



# State of Tennessee

## PUBLIC CHAPTER NO. 1040

### SENATE BILL NO. 2133

By Lowe

Substituted for: House Bill No. 2479

By Cochran, Fritts, Zachary, Burkhart, Keisling, Todd, Moody, Barrett

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 United States 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 United States 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.**

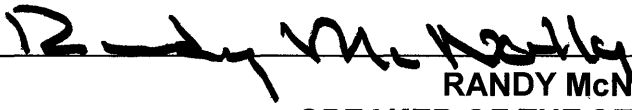
An intrastate commercial good that is produced in this state and that remains within the borders of this state is not subject to federal law or federal regulation under the authority of congress to regulate interstate commerce; provided, that if there is not a state law or state regulation applicable to an intrastate commercial good, then such intrastate commercial good is still subject to the appropriate federal law or federal regulation, if any, on matters of public health. 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.

SENATE BILL NO. 2133

PASSED: April 25, 2024

  
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RANDY McNALLY  
SPEAKER OF THE SENATE

  
\_\_\_\_\_  
CAMERON SEXTON, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_ 2024

\_\_\_\_\_  
BILL LEE, GOVERNOR



**BILL LEE**  
GOVERNOR  
STATE OF TENNESSEE

May 28, 2024

The Honorable Randy McNally  
Lieutenant Governor  
425 Rep. John Lewis Way N., Suite 700  
Nashville, TN 37243

**Re: Senate Bill 2133**

Dear Lt. Governor McNally:

I am letting Senate Bill 2133, the legislation regarding intrastate commercial goods, become law without my signature.

As you know, I am committed to pushing back against federal overreach. In recent years, such overreach has resulted in tangible harm for Tennessee citizens, families, and businesses. We are fortunate that all three branches of government in Tennessee share this commitment to challenging federal overreach so that Tennesseans can enjoy all of the freedoms and protections that our Founders envisioned.

Senate Bill 2133, however, appears to be a solution in search of a problem. The bill defines “intrastate commercial good” and declares that such goods are not subject to federal law or federal regulation. Rather than solve a real regulatory issue, this bill creates uncertainty that is harmful for Tennessee businesses. The constitutionality of this bill is unclear, and tensions between this bill and the U.S. Constitution will adversely affect commerce in this State as businesses and residents would have difficulty understanding what the law is. As a businessman, I know that unclear and ambiguous regulatory schemes can be just as damaging as overregulation.

For these reasons, I am letting Senate Bill 2133 become law without my signature.

Respectfully,

  
Bill Lee

Cc: The Honorable Cameron Sexton, Speaker of the House