

As Introduced

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H. B. No. 447

Representative Stewart

To amend sections 2305.01, 2307.80, 2315.18, 1
2315.21, 2323.43, 2744.05, and 3345.40 of the 2
Revised Code to increase the dollar caps on 3
noneconomic damages and punitive or exemplary 4
damages in civil actions and to provide a 5
procedure for the Department of Taxation to make 6
annual adjustments of those caps based on the 7
consumer price index. 8

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

Section 1. That sections 2305.01, 2307.80, 2315.18, 9
2315.21, 2323.43, 2744.05, and 3345.40 of the Revised Code be 10
amended to read as follows: 11

Sec. 2305.01. Except as otherwise provided by this section 12
or section 2305.03 of the Revised Code, the court of common 13
pleas has original jurisdiction in all civil cases in which the 14
sum or matter in dispute exceeds the exclusive original 15
jurisdiction of county courts and appellate jurisdiction from 16
the decisions of boards of county commissioners. The court of 17
common pleas shall not have jurisdiction, in any tort action to 18
which the amounts apply, to award punitive or exemplary damages 19
that exceed the amounts set forth, or the adjusted amounts 20
provided, in section 2315.21 of the Revised Code. The court of 21

common pleas shall not have jurisdiction in any tort action to 22
which the limits apply to enter judgment on an award of 23
compensatory damages for noneconomic loss in excess of the 24
limits set forth, or the adjusted amounts of the limits 25
provided, in section 2315.18 of the Revised Code. 26

The court of common pleas may on its own motion transfer 27
for trial any action in the court to any municipal court in the 28
county having concurrent jurisdiction of the subject matter of, 29
and the parties to, the action, if the amount sought by the 30
plaintiff does not exceed one thousand dollars and if the judge 31
or presiding judge of the municipal court concurs in the 32
proposed transfer. Upon the issuance of an order of transfer, 33
the clerk of courts shall remove to the designated municipal 34
court the entire case file. Any untaxed portion of the common 35
pleas deposit for court costs shall be remitted to the municipal 36
court by the clerk of courts to be applied in accordance with 37
section 1901.26 of the Revised Code, and the costs taxed by the 38
municipal court shall be added to any costs taxed in the common 39
pleas court. 40

The court of common pleas has jurisdiction in any action 41
brought pursuant to division (I) of section 4781.40 of the 42
Revised Code if the residential premises that are the subject of 43
the action are located within the territorial jurisdiction of 44
the court. 45

The courts of common pleas of Adams, Athens, Belmont, 46
Brown, Clermont, Columbiana, Gallia, Hamilton, Jefferson, 47
Lawrence, Meigs, Monroe, Scioto, and Washington counties have 48
jurisdiction beyond the north or northwest shore of the Ohio 49
river extending to the opposite shore line, between the extended 50
boundary lines of any adjacent counties or adjacent state. Each 51

of those courts of common pleas has concurrent jurisdiction on 52
the Ohio river with any adjacent court of common pleas that 53
borders on that river and with any court of Kentucky or of West 54
Virginia that borders on the Ohio river and that has 55
jurisdiction on the Ohio river under the law of Kentucky or the 56
law of West Virginia, whichever is applicable, or under federal 57
law. 58

Sec. 2307.80. (A) Subject to divisions (C) and (D) of this 59
section, punitive or exemplary damages shall not be awarded 60
against a manufacturer or supplier in question in connection 61
with a product liability claim unless the claimant establishes, 62
by clear and convincing evidence, that harm for which the 63
claimant is entitled to recover compensatory damages in 64
accordance with section 2307.73 or 2307.78 of the Revised Code 65
was the result of misconduct of the manufacturer or supplier in 66
question that manifested a flagrant disregard of the safety of 67
persons who might be harmed by the product in question. The fact 68
by itself that a product is defective does not establish a 69
flagrant disregard of the safety of persons who might be harmed 70
by that product. 71

(B) Whether the trier of fact is a jury or the court, if 72
the trier of fact determines that a manufacturer or supplier in 73
question is liable for punitive or exemplary damages in 74
connection with a product liability claim, the amount of those 75
damages shall be determined by the court. In determining the 76
amount of punitive or exemplary damages, the court shall 77
consider factors including, but not limited to, the following: 78

(1) The likelihood that serious harm would arise from the 79
misconduct of the manufacturer or supplier in question; 80

(2) The degree of the awareness of the manufacturer or 81

supplier in question of that likelihood; 82

(3) The profitability of the misconduct to the 83
manufacturer or supplier in question; 84

(4) The duration of the misconduct and any concealment of 85
it by the manufacturer or supplier in question; 86

(5) The attitude and conduct of the manufacturer or 87
supplier in question upon the discovery of the misconduct and 88
whether the misconduct has terminated; 89

(6) The financial condition of the manufacturer or 90
supplier in question; 91

(7) The total effect of other punishment imposed or likely 92
to be imposed upon the manufacturer or supplier in question as a 93
result of the misconduct, including awards of punitive or 94
exemplary damages to persons similarly situated to the claimant 95
and the severity of criminal penalties to which the manufacturer 96
or supplier in question has been or is likely to be subjected. 97

(C) (1) Except as provided in division (C) (2) of this 98
section, if a claimant alleges in a product liability claim that 99
a drug or device caused harm to the claimant, the manufacturer 100
of the drug or device shall not be liable for punitive or 101
exemplary damages in connection with that product liability 102
claim if the drug or device that allegedly caused the harm 103
satisfies either of the following: 104

(a) It was manufactured and labeled in relevant and 105
material respects in accordance with the terms of an approval or 106
license issued by the federal food and drug administration under 107
the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 108
(1938), 21 U.S.C. 301-392, as amended, or the "Public Health 109
Service Act," 58 Stat. 682 (1944), 42 U.S.C. 201-300cc-15, as 110

amended. 111

(b) It was an over-the-counter drug marketed pursuant to 112
federal regulations, was generally recognized as safe and 113
effective and as not being misbranded pursuant to the applicable 114
federal regulations, and satisfied in relevant and material 115
respects each of the conditions contained in the applicable 116
regulations and each of the conditions contained in an 117
applicable monograph. 118

(2) Division (C)(1) of this section does not apply if the 119
claimant establishes, by a preponderance of the evidence, that 120
the manufacturer fraudulently and in violation of applicable 121
regulations of the food and drug administration withheld from 122
the food and drug administration information known to be 123
material and relevant to the harm that the claimant allegedly 124
suffered or misrepresented to the food and drug administration 125
information of that type. 126

(3) For purposes of divisions (C) and (D) of this section: 127

(a) "Drug" has the same meaning as in the "Federal Food, 128
Drug, and Cosmetic Act," 52 Stat. 1040, 1041 (1938), 21 U.S.C. 129
321(g)(1), as amended. 130

