

As Introduced

**135th General Assembly
Regular Session
2023-2024**

H. B. No. 555

**Representative Mathews
Cosponsor: Representative Seitz**



A BILL

To amend sections 715.44 and 2307.71 and to enact 1
section 2307.801 of the Revised Code to prohibit 2
certain public nuisance actions. 3

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

Section 1. That sections 715.44 and 2307.71 be amended and 4
section 2307.801 of the Revised Code be enacted to read as 5
follows: 6

Sec. 715.44. ~~A~~ Subject to section 2307.801 of the Revised 7
Code, a municipal corporation may: 8

(A) Abate any nuisance and prosecute in any court of 9
competent jurisdiction, any person who creates, continues, 10
contributes to, or suffers such nuisance to exist; 11

(B) Regulate and prevent the emission of dense smoke, 12
prohibit the careless or negligent emission of dense smoke from 13
locomotive engines, declare each of such acts a nuisance, and 14
prescribe and enforce regulations for the prevention of such 15
acts; 16

(C) Prevent injury and annoyance from any nuisance; 17

(D) Regulate and prohibit the use of steam whistles;	18
(E) Provide for the regulation of the installation and inspection of steam boilers and steam boiler plants.	19 20
Sec. 2307.71. (A) As used in sections 2307.71 to 2307.80 <u>2307.801</u> of the Revised Code:	21 22
(1) "Claimant" means either of the following:	23
(a) A person who asserts a product liability claim or on whose behalf such a claim is asserted;	24 25
(b) If a product liability claim is asserted on behalf of the surviving spouse, children, parents, or other next of kin of a decedent or on behalf of the estate of a decedent, whether as a claim in a wrongful death action under Chapter 2125. of the Revised Code or as a survivorship claim, whichever of the following is appropriate:	26 27 28 29 30 31
(i) The decedent, if the reference is to the person who allegedly sustained harm or economic loss for which, or in connection with which, compensatory damages or punitive or exemplary damages are sought to be recovered;	32 33 34 35
(ii) The personal representative of the decedent or the estate of the decedent, if the reference is to the person who is asserting or has asserted the product liability claim.	36 37 38
(2) "Economic loss" means direct, incidental, or consequential pecuniary loss, including, but not limited to, damage to the product in question, and nonphysical damage to property other than that product. Harm is not "economic loss."	39 40 41 42
(3) "Environment" means only navigable waters, surface water, ground water, drinking water supplies, land surface, subsurface strata, and air.	43 44 45

(4) "Ethical drug" means a prescription drug that is 46
prescribed or dispensed by a physician or any other person who 47
is legally authorized to prescribe or dispense a prescription 48
drug. 49

(5) "Ethical medical device" means a medical device that 50
is prescribed, dispensed, or implanted by a physician or any 51
other person who is legally authorized to prescribe, dispense, 52
or implant a medical device and that is regulated under the 53
"Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040, 21 U.S.C. 54
301-392, as amended. 55

(6) "Foreseeable risk" means a risk of harm that satisfies 56
both of the following: 57

(a) It is associated with an intended or reasonably 58
foreseeable use, modification, or alteration of a product in 59
question. 60

(b) It is a risk that the manufacturer in question should 61
recognize while exercising both of the following: 62

(i) The attention, perception, memory, knowledge, and 63
intelligence that a reasonable manufacturer should possess; 64

(ii) Any superior attention, perception, memory, 65
knowledge, or intelligence that the manufacturer in question 66
possesses. 67

(7) "Harm" means death, physical injury to person, serious 68
emotional distress, or physical damage to property other than 69
the product in question. Economic loss is not "harm." 70

(8) "Hazardous or toxic substances" include, but are not 71
limited to, hazardous waste as defined in section 3734.01 of the 72
Revised Code, hazardous waste as specified in the rules of the 73

director of environmental protection pursuant to division (A) of 74
section 3734.12 of the Revised Code, hazardous substances as 75
defined in section 3716.01 of the Revised Code, and hazardous 76
substances, pollutants, and contaminants as defined in or by 77
regulations adopted pursuant to the "Comprehensive Environmental 78
Response, Compensation, and Liability Act of 1980," 94 Stat. 79
2767, 42 U.S.C. 9601, as amended. 80

