



1997 ASSEMBLY BILL 56

February 3, 1997 - Introduced by Representatives HAHN, OTT, BRANDEMUEHL, ALBERS, MUSSER, HASENOHRL, ZUKOWSKI, AINSWORTH, M. LEHMAN, HARSDORF, GUNDERSON, GOETSCH, FREESE, SKINDRUD, GROTHMAN, SERATTI and OWENS, cosponsored by Senators ZIEN, SCHULTZ and HUELSMAN. Referred to Committee on Agriculture.

1 **AN ACT to create** 895.053 of the statutes; **relating to:** false statements
2 concerning perishable agricultural food products.

Analysis by the Legislative Reference Bureau

This bill gives the producer or shipper of a perishable agricultural food product, or an organization representing producers or shippers, a cause of action against a person who makes a statement to the public or to communications media that the perishable agricultural food product is not safe for human consumption if the statement is not based on reliable scientific facts or data, the statement is false, the person making the statement knew or should have known that the statement was false and the producer, shipper or organization suffers damages as a result of the statement. Communications media are not liable for damages under the bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 895.053 of the statutes is created to read:
4 **895.053 False claims concerning perishable agricultural food**
5 **products. (1)** In this section:
6 (a) "Communications media" means newspapers, magazines, radio stations
7 and television stations and employes and agents of those entities.

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1 (b) "Perishable agricultural food product" means an agricultural or
2 aquaculture product that is intended for human consumption and that is sold or
3 distributed in a form that will spoil or decay within a reasonable period.

4 (c) "Producer" means a person who grows or processes a perishable agricultural
5 food product.

6 (d) "Shipper" means a person who ships, transports, sells or markets a
7 perishable agricultural food product under the person's registered trademark or
8 label or a person who first markets a perishable agricultural food product on behalf
9 of a producer.

10 **(2)** (a) Except as provided in par. (am), a person is liable for damages under par.

11 (b) if any of the following applies:

12 1. The person disseminated to the public a statement that a perishable
13 agricultural food product is not safe for human consumption, the statement was not
14 based on reliable scientific facts or data, the statement was false and the person
15 knew or should have known that the statement was false.

16 2. The person made to communications media a statement that a perishable
17 agricultural food product is not safe for human consumption, communications media
18 disseminated the statement to the public, the statement was not based on reliable
19 scientific facts or data, the statement was false and the person knew or should have
20 known that the statement was false.

21 (am) Communications media are not subject to liability under par. (a).

22 (b) A producer, a shipper or an organization that represents producers or
23 shippers that suffers damages as a result of the dissemination to the public of a
24 statement for which a person is liable under par. (a) may bring an action for damages
25 and any other appropriate relief.

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1 (c) Notwithstanding s. 814.04 (1), in any action brought under this section the
2 court may award the prevailing party reasonable attorney fees.

3 **(3)** An action under this section shall be commenced within 2 years after the
4 statement is disseminated or be barred.

5 **SECTION 2. Initial applicability.**

6 (1) This act first applies to statements disseminated on the effective date of this
7 subsection.

8 **SECTION 3. Effective date.**

9 (1) This act takes effect on the first day of the 3rd month beginning after
10 publication.

11 (END)