
SUBSTITUTE HOUSE BILL 1098

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chappell, Chandler, Mastin, Brumsickle, Boldt, Lisk, Schoesler, Robertson, Sehlin, Clements, Foreman, Pennington, Stevens, Delvin and Mielke)

Read first time 03/01/95.

1 AN ACT Relating to false writings or statements concerning the food
2 production industry; amending RCW 4.16.080; adding a new chapter to
3 Title 7 RCW; prescribing penalties; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature declares that the production
6 of agricultural commodities constitutes a large and significant
7 proportion of the Washington economy. Because of the perishable nature
8 of agricultural commodities, even short delays in the marketing of
9 agricultural commodities can cause devastating impacts on agricultural
10 producers and consumers in this state. The legislature therefore
11 recognizes that the impact of a disparaging statement can be as
12 damaging to a business as a defamatory statement.

13 The legislature also finds that once consumers believe that a
14 product is unsafe, the product does not return to the same level of
15 consumption by consumers even when the information that the consumers
16 based their belief upon later proves to be false. The legislature
17 therefore finds that it has a compelling interest to protect the
18 vitality of the agricultural economy and the general welfare of the
19 citizens of this state by allowing producers of agricultural

1 commodities to recover damages for the dissemination of disparaging
2 information regarding any agricultural commodity.

3 NEW SECTION. **Sec. 2.** Unless the context clearly requires
4 otherwise, the definitions in this section apply throughout this
5 chapter.

6 (1) "Disparagement" means dissemination to the public in any manner
7 of any false information regarding the application of any agricultural
8 chemical or process to agricultural commodities or products, or false
9 information alleging any disease to agricultural commodities or
10 products, that is not based on reliable scientific data, that the
11 disseminator knows or should have known to be false, and that causes
12 the consuming public to doubt the safety of any agricultural commodity.
13 Information is false if it is a false factual assertion or an opinion
14 premised upon facts that are false.

15 (2) "Agricultural commodity" means products as defined in RCW
16 15.65.020.

17 NEW SECTION. **Sec. 3.** (1) Any producer of agricultural commodities
18 who suffers damages as a result of another person's disparagement of
19 any such agricultural commodity may bring an action for damages in a
20 court of competent jurisdiction.

21 (2) If a disparaging statement is disseminated with reference to an
22 entire group or class of agricultural commodities, a cause of action
23 arises in favor of each producer of the group or class who is damaged
24 even though the statement is not directed at a particular producer.

25 NEW SECTION. **Sec. 4.** (1) A producer of an agricultural product
26 shall have the burden of proving by a preponderance of the evidence
27 that he or she has been damaged by the dissemination of a disparaging
28 statement. It is unnecessary for the producer to prove the exact
29 amount of damages in order to recover under this section.

30 (2) In a case where damages are awarded under this section, the
31 court shall award to the plaintiff all costs of the litigation,
32 including reasonable attorneys' fees, investigation costs, and court
33 costs.

34 (3) A person who intentionally disseminates disparaging information
35 with the intent to harm agricultural producers shall be liable to the

1 producers for substantial damages without the producer having to prove
2 actual damages.

3 NEW SECTION. **Sec. 5.** Nothing in this chapter may be construed as
4 applying to customary debate among members of the research community or
5 to an opinion or concern of a member of the general public expressed in
6 any news medium in a manner that is open to any member of the general
7 public.

8 NEW SECTION. **Sec. 6.** Nothing in this chapter is intended to
9 abrogate the common law action for product disparagement or defamation
10 of a producer of an agricultural commodity or any other cause of action
11 available.

12 **Sec. 7.** RCW 4.16.080 and 1989 c 38 s 2 are each amended to read as
13 follows:

14 The following actions shall be commenced within three years:

15 (1) An action for waste or trespass upon real property;

16 (2) An action for taking, detaining, or injuring personal property,
17 including an action for the specific recovery thereof, or for any other
18 injury to the person or rights of another not hereinafter enumerated;

19 (3) Except as provided in RCW 4.16.040(2), an action upon a
20 contract or liability, express or implied, which is not in writing, and
21 does not arise out of any written instrument;

22 (4) An action for relief upon the ground of fraud, the cause of
23 action in such case not to be deemed to have accrued until the
24 discovery by the aggrieved party of the facts constituting the fraud;

25 (5) An action against a sheriff, coroner, or constable upon a
26 liability incurred by the doing of an act in his or her official
27 capacity and by virtue of his or her office, or by the omission of an
28 official duty, including the nonpayment of money collected upon an
29 execution; but this subdivision shall not apply to action for an
30 escape;

31 (6) An action against an officer charged with misappropriation or
32 a failure to properly account for public funds intrusted to his or her
33 custody; an action upon a statute for penalty or forfeiture, where an
34 action is given to the party aggrieved, or to such party and the state,
35 except when the statute imposing it prescribed a different limitation:
36 PROVIDED, HOWEVER, The cause of action for such misappropriation,

1 penalty or forfeiture, whether for acts heretofore or hereafter done,
2 and regardless of lapse of time or existing statutes of limitations, or
3 the bar thereof, even though complete, shall not be deemed to accrue or
4 to have accrued until discovery by the aggrieved party of the act or
5 acts from which such liability has arisen or shall arise, and such
6 liability, whether for acts heretofore or hereafter done, and
7 regardless of lapse of time or existing statute of limitation, or the
8 bar thereof, even though complete, shall exist and be enforceable for
9 three years after discovery by aggrieved party of the act or acts from
10 which such liability has arisen or shall arise;

11 (7) All actions for damages for disparagement of agricultural
12 commodities brought under section 3 of this act.

13 NEW SECTION. Sec. 8. Sections 1 through 6 of this act shall
14 constitute a new chapter in Title 7 RCW.

15 NEW SECTION. Sec. 9. If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

19 NEW SECTION. Sec. 10. This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of the
21 state government and its existing public institutions, and shall take
22 effect immediately.

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