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LAWSUITS FOR DISPARAGING AGRICULTURAL PRODUCTS

House Bill 4660

Sponsor: Rep. Allen Lowe

Committee: Agriculture

Complete to 4-28-97

A SUMMARY OF HOUSE BILL 4660 AS INTRODUCED 4-22-97

The bill would add a new section to the Revised Judicature Act that would create a cause of action (i.e. allow lawsuits) for "intentionally disparaging" agricultural products ("grown, raised, produced, distributed, or sold within this state"), where "disparag[ing] an agricultural product" would be defined to mean "to disseminate to the public in any manner information about an agricultural product that directly indicate[d] that the agricultural product [was] not safe for human consumption; that, at the time of dissemination, the person disseminating kn[e]w [was] inaccurate; and that [was] not based on reasonable and reliable scientific inquiry, facts, or data."

More specifically, the bill would make a person who intentionally disparaged an agricultural product liable in a civil action for damages and for other relief that the court considered important. A civil suit under the bill could not be brought more than two years after the last disparagement of the agricultural product by the person liable for the disparagement.

Damages. If the court found that someone had disparaged an agricultural product, it would have to award three times the amount of the actual damages.

If an association representing producers recovered money damages for its producer members in a lawsuit brought under the bill, the court would be required to order the association to submit a plan for distributing the money to the association and its producer members included in the judgment. The court could accept or modify an association's plan when ordering the distribution of the money damages.

Who could sue. Producers ("a person who gr[e]w, raise[d], produce[s], distribute[d], or [sold] an agricultural product") who suffered damages, associations representing producers who suffered damages, and the attorney general (on behalf of the state or at a state department's request), could bring civil suits for such damages.

If an association representing producers brought an action under the bill, it would be required to notify each producer member that suffered or that might have suffered damages compensable under the bill. A producer who was represented by an association that was suing under the bill could appear through the producer's own attorney or could ask to be excluded from the lawsuit. The court would have to exclude a producer who asked to be excluded from a lawsuit brought by an association. If an association sued under the bill, a judgment (whether favorable or not) would include each of the association's producer members who had received notice and

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had not requested exclusion, whether or not a producer made an appearance through his or her own attorney.

An association's notice to its producer members that it was suing under the bill would have to say that the court would exclude a producer member if, by a specified date, the producer member requested exclusion; that a producer member not requesting exclusion could appear through his or her own attorney; and that a judgment in the lawsuit, whether favorable or not, included each of the producer members that received notice and that didn't request exclusion, whether or not he or she made an appearance through his or her own attorney.

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