

By: Senator(s) Williamson, Dawkins

To: Judiciary, Division B

SENATE BILL NO. 2611

1 AN ACT TO AMEND SECTION 97-23-1, MISSISSIPPI CODE OF 1972, TO  
2 CREATE THE OFFENSE OF MISREPRESENTATION OF CERTAIN CONTRACTUAL  
3 CLAUSES; 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 eight point type and the contract contains in a size equal  
32 to at least ten 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, 2005.