(b) "Device" has the same meaning as in the "Federal Food, 131
Drug, and Cosmetic Act," 52 Stat. 1040, 1041 (1938), 21 U.S.C. 132
321(h), as amended. 133

(D)(1) If a claimant alleges in a product liability claim 134
that a product other than a drug or device caused harm to the 135
claimant, the manufacturer or supplier of the product shall not 136
be liable for punitive or exemplary damages in connection with 137
the claim if the manufacturer or supplier fully complied with 138
all applicable government safety and performance standards, 139

whether or not designated as such by the government, relative to 140
the product's manufacture or construction, the product's design 141
or formulation, adequate warnings or instructions, and 142
representations when the product left the control of the 143
manufacturer or supplier, and the claimant's injury results from 144
an alleged defect of a product's manufacture or construction, 145
the product's design or formulation, adequate warnings or 146
instructions, and representations for which there is an 147
applicable government safety or performance standard. 148

(2) Division (D) (1) of this section does not apply if the 149
claimant establishes, by a preponderance of the evidence, that 150
the manufacturer or supplier of the product other than a drug or 151
device fraudulently and in violation of applicable government 152
safety and performance standards, whether or not designated as 153
such by the government, withheld from an applicable government 154
agency information known to be material and relevant to the harm 155
that the claimant allegedly suffered or misrepresented to an 156
applicable government agency information of that type. 157

(E) The bifurcated trial provisions of division (B) of 158
section 2315.21 of the Revised Code, the ceiling on recoverable 159
punitive or exemplary damages specified in ~~division (D) (1)~~ 160
divisions (D) (2) and (3) of that section, and the provisions of 161
division ~~(D) (3)~~ (D) (4) of that section apply to awards of 162
punitive or exemplary damages under this section. 163

Sec. 2315.18. (A) As used in this section and in section 164
2315.19 of the Revised Code: 165

(1) "Asbestos claim" has the same meaning as in section 166
2307.91 of the Revised Code. 167

(2) "Economic loss" means any of the following types of 168

pecuniary harm:	169
(a) All wages, salaries, or other compensation lost as a	170
result of an injury or loss to person or property that is a	171
subject of a tort action;	172
(b) All expenditures for medical care or treatment,	173
rehabilitation services, or other care, treatment, services,	174
products, or accommodations as a result of an injury or loss to	175
person or property that is a subject of a tort action;	176
(c) Any other expenditures incurred as a result of an	177
injury or loss to person or property that is a subject of a tort	178
action, other than attorney's fees incurred in connection with	179
that action.	180
(3) "Medical claim," "dental claim," "optometric claim,"	181
and "chiropractic claim" have the same meanings as in section	182
2305.113 of the Revised Code.	183
(4) "Noneconomic loss" means nonpecuniary harm that	184
results from an injury or loss to person or property that is a	185
subject of a tort action, including, but not limited to, pain	186
and suffering, loss of society, consortium, companionship, care,	187
assistance, attention, protection, advice, guidance, counsel,	188
instruction, training, or education, disfigurement, mental	189
anguish, and any other intangible loss.	190
(5) "Occurrence" means all claims resulting from or	191
arising out of any one person's bodily injury.	192
(6) "Product liability claim" has the same meaning as in	193
section 2307.71 of the Revised Code.	194
(7) "Tort action" means a civil action for damages for	195
injury or loss to person or property. "Tort action" includes a	196

civil action upon a product liability claim or an asbestos 197
claim, a civil action based on an unlawful discriminatory 198
practice relating to employment brought under section 4112.052 199
of the Revised Code, and a civil action brought under section 200
4112.14 of the Revised Code. "Tort action" does not include a 201
civil action upon a medical claim, dental claim, optometric 202
claim, or chiropractic claim or a civil action for damages for a 203
breach of contract or another agreement between persons. 204

(8) "Trier of fact" means the jury or, in a nonjury 205
action, the court. 206

(B) In a tort action to recover damages for injury or loss 207
to person or property, all of the following apply: 208

(1) There shall not be any limitation on the amount of 209
compensatory damages that represents the economic loss of the 210
person who is awarded the damages in the tort action. 211

(2) Except as otherwise provided in division (B) (3) of 212
this section and subject to division (B) (4) of this section, the 213
amount of compensatory damages that represents damages for 214
noneconomic loss that is recoverable in a tort action under this 215
section to recover damages for injury or loss to person or 216
property shall not exceed the greater of ~~two hundred fifty-four~~ 217
hundred fifteen thousand dollars or an amount that is equal to 218
three times the economic loss, as determined by the trier of 219
fact, of the plaintiff in that tort action to a maximum of ~~three~~ 220
~~hundred fifty-five hundred eighty~~ thousand dollars for each 221
plaintiff in that tort action or a maximum of ~~five hundred-eight~~ 222
hundred thirty thousand dollars for each occurrence that is the 223
basis of that tort action. 224

(3) There shall not be any limitation on the amount of 225

compensatory damages that represents damages for noneconomic 226
loss that is recoverable in a tort action to recover damages for 227
injury or loss to person or property if the noneconomic losses 228
of the plaintiff are for either of the following: 229

(a) Permanent and substantial physical deformity, loss of 230
use of a limb, or loss of a bodily organ system; 231

(b) Permanent physical functional injury that permanently 232
prevents the injured person from being able to independently 233
care for self and perform life-sustaining activities. 234

(4) (a) In January of each year, the department of 235
taxation, in accordance with this division and division (B) (4) 236
(b) of this section, shall adjust each of the actual dollar 237
figures specified in division (B) (2) of this section or each of 238
the actual dollar amounts determined pursuant to this division 239
and division (B) (4) (b) of this section. The adjustment shall be 240
based on the percentage increase in the consumer price index as 241
determined by the United States bureau of labor statistics (U.S. 242
city average, all urban consumers) for the twelve-month period 243
ending on the thirtieth day of June of the immediately preceding 244
calendar year. If the consumer price index for that period did 245
not increase, no increase shall be made under this division and 246
division (B) (4) (b) of this section. 247

(b) The department of taxation shall calculate the 248
adjustments under division (B) (4) (a) of this section on or 249
before the thirty-first day of January of each calendar year. 250
The first adjustments shall be made in January following one 251
year after the effective date of this amendment. 252

(c) The department of taxation shall certify the 253
calculations made under division (B) (4) (b) of this section on or 254

before the thirty-first day of January of each calendar year. 255

(d) On or before the fifteenth day of February of each 256
year, the department of taxation shall prepare a report setting 257
forth the amounts of the adjustments calculated under divisions 258
(B) (4) (a) and (b) of this section and certified under division 259
(B) (4) (c) of this section. 260

(e) The report shall contain an indication of the period 261
in which the calculated amounts apply, a summary of how the 262
amounts were calculated, and a statement that the report and all 263
related documents are available for inspection and copying at 264
the office of the department of taxation. 265

(f) On or before the fifteenth day of February of each 266
year, the department of taxation shall transmit the report to 267
the general assembly. 268

