

By: Representative Fleming

To: Labor

HOUSE BILL NO. 177

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

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

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

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

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

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

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

23 (c) "Employer" means any state or local governmental  
24 entity or a private employer who has twenty (20) or more employees  
25 in each of twenty (20) or more calendar weeks in the current or  
26 preceding year.



27 (d) "Good faith" means a discharge of an employee only  
28 for legitimate, bona fide business reasons and not for arbitrary  
29 reasons unrelated to the business needs of the employer. A  
30 discharge is not in good faith when:

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

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

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

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

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

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

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

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

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

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

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

58 (2) An employer shall not discharge an employee who has  
59 completed his probationary period except in good faith.



60           SECTION 5. It is the intent of the Legislature that no  
61 judgments in this action shall be of such amount as to be damaging  
62 to a business. The total amount of damages that may be awarded by  
63 a jury for punitive damages and damages for mental distress,  
64 stress and loss of enjoyment of life shall not exceed, for each  
65 wrongfully discharged employee:

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

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

74           (c) In the case of an employer who has more that two  
75 hundred (200) and fewer than five hundred one (501) employees in  
76 each of twenty (20) or more calendar weeks in the current or  
77 preceding calendar year, Two Hundred Thousand Dollars  
78 (\$200,000.00); and

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

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

88           (a) Lost wages from the date of the discharge decision,  
89 reduced by any wages the employee earned, or reasonably could have  
90 earned, in other employment;



91 (b) Compensatory damages for any mental anxiety, stress  
92 or loss of enjoyment of life suffered by the wrongfully discharged  
93 employee;

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

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

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

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

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

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

