claim," and 1699  
"chiropractic claim" have the same meanings as in section 2305.113 1700  
of the Revised Code. 1701

(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 1733  
subrogation interest. 1734

(B) Notwithstanding any contract or policy language to the 1735  
contrary, a subrogee shall have the right to recover its 1736  
subrogation interest against a third party and is subrogated to 1737  
the rights of a claimant against that third party only as follows: 1738

(1) The claimant shall receive an amount equal to the 1739  
uncompensated damages divided by the sum of the subrogation 1740  
interest plus the uncompensated damages, multiplied by the net 1741  
amount recovered. 1742

(2) The subrogee shall receive an amount equal to the 1743  
subrogation interest divided by the sum of the subrogation 1744  
interest plus the uncompensated damages, multiplied by the net 1745  
amount recovered. 1746

**Sec. 2323.51.** (A) As used in this section: 1747

(1) "Conduct" means any of the following: 1748

(a) The filing of a civil action, the assertion of a claim, 1749  
defense, or other position in connection with a civil action, the 1750  
filing of a pleading, motion, or other paper in a civil action, 1751  
including, but not limited to, a motion or paper filed for 1752  
discovery purposes, or the taking of any other action in 1753  
connection with a civil action; 1754

(b) The filing by an inmate of a civil action or appeal 1755  
against a government entity or employee, the assertion of a claim, 1756  
defense or other position in connection with a civil action of 1757  
that nature or the assertion of issues of law in an appeal of that 1758  
nature, or the taking of any other action in connection with a 1759  
civil action or appeal of that nature. 1760

(2) "Frivolous conduct" means either of the following: 1761

(a) Conduct of an inmate or other party to a civil action, of 1762  
an inmate who has filed an appeal of the type described in 1763  
division (A)(1)(b) of this section, or of the inmate's or other 1764  
party's counsel of record that satisfies ~~either~~ any of the 1765  
following: 1766

(i) It obviously serves merely to harass or maliciously 1767  
injure another party to the civil action or appeal or is for 1768  
another improper purpose, including, but not limited to, causing 1769  
unnecessary delay or a needless increase in the cost of 1770  
litigation. 1771

(ii) It is not warranted under existing law ~~and~~, cannot be 1772  
supported by a good faith argument for an extension, modification, 1773  
or reversal of existing law, or cannot be supported by a good 1774  
faith argument for the establishment of new law. 1775

(iii) The conduct consists of allegations or other factual 1776  
contentions that have no evidentiary support or, if specifically 1777  
so identified, are not likely to have evidentiary support after a 1778  
reasonable opportunity for further investigation or discovery. 1779

(iv) The conduct consists of denials or factual contentions 1780  
that are not warranted by the evidence or, if specifically so 1781  
identified, are not reasonably based on a lack of information or 1782  
belief. 1783

(b) An inmate's commencement of a civil action or appeal 1784  
against a government entity or employee when any of the following 1785  
applies: 1786

(i) The claim that is the basis of the civil action fails to 1787  
state a claim or the issues of law that are the basis of the 1788  
appeal fail to state any issues of law. 1789

(ii) It is clear that the inmate cannot prove material facts 1790  
in support of the claim that is the basis of the civil action or 1791

in support of the issues of law that are the basis of the appeal.	1792
(iii) The claim that is the basis of the civil action is	1793
substantially similar to a claim in a previous civil action	1794
commenced by the inmate or the issues of law that are the basis of	1795
the appeal are substantially similar to issues of law raised in a	1796
previous appeal commenced by the inmate, in that the claim that is	1797
the basis of the current civil action or the issues of law that	1798
are the basis of the current appeal involve the same parties or	1799
arise from the same operative facts as the claim or issues of law	1800
in the previous civil action or appeal.	1801
(3) "Civil action or appeal against a government entity or	1802
employee," "inmate," "political subdivision," and "employee" have	1803
the same meanings as in section 2969.21 of the Revised Code.	1804
(4) "Reasonable attorney's fees" or "attorney's fees," when	1805
used in relation to a civil action or appeal against a government	1806
entity or employee, includes both of the following, as applicable:	1807
(a) The approximate amount of the compensation, and the	1808
fringe benefits, if any, of the attorney general, an assistant	1809
attorney general, or special counsel appointed by the attorney	1810
general that has been or will be paid by the state in connection	1811
with the legal services that were rendered by the attorney	1812
general, assistant attorney general, or special counsel in the	1813
civil action or appeal against the government entity or employee,	1814
including, but not limited to, a civil action or appeal commenced	1815
pro se by an inmate, and that were necessitated by frivolous	1816
conduct of an inmate represented by counsel of record, the counsel	1817
of record of an inmate, or a pro se inmate.	1818
(b) The approximate amount of the compensation, and the	1819
fringe benefits, if any, of a prosecuting attorney or other chief	1820
legal officer of a political subdivision, or an assistant to a	1821
chief legal officer of those natures, who has been or will be paid	1822

by a political subdivision in connection with the legal services 1823  
that were rendered by the chief legal officer or assistant in the 1824  
civil action or appeal against the government entity or employee, 1825  
including, but not limited to, a civil action or appeal commenced 1826  
pro se by an inmate, and that were necessitated by frivolous 1827  
conduct of an inmate represented by counsel of record, the counsel 1828  
of record of an inmate, or a pro se inmate. 1829

