



Ohio Revised Code

Section 2307.81 Dissemination of false information about the safety of Ohio's food supply.

Effective: May 8, 1996

Legislation: House Bill 352 - 121st General Assembly

(A) The general assembly finds that the production of agricultural and aquacultural food products constitutes an important and significant portion of the economy of this state. Further, the general assembly finds that the dissemination in this state of false information about the safety of Ohio's food supply would be extremely detrimental to Ohio's economy, the welfare of the consuming public, and the producers of agricultural and aquacultural food products. Accordingly, it is the intent of the general assembly in enacting section 2307.81 of the Revised Code to benefit all the citizens of this state and protect the vitality of the agricultural and aquacultural economy by providing a cause of action for producers of perishable agricultural and aquacultural food products to recover damages for the disparagement of such food products.

(B) As used in this section:

(1) "Disparagement" means the dissemination to the public in any manner of any false information that a perishable agricultural or aquacultural food product is not safe for human consumption.

(2) "False information" means any information that is not based upon reasonable and reliable scientific inquiry, facts, or data, and that directly indicates that a perishable agricultural or aquacultural product is not safe for human consumption.

(3) "Perishable agricultural or aquacultural food product" means any food product or commodity of agriculture or aquaculture that is grown, raised, produced, distributed, or sold within this state in a form that will perish or decay beyond marketability within a reasonable period of time.

(4) "Producer" means a person who grows, raises, produces, distributes, or sells a perishable agricultural or aquacultural food product.

(C) Any producer of perishable agricultural or aquacultural food products that suffers damage as a



result of another person's disparagement of any such perishable agricultural or aquacultural food product or any association representing producers of perishable agricultural or aquacultural food products that have suffered damage as a result of another person's disparagement of any such perishable agricultural or aquacultural food product may bring an action for damages and for any other relief a court having jurisdiction considers appropriate. If the plaintiff establishes that the disseminator knew or should have known that the information was false, damages may be awarded, including compensatory and punitive damages, reasonable attorney's fees, and costs of the action.

(D) In any action maintained under division (C) of this section by an association representing producers of perishable agricultural or aquacultural food products, the court shall direct written individual notice to the members of the association that have suffered damages as a result of another person's disparagement of any such perishable agricultural or aquacultural food product. The notice shall advise each member that:

- (1) The court will exclude the member from the action if the member so requests by a specified date;
- (2) The judgment, whether favorable or not, will include all members who have received the notice and who do not request exclusion;
- (3) Any member who does not request exclusion may enter an appearance through the member's counsel.

The judgment in an action maintained under division (C) of this section by an association representing producers of perishable agricultural or aquacultural food products, whether favorable to the association, shall include and specify or describe those members to whom the notice provided in division (D) of this section was directed, and who did not request exclusion. If the judgment is favorable to the association, the court shall require the association to submit a plan for the distribution to the association and the members of the association included in the judgment of any award of monetary damages under division (C) or (E) of this section. The court may accept or modify the plan of the association and shall enter a written order for the distribution of any award of monetary damages.

(E) Notwithstanding any contrary provisions of section 2315.21 of the Revised Code, any person



who intentionally disparages a perishable agricultural or aquacultural food product for the purpose of harming the producers of that product, in addition to any award of punitive damages, is liable for damages in an amount up to three times the amount of compensatory damages awarded under division (C) of this section.

(F) Notwithstanding any contrary statute of limitations prescribed by section 2305.11 of the Revised Code, an action under division (C) of this section shall be commenced no later than two years after the last disparagement of the perishable agricultural or aquacultural food product occurs.

(G) The cause of action established in this section is in addition to all other causes of action available under common law or under any other section of the Revised Code.