

By: Representative Barbour

To: Labor

HOUSE BILL NO. 1209

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

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

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

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

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

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

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

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

27 (f) "Mass layoff" means a layoff during any thirty-day
28 period of fifty (50) or more employees at a large retailer.



29 (g) "Relocation" means the removal of all or
30 substantially all operations in a large retailer to a different
31 location one hundred (100) miles or more away from the location
32 where the layoff occurs.

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

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

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

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

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

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

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

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

60 (3) Notwithstanding the requirements of subsection (1) of
61 this section, an employer is not required to provide notice if a



62 mass layoff, relocation or termination is necessitated by a
63 physical calamity or act of war.

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

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

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

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

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

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

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

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

93 **SECTION 4.** An employer who fails to give notice as required
94 by this act is subject to a civil penalty of not more than Five



95 Hundred Dollars (\$500.00) for each day of the employer's
96 violation. However, the employer is not subject to a civil
97 penalty under this section if the employer pays to all applicable
98 employees the amounts for which the employer is liable under
99 Section 3 of this act within three (3) weeks from the date the
100 employer orders the mass layoff, relocation or termination.

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

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

