House Bill No. 177

AN ACT TO ABOLISH EMPLOYMENT AT WILL AND TO REQUIRE EMPLOYMENT TERMINATION DECISIONS BE MADE IN GOOD FAITH; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. This act shall be known and may be cited as the "Good Faith in Employment Act."

SECTION 2. The purposes of this act is to abolish employment at will and to require that decisions to terminate the employment of employees be made for good faith business reasons only and it is the intent of the Legislature that this act be interpreted as liberally as necessary to accomplish these purposes.

SECTION 3. The following terms when used in this act shall have the following meaning:

(a) "Constructive discharge" means the voluntary termination of employment by an employee, because of a situation created by an act or omission of the employer which an objective, reasonable person would find so intolerable that voluntary termination is the employee's only reasonable alternative.

(b) "Discharge" includes a constructive discharge as defined in paragraph (a) of this section and also includes any other termination of employment, including being fired, being laid off or being "cut back."

(c) "Employer" means any state or local governmental entity or a private employer who has twenty (20) or more employees in each of twenty (20) or more calendar weeks in the current or preceding year.
(d) "Good faith" means a discharge of an employee only for legitimate, bona fide business reasons and not for arbitrary reasons unrelated to the business needs of the employer. A discharge is not in good faith when:

(i) It is based on personal dislike, envy, jealousy or other reasons unrelated to the legitimate business needs of the employer;

(ii) It is in retaliation for the exercise of rights protected by a federal or state Constitution or statute;

(iii) It is in violation of statements made in the employee handbook;

(iv) It is in violation of a federal or state statute;

(v) It is in retaliation for protesting illegal activities or for reporting illegal activities;

(vi) It is because the worker was hurt at work or because the worker files a workers' compensation claim or other lawful claim;

(vii) It is because of an employee's personal taste, association or beliefs;

(viii) It is for conduct that did not occur at the workplace; or

(ix) It is made contrary to any oral or written promises of future employment.

(e) "Probationary period" means the first ninety (90) days of employment.

SECTION 4. (1) The Legislature finds and declares that all commercial relationships contain an implied obligation of good faith. This obligation of good faith applies in the employer-employee relationship, just as it does in any other commercial relationship.

(2) An employer shall not discharge an employee who has completed his probationary period except in good faith.
SECTION 5. It is the intent of the Legislature that no
judgments in this action shall be of such amount as to be damaging
to a business. The total amount of damages that may be awarded by
a jury for punitive damages and damages for mental distress,
stress and loss of enjoyment of life shall not exceed, for each
wrongfully discharged employee:

(a) In the case of an employer who has more that twenty
(20) but less than one hundred one (101) employees in each of
twenty (20) or more calendar weeks in the current or preceding
year, Fifty Thousand Dollars ($50,000.00);

(b) In the case of an employer who has more than one
hundred (100) and fewer than two hundred one (201) employees in
each of twenty (20) or more calendar weeks in the current or
preceding year, One Hundred Thousand Dollars ($100,000.00);

(c) In the case of an employer who has more that two
hundred (200) and fewer than five hundred one (501) employees in
each of twenty (20) or more calendar weeks in the current or
preceding calendar year, Two Hundred Thousand Dollars
($200,000.00); and

(d) In the case of an employer who has more than five
hundred (500) employees in each of twenty (20) or more calendar
weeks in the current or preceding calendar year, Three Hundred
Thousand Dollars ($300,000.00).

SECTION 6. (1) If an employer discharges an employee who
has completed his probationary period not in good faith, the
employee shall have a remedy through jury trial in the circuit or
county court. The employee shall be entitled to recover in this
action the following:

(a) Lost wages from the date of the discharge decision,
reduced by any wages the employee earned, or reasonably could have
earned, in other employment;
(b) Compensatory damages for any mental anxiety, stress
or loss of enjoyment of life suffered by the wrongfully discharged
employee;

(c) Punitive damages, should the jury determine that
the employer intentionally acted in bad faith or acted in reckless
disregard of the employee's rights under this act.

(2) Furthermore, if the judge, on post-trial motion timely
filed by the employee, determines that the employee has not
obtained other employment, after diligent efforts to obtain other
employment, then the judge may add as additional "front pay" up to
one (1) year of lost wages to the employee's damages.

(3) The trial judge on post-trial motions shall reduce any
damages awarded to conform with the statutory limits stated
herein.

SECTION 7. Any action to enforce this act shall be brought
within one (1) year after the employee is notified of the
termination decision. The circuit and county courts shall have
jurisdiction over these actions and shall grant a jury trial to
enforce this act.

SECTION 8. The protections afforded employees under this act
may not be waived or disclaimed by the employer before the
employee's being dismissed or being constructively discharged.
Nor shall any employer be allowed to avoid any portion of this act
through an arbitration agreement, an agreement to limit damages or
in any other manner. Nor shall an employer be allowed to
circumvent or limit the protection of this act by adopting any
 provision for administrative remedies nor should this act be
construed as repealing any statutes which already exist for the
protection of employees from wrongful termination.

SECTION 9. This act shall take effect and be in force from
and after July 1, 2001.