

---

**SUBSTITUTE HOUSE BILL 2717**

---

**State of Washington**

**53rd Legislature**

**1994 Regular Session**

**By** House Committee on Agriculture & Rural Development (originally sponsored by Representatives Chappell, Rayburn, Lisk, Mastin, Grant, Schoesler, Brough, Karahalios, Kessler, Foreman, Brumsickle, Kremen, Quall, Forner, Long, Sheahan, Lemmon, Johanson, Moak and Chandler)

Read first time 02/04/94.

1 AN ACT Relating to false writings or statements concerning the food  
2 production industry; amending RCW 4.16.080; adding a new section to  
3 chapter 4.24 RCW; adding a new chapter to Title 7 RCW; prescribing  
4 penalties; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature declares that the production  
7 of agricultural commodities constitutes a large proportion of the  
8 Washington economy and that it is beneficial to the citizens of this  
9 state to protect the vitality of the agricultural economy by providing  
10 a legal claim for relief for producers of agricultural commodities to  
11 recover damages for the disparagement of any agricultural commodity.

12 NEW SECTION. **Sec. 2.** Unless the context clearly requires  
13 otherwise, the definitions in this section apply throughout this  
14 chapter.

15 (1) "Disparagement" means dissemination to the public in any manner  
16 of any false information regarding the application of any agricultural  
17 chemical or process to agricultural commodities that is not based on  
18 reliable scientific data, that the disseminator knows or should have

1 known to be false, and that causes the consuming public to doubt the  
2 safety of any agricultural commodity. "Disparagement" does not include  
3 dissemination to the public of information of any form by a food or  
4 food product wholesaler or retailer, their employees or owners.

5 (2) "Agricultural commodity" means products as defined in RCW  
6 15.65.020.

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

11 (2) In a case where damages are awarded under this section, the  
12 court shall award to the plaintiff all costs of the litigation,  
13 including reasonable attorneys' fees, investigation costs, and court  
14 costs. If the defendant's disparagement was malicious, the court shall  
15 also impose on the liable party a civil fine of three times actual  
16 damages to be paid to the plaintiff.

17 (3) Nothing in this section or section 1 of this act may be  
18 construed as applying to customary debate among members of the research  
19 community or to an opinion or concern of a member of the general public  
20 expressed in any news medium in a manner that is open to any member of  
21 the general public.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 4.24 RCW  
23 to read as follows:

24 In any civil action where damages are awarded for libel or slander  
25 involving a farm or a farm activity, the court shall award the  
26 plaintiff all costs of the litigation, including reasonable attorneys'  
27 fees, investigation costs, and court costs. If the defendant's libel  
28 or slander was malicious, the court shall also impose on the liable  
29 party a civil fine of three times actual damages to be paid to the  
30 plaintiff.

31 **Sec. 5.** RCW 4.16.080 and 1989 c 38 s 2 are each amended to read as  
32 follows:

33 The following actions shall be commenced within three years:

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

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

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

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

10 (5) An action against a sheriff, coroner, or constable upon a  
11 liability incurred by the doing of an act in his official capacity and  
12 by virtue of his office, or by the omission of an official duty,  
13 including the nonpayment of money collected upon an execution; but this  
14 subdivision shall not apply to action for an escape;

15 (6) An action against an officer charged with misappropriation or  
16 a failure to properly account for public funds intrusted to his  
17 custody; an action upon a statute for penalty or forfeiture, where an  
18 action is given to the party aggrieved, or to such party and the state,  
19 except when the statute imposing it prescribed a different limitation:  
20 PROVIDED, HOWEVER, The cause of action for such misappropriation,  
21 penalty or forfeiture, whether for acts heretofore or hereafter done,  
22 and regardless of lapse of time or existing statutes of limitations, or  
23 the bar thereof, even though complete, shall not be deemed to accrue or  
24 to have accrued until discovery by the aggrieved party of the act or  
25 acts from which such liability has arisen or shall arise, and such  
26 liability, whether for acts heretofore or hereafter done, and  
27 regardless of lapse of time or existing statute of limitation, or the  
28 bar thereof, even though complete, shall exist and be enforceable for  
29 three years after discovery by aggrieved party of the act or acts from  
30 which such liability has arisen or shall arise;

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

33 NEW SECTION. Sec. 6. Sections 1 through 3 of this act shall  
34 constitute a new chapter in Title 7 RCW.

35 NEW SECTION. Sec. 7. This act is necessary for the immediate  
36 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take  
2 effect immediately.

--- END ---