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HOUSE BILL 2858

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State of Washington

52nd Legislature

1992 Regular Session

By Representatives Rayburn, Nealey, McLean, Rasmussen, Haugen and Inslee

Read first time 01/29/92. Referred to Committee on Agriculture & Rural Development.

1 AN ACT Relating to the disparagement of agricultural food products;  
2 amending RCW 4.16.080; adding a new chapter to Title 7 RCW; prescribing  
3 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  
6 production of agricultural food products constitutes a large proportion  
7 of the Washington economy and that it is beneficial to the citizens of  
8 this state to protect the vitality of the agricultural economy by  
9 providing a legal claim for relief for producers of agricultural food  
10 products to recover damages for the disparagement of any agricultural  
11 food product.

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

4        (1) "Disparagement" means dissemination to the public in any manner  
5 of any false information that is not based on reliable scientific facts  
6 and scientific data, that the disseminator knows or should have known  
7 to be false, and that casts doubt on the safety of any agricultural  
8 food product to the consuming public.

9        (2) "Agricultural food product" means food as defined in RCW  
10 69.04.008.

11       NEW SECTION.    **Sec. 3.**        (1) Any producer of agricultural food  
12 products who suffers damages as a result of another person's  
13 disparagement of any such agricultural food product may bring an action  
14 for damages in a court of competent jurisdiction.

15        (2) In a case where damages are awarded under this section, the  
16 court shall award to the plaintiff all costs of the litigation,  
17 including reasonable attorneys' fees, investigation costs, and court  
18 costs, and shall impose on any liable party a civil fine of not more  
19 than one hundred thousand dollars to be paid to the plaintiff.

20        **Sec. 4.**    RCW 4.16.080 and 1989 c 38 s 2 are each amended to read as  
21 follows:

22        The following actions shall be commenced within three years:

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

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

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

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

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

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

28 (7) All actions for damages for disparagement of agricultural food  
29 products brought under section 3 of this act.

1        NEW SECTION.    **Sec. 5.**        Sections 1 through 3 of this act shall  
2    constitute a new chapter in Title 7 RCW.

3        NEW SECTION.    **Sec. 6.**        This act is necessary for the immediate  
4    preservation of the public peace, health, or safety, or support of the  
5    state government and its existing public institutions, and shall take  
6    effect immediately.