

HOUSE BILL REPORT

HB 2858

*As Reported By House Committee on:
Agriculture & Rural Development*

Title: An act relating to the disparagement of agricultural food products.

Brief Description: Creating a legal claim for disparagement of agricultural food products.

Sponsor(s): Representatives Rayburn, Nealey, McLean, Rasmussen and Haugen.

Brief History:

Reported by House Committee on:
Agriculture & Rural Development, February 6, 1992, DPS.

**HOUSE COMMITTEE ON
AGRICULTURE & RURAL DEVELOPMENT**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 11 members: Representatives Rayburn, Chair; Kremen, Vice Chair; Nealey, Ranking Minority Member; P. Johnson, Assistant Ranking Minority Member; Chandler; Grant; R. Johnson; Lisk; McLean; Rasmussen; and Roland.

Staff: Kenneth Hirst (786-7105).

Background: In general, a person injured in his or her business, trade, or profession by the publication of a defamatory and false statement may bring a defamation action to recover damages.

Summary of Substitute Bill: If a producer of a food product or a wholesaler or retailer of the product suffers damages resulting from another person's dissemination of certain false information to the public regarding the product, the producer, wholesaler or retailer may bring a court action for damages. The action may be brought if: (1) the information disseminated is false information regarding the application of an agricultural chemical or process to the product and not based on reliable scientific data; (2) the person who disseminated such information knows or should know that the information is false; and (3) the information causes the consuming public to doubt the safety of the

product. The action for damages must be commenced within three years.

In a case where such damages are awarded, the court shall award the plaintiff all costs of the litigation including reasonable attorneys' fees, investigation costs, and court costs. The court shall also impose on any liable party a civil fine of not more than \$100,000 to be paid to the plaintiff.

Substitute Bill Compared to Original Bill: The nature of the disseminated, false information regarding a food product for which an action may be brought is narrowed by the substitute bill. The substitute bill also adds provisions which permit an action to recover damages to be filed if a wholesaler or retailer of a food product suffers damages in the manner provided by the bill for producers of the product.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: (1) Free speech does not apply to falsehoods; this bill protects agricultural products from the type of activity which recently cost the agricultural industry in this state \$130 million. (2) The bill ensures that, if producers are awarded damages, they will also recover the high costs involved in litigating such cases. (3) Those who yell "fire" in a crowded theater should be held accountable for their actions.

Testimony Against: None.

Witnesses: Senator Jesernig (in favor); Kent Lebsack, Washington Cattlemen's Association (in favor); and Jeff Cox, Washington Retail Association (in favor).