(g) On the fifteenth day of February of each year, each of 269
the dollar amounts of the adjustments set forth in the report of 270
the department of taxation under division (B) (4) (d) of this 271
section shall replace each corresponding dollar figure set forth 272
in division (B) (2) of this section or each of the corresponding 273
actual dollar amounts determined pursuant to divisions (B) (4) (a) 274
and (b) of this section, whichever is applicable, for the period 275
in which the calculated amounts apply as indicated in the report 276
of the department of taxation under division (B) (4) (e) of this 277
section. 278

(C) In determining an award of compensatory damages for 279
noneconomic loss in a tort action, the trier of fact shall not 280
consider any of the following: 281

(1) Evidence of a defendant's alleged wrongdoing, 282
misconduct, or guilt; 283

(2) Evidence of the defendant's wealth or financial resources;	284 285
(3) All other evidence that is offered for the purpose of punishing the defendant, rather than offered for a compensatory purpose.	286 287 288
(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:	289 290 291 292 293 294
(1) The total compensatory damages recoverable by the plaintiff;	295 296
(2) The portion of the total compensatory damages that represents damages for economic loss;	297 298
(3) The portion of the total compensatory damages that represents damages for noneconomic loss.	299 300
(E) (1) After the trier of fact in a tort action to recover damages for injury or loss to person or property complies with division (D) of this section, the court shall enter a judgment in favor of the plaintiff for compensatory damages for economic loss in the amount determined pursuant to division (D) (2) of this section, and, subject to division (F) (1) of this section, the court shall enter a judgment in favor of the plaintiff for compensatory damages for noneconomic loss. Except as provided in division (B) (3) of this section, in no event shall a judgment for compensatory damages for noneconomic loss exceed the maximum recoverable amount that represents damages for noneconomic loss as provided in division (B) (2) of this section <u>or as adjusted</u>	301 302 303 304 305 306 307 308 309 310 311 312

and calculated as provided in division (B) (4) of this section. 313
Division (B) of this section shall be applied in a jury trial 314
only after the jury has made its factual findings and 315
determination as to the damages. 316

(2) Prior to the trial in the tort action described in 317
division (D) of this section, any party may seek summary 318
judgment with respect to the nature of the alleged injury or 319
loss to person or property, seeking a determination of the 320
damages as described in division (B) (2) of this section or as 321
adjusted and calculated as provided in division (B) (4) of this 322
section. 323

(F) (1) A court of common pleas has no jurisdiction to 324
enter judgment on an award of compensatory damages for 325
noneconomic loss in excess of the limits set forth, or the 326
adjustments and calculations provided, in this section. 327

(2) If the trier of fact is a jury, the court shall not 328
instruct the jury with respect to the limit on compensatory 329
damages for noneconomic loss described in division (B) (2) of 330
this section or adjusted and calculated as provided in division 331
(B) (4) of this section, and neither counsel for any party nor a 332
witness shall inform the jury or potential jurors of that limit. 333

(G) With respect to a tort action to which ~~division~~ 334
divisions (B) (2) and (4) of this section ~~applies~~apply, any 335
excess amount of compensatory damages for noneconomic loss that 336
is greater than the applicable amount specified in division (B) 337
(2) of this section or the applicable amount of the adjustment 338
and calculation as provided in division (B) (4) of this section 339
shall not be reallocated to any other tortfeasor beyond the 340
amount of compensatory damages that the tortfeasor would 341
otherwise be responsible for under the laws of this state. 342

(H) This section does not apply to any of the following: 343

(1) Tort actions that are brought against the state in the 344
court of claims, including, but not limited to, those actions in 345
which a state university or college is a defendant and to which 346
~~division~~divisions (B) (3) and (4) of section 3345.40 of the 347
Revised Code ~~applies~~apply; 348

(2) Tort actions that are brought against political 349
subdivisions of this state and that are commenced under or are 350
subject to Chapter 2744. of the Revised Code. Division (C) of 351
section 2744.05 of the Revised Code applies to recoverable 352
damages in those actions. 353

(3) Wrongful death actions brought pursuant to Chapter 354
2125. of the Revised Code. 355

(I) If the provisions regarding the limits on compensatory 356
damages for noneconomic loss set forth in division (B) (2) of 357
this section or adjusted and calculated under division (B) (4) of 358
this section have been determined to be unconstitutional, then 359
division (C) of this section and section 2315.19 of the Revised 360
Code shall govern the determination of an award of compensatory 361
damages for noneconomic loss in a tort action. 362

Sec. 2315.21. (A) As used in this section: 363

(1) "Tort action" means a civil action for damages for 364
injury or loss to person or property. 365

(a) "Tort action" includes all of the following: 366

(i) A product liability claim for damages for injury or 367
loss to person or property that is subject to sections 2307.71 368
to 2307.80 of the Revised Code; 369

(ii) A civil action based on an unlawful discriminatory 370

practice relating to employment brought under section 4112.052 371
of the Revised Code; 372

(iii) A civil action brought under section 4112.14 of the 373
Revised Code. 374

(b) "Tort action" does not include a civil action for 375
damages for a breach of contract or another agreement between 376
persons. 377

(2) "Trier of fact" means the jury or, in a nonjury 378
action, the court. 379

(3) "Home" has the same meaning as in section 3721.10 of 380
the Revised Code. 381

(4) "Employer" includes, but is not limited to, a parent, 382
subsidiary, affiliate, division, or department of the employer. 383
If the employer is an individual, the individual shall be 384
considered an employer under this section only if the subject of 385
the tort action is related to the individual's capacity as an 386
employer. 387

(5) "Small employer" means an employer who employs not 388
more than one hundred persons on a full-time permanent basis, 389
or, if the employer is classified as being in the manufacturing 390
sector by the North American industrial classification system, 391
"small employer" means an employer who employs not more than 392
five hundred persons on a full-time permanent basis. 393

(B) (1) In a tort action that is tried to a jury and in 394
which a plaintiff makes a claim for compensatory damages and a 395
claim for punitive or exemplary damages, upon the motion of any 396
party, the trial of the tort action shall be bifurcated as 397
follows: 398

(a) The initial stage of the trial shall relate only to 399
the presentation of evidence, and a determination by the jury, 400
with respect to whether the plaintiff is entitled to recover 401
compensatory damages for the injury or loss to person or 402
property from the defendant. During this stage, no party to the 403
tort action shall present, and the court shall not permit a 404
party to present, evidence that relates solely to the issue of 405
whether the plaintiff is entitled to recover punitive or 406
exemplary damages for the injury or loss to person or property 407
from the defendant. 408

(b) If the jury determines in the initial stage of the 409
trial that the plaintiff is entitled to recover compensatory 410
damages for the injury or loss to person or property from the 411
defendant, evidence may be presented in the second stage of the 412
trial, and a determination by that jury shall be made, with 413
respect to whether the plaintiff additionally is entitled to 414
recover punitive or exemplary damages for the injury or loss to 415
person or property from the defendant. 416

