
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2731 Session of
1994

INTRODUCED BY MILLER, CALTAGIRONE, PERZEL, RUDY, FICHTER, LYNCH,
SANTONI, PHILLIPS, TRUE, CESSAR, KREBS, ARGALL, HERSHEY,
SATHER, LEH, HASAY, HENNESSEY, ROHRER, NICKOL, PETTIT, ZUG,
GEIST, TRELLO, BROWN, SAYLOR AND SEMMEL, APRIL 19, 1994

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
APRIL 19, 1994

AN ACT

1 Providing for a cause of action for procedures of perishable
2 food products or commodities to recover damages for the
3 disparagement of any perishable food product or commodity and
4 for related purposes.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the
9 Antidisparagement Law.

10 Section 2. Declaration of policy.

11 The General Assembly finds, determines and declares that the
12 production of perishable food products and commodities
13 constitutes an important and significant portion of the State
14 economy and that it is imperative to protect the vitality of the
15 agricultural and aquacultural economy for the citizens of this
16 Commonwealth by providing a cause of action for producers,
17 marketers or sellers to recover damages for the disparagement of

1 any perishable food product or commodity.

2 Section 3. Definitions.

3 The following words and phrases when used in this act shall
4 have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Disparagement." The publication to a third party of a false
7 factual statement where all of the following are met:

8 (1) The published statement relates to or concerns the
9 plaintiff's specific perishable agricultural food product or
10 commodity.

11 (2) The statement clearly imputes the safety of the
12 product or commodity.

13 (3) The defendant intended the publication to cause harm
14 to the plaintiff's pecuniary interest or either recognized or
15 reasonably should have recognized that it was likely to do
16 so.

17 (4) The defendant made the statement with actual malice,
18 that is, he knew that the statement was false or acted in
19 reckless disregard of its truth or falsity.

20 (5) The statement does in fact cause the plaintiff
21 pecuniary loss.

22 "Perishable food product or commodity." Any agricultural or
23 aquacultural food product which is sold or distributed in a form
24 that will perish or decay beyond marketability within a short
25 period of time, including any agricultural or aquacultural
26 practice used in the production of such a product or commodity.

27 "Person." An individual, partnership, corporation or
28 association doing business in this Commonwealth, including not-
29 for-profit and nonprofit organizations.

30 "Producer of a perishable food product or commodity." Any

1 person engaged in growing or raising a perishable food product
2 or commodity, or marketing or manufacturing such product or
3 commodity for consumer use.

4 Section 4. Cause of action.

5 Any producer of perishable food products or commodities who
6 suffers damage as a result of another person's disparagement of
7 any such perishable food product or commodity shall have a cause
8 of action for compensatory and punitive damages.

9 Section 5. Limitations of action.

10 Any civil action for damages for disparagement of perishable
11 food products or commodities shall be commenced within two years
12 after the cause of action accrues.

13 Section 6. Construction of act.

14 This act shall not be deemed to abrogate or lessen any
15 existing remedy accorded by statute or court decision.

16 Section 7. Applicability.

17 This act shall apply to any disparaging statement published
18 or otherwise communicated after the effective date of this act.

19 Section 8. Effective date.

20 This act shall take effect immediately.