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House Judiciary Committee
Sponsor Testimony – H.B. 126
March 5, 2025

Chair Thomas, Ranking Member Isaacsohn, and fellow members of the House Judiciary Committee, thank you for the opportunity to present sponsor testimony on House Bill 126, which states that no person or government may bring a public nuisance claim alleging that the design, manufacture, supply, marketing, distribution, promotion, advertising, labeling, or sale of a product unreasonably interferes with a right common to the general public.

Public nuisance claims originated as a legal mechanism to abate impediments to public rights or utilities, such as removing an obstacle in a public roadway. Recent decades, however, have witnessed a dramatic expansion of the use and scope of public nuisance lawsuits to target politically disfavored industries from manufacturers of firearms and ammunition to internal combustion engines. The intention of this bill is to prevent such industries and lawful products from being legislated against under the guise of public nuisance when they are operated as designed and intended.

Examples of such lawsuits include *American Electric Power Company v. Connecticut*, 564 U.S. 410 (2011), a US Supreme Court case originating from a 2004 lawsuit by eight states including California alleging that global warming constitutes a public nuisance and requesting the courts order defendant utility companies to reduce carbon emissions. Additionally, a 1999 lawsuit by the City of Gary, Indiana, (*City of Gary v. Smith & Wesson Corp.*, 126 N.E.3d 813 (Ind. App. 2019)) alleged public nuisance on the part of gun manufacturers, a case which is still ongoing. Right here in Ohio, the city of Columbus also considered going after guns this way.

Public nuisance actions were not intended to restrict lawful activities, especially when alternate avenues exist to pursue alleged malfeasance including product liability or malpractice lawsuits.

Furthermore, since introduction, we are now codifying the Ohio Supreme Court ruling in *Trumbull County v. Purdue Pharma (In re Natl. Prescription Opiate Litigation*, Slip Opinion No. 2024-Ohio-5744). This ruling, rendered in December, held that two Ohio counties cannot claim a public nuisance against pharmaceutical chains and must instead follow the procedures in the Ohio Product Liability Act.

House Bill 126 simply ensures that the various types of lawsuits at discussion including public nuisance, product liability, and malpractice are used as intended. By doing so, we guard against misuse of the legal system to target disfavored industries and businesses while also ensuring that those harmed by opiates, over prescriptions, or potential malpractice can get the justice they deserve.

Thank you for the opportunity to present sponsor testimony, and we are happy to answer any questions the committee may have.