

State of Idaho

IDAHO CODE

CODE OF CIVIL PROCEDURE

TITLE 6. ACTIONS IN PARTICULAR CASES

CHAPTER 20. DISPARAGEMENT OF AGRICULTURAL FOOD PRODUCTS (1992)

§ 6-2001. Legislative intent

The legislature hereby finds, determines and declares that the production of agricultural food products constitutes a large proportion of the Idaho economy and that it is beneficial to the citizens of this state to protect the vitality of the agricultural economy by providing a legal cause of action for producers of perishable agricultural food products to recover damages for the disparagement of any perishable agricultural food product.

§ 6-2002. Definitions

As used in this chapter:

- (1) "Disparagement" means the publication to a third party of a false factual statement; and
 - (a) The published statement is of and concerning the plaintiff's specific perishable agricultural food product;
 - (b) The statement clearly imputes the safety of the product;
 - (c) The defendant intended the publication to cause harm to the plaintiff's pecuniary interest, or either recognized or reasonably should have recognized that it was likely to do so;
 - (d) The defendant made the statement with actual malice, that is, he knew that the statement was false or acted in reckless disregard of its truth or falsity; and
 - (e) The statement does in fact cause the plaintiff pecuniary loss.
- (2) "Perishable agricultural food product" means an agricultural product as defined in section 22-2602, Idaho Code, intended for human consumption which is sold or distributed in a form that will perish or decay beyond marketability within a period of time.

§ 6-2003. Disparagement of perishable agricultural food products -- Right of action for damages

(1) A producer of perishable agricultural food products who suffers actual damages as a result of another person's disparagement of the producer's product may bring an action for actual damages in a court of competent jurisdiction.

(2) The plaintiff shall bear the burden of proof and persuasion as to each element of the cause of action and must prove each element by clear and convincing evidence.

(3) The plaintiff may only recover actual pecuniary damages. Neither presumed nor punitive damages shall be allowed.

(4) The disparaging factual statement must be clearly directed at a particular plaintiff's product. A factual statement regarding a generic group of products, as opposed to a specific producer's product, shall not serve as the basis for a cause of action.

(5) Notwithstanding any limitation contained in chapter 2, title 5, Idaho Code, an action under the provisions of this chapter must be commenced within two (2) years after the cause of action accrues and not thereafter.

(6) This statutory cause of action is not intended to abrogate the common law action for product disparagement or any other cause of action otherwise available.