

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

HOUSE BILL NO. 1176
(Representatives Nicholas, Nichols, Olson)
(Senators Nalewaja, Wanzek, Tomac)

AN ACT to provide for damages for defamation of agricultural products and management practices; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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, is liable to the agricultural producer 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 and any association representing an agricultural producer, regardless of the size of the group or

class. Each cause of action by a producer or an association representing an agricultural producer 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.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1176.

House Vote: Yeas 84 Nays 12 Absent 1

Senate Vote: Yeas 35 Nays 11 Absent 3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,
at _____ o'clock _____ M.

Secretary of State