## As Introduced

## 136th General Assembly

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S. B. No. 309

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## **Senator Koehler**

Cosponsors: Senators Cirino, Huffman, Manchester, Roegner

To enact section 2317.57 of the Revised Code to

enact the Abortion Pill Provider Liability

Education (APPLE) Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:	
Section 1. That section 2317.57 of the Revised Code be	4
enacted to read as follows:	5
Sec. 2317.57. (A) As used in this section:	6
(1) "Abortion-inducing drug" means the drug RU-486	7
(mifepristone) when taken for the purpose of terminating a	8
clinically diagnosable pregnancy.	9
(2) "Health care provider" means any provider authorized to	10
prescribe an abortion-inducing drug in accordance with state and	11
federal law.	12
(B) Except in the case of a medical emergency, as defined	13
in section 2919.16 of the Revised Code, a health care provider	14
shall ensure that the following conditions are met before	15
prescribing an abortion-inducing drug for the purpose of	16
terminating a pregnancy:	17

(1) The health care provider or the health care provider's

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agent provides the pregnant woman with written instructions and	19
information on the abortion-inducing drug. The information shall	20
include all known complications associated with the use of the	21
abortion-inducing drug and the following statement:	22
"If you decide to take an abortion-inducing drug to end	23
your pregnancy, the state of Ohio wants you to be aware that you	24
and your family may hold the manufacturer, distributor, your	25
health care provider, and the health care facility financially	26
accountable if you die, suffer injury, complication, or any	27
debilitating side effects, including infection, excessive	28
bleeding, and the rupture of a previously undiscovered ectopic	29
pregnancy, if the provider fails to address the side effects of	30
the abortion-inducing drug, or if the medication fails to	31
terminate the pregnancy which results in a failed abortion or	32
requires surgical intervention. You and your family also may	33
hold the health care provider, the health care provider's agent,	34
and the health care facility accountable for failing to inform	35
you of complications.	36
If you experience complications from the abortion-inducing	37
drug and are in need of medical attention, you have the right to	38
tell the health care provider treating the complications that	39
you have had a chemical abortion. Providing this information	40
will not result in any criminal or civil penalty and may help	41
save your life."	42
(2) The pregnant woman certifies in writing that the	43
information described in division (B)(1) of this section has	44
been provided to her and that she has had the opportunity to	45
review it.	46
(3) The health care provider or health care provider's	47
agent receives a copy of the certification described in division	48

(B)(2) of this section.	49
(C) The health care provider or health care provider's	50
agent shall retain a copy of the written certification described	51
in division (B)(3) of this section. The health care provider or	52
health care provider's agent shall keep the certification in the	53
pregnant woman's medical file for a period of at least seven	54
years or, in the case of a pregnant minor, for a period of at	55
least seven years or at least five years after the minor reaches	56
the age of majority, whichever is longer.	57
(D)(1) Any health care provider, health care provider's	58
agent, or health care facility that prescribes an abortion-	59
inducing drug to a pregnant woman before meeting the conditions	60
described in division (B) of this section is liable in a civil	61
action brought by any of the following:	62
(a) The woman who was prescribed the abortion-inducing	63
drug;	64
(b) The father of the unborn child, if the father is	65
married to the woman at the time the abortion-inducing drug was	66
<pre>prescribed;</pre>	67
(c) The maternal grandparents of the unborn child, if the	68
woman was a minor when she was prescribed the abortion-inducing	69
drug or she has died due to the abortion or a complication	70
related to the abortion;	71
(d) The woman's next of kin, if she has died due to the	72
abortion or a complication related to the abortion.	73
(2) No damages shall be awarded to a plaintiff if the	74
pregnancy was caused by the plaintiff's criminal conduct.	75
(3) In the event the claimant prevails in an action	76

brought under this section, the court shall award both of the	77
<pre>following:</pre>	78
(a) Damages for injuries and loss resulting to the	79
claimant by reason of the prescription of the abortion-inducing	80
drug;	81
(b) Statutory damages equal to three times the cost of the	82
abortion-inducing drug.	83
(E)(1) The attorney general or a prosecutor with	84
appropriate jurisdiction may conduct an investigation of an	85
alleged violation of division (B) of this section and initiate a	86
civil action on behalf of the state to assess civil penalties	87
against the health care provider, health care provider's agent,	88
and the health care facility. Prior to asserting a cause of	89
action, the attorney general or the prosecutor shall provide the	90
health care provider, health care provider's agent, or health	91
care facility where the abortion-inducing drug was prescribed	92
with a period of not less than thirty days to comply with the	93
requirements of division (B) of this section.	94
(2) Any health care provider, health care provider's	95
agent, or health care facility that violates division (B) of	96
this section may be liable for a civil penalty, to be assessed	97
by the court, of not more than five thousand dollars for each	98
day of violation.	99
(3) The court may impose an additional civil penalty that	100
shall not exceed ten thousand dollars for each violation of	101
division (B) of this section against any health care provider or	102
health care facility found by the court to have knowingly	103
violated division (B) of this section.	104
(4) Each violation may be treated as a separate violation	105

or may be combined into one violation at the option of the	106
attorney general or the prosecutor.	107
(5) Civil penalties assessed under divisions (E)(2) and	108
(3) of this section shall include statutory interest as defined	109
in section 1343.03 of the Revised Code from the date that the	110
penalty is assessed by the court to the date that the penalty is	111
paid in full and shall be used to fund entities that meet the	112
conditions set forth in division (B) of section 5101.804 of the	113
Revised Code.	114
(6) Any commercial entity that violates this section may	115
be liable to the attorney general or a prosecutor with	116
appropriate jurisdiction for all costs, expenses, and fees	117
related to investigations and proceedings associated with the	118
violation, including attorney's fees.	119
(F) The department of health shall create a form for	120
health care providers to use to provide the information required	121
by division (B)(1) of this section, including the certification	122
described in division (B)(2) of this section. The department	123
shall make the form available to health care providers.	124
(G) A woman who is prescribed an abortion-inducing drug is	125
not liable under this section.	126
Section 2. This act shall be known as the Abortion Pill	127
Provider Liability Education (APPLE) Act.	128