(9) "Manufacturer" means a person engaged in a business to 81
design, formulate, produce, create, make, construct, assemble, 82
or rebuild a product or a component of a product. 83

(10) "Person" has the same meaning as in division (C) of 84
section 1.59 of the Revised Code and also includes governmental 85
entities. 86

(11) "Physician" means a person who is licensed to 87
practice medicine and surgery or osteopathic medicine and 88
surgery by the state medical board. 89

(12)(a) "Product" means, subject to division (A)(12)(b) of 90
this section, any object, substance, mixture, or raw material 91
that constitutes tangible personal property and that satisfies 92
all of the following: 93

(i) It is capable of delivery itself, or as an assembled 94
whole in a mixed or combined state, or as a component or 95
ingredient. 96

(ii) It is produced, manufactured, or supplied for 97
introduction into trade or commerce. 98

(iii) It is intended for sale or lease to persons for 99
commercial or personal use. 100

(b) "Product" does not include human tissue, blood, or 101

organs.	102
(13) "Product liability claim" means a claim or cause of	103
action that is asserted in a civil action pursuant to sections	104
2307.71 to 2307.80 of the Revised Code and that seeks to recover	105
compensatory damages from a manufacturer or supplier for death,	106
physical injury to person, emotional distress, or physical	107
damage to property other than the product in question, that	108
allegedly arose from any of the following:	109
(a) The design, formulation, production, construction,	110
creation, assembly, rebuilding, testing, or marketing of that	111
product;	112
(b) Any warning or instruction, or lack of warning or	113
instruction, associated with that product;	114
(c) Any failure of that product to conform to any relevant	115
representation or warranty.	116
"Product liability claim" also includes any public	117
nuisance claim or cause of action at common law in which it is	118
alleged that the design, manufacture, supply, marketing,	119
distribution, promotion, advertising, labeling, or sale of a	120
product unreasonably interferes with a right common to the	121
general public.	122
(14) "Representation" means an express representation of a	123
material fact concerning the character, quality, or safety of a	124
product.	125
(15) (a) "Supplier" means, subject to division (A) (15) (b)	126
of this section, either of the following:	127
(i) A person that, in the course of a business conducted	128
for the purpose, sells, distributes, leases, prepares, blends,	129

packages, labels, or otherwise participates in the placing of a	130
product in the stream of commerce;	131
(ii) A person that, in the course of a business conducted	132
for the purpose, installs, repairs, or maintains any aspect of a	133
product that allegedly causes harm.	134
(b) "Supplier" does not include any of the following:	135
(i) A manufacturer;	136
(ii) A seller of real property;	137
(iii) A provider of professional services who, incidental	138
to a professional transaction the essence of which is the	139
furnishing of judgment, skill, or services, sells or uses a	140
product;	141
(iv) Any person who acts only in a financial capacity with	142
respect to the sale of a product, or who leases a product under	143
a lease arrangement in which the selection, possession,	144
maintenance, and operation of the product are controlled by a	145
person other than the lessor.	146
(16) "Unavoidably unsafe" means that, in the state of	147
technical, scientific, and medical knowledge at the time a	148
product in question left the control of its manufacturer, an	149
aspect of that product was incapable of being made safe.	150
(B) Sections 2307.71 to 2307.80 of the Revised Code are	151
intended to abrogate all common law product liability claims or	152
causes of action.	153
<u>Sec. 2307.801. No person may bring a public nuisance claim</u>	154
<u>or cause of action at common law in which it is alleged that the</u>	155
<u>design, manufacture, supply, marketing, distribution, promotion,</u>	156
<u>advertising, labeling, or sale of a product unreasonably</u>	157

interferes with a right common to the general public. 158

Section 2. That existing sections 715.44 and 2307.71 of 159
the Revised Code are hereby repealed. 160