(5) "State" has the same meaning as in section 2743.01 of the 1830  
Revised Code. 1831

(6) "State correctional institution" has the same meaning as 1832  
in section 2967.01 of the Revised Code. 1833

(B)(1) Subject to divisions (B)(2) and (3), (C), and (D) of 1834  
this section and except as otherwise provided in division 1835  
(E)(2)(b) of section 101.15 or division (I)(2)(b) of section 1836  
121.22 of the Revised Code, at any time ~~prior to the commencement~~ 1837  
~~of the trial in a civil action or within twenty one days after the~~ 1838  
~~entry of judgment in a civil action or at any time prior to the~~ 1839  
~~hearing in an appeal of the type described in division (A)(1)(b)~~ 1840  
~~of this section that is filed by an inmate or within twenty one~~ 1841  
~~days after the entry of judgment in an appeal of that nature, the~~ 1842  
~~court~~ not more than thirty days after the entry of final judgment 1843  
in a civil action or appeal, any party adversely affected by 1844  
frivolous conduct may file a motion for an award of court costs, 1845  
reasonable attorney's fees, and other reasonable expenses incurred 1846  
in connection with the civil action or appeal ~~to any party to the~~ 1847  
~~civil action or appeal who was adversely affected by frivolous~~ 1848  
~~conduct. The court may assess and make an award may be assessed to~~ 1849  
any party to the civil action or appeal who was adversely affected 1850  
by frivolous conduct, as provided in division (B)(4) of this 1851  
section. 1852

(2) An award may be made pursuant to division (B)(1) of this 1853

section upon the motion of a party to a civil action or an appeal 1854  
of the type described in that division or on the court's own 1855  
initiative, but only after the court does all of the following: 1856

(a) Sets a date for a hearing to be conducted in accordance 1857  
with division (B)(2)(c) of this section, to determine whether 1858  
particular conduct was frivolous, to determine, if the conduct was 1859  
frivolous, whether any party was adversely affected by it, and to 1860  
determine, if an award is to be made, the amount of that award; 1861

(b) Gives notice of the date of the hearing described in 1862  
division (B)(2)(a) of this section to each party or counsel of 1863  
record who allegedly engaged in frivolous conduct and to each 1864  
party who allegedly was adversely affected by frivolous conduct; 1865

(c) Conducts the hearing described in division (B)(2)(a) of 1866  
this section in accordance with this division, allows the parties 1867  
and counsel of record involved to present any relevant evidence at 1868  
the hearing, including evidence of the type described in division 1869  
(B)(5) of this section, determines that the conduct involved was 1870  
frivolous and that a party was adversely affected by it, and then 1871  
determines the amount of the award to be made. If any party or 1872  
counsel of record who allegedly engaged in or allegedly was 1873  
adversely affected by frivolous conduct is confined in a state 1874  
correctional institution or in a county, multicounty, municipal, 1875  
municipal-county, or multicounty-municipal jail or workhouse, the 1876  
court, if practicable, may hold the hearing by telephone or, in 1877  
the alternative, at the institution, jail, or workhouse in which 1878  
the party or counsel is confined. 1879

(3) The amount of an award made pursuant to division (B)(1) 1880  
of this section that represents reasonable attorney's fees shall 1881  
not exceed, and may be equal to or less than, whichever of the 1882  
following is applicable: 1883

(a) If the party is being represented on a contingent fee 1884

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 1916  
evidence of the costs and expenses that were incurred in 1917  
connection with that action or appeal and that were necessitated 1918  
by the frivolous conduct, including, but not limited to, expert 1919  
witness fees and expenses associated with discovery. 1920

(C) An award of reasonable attorney's fees under this section 1921  
does not affect or determine the amount of or the manner of 1922  
computation of attorney's fees as between an attorney and the 1923  
attorney's client. 1924

(D) This section does not affect or limit the application of 1925  
any provision of the Rules of Civil Procedure, the Rules of 1926  
Appellate Procedure, or another court rule or section of the 1927  
Revised Code to the extent that the provision prohibits an award 1928  
of court costs, attorney's fees, or other expenses incurred in 1929  
connection with a particular civil action or appeal or authorizes 1930  
an award of court costs, attorney's fees, or other expenses 1931  
incurred in connection with a particular civil action or appeal in 1932  
a specified manner, generally, or subject to limitations. 1933

**Sec. 2505.02.** (A) As used in this section: 1934

(1) "Substantial right" means a right that the United States 1935  
Constitution, the Ohio Constitution, a statute, the common law, or 1936  
a rule of procedure entitles a person to enforce or protect. 1937

(2) "Special proceeding" means an action or proceeding that 1938  
is specially created by statute and that prior to 1853 was not 1939  
denoted as an action at law or a suit in equity. 1940