(2) In a tort action that is tried to a jury and in which 417
a plaintiff makes a claim for both compensatory damages and 418
punitive or exemplary damages, the court shall instruct the jury 419
to return, and the jury shall return, a general verdict and, if 420
that verdict is in favor of the plaintiff, answers to an 421
interrogatory that specifies the total compensatory damages 422
recoverable by the plaintiff from each defendant. 423

(3) In a tort action that is tried to a court and in which 424
a plaintiff makes a claim for both compensatory damages and 425
punitive or exemplary damages, the court shall make its 426
determination with respect to whether the plaintiff is entitled 427
to recover compensatory damages for the injury or loss to person 428

or property from the defendant and, if that determination is in 429
favor of the plaintiff, shall make findings of fact that specify 430
the total compensatory damages recoverable by the plaintiff from 431
the defendant. 432

(C) Subject to division (E) of this section, punitive or 433
exemplary damages are not recoverable from a defendant in 434
question in a tort action unless both of the following apply: 435

(1) The actions or omissions of that defendant demonstrate 436
malice or aggravated or egregious fraud, or that defendant as 437
principal or master knowingly authorized, participated in, or 438
ratified actions or omissions of an agent or servant that so 439
demonstrate. 440

(2) The trier of fact has returned a verdict or has made a 441
determination pursuant to division (B) (2) or (3) of this section 442
of the total compensatory damages recoverable by the plaintiff 443
from that defendant. 444

(D) (1) In a tort action, the trier of fact shall determine 445
the liability of any defendant for punitive or exemplary damages 446
and the amount of those damages. 447

(2) Except as provided in division ~~(D) (6)~~ (D) (7) of this 448
section, all of the following apply regarding any award of 449
punitive or exemplary damages in a tort action: 450

(a) The court shall not enter judgment for punitive or 451
exemplary damages in excess of two times the amount of the 452
compensatory damages awarded to the plaintiff from that 453
defendant, as determined pursuant to division (B) (2) or (3) of 454
this section. 455

(b) ~~If~~ Subject to division (D) (3) of this section, if the 456
defendant is a small employer or individual, the court shall not 457

enter judgment for punitive or exemplary damages in excess of 458
the lesser of two times the amount of the compensatory damages 459
awarded to the plaintiff from the defendant or ten per cent of 460
the employer's or individual's net worth when the tort was 461
committed up to a maximum of ~~three hundred fifty~~ five hundred 462
eighty thousand dollars, as determined pursuant to division (B) 463
(2) or (3) of this section. 464

(c) Any attorney's fees awarded as a result of a claim for 465
punitive or exemplary damages shall not be considered for 466
purposes of determining the cap on punitive damages. 467

~~(3)~~ (a) In January of each year, the department of 468
taxation, in accordance with this division and division (D) (3) 469
(b) of this section, shall adjust the actual dollar figure 470
specified in division (D) (2) (b) of this section or the actual 471
dollar amount determined pursuant to this division and division 472
(D) (3) (b) of this section. The adjustment shall be based on the 473
percentage increase in the consumer price index as determined by 474
the United States bureau of labor statistics (U.S. city average, 475
all urban consumers) for the twelve-month period ending on the 476
thirtieth day of June of the immediately preceding calendar 477
year. If the consumer price index for that period did not 478
increase, no increase shall be made under this division and 479
division (D) (3) (b) of this section. 480

(b) The department of taxation shall calculate the 481
adjustment under division (D) (3) (a) of this section on or before 482
the thirty-first day of January of each calendar year. The first 483
adjustment shall be made in January following one year after the 484
effective date of this amendment. 485

(c) The department of taxation shall certify the 486
calculation made under division (D) (3) (b) of this section on or 487

before the thirty-first day of January of each calendar year. 488

(d) On or before the fifteenth day of February of each 489
year, the department of taxation shall prepare a report setting 490
forth the amount of the adjustment calculated under divisions 491
(D) (3) (a) and (b) of this section and certified under division 492
(D) (3) (c) of this section. 493

(e) The report shall contain an indication of the period 494
in which the calculated amount applies, a summary of how the 495
amount was calculated, and a statement that the report and all 496
related documents are available for inspection and copying at 497
the office of the department of taxation. 498

(f) On or before the fifteenth day of February of each 499
year, the department of taxation shall transmit the report to 500
the general assembly. 501

(g) On the fifteenth day of February of each year, the 502
dollar amount of the adjustment set forth in the report of the 503
department of taxation under division (D) (3) (d) of this section 504
shall replace the dollar figure set forth in division (D) (2) (b) 505
of this section or the actual dollar amount determined pursuant 506
to divisions (D) (3) (a) and (b) of this section, whichever is 507
applicable, for the period in which the calculated amount 508
applies as indicated in the report of the department of taxation 509
under division (D) (3) (e) of this section. 510

(4) No award of prejudgment interest under division (C) (1) 511
of section 1343.03 of the Revised Code shall include any 512
prejudgment interest on punitive or exemplary damages found by 513
the trier of fact. 514

~~(4)~~-(5) In a tort action, the burden of proof shall be 515
upon a plaintiff in question, by clear and convincing evidence, 516

to establish that the plaintiff is entitled to recover punitive 517
or exemplary damages. 518

~~(5)(a)~~ (6)(a) In any tort action, except as provided in 519
division ~~(D)(5)(b)~~ (D)(6)(b) or ~~(6)(7)~~ of this section, 520
punitive or exemplary damages shall not be awarded against a 521
defendant if that defendant files with the court a certified 522
judgment, judgment entries, or other evidence showing that 523
punitive or exemplary damages have already been awarded and have 524
been collected, in any state or federal court, against that 525
defendant based on the same act or course of conduct that is 526
alleged to have caused the injury or loss to person or property 527
for which the plaintiff seeks compensatory damages and that the 528
aggregate of those previous punitive or exemplary damage awards 529
exceeds the maximum amount of punitive or exemplary damages that 530
may be awarded under division (D)(2) of this section or under 531
the adjustment of that maximum amount as provided in division 532
(D)(3) of this section, against that defendant in the tort 533
action. 534

(b) Notwithstanding division ~~(D)(5)(a)~~ (D)(6)(a) of this 535
section and except as provided in division ~~(D)(6)~~ (D)(7) of this 536
section, punitive or exemplary damages may be awarded against a 537
defendant in either of the following types of tort actions: 538

