



U.S. Chamber of Commerce
Institute for Legal Reform

October 20, 2025

**Testimony of the U.S. Chamber of Commerce Institute for Legal Reform
Written Proponent for House Bill 126
Senate Judiciary Committee**

Chair Manning and Members of the Committee:

Thank you for the opportunity to provide written testimony in support of House Bill 126. This legislation will critically curb future lawsuits in Ohio that would novelly apply the public nuisance cause of action to the design, manufacture, supply, marketing, distribution, promotion, advertising, labeling, or sale of products. House Bill 126 does not alter Ohio law, rather, it ensures that existing law is applied as intended, leaving in place entire bodies of products liability law and public nuisance law to address issues associated with product defects and actual public nuisances, respectively.

In recent years, enterprising plaintiffs' attorneys have weaponized the public nuisance cause of action, including here in Ohio, to attempt to broaden the scope of liability for businesses that are associated with certain products. Equally as troubling, private lawyers have used public nuisance as the primary means of coopting municipalities in the Buckeye State as vehicles for their often profit-motivated lawsuits, directly interfering with the objectives and authorities of the Ohio Attorney General in his efforts to represent the people of the State.¹

The U.S. Chamber Institute for Legal Reform ("ILR") has carefully studied and written extensively on the evolution of public nuisance law in the United States. Specifically, ILR has examined the deviation of the ancient cause of action from one originally intended to address discrete, localized interferences with public rights to one that, if permitted, could apply to virtually any harm.² Such broad and malleable causes of action are antithetical to the rule of law and core principles of due process. It is exactly that vagueness that led one renowned law professor to refer to public nuisance as "a legal garbage can."³

¹ Dave Yost: Ohio Attorney General, *Yost Moves to Protect the Rest of Ohio in Opioid Lawsuits*, News Releases (8/30/2019), at: <https://www.ohioattorneygeneral.gov/Media/News-Releases/August-2019/Yost-Moves-to-Protect-the-Rest-of-Ohio-in-Opioid-L> ("Yost cites Supreme Court precedent in saying that only the state of Ohio can speak on behalf of all its people.").

² Joshua Payne and Jess Nix, *Waking the Litigation Monster: The Misuse of Public Nuisance*, U.S. Chamber Institute for Legal Reform, 9 (March 2019), at: <https://instituteforlegalreform.com/research/waking-the-litigation-monster-the-misuse-of-public-nuisance/>.

³ Timothy Sandefur, "Public Nuisance"—A "Legal Garbage Can", Goldwater Institute (October 14, 2020), at: <https://www.goldwaterinstitute.org/public-nuisance-a-legal-garbage-can/>.

Fortunately, in Ohio, the law is such that courts need not contend with this “legal garbage can”—that is, so long as the law is implemented as intended. That is precisely what the Supreme Court of Ohio confirmed in its seminal 2024 decision in *In re Natl. Prescription Opiate Litigation, 2024-Ohio-5744* and exactly what House Bill 126 aims to ensure continues to be the case through codification of the Court’s decision. As the Supreme Court of Ohio outlined in its decision, “[t]he plain language of the [Ohio Product Liability Act, R.C. 2307.71 et seq.] abrogates product-liability claims, including product-related public-nuisance claims seeking equitable relief.”

While the Supreme Court of Ohio was clear, plaintiffs’ lawyers nevertheless continue to attempt to create loopholes and shoehorn their product-related claims into the public nuisance framework for a variety of reasons. For that reason, House Bill 126 is necessary and appropriate to confirm that, in Ohio, alleged injuries associated with products are subject to the State’s product liability law, not its public nuisance law.

This legislation will ensure that the rule of law and due process are preserved in Ohio and that Ohio continues to have a strong and healthy legal environment. For these reasons, passage of House Bill 126 is necessary and in all Ohioans best interest.

ILR respectfully urges this committee to advance House Bill 126 for passage. Thank you for your consideration.

Sincerely,

Signature:  Date: 10/20/25
Jeanne E. Walker
Vice President and Special Counsel

Signature:  Date: 10/20/25
Hailey D. Holbrook
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