(3) "Provisional remedy" means a proceeding ancillary to an 1941  
action, including, but not limited to, a proceeding for a 1942  
preliminary injunction, attachment, discovery of privileged 1943  
matter, suppression of evidence, ~~or~~ a prima-facie showing pursuant 1944  
to section 2307.85 or 2307.86 of the Revised Code, a prima-facie 1945

showing pursuant to section 2307.92 of the Revised Code, or a 1946  
finding made pursuant to division (A)(3) of section 2307.93 of the 1947  
Revised Code. 1948

(B) An order is a final order that may be reviewed, affirmed, 1949  
modified, or reversed, with or without retrial, when it is one of 1950  
the following: 1951

(1) An order that affects a substantial right in an action 1952  
that in effect determines the action and prevents a judgment; 1953

(2) An order that affects a substantial right made in a 1954  
special proceeding or upon a summary application in an action 1955  
after judgment; 1956

(3) An order that vacates or sets aside a judgment or grants 1957  
a new trial; 1958

(4) An order that grants or denies a provisional remedy and 1959  
to which both of the following apply: 1960

(a) The order in effect determines the action with respect to 1961  
the provisional remedy and prevents a judgment in the action in 1962  
favor of the appealing party with respect to the provisional 1963  
remedy. 1964

(b) The appealing party would not be afforded a meaningful or 1965  
effective remedy by an appeal following final judgment as to all 1966  
proceedings, issues, claims, and parties in the action. 1967

(5) An order that determines that an action may or may not be 1968  
maintained as a class action; 1969

(6) An order determining the constitutionality of any changes 1970  
to the Revised Code made by Am. Sub. S.B. 281 of the 124th general 1971  
assembly, including the amendment of sections 1751.67, 2117.06, 1972  
2305.11, 2305.15, 2305.234, 2317.02, 2317.54, 2323.56, 2711.21, 1973  
2711.22, 2711.23, 2711.24, 2743.02, 2743.43, 2919.16, 3923.63, 1974  
3923.64, 3929.71, 4705.15, and 5111.018, and the enactment of 1975

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, or 2315.36, ~~or 2315.46~~ of the Revised Code with  
respect to a ~~negligence~~ tort claim that otherwise is subject to  
that section.

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

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

imposed by division (B) of this section. 2038

(D) Any minor under eighteen years of age whose probationary 2039  
license, restricted license, or temporary instruction permit is 2040  
surrendered to the registrar by the person who signed the 2041  
application for the license or permit and whose license or 2042  
temporary instruction permit subsequently is canceled by the 2043  
registrar may obtain a new license or temporary instruction permit 2044  
without having to undergo the examinations otherwise required by 2045  
sections 4507.11 and 4507.12 of the Revised Code and without 2046  
having to tender the fee for that license or temporary instruction 2047  
permit, if the minor is able to produce another parent, guardian, 2048  
other person having custody of the minor, or other adult, and that 2049  
adult is willing to assume the liability imposed under division 2050  
(B) of this section. That adult shall comply with the procedures 2051  
contained in division (A) of this section. 2052

**Sec. 4513.263.** (A) As used in this section and in section 2053  
4513.99 of the Revised Code: 2054

(1) "Automobile" means any commercial tractor, passenger car, 2055  
commercial car, or truck that is required to be factory-equipped 2056  
with an occupant restraining device for the operator or any 2057  
passenger by regulations adopted by the United States secretary of 2058  
transportation pursuant to the "National Traffic and Motor Vehicle 2059  
Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392. 2060

(2) "Occupant restraining device" means a seat safety belt, 2061  
shoulder belt, harness, or other safety device for restraining a 2062  
person who is an operator of or passenger in an automobile and 2063  
that satisfies the minimum federal vehicle safety standards 2064  
established by the United States department of transportation. 2065

(3) "Passenger" means any person in an automobile, other than 2066  
its operator, who is occupying a seating position for which an 2067

occupant restraining device is provided.	2068
(4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as in section 4501.01 of the Revised Code.	2069 2070 2071
(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.	2072 2073 2074
<u>(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.</u>	2075 2076 2077 2078 2079 2080 2081
(B) No person shall do any of the following:	2082
(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;	2083 2084 2085 2086 2087 2088
(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;	2089 2090 2091 2092 2093
(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;	2094 2095 2096 2097

(4) Operate a taxicab on any street or highway unless all 2098  
factory-equipped occupant restraining devices in the taxicab are 2099  
maintained in usable form. 2100

(C) Division (B)(3) of this section does not apply to a 2101  
person who is required by section 4511.81 of the Revised Code to 2102  
be secured in a child restraint device. Division (B)(1) of this 2103  
section does not apply to a person who is an employee of the 2104  
United States postal service or of a newspaper home delivery 2105  
service, during any period in which the person is engaged in the 2106  
operation of an automobile to deliver mail or newspapers to 2107  
addressees. Divisions (B)(1) and (3) of this section do not apply 2108  
to a person who has an affidavit signed by a physician licensed to 2109  
practice in this state under Chapter 4731. of the Revised Code or 2110  
a chiropractor licensed to practice in this state under Chapter 2111  
4734. of the Revised Code that states that the person has a 2112  
physical impairment that makes use of an occupant restraining 2113  
device impossible or impractical. 2114