(i) In subsequent tort actions involving the same act or 539
course of conduct for which punitive or exemplary damages have 540
already been awarded, if the court determines by clear and 541
convincing evidence that the plaintiff will offer new and 542
substantial evidence of previously undiscovered, additional 543
behavior of a type described in division (C) of this section on 544
the part of that defendant, other than the injury or loss for 545
which the plaintiff seeks compensatory damages. In that case, 546

the court shall make specific findings of fact in the record to 547
support its conclusion. The court shall reduce the amount of any 548
punitive or exemplary damages otherwise awardable pursuant to 549
this section by the sum of the punitive or exemplary damages 550
awards previously rendered against that defendant in any state 551
or federal court. The court shall not inform the jury about the 552
court's determination and action under division ~~(D) (5) (b) (i)~~ (D) 553
(6) (b) (i) of this section. 554

(ii) In subsequent tort actions involving the same act or 555
course of conduct for which punitive or exemplary damages have 556
already been awarded, if the court determines by clear and 557
convincing evidence that the total amount of prior punitive or 558
exemplary damages awards was totally insufficient to punish that 559
defendant's behavior of a type described in division (C) of this 560
section and to deter that defendant and others from similar 561
behavior in the future. In that case, the court shall make 562
specific findings of fact in the record to support its 563
conclusion. The court shall reduce the amount of any punitive or 564
exemplary damages otherwise awardable pursuant to this section 565
by the sum of the punitive or exemplary damages awards 566
previously rendered against that defendant in any state or 567
federal court. The court shall not inform the jury about the 568
court's determination and action under division ~~(D) (5) (b) (ii)~~ 569
(D) (6) (b) (ii) of this section. 570

~~(6)~~ (7) Division (D) (2) of this section does not apply to 571
a tort action where the alleged injury, death, or loss to person 572
or property resulted from the defendant acting with one or more 573
of the culpable mental states of purposely and knowingly as 574
described in section 2901.22 of the Revised Code and when the 575
defendant has been convicted of or pleaded guilty to a criminal 576
offense that is a felony, that had as an element of the offense 577

one or more of the culpable mental states of purposely and 578
knowingly as described in that section, and that is the basis of 579
the tort action. 580

(E) This section does not apply to tort actions against 581
the state in the court of claims, including, but not limited to, 582
tort actions against a state university or college that are 583
subject to division (B) (1) of section 3345.40 of the Revised 584
Code, to tort actions against political subdivisions of this 585
state that are commenced under or are subject to Chapter 2744. 586
of the Revised Code, or to the extent that another section of 587
the Revised Code expressly provides any of the following: 588

(1) Punitive or exemplary damages are recoverable from a 589
defendant in question in a tort action on a basis other than 590
that the actions or omissions of that defendant demonstrate 591
malice or aggravated or egregious fraud or on a basis other than 592
that the defendant in question as principal or master knowingly 593
authorized, participated in, or ratified actions or omissions of 594
an agent or servant that so demonstrate. 595

(2) Punitive or exemplary damages are recoverable from a 596
defendant in question in a tort action irrespective of whether 597
the plaintiff in question has adduced proof of actual damages. 598

(3) The burden of proof upon a plaintiff in question to 599
recover punitive or exemplary damages from a defendant in 600
question in a tort action is one other than clear and convincing 601
evidence. 602

(4) Punitive or exemplary damages are not recoverable from 603
a defendant in question in a tort action. 604

(F) If the trier of fact is a jury, the court shall not 605
instruct the jury with respect to the limits on punitive or 606

exemplary damages pursuant to division (D) of this section, and 607
neither counsel for any party or a witness shall inform the jury 608
or potential jurors of those limits. 609

(G) When determining the amount of an award of punitive or 610
exemplary damages against either a home or a residential 611
facility licensed under section 5123.19 of the Revised Code, the 612
trier of fact shall consider all of the following: 613

(1) The ability of the home or residential facility to pay 614
the award of punitive or exemplary damages based on the home's 615
or residential facility's assets, income, and net worth; 616

(2) Whether the amount of punitive or exemplary damages is 617
sufficient to deter future tortious conduct; 618

(3) The financial ability of the home or residential 619
facility, both currently and in the future, to provide 620
accommodations, personal care services, and skilled nursing 621
care. 622

Sec. 2323.43. (A) In a civil action upon a medical, 623
dental, optometric, or chiropractic claim to recover damages for 624
injury, death, or loss to person or property, all of the 625
following apply: 626

(1) There shall not be any limitation on compensatory 627
damages that represent the economic loss of the person who is 628
awarded the damages in the civil action. 629

(2) Except as otherwise provided in division (A) (3) of 630
this section and subject to division (A) (4) of this section, the 631
amount of compensatory damages that represents damages for 632
noneconomic loss that is recoverable in a civil action under 633
this section to recover damages for injury, death, or loss to 634
person or property shall not exceed the greater of ~~two hundred~~ 635

~~fifty-four hundred fifteen~~ thousand dollars or an amount that is 636
equal to three times the plaintiff's economic loss, as 637
determined by the trier of fact, to a maximum of ~~three hundred~~ 638
~~fifty-five hundred eighty~~ thousand dollars for each plaintiff or 639
a maximum of ~~five hundred eight hundred thirty~~ thousand dollars 640
for each occurrence. 641

(3) ~~The amount recoverable for noneconomic loss in a civil~~ 642
~~action under this section may exceed the amount described in~~ 643
~~division (A) (2) of this section but shall not exceed five~~ 644
~~hundred thousand dollars for each plaintiff or one million~~ 645
~~dollars for each occurrence~~ There shall not be any limitation on 646
the amount of compensatory damages that represents damages for 647
noneconomic loss that is recoverable in a civil action under 648
this section if the noneconomic losses of the plaintiff are for 649
either of the following: 650

(a) Permanent and substantial physical deformity, loss of 651
use of a limb, or loss of a bodily organ system; 652

(b) Permanent physical functional injury that permanently 653
prevents the injured person from being able to independently 654
care for self and perform life sustaining activities. 655

(4) (a) In January of each year, the department of 656
taxation, in accordance with this division and division (A) (4) 657
(b) of this section, shall adjust each of the actual dollar 658
figures specified in division (A) (2) of this section or each of 659
the actual dollar amounts determined pursuant to this division 660
and division (A) (4) (b) of this section. The adjustment shall be 661
based on the percentage increase in the consumer price index as 662
determined by the United States bureau of labor statistics (U.S. 663
city average, all urban consumers) for the twelve-month period 664
ending on the thirtieth day of June of the immediately preceding 665

calendar year. If the consumer price index for that period did 666
not increase, no increase shall be made under this division and 667
division (A) (4) (b) of this section. 668

(b) The department of taxation shall calculate the 669
adjustments under division (A) (4) (a) of this section on or 670
before the thirty-first day of January of each calendar year. 671
The first adjustments shall be made in January following one 672
year after the effective date of this amendment. 673

(c) The department of taxation shall certify the 674
calculations made under division (A) (4) (b) of this section on or 675
before the thirty-first day of January of each calendar year. 676

(d) On or before the fifteenth day of February of each 677
year, the department of taxation shall prepare a report setting 678
forth the amounts of the adjustments calculated under divisions 679
(A) (4) (a) and (b) of this section and certified under division 680
(A) (4) (c) of this section. 681

