

HOUSE BILL 291

By McDonald

AN ACT to amend Tennessee Code Annotated, Title 59
and Title 69, Chapter 3, Part 1, relative to water
quality regulation relating to mining activities.

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

SECTION 1. Tennessee Code Annotated, Section 69-3-108, is amended by adding the following language as a new, appropriately designated subsection:

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(1) For purposes of this subsection, "ridgeline" means the elongated crest or a series of crests at the uppermost intersection between two (2) or more opposite slopes or sides of a mountain and includes all surface land within one hundred feet (100') below the elevation of any such line or surface of intersection along the crest; and

(2) Except as provided in subdivision (3) under no circumstances shall the commissioner issue or renew a permit, certification, or variance that would allow surface coal mining operations to alter or disturb any ridgeline that is above two thousand feet (2,000') elevation above sea level, such elevation being determined using the most current edition of the United States forest service's publication, Ecological Subregions of the United States. This subdivision (2) does not prohibit any otherwise allowable surface coal mining above two thousand feet (2,000') elevation above sea level that does not alter or disturb a ridgeline.

(3) This subsection shall not prohibit the commissioner from issuing or renewing a permit, certification, or variance that would authorize the construction or maintenance of or ridgeline crossings including utility, rail, or pipeline crossings or road crossings necessary to obtain access to underground or

surface mining activities or to obtain access to reclamation activities that are permissible pursuant to federal and state law; provided, however that the applicant would otherwise be eligible for such permit, certification, or variance under any other applicable state or federal law, including, but not limited to, water quality criteria.

(4) The requirements of this subsection do not apply to surface coal mining activities that are only incidental to underground mining if the commissioner determines that surface disturbance and effect is limited to that required to conduct underground mining that is otherwise permissible pursuant to federal and state law.

SECTION 2. The provisions of this act are declared to be remedial in nature and the provisions of this act shall be liberally construed to effectuate its purposes.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity or affect shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect upon becoming law, the public welfare requiring it.