

§8305. Civil recovery for nonconsensual removal of or tampering with a condom

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Compensatory damages" includes, but is not limited to, past and future medical expenses, lost earnings, pain, suffering, mental anguish, emotional distress and loss of enjoyment of life. [PL 2023, c. 298, §1 (NEW).]

B. "Sexual act" has the same meaning as in Title 17-A, section 251, subsection 1, paragraph C. [PL 2023, c. 298, §1 (NEW).]

C. "Tamper" means to alter or use an item in a way that renders the item ineffective. [PL 2023, c. 298, §1 (NEW).]
[PL 2023, c. 298, §1 (NEW).]

2. Civil action; relief. A person who engages in a consensual sexual act with another person with the understanding that a condom would be used during the sexual act may bring a civil action against the other person for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those or any other appropriate relief based on the nonconsensual removal of or tampering with a condom if the other person:

A. Knowingly removes or tampers with the condom; [PL 2023, c. 298, §1 (NEW).]

B. Knowingly uses a damaged condom; or [PL 2023, c. 298, §1 (NEW).]

C. Misrepresents the person's intentions to use a condom. [PL 2023, c. 298, §1 (NEW).]

A prevailing plaintiff is entitled to an award of attorney's fees and costs.

[PL 2023, c. 298, §1 (NEW).]

3. Previous consent. Evidence of consent to engage in a previous sexual act without a condom does not by itself demonstrate consent for engaging in a subsequent sexual act without a condom.

[PL 2023, c. 298, §1 (NEW).]

4. No limitation. The provisions of this chapter may not be construed to prohibit or limit any other cause of action that a person may have against another person who performs an action described by subsection 2.

[PL 2023, c. 298, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 298, §1 (NEW).

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