(D) Notwithstanding any provision of law to the contrary, no 2115  
law enforcement officer shall cause an operator of an automobile 2116  
being operated on any street or highway to stop the automobile for 2117  
the sole purpose of determining whether a violation of division 2118  
(B) of this section has been or is being committed or for the sole 2119  
purpose of issuing a ticket, citation, or summons for a violation 2120  
of that nature or causing the arrest of or commencing a 2121  
prosecution of a person for a violation of that nature, and no law 2122  
enforcement officer shall view the interior or visually inspect 2123  
any automobile being operated on any street or highway for the 2124  
sole purpose of determining whether a violation of that nature has 2125  
been or is being committed. 2126

(E) All fines collected for violations of division (B) of 2127  
this section, or for violations of any ordinance or resolution of 2128  
a political subdivision that is substantively comparable to that 2129

division, shall be forwarded to the treasurer of state for deposit 2130  
as follows: 2131

(1) Eight per cent shall be deposited into the seat belt 2132  
education fund, which is hereby created in the state treasury, and 2133  
shall be used by the department of public safety to establish a 2134  
seat belt education program. 2135

(2) Eight per cent shall be deposited into the elementary 2136  
school program fund, which is hereby created in the state 2137  
treasury, and shall be used by the department of public safety to 2138  
establish and administer elementary school programs that encourage 2139  
seat safety belt use. 2140

(3) Two per cent shall be deposited into the Ohio medical 2141  
transportation trust fund created by section 4766.05 of the 2142  
Revised Code. 2143

(4) Twenty-eight per cent shall be deposited into the trauma 2144  
and emergency medical services fund, which is hereby created in 2145  
the state treasury, and shall be used by the department of public 2146  
safety for the administration of the division of emergency medical 2147  
services and the state board of emergency medical services. 2148

(5) Fifty-four per cent shall be deposited into the trauma 2149  
and emergency medical services grants fund, which is hereby 2150  
created in the state treasury, and shall be used by the state 2151  
board of emergency medical services to make grants, in accordance 2152  
with section 4765.07 of the Revised Code and rules the board 2153  
adopts under section 4765.11 of the Revised Code. 2154

~~(F)(1) Subject to division (F)(2) of this section, the~~ 2155  
failure of a person to wear all of the available elements of a 2156  
properly adjusted occupant restraining device in violation of 2157  
division (B)(1) or (3) of this section or the failure of a person 2158  
to ensure that each minor who is a passenger of an automobile 2159  
being operated by ~~the~~ that person is wearing all of the available 2160

elements of ~~such a~~ properly adjusted occupant restraining device, 2161  
in violation of division (B)(2) of this section, shall not be 2162  
considered or used by the trier of fact in a tort action as 2163  
evidence of negligence or contributory negligence, ~~shall not. But,~~ 2164  
the trier of fact may determine based on evidence admitted 2165  
consistent with the Ohio rules of evidence that the failure 2166  
contributed to the harm alleged in the tort action and may 2167  
diminish a recovery ~~for~~ of compensatory damages that represents 2168  
noneconomic loss, as defined in section 2307.011 of the Revised 2169  
Code, in any civil a tort action involving the person arising from 2170  
the ownership, maintenance, or operation of an automobile; that 2171  
could have been recovered but for the plaintiff's failure to wear 2172  
all of the available elements of a properly adjusted occupant 2173  
restraining device. Evidence of that failure shall not be used as 2174  
a basis for a criminal prosecution of the person other than a 2175  
prosecution for a violation of this section; and shall not be 2176  
admissible as evidence in ~~any civil or~~ a criminal action involving 2177  
the person other than a prosecution for a violation of this 2178  
section. 2179

~~(2) If, at the time of an accident involving a passenger car~~ 2180  
~~equipped with occupant restraining devices, any occupant of the~~ 2181  
~~passenger car who sustained injury or death was not wearing an~~ 2182  
~~available occupant restraining device, was not wearing all of the~~ 2183  
~~available elements of such a device, or was not wearing such a~~ 2184  
~~device as properly adjusted, then, consistent with the Rules of~~ 2185  
~~Evidence, the fact that the occupant was not wearing the available~~ 2186  
~~occupant restraining device, was not wearing all of the available~~ 2187  
~~elements of such a device, or was not wearing such a device as~~ 2188  
~~properly adjusted is admissible in evidence in relation to any~~ 2189  
~~claim for relief in a tort action to the extent that the claim for~~ 2190  
~~relief satisfies all of the following:~~ 2191

