HOUSE BILL NO. 1209

AN ACT TO REQUIRE LARGE RETAILERS WHO LAY OFF 50 OR MORE EMPLOYEES DURING A THIRTY-DAY PERIOD TO GIVE THE EMPLOYEES AND CERTAIN GOVERNMENT OFFICIALS TWELVE MONTHS ADVANCE NOTICE OF THE LAYOFF; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) The following definitions shall govern the construction and meaning of the terms used in this act:

(a) "Covered county" means any county that has a population of forty thousand (40,000) or more, according to the most recent federal decennial census.

(b) "Covered municipality" means any municipality that has a population of twenty thousand (20,000) or more, according to the most recent federal decennial census.

(c) "Large retailer" means any commercial facility or some part thereof that sells tangible personal property and has employed within the preceding twelve (12) months, seventy-five (75) or more persons.

(d) "Employer" means any person, partnership, association, corporation and the legal representatives of a deceased employer, or the receiver or trustee of a person, partnership, association or corporation that directly or indirectly owns and operates a large retailer. A parent corporation is an employer as to any large retailer directly owned and operated by its corporate subsidiary.

(e) "Layoff" means a separation from a position for lack of funds or lack of work.

(f) "Mass layoff" means a layoff during any thirty-day period of fifty (50) or more employees at a large retailer.
(g) "Relocation" means the removal of all or substantially all operations in a large retailer to a different location one hundred (100) miles or more away from the location where the layoff occurs.

(h) "Termination" means the cessation or substantial cessation of operations in a large retailer.

(i) "Employee" means any person, including a minor, whether lawfully or unlawfully employed, in the service of an employer under any contract of hire or apprenticeship, written or oral, express or implied, employed by an employer for at least six (6) months of the twelve (12) months preceding the date on which notice is required. This term does not include independent contractors.

(2) This act does not apply to seasonal employees who are employed in a seasonal industry where the employees were hired with the understanding that their employment was seasonal and temporary.

SECTION 2. (1) An employer of a large retailer in a covered county or municipality may not order a mass layoff, relocation or termination unless, twelve (12) months before the order takes effect, the employer gives written notice of the order to:

(a) The employees of the large retailer affected by the order;

(b) The mayor of each municipality where the termination, relocation or mass layoff will occur; and

(c) The county board of supervisors of each county where the termination, relocation or mass layoff will occur.

(2) An employer required to give notice of any mass layoff, relocation or termination under this act shall include in its notice the elements required by the federal Worker Adjustment and Retraining Notification Act (29 USCS Section 2101 et seq.).

(3) Notwithstanding the requirements of subsection (1) of this section, an employer is not required to provide notice if a
mass layoff, relocation or termination is necessitated by a
physical calamity or act of war.

SECTION 3. (1) An employer who fails to give notice as
required by this act is liable to each employee who is entitled to
notice and who lost his or her employment, for each of the
following:

(a) Back pay at the average regular rate of
compensation received by the employee during the last three (3)
years of his or her employment, or the employee's final rate of
compensation, whichever is higher.

(b) The value of the cost of any benefits to which the
employee would have been entitled had his or her employment not
been lost, including the cost of any medical expenses incurred by
the employee that would have been covered under an employee
benefit plan.

(2) Liability under this section is calculated for the
period of the employer's violation, up to a maximum of sixty (60)
days, or one-half (1/2) the number of days that the employee was
employed by the employer, whichever period is smaller.

(3) The amount of an employer's liability shall be reduced
by the following:

(a) Any wages, except vacation monies accrued before
the period of the employer's violation, paid by the employer to
the employee during the period of the employer's violation.

(b) Any voluntary and unconditional payments made by
the employer to the employee that were not required to satisfy any
legal obligation.

(c) Any payments by the employer to a third party or
trustee, such as premiums for health benefits or payments to a
defined contribution pension plan, on behalf of and attributable
to the employee for the period of the violation.

SECTION 4. An employer who fails to give notice as required
by this act is subject to a civil penalty of not more than Five
Hundred Dollars ($500.00) for each day of the employer's
violation. However, the employer is not subject to a civil
penalty under this section if the employer pays to all applicable
employees the amounts for which the employer is liable under
Section 3 of this act within three (3) weeks from the date the
employer orders the mass layoff, relocation or termination.

**SECTION 5.** Unemployment benefits may not be denied or
reduced because of the receipt of payments related to an
employer's violation of this act or the federal Worker Adjustment
and Retraining Notification Act (29 USCS Section 2101 et seq.).

**SECTION 6.** This act shall take effect and be in force from
and after July 1, 2003.