(e) The report shall contain an indication of the period 682
in which the calculated amounts apply, a summary of how the 683
amounts were calculated, and a statement that the report and all 684
related documents are available for inspection and copying at 685
the office of the department of taxation. 686

(f) On or before the fifteenth day of February of each 687
year, the department of taxation shall transmit the report to 688
the general assembly. 689

(g) On the fifteenth day of February of each year, each of 690
the dollar amounts of the adjustments set forth in the report of 691
the department of taxation under division (A) (4) (d) of this 692
section shall replace each corresponding dollar figure set forth 693
in division (A) (2) of this section and the corresponding actual 694

dollar amount determined pursuant to divisions (A) (4) (a) and (b) 695
of this section, whichever is applicable, for the period in 696
which the calculated amounts apply as indicated in the report of 697
the department of taxation under division (A) (4) (e) of this 698
section. 699

(B) If a trial is conducted in a civil action upon a 700
medical, dental, optometric, or chiropractic claim to recover 701
damages for injury, death, or loss to person or property and a 702
plaintiff prevails with respect to that claim, the court in a 703
nonjury trial shall make findings of fact, and the jury in a 704
jury trial shall return a general verdict accompanied by answers 705
to interrogatories, that shall specify all of the following: 706

(1) The total compensatory damages recoverable by the 707
plaintiff; 708

(2) The portion of the total compensatory damages that 709
represents damages for economic loss; 710

(3) The portion of the total compensatory damages that 711
represents damages for noneconomic loss. 712

(C) (1) After the trier of fact in a civil action upon a 713
medical, dental, optometric, or chiropractic claim to recover 714
damages for injury, death, or loss to person or property 715
complies with division (B) of this section, the court shall 716
enter a judgment in favor of the plaintiff for compensatory 717
damages for economic loss in the amount determined pursuant to 718
division (B) (2) of this section, and, subject to division (D) (1) 719
of this section, the court shall enter a judgment in favor of 720
the plaintiff for compensatory damages for noneconomic loss. In 721
no event shall a judgment for compensatory damages for 722
noneconomic loss exceed the maximum recoverable amount that 723

represents damages for noneconomic loss as provided in ~~divisions~~ 724
division (A) (2) and (3) of this section or as adjusted and 725
calculated as provided in division (A) (4) of this section. 726

Division (A) of this section shall be applied in a jury trial 727
only after the jury has made its factual findings and 728
determination as to the damages. 729

(2) Prior to the trial in the civil action, any party may 730
seek summary judgment with respect to the nature of the alleged 731
injury or loss to person or property, seeking a determination of 732
the damages as described in division (A) (2) or (3) of this 733
section or as adjusted and calculated as provided in division 734
(A) (4) of this section. 735

(D) (1) A court of common pleas has no jurisdiction to 736
enter judgment on an award of compensatory damages for 737
noneconomic loss in excess of the limits set forth, or the 738
adjustments and calculations provided, in this section. 739

(2) If the trier of fact is a jury, the court shall not 740
instruct the jury with respect to the limit on compensatory 741
damages for noneconomic loss described in ~~divisions~~ division (A) 742
(2) and (3) of this section or as adjusted and calculated as 743
provided in division (A) (4) of this section, and neither counsel 744
for any party nor a witness shall inform the jury or potential 745
jurors of that limit. 746

(E) Any excess amount of compensatory damages for 747
noneconomic loss that is greater than the applicable amount 748
specified in division (A) (2) ~~or (3)~~ of this section or the 749
applicable amount of the adjustment and calculation as provided 750
in division (A) (4) of this section shall not be reallocated to 751
any other tortfeasor beyond the amount of compensatory damages 752
that that tortfeasor would otherwise be responsible for under 753

the laws of this state. 754

(F) (1) If pursuant to a contingency fee agreement between 755
an attorney and a plaintiff in a civil action upon a medical 756
claim, dental claim, optometric claim, or chiropractic claim, 757
the amount of the attorney's fees exceed the applicable amount 758
of the limits on compensatory damages for noneconomic loss as 759
provided in division (A) (2) ~~or (3)~~ of this section or as 760
adjusted and calculated as provided in division (A) (4) of this 761
section, the attorney shall make an application in the probate 762
court of the county in which the civil action was commenced or 763
in which the settlement was entered. The application shall 764
contain a statement of facts, including the amount to be 765
allocated to the settlement of the claim, the amount of the 766
settlement or judgment that represents the compensatory damages 767
for economic loss and noneconomic loss, the relevant provision 768
in the contingency fee agreement, and the dollar amount of the 769
attorney's fees under the contingency fee agreement. The 770
application shall include the proposed distribution of the 771
amount of the judgment or settlement. 772

(2) The attorney shall give written notice of the hearing 773
and a copy of the application to all interested persons who have 774
not waived notice of the hearing. Notwithstanding the waivers 775
and consents of the interested persons, the probate court shall 776
retain jurisdiction over the settlement, allocation, and 777
distribution of the claim. 778

(3) The application shall state the arrangements, if any, 779
that have been made with respect to the attorney's fees. The 780
attorney's fees shall be subject to the approval of the probate 781
court. 782

(G) This section does not apply to any of the following: 783

(1) Civil actions upon a medical, dental, optometric, or 784
chiropractic claim that are brought against the state in the 785
court of claims, including, but not limited to, those actions in 786
which a state university or college is a defendant and to which 787
~~division~~divisions (B) (3) and (4) of section 3345.40 of the 788
Revised Code ~~applies~~apply; 789

(2) Civil actions upon a medical, dental, optometric, or 790
chiropractic claim that are brought against political 791
subdivisions of this state and that are commenced under or are 792
subject to Chapter 2744. of the Revised Code. Division (C) of 793
section 2744.05 of the Revised Code applies to recoverable 794
damages in those actions; 795

(3) Wrongful death actions brought pursuant to Chapter 796
2125. of the Revised Code. 797

(H) As used in this section: 798

(1) "Economic loss" means any of the following types of 799
pecuniary harm: 800

(a) All wages, salaries, or other compensation lost as a 801
result of an injury, death, or loss to person or property that 802
is a subject of a civil action upon a medical, dental, 803
optometric, or chiropractic claim; 804

(b) All expenditures for medical care or treatment, 805
rehabilitation services, or other care, treatment, services, 806
products, or accommodations as a result of an injury, death, or 807
loss to person or property that is a subject of a civil action 808
upon a medical, dental, optometric, or chiropractic claim; 809

(c) Any other expenditures incurred as a result of an 810
injury, death, or loss to person or property that is a subject 811
of a civil action upon a medical, dental, optometric, or 812

chiropractic claim, other than attorney's fees incurred in 813
connection with that action. 814

(2) "Medical claim," "dental claim," "optometric claim," 815
and "chiropractic claim" have the same meanings as in section 816
2305.113 of the Revised Code. 817