~~(a) It seeks to recover damages for injury or death to the~~ 2192

<del>occupant.</del>	2193
<del>(b) The defendant in question is the manufacturer, designer,</del>	2194
<del>distributor, or seller of the passenger car.</del>	2195
<del>(c) The claim for relief against the defendant in question is</del>	2196
<del>that the injury or death sustained by the occupant was enhanced or</del>	2197
<del>aggravated by some design defect in the passenger car or that the</del>	2198
<del>passenger car was not crashworthy.</del>	2199
<del>(3) As used in division (F)(2) of this section, "tort action"</del>	2200
<del>means a civil action for damages for injury, death, or loss to</del>	2201
<del>person or property. "Tort action" includes a product liability</del>	2202
<del>claim that is subject to sections 2307.71 to 2307.80 of the</del>	2203
<del>Revised Code, but does not include a civil action for damages for</del>	2204
<del>a breach of a contract or another agreement between persons.</del>	2205
(G)(1) Whoever violates division (B)(1) of this section shall	2206
be fined thirty dollars.	2207
(2) Whoever violates division (B)(3) of this section shall be	2208
fined twenty dollars.	2209
(3) Except as otherwise provided in this division, whoever	2210
violates division (B)(4) of this section is guilty of a minor	2211
misdemeanor. If the offender previously has been convicted of or	2212
pleaded guilty to a violation of division (B)(4) of this section,	2213
whoever violates division (B)(4) of this section is guilty of a	2214
misdemeanor of the third degree.	2215
<b>Section 2.</b> That existing sections 1775.14, 2117.06, 2125.02,	2216
2125.04, 2305.01, 2305.03, 2305.10, 2305.25, 2307.011, 2307.23,	2217
2307.29, 2307.60, 2307.71, 2307.75, 2307.80, 2315.01, 2315.21,	2218
2315.32, 2315.33, 2315.34, 2315.36, 2323.51, 2505.02, 4507.07, and	2219
4513.263 and sections 2315.41, 2315.42, 2315.43, 2315.44, 2315.45,	2220
and 2315.46 of the Revised Code are hereby repealed.	2221

Section 3. The General Assembly makes the following statement	2222
of findings and intent:	2223
(A) The General Assembly finds:	2224
(1) The current civil litigation system represents a	2225
challenge to the economic viability of the state of Ohio.	2226
(2) The General Assembly recognizes that a fair system of	2227
civil justice strikes an essential balance between the rights of	2228
those who have been legitimately harmed and the rights of those	2229
who have been unfairly sued.	2230
(3) This state has a rational and legitimate state interest	2231
in making certain that Ohio has a fair, predictable system of	2232
civil justice that preserves the rights of those who have been	2233
harmed by negligent behavior, while curbing the number of	2234
frivolous lawsuits. The General Assembly bases its findings on	2235
this state interest upon the following evidence:	2236
(a) A National Bureau of Economic Research study estimates	2237
that states that have adopted abuse reforms have experienced	2238
employment growth between eleven and twelve per cent, productivity	2239
growth of seven to eight per cent, and total output growth between	2240
ten and twenty per cent for liability reducing reforms.	2241
(b) According to a 2002 study from the White House Council of	2242
Economic Advisors, the cost of tort litigation is equal to a two	2243
and one tenth per cent wage and salary tax, a one and three tenth	2244
per cent tax on personal consumption, and a three and one tenth	2245
per cent tax on capital investment income.	2246
(c) The 2003 Harris Poll of nine hundred and twenty-eight	2247
senior corporate attorneys conducted by the United States Chamber	2248
of Commerce's Institute for Legal Reform reports that eight out of	2249
ten respondents claim that the litigation environment in a state	2250
could affect important business decisions about their company,	2251

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. 2283

(b) In prohibiting a court from entering judgment for 2284  
punitive or exemplary damages in excess of the two times the 2285  
amount of compensatory damages awarded to the plaintiff and, with 2286  
respect to an individual or small employer that employs not more 2287  
than one hundred persons or if the employer is classified as being 2288  
in the manufacturing sector not more than five hundred persons, 2289  
from entering judgment for punitive or exemplary damages in excess 2290  
of the lesser of two times the amount of compensatory damages 2291  
awarded to the plaintiff or ten per cent of the individual's or 2292  
employer's net worth when the tort was committed up to a maximum 2293  
of three hundred fifty thousand dollars, the General Assembly 2294  
finds the following: 2295

(i) Punitive or exemplary damages awarded in tort actions are 2296  
similar in nature to fines and additional court costs imposed in 2297  
criminal actions, because punitive or exemplary damages, fines, 2298  
and additional court costs are designed to punish a tortfeasor for 2299  
certain wrongful actions or omissions. 2300

(ii) The absence of a statutory ceiling upon recoverable 2301  
punitive or exemplary damages in tort actions has resulted in 2302  
occasional multiple awards of punitive or exemplary damages that 2303  
have no rational connection to the wrongful actions or omissions 2304  
of the tortfeasor. 2305

(iii) The distinction between small employers and other 2306  
defendants based on the number of full-time permanent employees 2307  
distinguishes all other defendants including individuals and 2308  
nonemployers. This distinction is rationally based on size 2309  
considering both the economic capacity of an employer to maintain 2310  
that number of employees and to impact the community at large, as 2311  
exemplified by the United States Small Business Administration's 2312  
Office of Advocacy. 2313

