



HOUSE BILL No. 5808

April 25, 1996, Introduced by Reps. Gnodtke, Nye, Llewellyn, McManus, Hill, Gernaat, Randall, Weeks, Hammerstrom, Horton, Geiger, Green and Perricone and referred to the Committee on Agriculture and Forestry.

A bill to amend Act No. 236 of the Public Acts of 1961, entitled as amended
"Revised judicature act of 1961,"
as amended, being sections 600.101 to 600.9947 of the Michigan Compiled Laws, by adding section 2963.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 236 of the Public Acts of 1961, as
2 amended, being sections 600.101 to 600.9947 of the Michigan
3 Compiled Laws, is amended by adding section 2963 to read as
4 follows:

5 SEC. 2963. (1) THE LEGISLATURE FINDS THAT AGRICULTURAL PRO-
6 DUCTS CONSTITUTE AN IMPORTANT AND SIGNIFICANT PORTION OF THIS
7 STATE'S ECONOMY; THAT DISPARAGEMENT OF AGRICULTURAL PRODUCTS IS
8 EXTREMELY DETRIMENTAL TO THIS STATE'S ECONOMY, THE CONSUMING
9 PUBLIC'S WELFARE, AND AGRICULTURAL PRODUCT PRODUCERS; AND THAT,

1 THEREFORE, THERE IS A NEED TO PROVIDE THE PUBLIC AND AGRICULTURAL
2 PRODUCT PRODUCERS WITH A CAUSE OF ACTION AS A REMEDY FOR DISPAR-
3 AGEMENT OF AGRICULTURAL PRODUCTS.

4 (2) A PERSON THAT INTENTIONALLY DISPARAGES AN AGRICULTURAL
5 PRODUCT IS LIABLE IN AN ACTION FOR DAMAGES AND FOR OTHER RELIEF
6 THAT THE COURT CONSIDERS APPROPRIATE. IF A PERSON IS FOUND TO
7 HAVE DISPARAGED AN AGRICULTURAL PRODUCT, THE COURT SHALL AWARD
8 DAMAGES IN THE AMOUNT OF 3 TIMES ACTUAL DAMAGES.

9 (3) A PRODUCER THAT SUFFERS DAMAGES, AN ASSOCIATION THAT
10 REPRESENTS PRODUCERS THAT SUFFER DAMAGES, OR THE ATTORNEY GENERAL
11 ON BEHALF OF THE STATE OR AT A STATE DEPARTMENT'S REQUEST MAY
12 BRING AN ACTION UNDER THIS SECTION. AN ACTION SHALL NOT BE
13 BROUGHT UNDER THIS SECTION MORE THAN 2 YEARS AFTER THE LAST DIS-
14 PARAGEMENT OF THE AGRICULTURAL PRODUCT BY THE PERSON THAT IS
15 LIABLE FOR THAT DISPARAGEMENT.

16 (4) IF AN ASSOCIATION REPRESENTING PRODUCERS BRINGS AN
17 ACTION UNDER THIS SECTION, THE ASSOCIATION SHALL NOTIFY EACH
18 PRODUCER MEMBER THAT SUFFERED OR MAY HAVE SUFFERED DAMAGES COM-
19 PENSABLE UNDER THIS SECTION. A PRODUCER REPRESENTED BY THE ASSO-
20 CIATION BRINGING AN ACTION MAY APPEAR THROUGH THE PRODUCER'S OWN
21 ATTORNEY OR MAY REQUEST EXCLUSION FROM THE ACTION. THE COURT
22 SHALL EXCLUDE A PRODUCER THAT REQUESTS EXCLUSION. IF AN ASSOCIA-
23 TION BRINGS AN ACTION UNDER THIS SECTION, A JUDGMENT IN THAT
24 ACTION, WHETHER FAVORABLE OR NOT, INCLUDES ALL OF THE
25 ASSOCIATION'S PRODUCER MEMBERS THAT RECEIVE NOTICE AND DO NOT
26 REQUEST EXCLUSION.

1 (5) A NOTICE REQUIRED BY THIS SUBSECTION SHALL STATE AT
2 LEAST ALL OF THE FOLLOWING:

3 (A) THE COURT WILL EXCLUDE A PRODUCER MEMBER OF THE ASSOCIA-
4 TION IF, BY A SPECIFIED DATE, THE PRODUCER REQUESTS EXCLUSION.

5 (B) A PRODUCER MEMBER THAT DOES NOT REQUEST EXCLUSION MAY
6 APPEAR THROUGH THE PRODUCER'S OWN ATTORNEY.

7 (C) A JUDGMENT IN THE ACTION, WHETHER FAVORABLE OR NOT,
8 INCLUDES ALL OF THE ASSOCIATION'S PRODUCER MEMBERS THAT RECEIVE
9 NOTICE AND DO NOT REQUEST EXCLUSION.

10 (6) IF AN ASSOCIATION RECOVERS MONEY DAMAGES FOR ITS
11 PRODUCER MEMBERS IN AN ACTION BROUGHT UNDER THIS SECTION, THE
12 COURT SHALL ORDER THE ASSOCIATION TO SUBMIT A PLAN FOR THE DIS-
13 TRIBUTION OF THE MONEY DAMAGE AWARD TO THE ASSOCIATION AND ITS
14 PRODUCER MEMBERS THAT ARE INCLUDED IN THE JUDGMENT. THE COURT
15 MAY ACCEPT OR MODIFY THE ASSOCIATION'S PLAN WHEN ORDERING THE
16 DISTRIBUTION OF THE MONEY DAMAGES.

17 (7) AS USED IN THIS SECTION:

18 (A) "AGRICULTURAL PRODUCT" MEANS AN AGRICULTURAL OR AQUACUL-
19 TURAL COMMODITY THAT IS GROWN, RAISED, PRODUCED, DISTRIBUTED, OR
20 SOLD WITHIN THIS STATE.

21 (B) "DISPARAGE AN AGRICULTURAL PRODUCT" MEANS TO DISSEMINATE
22 TO THE PUBLIC IN ANY MANNER INFORMATION ABOUT AN AGRICULTURAL
23 PRODUCT THAT DIRECTLY INDICATES THAT THE AGRICULTURAL PRODUCT IS
24 NOT SAFE FOR HUMAN CONSUMPTION; THAT, AT THE TIME OF DISSEMINA-
25 TION, THE PERSON DISSEMINATING KNOWS IS INACCURATE; AND THAT IS
26 NOT BASED ON REASONABLE AND RELIABLE SCIENTIFIC INQUIRY, FACTS,
27 OR DATA.

1 (C) "PRODUCER" MEANS A PERSON WHO GROWS, RAISES, PRODUCES,
2 DISTRIBUTES, OR SELLS AN AGRICULTURAL PRODUCT.