

SENATE BILL 2133

By Lowe

AN ACT to amend Tennessee Code Annotated, Title 4,
relative to goods produced in Tennessee.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, is amended by adding the following
as a new chapter:

4-53-101. Constitutional authority.

The general assembly declares that the authority for this chapter is the following:

(1) The tenth amendment to the United States Constitution guarantees to the states and their people all powers not granted to the federal government elsewhere in the constitution and reserves to the state and people of this state certain powers as they were understood at the time that this state was admitted to statehood. The guarantee of those powers is a matter of contract between the state and people of this state and the United States as of the time that the compact with the United States was agreed upon and adopted by this state and the United States;

(2) The ninth amendment to the United States Constitution guarantees to the people rights not granted in the constitution and reserves to the people of this state certain rights as they were understood at the time that this state was admitted to statehood. The guarantee of those rights is a matter of contract between the state and people of this state and the United States as of the time that the compact with the United States was agreed upon and adopted by this state and the United States;

(3) Congressional authority to regulate commerce is derived from Article I, § 8, of the United States Constitution, which refers only to the regulation of commerce among the states, not within individual states. The United States supreme court has recognized that the power of congress to regulate commerce is therefore limited to the regulation of the channels of interstate commerce, the instrumentalities of interstate commerce, and activities that substantially affect interstate commerce;

(4) The federal constitution does not vest congress with the power to regulate commercial activities that occur wholly within a state and which have no effect among multiple states;

(5) The authority to regulate intrastate commerce is vested in the states themselves under the ninth and tenth amendments to the United States Constitution, and such authority remains with the states unless and until expressly preempted by a federal law that is enacted pursuant to the proper constitutional authority of congress; and

(6) Therefore, commercial activity that is conducted wholly within this state and which has no substantial effect on commerce activity among multiple states is not subject to federal regulation under the commerce power as it was granted to congress in the federal constitution.

4-53-102. Chapter definitions.

As used in this chapter, "intrastate commercial good" means a good that:

- (1) Is grown, harvested, manufactured, or otherwise produced within this state, using raw materials sourced within this state;
- (2) Remains within the borders of this state; and
- (3) Is offered for sale and sold to another within this state.

4-53-103. Intrastate commercial goods not subject to federal regulation.

An intrastate commercial good that is produced in this state and that remains within the borders of this state is not subject to federal law or federal regulation under the authority of congress to regulate interstate commerce. It is declared by the legislature that such intrastate commercial goods have not traveled in interstate commerce and do not have a substantial effect on commerce among the states. This section applies to an intrastate commercial good that is produced in this state from basic materials and that can be produced without the inclusion of any significant parts imported into this state. The authority of congress to regulate interstate commerce in basic materials does not include authority to regulate intrastate commercial goods made in this state from those materials.

SECTION 2. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it.