(c) The limits on punitive or exemplary damages as specified 2314  
in section 2315.21 of the Revised Code, as amended by this act, 2315  
are based on guidance recently provided by the United States 2316  
Supreme Court in *State Farm Mutual Insurance v. Campbell* (2003), 2317  
123 S.Ct. 1513. In determining whether a one hundred and 2318  
forty-five million dollar award of punitive damages was 2319  
appropriate, the United States Supreme Court referred to the three 2320  
guideposts for punitive damages articulated in *BMW of North* 2321  
*America Inc. v. Gore* (1996), 517 U.S. 599: (1) the degree of 2322  
reprehensibility of the defendant's misconduct; (2) the disparity 2323  
between the actual or potential harm suffered by the plaintiff and 2324  
the punitive damages awarded; and (3) the difference between the 2325  
punitive damages awarded by the jury and the civil penalties 2326  
authorized or imposed in comparable cases. According to the United 2327  
States Supreme Court, "few awards exceeding a single digit ratio 2328  
between punitive damages and compensatory damages. . . will 2329  
satisfy due process." *Id.* at 31. 2330

(d) The limits on punitive or exemplary damages as specified 2331  
in section 2315.21 of the Revised Code, as amended by this act, 2332  
are based on testimony asking members of the General Assembly to 2333  
recognize the economic impact of occasional multiple punitive 2334  
damages awards and stating that a number of other states have 2335  
imposed limits on punitive or exemplary damage awards. 2336

(5)(a) Statutes of repose are vital instruments that provide 2337  
time limits, closure, and peace of mind to potential parties of 2338  
lawsuits. 2339

(b) Forty-seven other states have adopted statutes of repose 2340  
to protect architects, engineers, and constructors of improvements 2341  
to real property from lawsuits arising after a specific number of 2342  
years after completion of an improvement to real property. The 2343  
General Assembly recognizes that Kentucky, New York, and Ohio are 2344  
the only three states that do not have a statute of repose. The 2345

General Assembly also acknowledges that Ohio stands by itself, due 2346  
to the fact that both Kentucky and New York have a rebuttable 2347  
presumption that exists and only if a plaintiff can overcome that 2348  
presumption can a claim continue. 2349

(c) As stated in testimony by Jack Pottmeyer, architect and 2350  
managing principal of MKC Associates, Inc., this unlimited 2351  
liability forces professionals to maintain records in perpetuity, 2352  
because those professionals cannot reasonably predict when a 2353  
record from fifteen or twenty years earlier may become the subject 2354  
of a civil action. Those actions occur despite the fact that, over 2355  
the course of many years, owners of the property or those 2356  
responsible for its maintenance could make modifications or other 2357  
substantial changes that would significantly change the intent or 2358  
scope of the original design of the property designed by an 2359  
architectural firm. The problem is compounded by the fact that 2360  
professional liability insurance for architects and engineers is 2361  
offered by relatively few insurance carriers and is written on 2362  
what is known as a "claims made basis," meaning a policy must be 2363  
in effect when the claim is made, not at the time of the service, 2364  
in order for the claim to be paid. Without a statute of repose, 2365  
professional liability insurance must be maintained forever to 2366  
ensure coverage of any potential claim on previous services. These 2367  
minimum annual premiums can add up, averaging between three 2368  
thousand five hundred dollars and five thousand dollars annually, 2369  
which is especially burdensome for a retired design professional. 2370

(6)(a) The collateral source rule prohibits a defendant from 2371  
introducing evidence that the plaintiff received any benefits from 2372  
sources outside the dispute. 2373

(b) Twenty-one states have modified or abolished the 2374  
collateral source rule. 2375

(B) In enacting section 2305.131 of the Revised Code in this 2376

act, it is the intent of the General Assembly to do all of the 2377  
following: 2378

(1) To declare that the ten-year statute of repose prescribed 2379  
by section 2305.131 of the Revised Code, as enacted by this act, 2380  
is a specific provision intended to promote a greater interest 2381  
than the interest underlying the general four-year statute of 2382  
limitations prescribed by section 2305.09 of the Revised Code, the 2383  
general two-year statute of limitations prescribed by section 2384  
2305.10 of the Revised Code, and other general statutes of 2385  
limitation prescribed by the Revised Code; 2386

(2) To recognize that, subsequent to the completion of the 2387  
construction of an improvement to real property, all of the 2388  
following generally apply to the persons who provided services for 2389  
the improvement or who furnished the design, planning, supervision 2390  
of construction, or construction of the improvement: 2391

(a) They lack control over the improvement, the ability to 2392  
make determinations with respect to the improvement, and the 2393  
opportunity or responsibility to maintain or undertake the 2394  
maintenance of the improvement. 2395

(b) They lack control over other forces, uses, and 2396  
intervening causes that may cause stress, strain, or wear and tear 2397  
to the improvement. 2398

