

HOUSE BILL NO. 1176

Introduced by

Representatives Nicholas, Nichols, Olson

Senators Nalewaja, Wanzek, Tomac

- 1 A BILL for an Act to provide for damages for defamation of agricultural products and
2 management practices; and to provide a penalty.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. Definitions.** As used in this Act, unless the context otherwise requires:

- 5 1. "Agricultural producer" means any person engaged in growing, raising, distributing,
6 or selling an agricultural product, or manufacturing the product for consumer use.
- 7 2. "Agricultural product" means any plant or animal, or the product of a plant or
8 animal, grown, raised, distributed, or sold for a commercial purpose; the term also
9 includes any agricultural practices used in the production of such products.
- 10 3. "Defamatory statement" means intentional words or conduct which reflects on the
11 character or reputation of another or upon the quality, safety, or value of another's
12 property in a manner which tends:
- 13 a. To lower another in the estimation of the community;
14 b. To deter third persons from dealing with another; or
15 c. To deter third persons from buying the products of another.
- 16 4. "Disseminate" means to publish or otherwise convey a statement to a third party
17 but does not include repeating a false and defamatory statement made by another
18 unless the person repeating the statement knew or should have known the
19 statement was false.
- 20 5. "False statement" means a statement that either expressly includes a fact or
21 implies a fact as justification for an opinion and the fact is not based upon
22 reasonable and reliable scientific inquiry, data, or facts.
- 23 6. "Knowing the statement to be false" means the communicator knew or should have
24 known that the statement was false.

7. "Malice" means an intent to vex, injure, or annoy another.

SECTION 2. Civil liability for defamation of agricultural producers. A person who willfully or purposefully disseminates a false and defamatory statement, knowing the statement to be false, regarding an agricultural producer or an agricultural product under circumstances in which the statement may be reasonably expected to be believed and the agricultural producer is damaged as a result, has a claim for relief for damages and other relief allowed by law in a court of competent jurisdiction, including injunctive relief and compensatory and exemplary damages. If it is found by a court or jury that a person has maliciously disseminated a false and defamatory statement regarding an agricultural product or agricultural producer, the agricultural producer may recover up to three times the actual damages proven and the court must order that the agricultural producer recover costs, disbursements, and actual reasonable attorneys' fees incurred in the action.

SECTION 3. Persons entitled to claim for relief. In addition to the provisions of section 2 of this Act, if a false and defamatory statement is disseminated referring to an entire group or class of agricultural producers or products, a cause of action arises in favor of each producer of the group or class, regardless of the size of the group or class. Each producer's cause of action in such case is limited to the actual damages of the producer, injunctive relief, and exemplary damages.

SECTION 4. Statute of limitations. Any civil action for damages under this Act must be commenced within two years from the date of the false and defamatory statement.