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Agriculture

HOUSE FILE 389  
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and MAY

*w/d as sponsor: Koenigs.  
Mertz - Thomas - May  
Mundie, Heaton 4.17.97 3-19 FEB 4-1*

Passed House, Date \_\_\_\_\_

Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to the defamation of persons and products  
2 relating to agricultural production, and providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 389

1 Section 1. FINDINGS. The general assembly finds and  
2 declares that the production of agricultural products  
3 constitutes an important and significant portion of this  
4 state's economy as well as providing the basis of the culture  
5 and customs of this state. The general assembly therefore  
6 determines that it is imperative to protect the vitality of  
7 the agricultural economy of this state by providing a cause of  
8 action for producers, researchers, and industries involved in  
9 agriculture and to hold persons criminally liable for the  
10 defamation of Iowa producers, researchers, or industries and  
11 their agricultural products.

12 Sec. 2. NEW SECTION. 673.1 SHORT TITLE.

13 This chapter is known and shall be cited as the "Iowa  
14 Agricultural Food Products Act".

15 Sec. 3. NEW SECTION. 673.2 DEFINITIONS.

16 As used in this chapter, unless the context otherwise  
17 requires:

18 1. "Aggrieved party" means a producer, researcher, or  
19 industry.

20 2. "Defamation" means information disseminated by a person  
21 under circumstances in which the information may be reasonably  
22 expected to be believed, if the information is unreliable or  
23 not based on scientific facts or scientific data, and the  
24 person knows or fails to take reasonable care to know this,  
25 and if any of the following applies:

26 a. The information reflects upon the character or  
27 reputation of an aggrieved party or upon the quality, safety,  
28 or value of an aggrieved party's product which tends to do any  
29 of the following:

30 (1) Harm the aggrieved party's reputation or cast  
31 suspicion on the aggrieved party's character in the estimation  
32 of the community.

33 (2) Deter a third person from doing business with the  
34 aggrieved party.

35 (3) Deter a third person from purchasing a product of the

1 aggrieved party.

2 (4) Cast an aggrieved party in a negative light in the  
3 eyes of the general public.

4 b. The information states or implies any of the following:

5 (1) A product is not safe for consumption or use by the  
6 public.

7 (2) A generally accepted agricultural or management  
8 practice makes a product unsafe for consumption by the public.

9 c. The person disseminating the information intends to  
10 cause harm or disparage an aggrieved party who is using  
11 generally accepted agricultural or management practices during  
12 the normal course of business.

13 3. "Disseminate" means to state, publish, or otherwise  
14 convey information to another person.

15 4. "Generally accepted agricultural or management  
16 practice" means a procedure used in the production of a  
17 product, including a procedure used in agronomy or animal  
18 husbandry, such as tillage; the application of fertilizers or  
19 crop enhancements; crop protection; irrigation; and the  
20 feeding, transporting, and providing for shelter, care, and  
21 health practices for livestock or poultry.

22 5. "Industry" means a person organized under the laws of  
23 this state as a corporation, association, or other entity  
24 whose purpose is to represent, promote, or engage in other  
25 activities to enhance the interests of a number of producers.

26 6. "Malice" means an intent to vex, injure, defame, annoy,  
27 or cause another person to be held in an undesirable light by  
28 another person.

29 7. "Producer" means a person who is engaged in growing or  
30 raising a product in this state.

31 8. "Product" means a product of agriculture or  
32 aquaculture, including food or fiber produced from crops or  
33 livestock, that is sold or distributed in a form that will  
34 perish or decay beyond a marketable state within a certain  
35 period of time.

1 9. "Researcher" means a person who is engaged in studying,  
2 developing, exploring, or promoting new, improved, refined, or  
3 additional technologies, activities, or practices which are  
4 intended to improve, promote, support, or otherwise enhance  
5 products, producers, or industries in the state.

6 Sec. 4. NEW SECTION. 673.3 CIVIL ACTION.

7 1. a. An aggrieved party who suffers damage as a result  
8 of another person's defamation has a cause of action for  
9 damages and any other appropriate relief as provided in this  
10 chapter. This chapter does not preclude a person from  
11 bringing a cause of action based on another theory of law.

12 b. If an entire group or class of producers are aggrieved,  
13 a cause of action shall arise in favor of each producer of the  
14 group or class, regardless of the size of the group or class.  
15 Each producer is entitled to receive actual and punitive  
16 damages alleged in the cause of action as provided in section  
17 673.4.

18 2. A person shall be liable to an aggrieved party for  
19 actual damages caused by the person who defames an aggrieved  
20 party. However, if the statement is made with malice, the  
21 person shall also be liable to the aggrieved party for  
22 punitive damages in an amount equal to not more than three  
23 times the amount received in actual damages.

