

HOUSE BILL REPORT

HB 2717

As Reported By House Committee On:
Agriculture & Rural Development

Title: An act relating to false writings or statements concerning the food production industry.

Brief Description: Providing increased penalties for false writings or statements concerning farms or agricultural commodities.

Sponsors: Representatives Chappell, Rayburn, Lisk, Mastin, Grant, Schoesler, Brough, Karahalios, Kessler, Foreman, Brumsickle, Kremen, Quall, Forner, Long, Sheahan, Lemmon, Johanson, Moak and Chandler.

Brief History:

Reported by House Committee on:
Agriculture & Rural Development, February 3, 1994, DPS.

HOUSE COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Rayburn, Chair; Kremen, Vice Chair; Chandler, Ranking Minority Member; Schoesler, Assistant Ranking Minority Member; Chappell; Grant; Lisk; McMorris 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 an agricultural commodity suffers damages resulting from another person's dissemination of false information to the public regarding the commodity, the producer 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 and is not based on reliable scientific facts and data; (2) the person who disseminated it knows or should know that the information is false; and (3) the information casts doubt on the safety of the commodity to the consuming public. The

action for damages resulting from such disparagement must be commenced within three years. This cause of action does not apply to customary debate among researchers or to an opinion of a member of the general public expressed in a news medium open to a member of the general public. Nor does it apply to the dissemination of information by a food wholesaler or retailer or by the employees or owners of such an enterprise.

In a case where such damages are awarded, the court must award the plaintiff all costs of the litigation including reasonable attorneys' fees, investigation costs and court costs. If the defendant's disparagement was malicious, the court must also impose on the liable party a civil fine, to be paid to the plaintiff, of three times actual damages.

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

Substitute Bill Compared to Original Bill: The substitute bill identifies instances in which a cause of action for disparagement does not apply and restricts treble damages to instances involving malice.

Fiscal Note: Not requested.

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

Testimony For: Unproven information is presented as scientific fact. In the past 25 years, food safety has increased but public concern over food safety has grown. In the case of Alar, the Natural Resources Defense Council did not use scientifically credible methods but caused fear and alarm. The panic cost producers and suppliers in this state \$500 million and over 100 family farms closed. This bill gives growers legal standing.

Testimony Against: Providing a cause of action would be sufficient. This bill is unconstitutional, duplicative and too broad, and contains vague terms. It is not based on the common law principle of malice. It would cut off debate on emerging data and research and reduce reporting. The public's health and welfare benefits from aggressive reporting. A number of products and processes are emerging that are difficult to assess.

Witnesses: In Favor: Chris Cheney and Harvey Beck, Washington State Farm Bureau; Heather Rainey, Washington Association for Animal Welfare; Ron Averill; and Bob Brody, Washington Association of Apple Growers. In Favor with Amendment: Lisa Thatcher, Washington State Food Dealers. Opposed: Mark Allen, Washington State Association of Broadcasters; Diana Kramer, Washington Newspaper Publishers Association; and Rowland Thompson, Allied Daily Newspapers of Washington.