



## Ohio Revised Code

### Section 2305.36 Limited immunity for injury due to cumulative consumption, weight gain, or obesity.

Effective: April 7, 2005

Legislation: Senate Bill 80 - 125th General Assembly

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(A) As used in this section:

(1) "Cumulative consumption" means, with respect to a health condition, any health condition, including, but not limited to, increased cholesterol, heart disease, or high blood pressure, that is caused by successive consumption of a qualified product.

(2) "Person engaged in the business" means a person who manufactures, markets, distributes, advertises, or sells a qualified product in the regular course of the person's trade or business.

(3) "Manufacturer" and "supplier" have the same meanings as in section 2307.71 of the Revised Code.

(4) "Qualified product" means all of the following:

(a) Articles used for food or drink for a human being or other animal;

(b) Chewing gum;

(c) Articles used for components of any article listed in division (A)(4)(a) or (b) of this section.

(5) "Seller" means, with respect to a qualified product, a person lawfully engaged in the business of marketing, distributing, advertising, or selling the product.

(6) "Trade association" means any association or business organization that is not operated for profit and in which two or more members of the trade association are manufacturers, marketers, distributors, advertisers, or sellers of a qualified product.



(B) Except as provided in division (D) of this section, no manufacturer, seller, or supplier of a qualified product and no trade association is liable for injury, death, or loss to person or property for damages, is subject to an action for declaratory judgment, injunctive relief, or declaratory relief, or is responsible for restitution, damages, or other relief arising out of, resulting from, or related to cumulative consumption, weight gain, obesity, or any health condition that is related to cumulative consumption, weight gain, or obesity.

(C) A party that prevails on a motion to dismiss an action under division (B) of this section may recover reasonable attorney's fees and costs that the party incurred in connection with the motion to dismiss.

(D) The immunity from liability provided in division (B) of this section does not apply to any of the following if it, alone or in combination with any of the following, was the predominate proximate cause of the claim of injury, death, or loss resulting from cumulative consumption, weight gain, obesity, or any health condition that is related to cumulative consumption, weight gain, or obesity:

(1) The misbranding of the qualified product involved;

(2) Any knowing and willful violation of state or federal law that applies to the qualified product involved;

(3) Any breach of express contract or breach of express warranty in connection with the purchase of the qualified product involved.

(E) Nothing in this section shall be construed as creating any new cause of action for a claim of injury, death, or loss resulting from a person's cumulative consumption, weight gain, obesity, or any health condition that is related to cumulative consumption, weight gain, or obesity.