

By: Senator(s) Williamson, Dawkins

To: Judiciary, Division B

SENATE BILL NO. 2108

1 AN ACT TO AMEND SECTION 97-23-1, MISSISSIPPI CODE OF 1972, TO
2 CREATE THE OFFENSE OF MISREPRESENTATION OF CONTRACTUAL CLAUSES
3 WAIVING THE RIGHT TO TRIAL BY JURY; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 97-23-1, Mississippi Code of 1972, is
6 amended as follows:

7 97-23-1. (1) (a) It shall be unlawful for any person,
8 firm, association or corporation to misrepresent the true nature
9 of its business by use of the words "manufacturer," "wholesaler,"
10 "retailer," or words of similar import or for any person, firm,
11 association or corporation to represent itself as selling at
12 wholesale, or use the word "wholesale" in any form of sale or
13 advertising unless such person, firm, association or corporation
14 is actually selling at wholesale those items advertised for the
15 purpose of resale. For the purpose of this section, the term
16 "wholesale" shall be defined as a sale made for the purpose of
17 resale by the purchaser on which a wholesale sales tax is charged,
18 and not one made to a consuming purchaser on which a retail sales
19 tax is charged.

20 (b) * * * This subsection (1) shall in nowise affect or
21 prohibit a corporation from using the word "wholesale" in its
22 corporate name even though such corporation also does a retail
23 business. However, if it does a retail business, it must indicate
24 in its advertisements that such business is being conducted by its
25 retail division, or that such advertised products are to be sold
26 only at retail.

27 (2) It shall be unlawful for any person, firm, association
28 or corporation to enforce any contractual waiver of the
29 constitutional right to trial by jury unless the printed portion
30 of the contract, other than instructions for completion, is in at
31 least 8-point type and the contract contains in a size equal to at
32 least 10-point bold type a specific statement that the
33 constitutional right to a trial by jury is waived.

34 (3) The violation of this section shall constitute a
35 misdemeanor, and any person or firm convicted of violating this
36 section shall be fined not less than One Hundred Dollars (\$100.00)
37 nor more than Five Hundred Dollars (\$500.00).

38 **SECTION 2.** This act shall take effect and be in force from
39 and after July 1, 2007.