(c) They have no right or opportunity to be made aware of, to 2399  
evaluate the effect of, or to take action to overcome the effect 2400  
of the forces, uses, and intervening causes described in division 2401  
(E)(5)(b) of this section. 2402

(3) To recognize that, more than ten years after the 2403  
completion of the construction of an improvement to real property, 2404  
the availability of relevant evidence pertaining to the 2405  
improvement and the availability of witnesses knowledgeable with 2406  
respect to the improvement is problematic; 2407

(4) To recognize that maintaining records and other 2408  
documentation pertaining to services provided for an improvement 2409  
to real property or the design, planning, supervision of 2410  
construction, or construction of an improvement to real property 2411  
for a reasonable period of time is appropriate and to recognize 2412  
that, because the useful life of an improvement to real property 2413  
may be substantially longer than ten years after the completion of 2414  
the construction of the improvement, it is an unacceptable burden 2415  
to require the maintenance of those types of records and other 2416  
documentation for a period in excess of ten years after that 2417  
completion; 2418

(5) To declare that section 2305.131 of the Revised Code, as 2419  
enacted by this act, strikes a rational balance between the rights 2420  
of prospective claimants and the rights of design professionals, 2421  
construction contractors, and construction subcontractors and to 2422  
declare that the ten-year statute of repose prescribed in that 2423  
section is a rational period of repose intended to preclude the 2424  
pitfalls of stale litigation but not to affect civil actions 2425  
against those in actual control and possession of an improvement 2426  
to real property at the time that a defective and unsafe condition 2427  
of that improvement causes an injury to real or personal property, 2428  
bodily injury, or wrongful death. 2429

(C) In enacting division (D)(2) of section 2125.02 and 2430  
division (C) of section 2305.10 of the Revised Code in this act, 2431  
it is the intent of the General Assembly to do all of the 2432  
following: 2433

(1) To declare that the ten-year statute of repose prescribed 2434  
by division (D)(2) of section 2125.02 and division (C) of section 2435  
2305.10 of the Revised Code, as enacted by this act, are specific 2436  
provisions intended to promote a greater interest than the 2437  
interest underlying the general four-year statute of limitations 2438  
prescribed by section 2305.09 of the Revised Code, the general 2439

two-year statutes of limitations prescribed by sections 2125.02 2440  
and 2305.10 of the Revised Code, and other general statutes of 2441  
limitations prescribed by the Revised Code; 2442

(2) To declare that, subject to the two-year exceptions 2443  
prescribed in division (D)(2)(d) of section 2125.02 and in 2444  
division (C)(4) of section 2305.10 of the Revised Code, the 2445  
ten-year statutes of repose shall serve as a limitation upon the 2446  
commencement of a civil action in accordance with an otherwise 2447  
applicable statute of limitations prescribed by the Revised Code; 2448

(3) To recognize that subsequent to the delivery of a 2449  
product, the manufacturer or supplier lacks control over the 2450  
product, over the uses made of the product, and over the 2451  
conditions under which the product is used; 2452

(4) To recognize that under the circumstances described in 2453  
division (C)(3) of this section, it is more appropriate for the 2454  
party or parties who have had control over the product during the 2455  
intervening time period to be responsible for any harm caused by 2456  
the product; 2457

(5) To recognize that, more than ten years after a product 2458  
has been delivered, it is very difficult for a manufacturer or 2459  
supplier to locate reliable evidence and witnesses regarding the 2460  
design, production, or marketing of the product, thus severely 2461  
disadvantaging manufacturers or suppliers in their efforts to 2462  
defend actions based on a product liability claim; 2463

(6) To recognize the inappropriateness of applying current 2464  
legal and technological standards to products manufactured many 2465  
years prior to the commencement of an action based on a product 2466  
liability claim; 2467

(7) To recognize that a statute of repose for product 2468  
liability claims would enhance the competitiveness of Ohio 2469  
manufacturers by reducing their exposure to disruptive and 2470

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 *Brennaman 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 2502  
the courts of this state, as provided by Section 5 of Article IV 2503  
of the Ohio Constitution. 2504

(B) The General Assembly hereby requests the Supreme Court to 2505  
adopt a "Legal Consumer's Bill of Rights" that would substantially 2506  
conform with the following language: 2507

Each attorney who is licensed to practice law in this state 2508  
shall append to every written retainer agreement or contract for 2509  
legal services a legal consumer's bill of rights that shall be 2510  
substantially in the following form: 2511

"LEGAL CONSUMER'S BILL OF RIGHTS 2512

Consumers of legal services have both rights and 2513  
responsibilities in the resolution of legal disputes. Lawyers, as 2514  
well, have duties and rights related to the clients they 2515  
represent. This listing is designed to provide consumers with an 2516  
overview of their rights and responsibilities in relating to their 2517  
lawyers and in the resolution of their legal matters. 2518

Client rights and lawyer duties: 2519

1. COURTESY 2520

You can expect to be treated with courtesy and consideration 2521  
by your lawyer and by others under the supervision of your lawyer 2522  
involved in your legal matter. 2523

