



Ohio Revised Code

Section 2305.33 Physician reporting to public transportation employer employee's use of a drug of abuse no liability.

Effective: July 22, 1998

Legislation: Senate Bill 66 - 122nd General Assembly

(A) As used in this section:

- (1) "Bus" has the same meaning as in section 4511.78 of the Revised Code.
- (2) "Business of public transportation" means a business that includes among its functions the transporting of passengers in interstate or intrastate commerce by aircraft, railroad train, school or other bus, taxicab, or other type of common carrier, whether or not a charge is imposed for the transportation. "Business of public transportation" includes, but is not limited to, an Ohio transit system.
- (3) "Civil action" means a tort or contract action for damages for harm.
- (4) "Employee" means an individual who is employed by an employer to operate any aircraft, railroad train, school or other bus, taxicab, or other type of common carrier.
- (5) "Employer" means a person that is engaged in the business of public transportation.
- (6) "Harm" means injury, death, or loss to person or property.
- (7) "Ohio transit system" means a county transit system operated in accordance with sections 306.01 to 306.13 of the Revised Code, a regional transit authority operated in accordance with sections 306.30 to 306.71 of the Revised Code, a regional transit commission operated in accordance with sections 306.80 to 306.90 of the Revised Code, any municipally owned transportation system, and any mass transit company that operates exclusively within the territorial limits of a municipal corporation, or within the territorial limits of a municipal corporation and one or more municipal corporations immediately contiguous to that municipal corporation.



(8) "Physician" means a person who is licensed pursuant to Chapter 4731. of the Revised Code to practice medicine or surgery or osteopathic medicine and surgery.

(9) "Prescription" has the same meaning as in section 4729.01 of the Revised Code.

(10) "School bus" has the same meaning as in section 4511.01 of the Revised Code.

(11) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for a breach of contract or another agreement between persons. "Tort action" includes, but is not limited to, a civil action for damages against a physician on the ground of a breach of the confidentiality of the physician-patient relationship.

(B) A physician is not liable in damages in a civil action for harm that allegedly is incurred by an employee as a result of the physician reporting any of the following to the employer of the employee:

(1) The physician has determined that the employee is using a drug of abuse dispensed pursuant to a prescription and that the employee's use of the drug of abuse represents a potential risk of harm to passengers on any aircraft, railroad train, school or other bus, taxicab, or other type of common carrier operated by the employee;

(2) The physician has determined that the employee is using a drug of abuse otherwise than pursuant to a prescription.

(3) The physician has determined that the employee has a condition, other than one involving the use of a drug of abuse, that represents a potential risk of harm to passengers on any aircraft, railroad train, school or other bus, taxicab, or other type of common carrier operated by the employee.

(C)(1) This section does not create, and shall not be construed as creating, a new cause of action or substantive legal right against a physician and in favor of an employee who was a patient of the physician, who was the subject of a report described in division (B) of this section, and who allegedly sustained harm as a result of the report, or in favor of any other person who allegedly sustained harm as a result of the report.



(2) This section does not impose, and shall not be construed as imposing, a duty upon a physician to make a report as described in division (B) of this section to an employer of an employee who the physician determines is using a drug of abuse dispensed pursuant to a prescription or is using a drug of abuse other than pursuant to a prescription, or who the physician determines has a condition, other than one involving the use of a drug of abuse, that represents a potential risk of harm to passengers on the type of common carrier operated by the employee.

(3) This section does not affect and shall not be construed as affecting, any immunities from civil liability or defenses established by another section of the Revised Code or available at common law, to which a physician may be entitled.

(D) In the event that a physician makes a report described in division (B) of this section, the physician also shall make a report to the employee who was the subject of the report. If the report to the employer is in writing, the report to the employee shall be in writing.