

**Legislative Update
for OAJ Membership
February 14, 2019**

Report on 132nd General Assembly (2017-2018)

With official effective dates as reported by the Ohio Secretary of State
(for most, but not all legislation)

BOLD means the legislation was enacted in 132rd General Assembly

General negligence

Cap on damages not apply to victim of rape or sexual assault (HB 20 – Gonzales, Boggs)

- Excludes victims of rape and sexual assault from \$250,000 cap on non-economic damages
 - OAJ supported
 - Did not pass – remained in House committee

Punitive damages, no cap for strict liability offenses (SB 280 – Eklund)

- Expands the exemption from punitive or exemplary damages limitations from felonies involving purposeful or knowing conduct to felonies for a strict liability offense
 - OAJ supported
 - Did not pass – remained in Senate committee

SOL for contracts cut to three years (HB 694 - Lang)

- Shortens the statute of limitations for written and oral contracts from 8 and 6 years, respectively, to 3 years.
 - OAJ opposed
 - Did not pass – remained in House committee

Long Arm Statute (SB 347 – Oelslager)

- Expands the basis of a court's exercise of personal jurisdiction to include any basis consistent with the Ohio Constitution and the US Constitution
 - OAJ supported
 - Did not pass – remained in Senate committee

Beekeeper immunity (HB 392 – Stein)

- Grants apiary owners qualified immunity for personal injury (bee stings) but not property damage
- To qualify for immunity, apiary owner must comply with register with Dep't of Agriculture; comply with zoning laws; and adhere to beekeepers best practices
 - OAJ opposed and amended bill to narrow and qualify immunity
 - Did not pass – passed House; remained in Senate committee

Rail crossings (HB 190 – Schuring)

- Requires drivers to watch, listen, and stop for on-track equipment that may be approaching a railroad crossing
- OAJ stopped an amendment to grant immunity to railroads if on-track equipment fails to activate crossing signal and collides with motor vehicle at railroad crossing
- Did not pass – passed House; remained in Senate committee

Emergency vehicle immunity (HB 419 – Henne)

- Amends definition of “emergency call” to mean call to duty “involving any reported or observed” inherently dangerous situations
- Applies to police or fire department or EMS squad
 - OAJ supported
 - Did not pass – reported by House committee, but did not pass House

Emergency vehicle liability (HB 267 – Ingram)

- Eliminates sovereign immunity for cities when an employee's negligent operation of a motor vehicle results in personal injury or property damage, unless the plaintiff was fleeing law enforcement
 - OAJ supported
 - Did not pass – remained in House committee

Crash Reports (SB 148 – Kunze, Huffman)

- Requires an accident report to indicate whether a person involved in an accident wishes to be contacted for commercial solicitation purposes
- Prohibits any person from using the information contained in an accident report for commercial purposes
 - OAJ had concerns
 - Did not pass – remained in Senate committee

Crash Reports (HB 331 – Ingram)

- Prohibits the use of information obtained from an accident report for commercial solicitation
 - OAJ had concerns
 - Did not pass – remained in House committee

Medical Negligence

Restrictions on medical malpractice claims (HB 7 – Cupp)

- **Adds to current apology statute, makes a physician's confession to patient that the injury was the doctor's error or fault inadmissible (previously decided by Ohio Supreme Court in *Stewart v. Vivian*, 151 Ohio St.3d 574, 2017-Ohio-7526)**
- **Establishes a new 180-day discovery period during which time the statute of limitations is tolled**

- **Provision eliminating the Loss of Chance doctrine was removed from the bill, thereby sustaining current common law**
- **Six other provisions, amended by OAJ**
 - **OAJ was opposed, but switched to neutral after major changes were made**
 - **Enacted – effective March 20, 2019**

Medical Records (HB 172 – Schuring)

- OAJ and Ohio Hospital Association reached compromise: patient will have option to request basic medical record or request all medical data
 - OAJ opposed original bill, but switched to neutral after major changes were made
 - Did not pass – remained in House committee

Immunity for volunteer surgeons (SB 177 – Lehner)

- Expands when health care providers are granted civil immunity for providing volunteer health care services to indigent and uninsured persons
- Current “free clinic” law provides civil immunity for volunteer health care providers that provide office-based services to indigent and uninsured persons in free health clinics
- Bill allows all medical services and procedures to be performed, including surgery under anesthesia, in any setting, including hospitals
 - OAJ opposed
 - Did not pass – remained in Senate committee

Workers’ Compensation

Bans workers’ comp for undocumented workers (HB 380 – Seitz, Householder)

- Prohibits illegal and unauthorized aliens from receiving compensation and benefits under Ohio’s workers’ compensation law
- Employer is liable for injuries if claimant can establish, by clear and convincing evidence, that employer knew the employee was not authorized to work in US
- Requires claimant who is not a US citizen to provide alien registration number and date when work authorization expires
 - OAJ opposed
 - Did not pass – remained in Senate committee

Group self-insurance (HB 459 – Henne)

- Allows groups of employers to be granted status as a self-insuring employer for workers’ compensation
 - OAJ opposed
 - Did not pass – remained in House committee

Rename BWC (HB 269 - Henne)

- Replaces title of BWC with the Office of Safety and Rehabilitation
- Reduces PTD benefits for some retirees
 - OAJ opposed
 - Did not pass – remained in House committee

