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Bill Analysis

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SUMMARY

- Provides that a political subdivision is not liable in damages for the injury, death, or loss to person or property caused by an employee's negligent operation of a motor vehicle if the plaintiff, at the time of the alleged negligence, was attempting to flee from a law enforcement officer so as to avoid apprehension for a criminal offense.
- Repeals existing law's provisions specifying the qualified defenses to a political subdivision's liability for the negligent operation of a motor vehicle by a member of a municipal corporation's police or firefighting agency or member of a political subdivision's emergency medical service while responding to an emergency.
- Requires that any compensatory damages recoverable against a political subdivision be reduced by the percentage of contributory fault attributable to the plaintiff or other parties subject to the laws on joint and several liability, contributory fault, and apportionment of liability.

DETAILED ANALYSIS

Liability of political subdivision for negligent operation of motor vehicle.

Under the Political Subdivision Liability and Immunity Law, subject to certain exceptions and defenses, a political subdivision is not liable in damages in a civil action for injury, death, or loss to person or property allegedly caused by an act or omission of the political subdivision or any of its employees in connection with a governmental or proprietary function, as defined.¹ An exception to the above immunity is when the injury, death, or loss is caused by the negligent

¹ R.C. 2744.02(A)(1).

operation of any motor vehicle by an employee when engaged within the scope of employment and authority, in which case the political subdivision is generally liable for the injury, death, or loss.² However, under the bill, a political subdivision is not liable in damages for the injury, death, or loss to person or property caused by an employee's negligent operation of a motor vehicle if the plaintiff, at the time of the alleged negligence, was attempting to flee from a law enforcement officer so as to avoid apprehension for a criminal offense.³ The bill repeals existing law's provisions specifying the following as full defenses to the political subdivision's liability as described above:⁴

- A member of a municipal corporation police department or any other police agency was operating a motor vehicle while responding to an emergency call and the operation of the vehicle did not constitute willful or wanton misconduct;
- A member of a municipal corporation fire department or any other firefighting agency was operating a motor vehicle while engaged in duty at a fire, proceeding toward a place where a fire is, or is believed to be, in progress, or answering any other emergency alarm and the operation of the vehicle did not constitute willful or wanton misconduct;
- A member of an emergency medical service owned or operated by a political subdivision was operating a motor vehicle while responding to or completing a call for emergency medical care or treatment, the member was holding a valid commercial driver's license or driver's license issued under Ohio law, the operation of the vehicle did not constitute willful or wanton misconduct, and the operation complies with the precautions under continuing law of slowing down as necessary for safety upon approaching a red or stop signal and proceeding cautiously with due regard for the safety of persons using the street or highway.

Recoverable damages

The bill provides that any compensatory damages recoverable against a political subdivision for an employee's negligent operation of a motor vehicle must be reduced by the percentage of contributory fault attributable to the plaintiff or any other parties subject to the continuing laws dealing with the determination of joint and several liability, the determination of the percentages of tortious conduct attributable to a party, the contributory fault of the plaintiff asserted as an affirmative defense, and the corresponding allocation of damages according to the court's judgment.⁵

Current law, not modified by the bill, provides that there can be no limitation on compensatory damages that represent the "actual loss of the person who is awarded the

² R.C. 2744.02(B)(1).

³ R.C. 2744.02(B)(1).

⁴ R.C. 2744.02(B)(1)(a) to (c).

⁵ R.C. 2744.05(C)(2), referencing R.C. 2307.22, 2307.23, and 2315.32 to 2315.36.

damages,” as defined. Except in wrongful death actions, damages that arise from the same cause of action, transaction or occurrence, or series of transactions or occurrences and that do not represent the actual loss of the person who is awarded the damages cannot exceed \$250,000 in favor of any one person.⁶

HISTORY

Action	Date
Introduced	11-01-21

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⁶ R.C. 2744.05(C)(1).