(3) "Noneconomic loss" means nonpecuniary harm that 818
results from an injury, death, or loss to person or property 819
that is a subject of a civil action upon a medical, dental, 820
optometric, or chiropractic claim, including, but not limited 821
to, pain and suffering, loss of society, consortium, 822
companionship, care, assistance, attention, protection, advice, 823
guidance, counsel, instruction, training, or education, 824
disfigurement, mental anguish, and any other intangible loss. 825

(4) "Trier of fact" means the jury or, in a nonjury 826
action, the court. 827

Sec. 2744.05. Notwithstanding any other provisions of the 828
Revised Code or rules of a court to the contrary, in an action 829
against a political subdivision to recover damages for injury, 830
death, or loss to person or property caused by an act or 831
omission in connection with a governmental or proprietary 832
function: 833

(A) Punitive or exemplary damages shall not be awarded. 834

(B) (1) If a claimant receives or is entitled to receive 835
benefits for injuries or loss allegedly incurred from a policy 836
or policies of insurance or any other source, the benefits shall 837
be disclosed to the court, and the amount of the benefits shall 838
be deducted from any award against a political subdivision 839
recovered by that claimant. No insurer or other person is 840
entitled to bring an action under a subrogation provision in an 841

insurance or other contract against a political subdivision with 842
respect to those benefits. 843

The amount of the benefits shall be deducted from an award 844
against a political subdivision under division (B) (1) of this 845
section regardless of whether the claimant may be under an 846
obligation to pay back the benefits upon recovery, in whole or 847
in part, for the claim. A claimant whose benefits have been 848
deducted from an award under division (B) (1) of this section is 849
not considered fully compensated and shall not be required to 850
reimburse a subrogated claim for benefits deducted from an award 851
pursuant to division (B) (1) of this section. 852

(2) Nothing in division (B) (1) of this section shall be 853
construed to do either of the following: 854

(a) Limit the rights of a beneficiary under a life 855
insurance policy or the rights of sureties under fidelity or 856
surety bonds; 857

(b) Prohibit the department of medicaid from recovering 858
from the political subdivision, pursuant to section 5160.37 of 859
the Revised Code, the cost of medical assistance provided under 860
a medical assistance program. 861

(C) (1) There shall not be any limitation on compensatory 862
damages that represent the actual loss of the person who is 863
awarded the damages. However, except in wrongful death actions 864
brought pursuant to Chapter 2125. of the Revised Code, and 865
subject to division (C) (2) of this section, damages that arise 866
from the same cause of action, transaction or occurrence, or 867
series of transactions or occurrences and that do not represent 868
the actual loss of the person who is awarded the damages shall 869
not exceed ~~two hundred fifty~~ four hundred fifteen thousand 870

dollars in favor of any one person. The limitation on damages 871
that do not represent the actual loss of the person who is 872
awarded the damages provided in this division does not apply to 873
court costs that are awarded to a plaintiff, or to interest on a 874
judgment rendered in favor of a plaintiff, in an action against 875
a political subdivision. 876

~~(2)~~ (2) (a) In January of each year, the department of 877
taxation, in accordance with this division and division (C) (2) 878
(b) of this section, shall adjust the dollar figure specified in 879
division (C) (1) of this section or the actual dollar amount 880
determined pursuant to this division and division (C) (2) (b) of 881
this section. The adjustment shall be based on the percentage 882
increase in the consumer price index as determined by the United 883
States bureau of labor statistics (U.S. city average, all urban 884
consumers) for the twelve-month period ending on the thirtieth 885
day of June of the immediately preceding calendar year. If the 886
consumer price index for that period did not increase, no 887
increase shall be made under this division and division (C) (2) 888
(b) of this section. 889

(b) The department of taxation shall calculate the 890
adjustment under division (C) (2) (a) of this section on or before 891
the thirty-first day of January of each calendar year. The first 892
adjustment shall be made in January following one year after the 893
effective date of this amendment. 894

(c) The department of taxation shall certify the 895
calculation made under division (C) (2) (b) of this section on or 896
before the thirty-first day of January of each calendar year. 897

(d) On or before the fifteenth day of February of each 898
year, the department of taxation shall prepare a report setting 899
forth the amount of the adjustment calculated under divisions 900

(C) (2) (a) and (b) of this section and certified under division 901
(C) (2) (c) of this section. 902

(e) The report shall contain an indication of the period 903
in which the calculated amount applies, a summary of how the 904
amount was calculated, and a statement that the report and all 905
related documents are available for inspection and copying at 906
the office of the department of taxation. 907

(f) On or before the fifteenth day of February of each 908
year, the department of taxation shall transmit the report to 909
the general assembly. 910

(g) On the fifteenth day of February of each year, the 911
dollar amount of the adjustment set forth in the report of the 912
department of taxation under division (C) (2) (d) of this section 913
shall replace the dollar figure set forth in division (C) (1) of 914
this section or the actual dollar amount determined pursuant to 915
division (C) (2) (a) and (b) of this section, whichever is 916
applicable, for the period in which the calculated amount 917
applies as indicated in the report of the department of taxation 918
under division (C) (2) (e) of this section. 919

(3) As used in this division, "the actual loss of the 920
person who is awarded the damages" includes all of the 921
following: 922

(a) All wages, salaries, or other compensation lost by the 923
person injured as a result of the injury, including wages, 924
salaries, or other compensation lost as of the date of a 925
judgment and future expected lost earnings of the person 926
injured; 927

(b) All expenditures of the person injured or another 928
person on behalf of the person injured for medical care or 929

treatment, for rehabilitation services, or for other care, 930
treatment, services, products, or accommodations that were 931
necessary because of the injury; 932

(c) All expenditures to be incurred in the future, as 933
determined by the court, by the person injured or another person 934
on behalf of the person injured for medical care or treatment, 935
for rehabilitation services, or for other care, treatment, 936
services, products, or accommodations that will be necessary 937
because of the injury; 938

(d) All expenditures of a person whose property was 939
injured or destroyed or of another person on behalf of the 940
person whose property was injured or destroyed in order to 941
repair or replace the property that was injured or destroyed; 942

(e) All expenditures of the person injured or of the 943
person whose property was injured or destroyed or of another 944
person on behalf of the person injured or of the person whose 945
property was injured or destroyed in relation to the actual 946
preparation or presentation of the claim involved; 947

(f) Any other expenditures of the person injured or of the 948
person whose property was injured or destroyed or of another 949
person on behalf of the person injured or of the person whose 950
property was injured or destroyed that the court determines 951
represent an actual loss experienced because of the personal or 952
property injury or property loss. 953

"The actual loss of the person who is awarded the damages" 954
does not include any fees paid or owed to an attorney for any 955
services rendered in relation to a personal or property injury 956
or property loss, and does not include any damages awarded for 957
pain and suffering, for the loss of society, consortium, 958

companionship, care, assistance, attention, protection, advice, 959
guidance, counsel, instruction, training, or education of the 960
person injured, for mental anguish, or for any other intangible 961
loss. 962

