

Intrastate Coal and Use Act

Whereas 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 people and the Commonwealth/State of **{insert state}** certain powers as they were understood at the time that **{insert state}** was admitted to statehood in **{insert state}**. The guaranty of those powers is a matter of contract between the people and **{insert state}** and the United States as of the time that the compact with the United States was agreed upon and adopted by **{insert state}** and the United States in **{insert state}**.

Whereas the Ninth Amendment to the United States Constitution guarantees to the people rights not granted in the Constitution and reserves to the people of **{insert state}** certain rights as they were understood at the time that **{insert state}** was admitted to statehood in **{insert state}**. The guaranty of those rights is a matter of contract between the people and the Commonwealth/State of **{insert state}** and the United States as of the time that the compact with the United States was agreed upon and adopted by **{insert state}** and the United States in **{insert state}**.

Whereas the regulation of intrastate commerce, including the natural environment as affected by intrastate business, is vested in the states under the Ninth and Tenth Amendments to the United States Constitution and is specifically retained by the state of **{insert state}**.

Section 1. Definitions.

As used in this article, the following definitions apply:

(A) "Borders of **{insert state}** " means the boundaries of the Commonwealth/State of **{insert state}** described in the **{insert state}** Constitution.

(B) The term "coal mine" means those operations removing coal from a coal seam or seams, whether aboveground or underground.

(C) "Chemically altered coal product" means any product derived principally from coal, including, but not limited to, coke or liquid fuels derived from coal by any process.

Section 2. Requirements.

(A) In light of the above findings, environmental regulation in **{insert state}** for all purposes of regulating business activity performed in **{insert state}**, when the products of such business activities are held, maintained, or retained within the borders of **{insert state}**, is the principal responsibility of the **{insert state}** Department of Environmental Protection Energy Development and Independence.

(B) Any **{insert state}** coal mine producing coal which is used commercially or privately in **{insert state}** and which is consumed or otherwise remains within the borders of **{insert state}** and any **{insert state}** facility producing chemically altered coal products used commercially or privately which remain within the borders of **{insert state}** shall be issued a permit to operate by

the **{insert state}** Department of Environmental Protection once the **{insert state}** Department of Environmental Protection has certified that the mine or facility is compliant with all applicable state and federal laws or state and federal regulation.

(C) A sample from each vein of coal in a mine and a sample of coal from each **{insert state}** source used at a facility producing a chemically altered coal product shall be placed on record with the **{insert state}** Department of Environmental Protection to verify the **{insert state}** origin of the coal produced and used.

(D) The **{insert state}** Legislature declares that the United States Environmental Protection Agency, acting under the color of authority of Congress to regulate interstate commerce, lacks the authority to deny permits of operation to such coal mines and facilities as the products of these mines and facilities have not traveled in interstate commerce.

(E) This article applies to coal and to any chemically altered coal product mined or produced in **{insert state}** from basic materials which can be manufactured without the inclusion of any significant components imported from another state.

(F) This article applies only to the issuance of a permit of operation to a coal mine or facility producing chemically altered coal products, the issuance of which permit is required by the Clean Water Act or by another equivalent state or federal statute or regulation. Nothing in this section shall be construed to limit the effect of any other state or federal statute or regulation.

NOTE: The purpose of this bill is to create the Intrastate Coal and Use Act. The bill establishes that the environmental regulation of coal and certain coal products mined and used within the commonwealth are exclusively regulated by the **{insert state}** Department of Environmental Protection. The bill states the legislative authority and defines terms.