

**As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**H. B. No. 495**

**Representative Pillich**

**Cosponsors: Representatives Antonio, Ashford, Barborak, Barnes, Bishoff,  
Boyce, Boyd, Budish, Carney, Celebrezze, Cera, Clyde, Curtin, Driehaus,  
Fedor, Foley, Gerberry, Hagan, R., Heard, Letson, Lundy, Mallory, Milkovich,  
O'Brien, Patmon, Patterson, Phillips, Ramos, Redfern, Reece, Rogers,  
Sheehy, Slesnick, Stinziano, Strahorn, Sykes, Williams, Winburn**

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**A B I L L**

To amend section 2315.18 of the Revised Code to 1  
remove the cap on the amount of compensatory 2  
damages that represents damages for noneconomic 3  
loss that is recoverable in a tort action when the 4  
tort action is brought by a victim of rape, 5  
felonious assault, aggravated assault, assault, or 6  
negligent assault. 7

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

**Section 1.** That section 2315.18 of the Revised Code be 8  
amended to read as follows: 9

**Sec. 2315.18.** (A) As used in this section and in section 10  
2315.19 of the Revised Code: 11

(1) "Asbestos claim" has the same meaning as in section 12  
2307.91 of the Revised Code. 13

(2) "Economic loss" means any of the following types of 14

pecuniary harm:	15
(a) All wages, salaries, or other compensation lost as a result of an injury or loss to person or property that is a subject of a tort action;	16 17 18
(b) All expenditures for medical care or treatment, rehabilitation services, or other care, treatment, services, products, or accommodations as a result of an injury or loss to person or property that is a subject of a tort action;	19 20 21 22
(c) Any other expenditures incurred as a result of an injury or loss to person or property that is a subject of a tort action, other than attorney's fees incurred in connection with that action.	23 24 25 26
(3) "Medical claim," "dental claim," "optometric claim," and "chiropractic claim" have the same meanings as in section 2305.113 of the Revised Code.	27 28 29
(4) "Noneconomic loss" means nonpecuniary harm that results from an injury or loss to person or property that is a subject of a tort action, including, but not limited to, pain and suffering, loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education, disfigurement, mental anguish, and any other intangible loss.	30 31 32 33 34 35 36
(5) "Occurrence" means all claims resulting from or arising out of any one person's bodily injury.	37 38
(6) "Product liability claim" has the same meaning as in section 2307.71 of the Revised Code.	39 40
(7) "Tort action" means a civil action for damages for injury or loss to person or property. "Tort action" includes a civil action upon a product liability claim or an asbestos claim. "Tort action" does not include a civil action upon a medical claim,	41 42 43 44

dental claim, optometric claim, or chiropractic claim or a civil  
action for damages for a breach of contract or another agreement  
between persons.

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

(B) In a tort action to recover damages for injury or loss to  
person or property, all of the following apply:

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

(2) Except as otherwise provided in division (B)(3) or (4) of  
this section, the amount of compensatory damages that represents  
damages for noneconomic loss that is recoverable in a tort action  
under this section to recover damages for injury or loss to person  
or property shall not exceed the greater of two hundred fifty  
thousand dollars or an amount that is equal to three times the  
economic loss, as determined by the trier of fact, of the  
plaintiff in that tort action to a maximum of three hundred fifty  
thousand dollars for each plaintiff in that tort action or a  
maximum of five hundred thousand dollars for each occurrence that  
is the basis of that tort action.

(3) There shall not be any limitation on the amount of  
compensatory damages that represents damages for noneconomic loss  
that is recoverable in a tort action to recover damages for injury  
or loss to person or property if the noneconomic losses of the  
plaintiff are for either of the following:

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

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

(4) There shall not be any limitation on the amount of compensatory damages that represents damages for noneconomic loss that is recoverable in a tort action brought by the victim of the offense of rape, felonious assault, aggravated assault, assault, or negligent assault asserting any claim resulting from the rape, felonious assault, aggravated assault, assault, or negligent assault.

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

(1) Evidence of a defendant's alleged wrongdoing, misconduct, or guilt;

(2) Evidence of the defendant's wealth or financial resources;

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

(D) If a trial is conducted in a tort action to recover damages for injury or loss to person or property and a plaintiff prevails in that action, the court in a nonjury trial shall make findings of fact, and the jury in a jury trial shall return a general verdict accompanied by answers to interrogatories, that shall specify all of the following:

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

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

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

(E)(1) After the trier of fact in a tort action to recover

damages for injury or loss to person or property complies with 106  
division (D) of this section, the court shall enter a judgment in 107  
favor of the plaintiff for compensatory damages for economic loss 108  
in the amount determined pursuant to division (D)(2) of this 109  
section, and, subject to division (F)(1) of this section, the 110  
court shall enter a judgment in favor of the plaintiff for 111  
compensatory damages for noneconomic loss. Except as provided in 112  
division (B)(3) or (4) of this section, in no event shall a 113  
judgment for compensatory damages for noneconomic loss exceed the 114  
maximum recoverable amount that represents damages for noneconomic 115  
loss as provided in division (B)(2) of this section. Division (B) 116  
of this section shall be applied in a jury trial only after the 117  
jury has made its factual findings and determination as to the 118  
damages. 119

(2) Prior to the trial in the tort action described in 120  
division (D) of this section, any party may seek summary judgment 121  
with respect to the nature of the alleged injury or loss to person 122  
or property, seeking a determination of the damages as described 123  
in division (B)(2) of this section. 124

(F)(1) A court of common pleas has no jurisdiction to enter 125  
judgment on an award of compensatory damages for noneconomic loss 126  
in excess of the limits set forth in this section. 127

(2) If the trier of fact is a jury, the court shall not 128  
instruct the jury with respect to the limit on compensatory 129  
damages for noneconomic loss described in division (B)(2) of this 130  
section, and neither counsel for any party nor a witness shall 131  
inform the jury or potential jurors of that limit. 132

(G) With respect to a tort action to which division (B)(2) of 133  
this section applies, any excess amount of compensatory damages 134  
for noneconomic loss that is greater than the applicable amount 135  
specified in division (B)(2) of this section shall not be 136  
reallocated to any other tortfeasor beyond the amount of 137

compensatory damages that the tortfeasor would otherwise be 138  
responsible for under the laws of this state. 139

(H) This section does not apply to any of the following: 140

(1) Tort actions that are brought against the state in the 141  
court of claims, including, but not limited to, those actions in 142  
which a state university or college is a defendant and to which 143  
division (B)(3) of section 3345.40 of the Revised Code applies; 144

(2) Tort actions that are brought against political 145  
subdivisions of this state and that are commenced under or are 146  
subject to Chapter 2744. of the Revised Code. Division (C) of 147  
section 2744.05 of the Revised Code applies to recoverable damages 148  
in those actions. 149

(3) Wrongful death actions brought pursuant to Chapter 2125. 150  
of the Revised Code. 151

(I) If the provisions regarding the limits on compensatory 152  
damages for noneconomic loss set forth in division (B)(2) of this 153  
section have been determined to be unconstitutional, then division 154  
(C) of this section and section 2315.19 of the Revised Code shall 155  
govern the determination of an award of compensatory damages for 156  
noneconomic loss in a tort action. 157

**Section 2.** That existing section 2315.18 of the Revised Code 158  
is hereby repealed. 159