24 3. An aggrieved party may seek injunctive relief by  
25 petitioning the court to restrain a defendant from  
26 disseminating statements regarding an aggrieved party.

27 4. A person who is a losing party in a cause of action  
28 shall be liable to the person who is the prevailing party for  
29 all costs and expenses incurred by the prevailing party,  
30 including reasonable attorney fees.

31 Sec. 5. NEW SECTION. 673.4 CRIMINAL OFFENSE.

32 A person who defames a product of a producer, researcher,  
33 or industry with malice shall be guilty of an aggravated  
34 misdemeanor. Notwithstanding section 903.1, the maximum  
35 penalty shall be imprisonment not to exceed one year and in

1 addition a maximum fine of ten thousand dollars for a first  
2 conviction, twenty-five thousand dollars for a second  
3 conviction, and one hundred thousand dollars for each  
4 subsequent conviction.

5 Sec. 6. Section 614.1, Code 1997, is amended by adding the  
6 following new subsection:

7 NEW SUBSECTION. 14. DEFAMATION. An action for damages  
8 for defamation of an aggrieved party as provided under chapter  
9 673 must be commenced within two years from the date of the  
10 incident giving rise to the cause of action.

11 Sec. 7. EFFECTIVE DATE. This Act, being deemed of  
12 immediate importance, takes effect upon enactment.

13 EXPLANATION

14 This bill prohibits the defamation of agricultural  
15 products, producers, researchers, and industry associations by  
16 providing for a cause of action and providing for criminal  
17 penalties. The bill creates a new Code chapter 673 to provide  
18 for defamation and specifically does all of the following:

19 The bill provides for findings by the general assembly  
20 which state the importance of agricultural production and  
21 products to the state's economy, and declares that it is  
22 imperative to protect the vitality of the agricultural economy  
23 of this state by providing a cause of action for producers,  
24 researchers, and industries involved in agriculture as  
25 aggrieved parties and holds persons criminally liable for the  
26 defamation of Iowa producers, researchers, or industries and  
27 their agricultural products.

28 New Code section 673.1 provides that the new chapter is  
29 referred to as the "Iowa Agricultural Food Products Act".

30 New Code section 673.2 provides for definitions.

31 Specifically, it provides for the elements of defamation. It  
32 provides that defamation means the dissemination of  
33 information which may be reasonably expected to be believed,  
34 if the person disseminating the information knows, or should  
35 know, by taking reasonable care to assure that the information

1 is unreliable or not based on scientific facts or scientific  
2 data. In addition, (1) the information must reflect upon the  
3 character or reputation of an aggrieved party or upon the  
4 quality, safety, or value of an aggrieved party's product; or  
5 (2) the information must state or imply that the product is  
6 unsafe for consumption or use or that a generally accepted  
7 agricultural or management practice makes a product unsafe; or  
8 (3) the person disseminating the information must intend to  
9 cause harm or disparage an aggrieved party who is using  
10 generally accepted agricultural or management practices during  
11 the normal course of business.

12 New Code section 673.3 provides that an aggrieved party who  
13 suffers damage as a result of another person's defamation has  
14 a civil cause of action for damages. The bill provides that  
15 this does not preclude a person from bringing a cause of  
16 action based on another theory of law. The bill provides that  
17 if an entire group or class of producers are aggrieved, a  
18 cause of action arises in favor of each producer of the group  
19 or class. The bill provides that a person is liable to an  
20 aggrieved party for actual damages caused by the person for  
21 defamation. If the statement is made with malice, the person  
22 shall also be liable to the aggrieved party for punitive  
23 damages in an amount equal to not more than three times the  
24 amount received in actual damages. The bill provides that an  
25 aggrieved party may also seek injunctive relief. It provides  
26 that a person who is a losing party is liable to pay for all  
27 costs and expenses incurred by the prevailing party, including  
28 reasonable attorney fees.

29 New Code section 673.4 provides that a person who  
30 maliciously defames a producer, researcher, or industry or  
31 their products is guilty of an aggravated misdemeanor. The  
32 bill provides that the maximum penalty is imprisonment not to  
33 exceed one year and in addition a maximum fine of \$10,000 for  
34 a first conviction, \$25,000 for a second conviction, and  
35 \$100,000 for each subsequent conviction.

1 Code section 614.1 is amended to provide that an action for  
2 damages for defamation must be commenced within two years from  
3 the date of the incident giving rise to the cause of action.

4 The bill takes effect upon enactment.

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