Sec. 3345.40. (A) As used in this section: 963

(1) "State university or college" has the same meaning as 964
in division (A) (1) of section 3345.12 of the Revised Code. 965

(2) (a) "The actual loss of the person who is awarded the 966
damages" includes all of the following: 967

(i) All wages, salaries, or other compensation lost by an 968
injured person as a result of the injury, including wages, 969
salaries, or other compensation lost as of the date of a 970
judgment and future expected lost earnings of the injured 971
person; 972

(ii) All expenditures of an injured person or of another 973
person on behalf of an injured person for medical care or 974
treatment, for rehabilitation services, or for other care, 975
treatment, services, products, or accommodations that were 976
necessary because of the injury; 977

(iii) All expenditures to be incurred in the future, as 978
determined by the court, by an injured person or by another 979
person on behalf of an injured person for medical care or 980
treatment, for rehabilitation services, or for other care, 981
treatment, services, products, or accommodations that will be 982
necessary because of the injury; 983

(iv) All expenditures of a person whose property was 984
injured or destroyed, or of another person on behalf of such a 985
person, in order to repair or replace the property that was 986
injured or destroyed; 987

(v) All expenditures of an injured person, of a person 988
whose property was injured or destroyed, or of another person on 989
behalf of an injured person or a person whose property was 990
injured or destroyed, in relation to the actual preparation or 991
presentation of the claim of the person; 992

(vi) Any other expenditures of an injured person, of a 993
person whose property was injured or destroyed, or of another 994
person on behalf of an injured person or a person whose property 995
was injured or destroyed, that the court determines represent an 996
actual loss experienced because of the personal or property 997
injury or property loss. 998

(b) "The actual loss of the person who is awarded the 999
damages" does not include either of the following: 1000

(i) Any fees paid or owed to an attorney for any services 1001
rendered in relation to a person or property injury or property 1002
loss; 1003

(ii) Any damages awarded for pain and suffering, for the 1004
loss of society, consortium, companionship, care, assistance, 1005
attention, protection, advice, guidance, counsel, instruction, 1006
training, or education of an injured person, for mental anguish, 1007
or for any other intangible loss. 1008

(B) Notwithstanding any other provision of the Revised 1009
Code or rules of a court to the contrary, in an action against a 1010
state university or college to recover damages for injury, 1011
death, or loss to persons or property caused by an act or 1012
omission of the state university or college itself, by an act or 1013
omission of any trustee, officer, or employee of the state 1014
university or college while acting within the scope of his 1015
employment or official responsibilities, or by an act or 1016

omission of any other person authorized to act on behalf of the 1017
state university or college that occurred while ~~he~~ the person 1018
was engaged in activities at the request or direction, or for 1019
the benefit, of the state university or college, the following 1020
rules shall apply: 1021

(1) Punitive or exemplary damages shall not be awarded; 1022

(2) If a plaintiff receives or is entitled to receive 1023
benefits for injuries or loss allegedly incurred from a policy 1024
or policies of insurance or any other source, the benefits shall 1025
be disclosed to the court, and the amount of the benefits shall 1026
be deducted from any award against the state university or 1027
college recovered by the plaintiff. No insurer or other person 1028
is entitled to bring a civil action under a subrogation 1029
provision in an insurance or other contract against a state 1030
university or college with respect to such benefits. 1031

Nothing in this division affects or shall be construed to 1032
limit the rights of a beneficiary under a life insurance policy 1033
or the rights of sureties under fidelity or surety bonds. 1034

(3) There shall not be any limitation on compensatory 1035
damages that represent the actual loss of the person who is 1036
awarded the damages. However, except in wrongful death actions 1037
brought pursuant to Chapter 2125. of the Revised Code, and 1038
subject to division (B) (4) of this section, damages that arise 1039
from the same cause of action, transaction or occurrence, or 1040
series of transactions or occurrences and that do not represent 1041
the actual loss of the person who is awarded the damages shall 1042
not exceed ~~two hundred fifty~~ four hundred fifteen thousand 1043
dollars in favor of any one person. The limitation on damages 1044
that do not represent the actual loss of the person who is 1045
awarded the damages provided in this division does not apply to 1046

court costs that are awarded to a plaintiff, or to interest on a 1047
judgment rendered in favor of a plaintiff, in an action against 1048
a state university or college. 1049

(4) (a) In January of each year, the department of 1050
taxation, in accordance with this division and division (B) (4) 1051
(b) of this section, shall adjust the dollar figure specified in 1052
division (B) (3) of this section or the actual dollar amount 1053
determined pursuant to this division and division (B) (4) (b) of 1054
this section. The adjustment shall be based on the percentage 1055
increase in the consumer price index as determined by the United 1056
States bureau of labor statistics (U.S. city average, all urban 1057
consumers) for the twelve-month period ending on the thirtieth 1058
day of June of the immediately preceding calendar year. If the 1059
consumer price index for that period did not increase, no 1060
increase shall be made under this division and division (B) (4) 1061
(b) of this section. 1062

(b) The department of taxation shall calculate the 1063
adjustment under division (B) (4) (a) of this section on or before 1064
the thirty-first day of January of each calendar year. The first 1065
adjustment shall be made in January following one year after the 1066
effective date of this amendment. 1067

(c) The department of taxation shall certify the 1068
calculation made under division (B) (4) (b) of this section on or 1069
before the thirty-first day of January of each calendar year. 1070

(d) On or before the fifteenth day of February of each 1071
year, the department of taxation shall prepare a report setting 1072
forth the amount of the adjustment calculated under divisions 1073
(B) (4) (a) and (b) of this section and certified under division 1074
(B) (4) (c) of this section. 1075

(e) The report shall contain an indication of the period 1076
in which the calculated amount applies, a summary of how the 1077
amount was calculated, and a statement that the report and all 1078
related documents are available for inspection and copying at 1079
the office of the department of taxation. 1080

(f) On or before the fifteenth day of February of each 1081
year, the department of taxation shall transmit the report to 1082
the general assembly. 1083

(g) On the fifteenth day of February of each year, the 1084
dollar amount of the adjustment set forth in the report of the 1085
department of taxation under division (B) (4) (d) of this section 1086
shall replace the dollar figure set forth in division (B) (3) of 1087
this section or the actual dollar amount determined pursuant to 1088
division (B) (4) (a) and (b) of this section, whichever is 1089
applicable, for the period in which the calculated amount 1090
applies as indicated in the report of the department of taxation 1091
under division (B) (4) (e) of this section. 1092

Section 2. That existing sections 2305.01, 2307.80, 1093
2315.18, 2315.21, 2323.43, 2744.05, and 3345.40 of the Revised 1094
Code are hereby repealed. 1095