



OHIO COUNCIL OF
RETAIL
MERCHANTS

March 19, 2025

The Honorable Jim Thomas, Chairman
Ohio House Judiciary Committee
77 S. High St., 11th Floor
Columbus, OH 43215

Dear Chairman Thomas and members of the House Judiciary Committee,

The Ohio Council of Retail Merchants (Council), the voice of retail in Ohio since 1922, writes to share our support for House Bill 126, sponsored by Representatives Mathews and Craig.

In response to the opiate crisis, government entities throughout the country began filing lawsuits against pharmaceutical manufacturers, wholesalers, and retail pharmacies, alleging the blame for the epidemic was the result of their negligence. While most litigants joined the multidistrict National Prescription Opiate Litigation, Ohio's Trumbull and Lake counties separately filed suit against several Council members. The counties alleged that the pharmacy chains "created, perpetuated, and maintained" the opioid epidemic by filling prescriptions for opioids without controls in place to stop the distribution of those that were illicitly prescribed. The counties asserted that this conduct caused an absolute public nuisance remediable by abatement under Ohio common law.

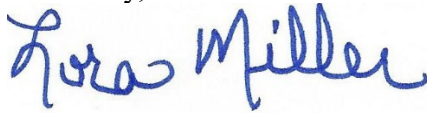
Despite the defendants' claim that the Ohio Product Liability Act (OPLA) abrogates certain common law torts bars plaintiffs' claims, a trial by jury in the United States District Court for the Northern District of Ohio at Cleveland found in favor of the litigants. A subsequent bench trial awarded a \$650 abatement order against the defendants.

The pharmacy chains appealed the decision in the United States Court of Appeals for the Sixth District, challenging the legality of such a public nuisance claim. The defendants once again claimed that the OPLA abrogates the plaintiffs' claims. In response, the Appeals Court petitioned the Ohio Supreme Court for an opinion on "(w)hether the Ohio Product Liability Act...abrogates a common law claim of absolute public nuisance resulting from the sale of a product in commerce in which the plaintiffs seek equitable abatement, including both monetary and injunctive remedies?"

The Ohio Supreme Court accepted review of the question, and in a December 2024 5-2 decision, they ruled that, "...the OPLA includes public-nuisance claims based on the distribution or sale of a product within the definition of "product liability claim," which abrogated the counties' claims based on dispensing a product. As a result, the Appeals Court vacated the district court's decision in favor of the plaintiffs.

Simply put, House Bill 126 codifies the Ohio Supreme Court's decision, ensuring that Ohio law is used as intended and guards against misuse of the legal system. Thank you for your consideration and support for House Bill 126. Should you have any questions, please don't hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Lora Miller". The signature is fluid and cursive, with the first name "Lora" and last name "Miller" clearly distinguishable.

Lora Miller
Director of Governmental Relations & Public Affairs