2. PROFESSIONALISM 2524

You can expect competent and diligent representation by your 2525  
lawyer, in accord with accepted aspirational standards of 2526  
professionalism. 2527

3. ATTENTION 2528

You can expect your lawyer's independent professional 2529  
judgment and loyalty uncompromised by conflicts of interest. Your 2530

lawyer will maintain accurate records and protect any funds you	2531
provide regarding your legal matter.	2532
4. FEE DISCLOSURE	2533
You can expect your lawyer to fully disclose fee arrangements	2534
and other costs at the onset of your relationship, and to provide	2535
a written fee agreement or contingency fee contract.	2536
5. RESPONSIVENESS	2537
You can expect to have your questions answered and telephone	2538
calls returned by your lawyer in a reasonable time in accordance	2539
with professional standards.	2540
6. CONTROL	2541
You can expect your lawyer to keep you informed about the	2542
progress of your legal matter, to disclose alternative approaches	2543
to resolving your legal matter, and to have you participate	2544
meaningfully in the resolution process.	2545
7. RESPECT	2546
You can expect to have your lawyer respect your legitimate	2547
objectives and to include you in making settlement decisions	2548
regarding your legal dispute.	2549
8. CONFIDENTIALITY	2550
You can expect to have your lawyer honor the attorney-client	2551
privilege, protect your right to privacy and preserve your secrets	2552
and confidences.	2553
9. ETHICS	2554
You can expect ethical conduct from your lawyer in accord	2555
with the Code of Professional Responsibility.	2556
10. NON-DISCRIMINATION	2557
You may not be refused representation based upon race, creed,	2558

color, religion, sex, age, national origin or disability.	2559
11. GRIEVANCES	2560
You may file a grievance with the certified grievance	2561
committee of your local bar association or the Ohio State Bar	2562
Association or with the Board of Commissioners on Grievances and	2563
Discipline of the Supreme Court if you are not satisfied with the	2564
legal services you have retained. The committee and the board	2565
include nonattorneys as members. The Board of Commissioners on	2566
Grievances and Discipline of the Supreme Court of Ohio has the	2567
authority to discipline and to impose sanctions on attorneys in	2568
Ohio.	2569
Client responsibilities	2570
1. TRUTHFULNESS	2571
Your lawyer can expect you to be truthful and to have you	2572
provide a full disclosure of pertinent information needed to	2573
handle your legal matter.	2574
2. RESPONSIVENESS	2575
Your lawyer can expect you to provide timely responses to	2576
reasonable requests for information, and to be on time for legal	2577
proceedings. Your lawyer can expect you to pay your legal bills in	2578
a timely manner.	2579
3. COURTESY	2580
Just as you expect to be treated with respect and courtesy,	2581
your lawyer can expect you to set appointments in advance to meet	2582
with your lawyer, to be responsible for making reasonable requests	2583
of your lawyer's time, and to be treated respectfully.	2584
4. COMMUNICATION	2585
Your lawyers can expect you to communicate in a timely manner	2586
about your legal matter, or if you are unhappy with the way your	2587

matter is being handled. There is a grievance procedure in place 2588  
to handle disputes with your lawyer that you are not able to 2589  
resolve on your own. 2590

5. ETHICS 2591

Your lawyer can expect not to be asked to engage in behavior 2592  
that is unethical, inappropriate, unprofessional, or illegal." 2593

(C) The General Assembly hereby requests the Supreme Court to 2594  
amend Ohio Rules of Civil Procedure Rule 68 to conform to Federal 2595  
Rules of Civil Procedure Rule 68. 2596

**Section 5.** If any item of law that constitutes the whole or 2597  
part of a section of law contained in this act, or if any 2598  
application of any item of law that constitutes the whole or part 2599  
of a section of law contained in this act, is held invalid, the 2600  
invalidity does not affect other items of law or applications of 2601  
items of law that can be given effect without the invalid item of 2602  
law or application. To this end, the items of law of which the 2603  
sections contained in this act are composed, and their 2604  
applications, are independent and severable. 2605

**Section 6.** If any item of law that constitutes the whole or 2606  
part of a section of law contained in this act, or if any 2607  
application of any item of law contained in this act, is held to 2608  
be preempted by federal law, the preemption of the item of law or 2609  
its application does not affect other items of law or applications 2610  
that can be given affect. The items of law of which the sections 2611  
of this act are composed, and their applications, are independent 2612  
and severable. 2613

**Section 7.** Section 2505.02 of the Revised Code is presented 2614  
in this act as a composite of the section as amended by Am. Sub. 2615  
H.B. 292, Am. Sub. H.B. 342, and Sub. S.B. 187 of the 125th 2616  
General Assembly. The General Assembly, applying the principle 2617

stated in division (B) of section 1.52 of the Revised Code that	2618
amendments are to be harmonized if reasonably capable of	2619
simultaneous operation, finds that the composite is the resulting	2620
version of the section in effect prior to the effective date of	2621
the section as presented in this act.	2622