Self-insurers (HB 268 – Henne)

- Makes changes to Workers' Comp Law with respect to self-insuring employers
- Create a new sub-category of self-insured employers with lower financial standards
- Allows self-insured companies to purchase private insurance for first-dollar coverage
 - OAJ opposed
 - Did not pass – remained in House committee

Provides workers' comp coverage for first responders with PTSD (HB 161 – Patton)

- Makes peace officers, firefighters, and emergency medical workers diagnosed with PTSD arising from employment without an accompanying physical injury eligible for workers' compensation and benefits
- Workers' comp benefits expire after one year
- Prohibits claimant from receiving a disability benefit from a state retirement system for PTSD during the time period the person receives compensation
 - OAJ did not support
 - Did not pass – remained in House committee

Provides workers' comp coverage for first responders with PTSD (SB 118 – LaRose)

- Makes peace officers, firefighters, and emergency medical workers diagnosed with PTSD arising from employment without an accompanying physical injury eligible for workers' compensation and benefits
- Workers' comp benefits expire after one year
- Prohibits claimant from receiving a disability benefit from a state retirement system for PTSD during the time period the person receives compensation
 - OAJ did not support
 - Did not pass – remained in Senate committee

Franchisor Exempt from WC, Labor Laws (HB 494 – Antani)

- Ensures that a state court or administrative rule does not apply the 2015 NLRB ruling that establishes a new “joint employer standard” to state labor or employment law
 - OAJ amended the bill to assure that current Ohio law is not impacted by this legislation
 - Enacted – effective March 20, 2019

Miscellaneous

Cybersecurity safe harbor (SB 220 – Hackett, Bacon)

- Provides an affirmative defense for covered entities that implement a specified cybersecurity program
 - OAJ opposed
 - Enacted – effective November 2, 2018

Cybersecurity safe harbor for insurance companies (SB 273 – Hackett)

- Amends definition of insurance rating agency
- Amendment added in House to provide affirmative defense for insurance companies that implement a specific cybersecurity protection program required by Ohio Department of Insurance and overseen by the National Association of Insurance Commissioners
 - OAJ opposed
 - Enacted – becomes effective about March 19, 2019

Notary modernization act (SB 263 – Huffman, Wilson)

- Authorizes online electronic notarization
- Consolidates commissioning of non-attorney notaries under the Secretary of State's office, rather than by county courts of common pleas
- Attorneys grandfathered to serve as notaries, but to be authorized to conduct online notarization, must take education and renew every 5 years
- Entities currently conducting education and testing may continue but must meet Secretary of State's standards
 - OAJ was neutral
 - Enacted – effective March 20, 2019

ADA compliance (HB 271 – McColley, Rezabek)

- Makes it entirely optional for an aggrieved party to send a notice to a property owner of an alleged accessibility law violation in advance of filing a civil action
- Civil action may be filed without sending notice, but attorneys' fees are not assured
- Attorneys' fees are awarded if notice is sent
 - OAJ supported
 - Enacted – effective March 20, 2019

Probate law (HB 595 – Cupp, Rezabek)

- Among changes, bill authorizes probate courts to establish a trust for a minor which would hold funds until age 25
 - OAJ supported
 - Enacted – becomes effective about March 21, 2019

Amends Ohio's anti-discrimination laws (HB 2 - Seitz)

- Negotiated agreement with Ohio Chamber of Commerce
- Does not harm plaintiff's ability to pursue a claim for discrimination or harassment
- Individual liability modified, but not eliminated
 - OAJ opposed original bill, but switched to neutral after major changes were made
 - Did not pass – reported by House committee, but did not pass House

Anti-SLAPP (Strategic Lawsuit Against Public Participation) (SB 206 – Huffman)

- Titled the Ohio Citizens Participation Act, provides legal protections for media and public interest groups who engage in certain protected communications

- Supported by Ohio newspapers and broadcasters and public interest groups
- Intended to prevent corporations from using lawsuits to intimidate media and public interest groups and stop them from publishing reports that are critical of the corporation
- Establishes a special motion to dismiss that occurs without benefit of discovery
- Exempts claims for personal injury and insurance disputes
 - OAJ had concerns
 - Did not pass – remained in Senate committee

Minors in school bus accidents (HB 8 - Hambley, Rezabek)

- **Exempts from Ohio's Public Records Law certain personal information concerning a minor in a record related to a school vehicle traffic report**
- **Provides for a journalist exemption**
 - OAJ amended bill to allow parent of a minor to request the police report
 - **Enacted – effective September 28, 2108**

Uniform electronic legal material act (SB 139 - Skindell, Eklund)

- **Prescribes procedures for an agency to follow when it publishes official electronic legal material**
- **Specifies that electronic legal material that is authenticated is presumed to be an accurate copy of that material**
 - OAJ was neutral
 - **Enacted – effective September 28, 2108**

Amusement rides (HB 631 - Hughes, Patterson)

- **Tightens regulations governing the operation and safety inspections of amusement rides by Ohio Department of Agriculture**
 - OAJ supported
 - Did not pass – remained in House committee

Commercial Credit Reports (HB 769 – Dever)

- **Requires a commercial credit reporting agency to provide credit reports to businesses and to establish a procedure whereby a business may dispute statements on the report**
 - OAJ supported
 - Did not pass – remained in House committee