

1 HB68  
2 126338-1  
3 By Representative Hammon  
4 RFD: Commerce and Small Business  
5 First Read: 01-MAR-11

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8 SYNOPSIS: This bill would exempt from federal cap and  
9 trade regulations any activity involved in the  
10 production of a product that is manufactured and  
11 retained within the borders of Alabama.

12  
13 A BILL  
14 TO BE ENTITLED  
15 AN ACT

16  
17 Relating to products that are manufactured and  
18 retained within the borders of Alabama; to exempt such  
19 manufactured products from federal cap and trade regulations.  
20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. The Legislature finds all of the  
22 following:

23 (1) The Tenth Amendment to the United States  
24 Constitution guarantees to the states and their people all  
25 powers not granted to the federal government elsewhere in the  
26 Constitution or prohibited by the Constitution to the states,  
27 and reserves to the State of Alabama and its people certain

1 powers as they were understood at the time that Alabama was  
2 admitted to statehood in 1819. The guaranty of those powers is  
3 a matter of contract between the State of Alabama and its  
4 people and the United States as of the time that statehood was  
5 agreed upon and adopted by Alabama and the United States in  
6 1819.

7 (2) The Ninth Amendment to the United States  
8 Constitution guarantees to the people that the enumeration of  
9 certain rights in the Constitution does not deny other rights  
10 not expressly granted in the Constitution and reserves to the  
11 people of Alabama certain rights as they were understood at  
12 the time that Alabama was admitted to statehood in 1819. The  
13 guaranty of those rights is a matter of contract between the  
14 State of Alabama and its people and the United States as of  
15 the time that statehood was agreed upon and adopted by Alabama  
16 and the United States in 1819.

17 (3) The regulation of intrastate commerce is vested  
18 in the states under the Ninth and Tenth Amendments to the  
19 United States Constitution, particularly if not expressly  
20 preempted by federal law. Congress has not expressly preempted  
21 state regulation of intrastate commerce pertaining to the  
22 manufacture of goods or products.

23 Section 2. For the purposes of this act, the  
24 following words shall have the following meanings:

25 (1) BORDERS OF ALABAMA. The boundaries of Alabama as  
26 described in Section 37 of the Official ReCompilation of the  
27 Constitution of Alabama of 1901, as amended.

1           (2) PRODUCT. A physical item or product that has  
2           been created or built or manufactured from basic or refined  
3           materials for consumption or functional usefulness.

4           Section 3. (a) A product that is manufactured  
5           commercially or privately in Alabama and that remains within  
6           the borders of Alabama is not subject to federal law or  
7           federal regulation on cap and trade, including, but not  
8           limited to, the authority of Congress to regulate interstate  
9           commerce, because those items have not traveled in interstate  
10          commerce.

11          (b) This act applies to any product that is  
12          manufactured in Alabama from basic or refined materials and  
13          that can be manufactured without the inclusion of any parts  
14          imported from another state.

15          (c) The authority of Congress to regulate cap and  
16          trade commerce in basic or refined materials does not include  
17          authority to regulate products made in Alabama from materials  
18          described in subsection (b).

19          Section 4. A product manufactured or sold in Alabama  
20          under this act must have the words "Made in Alabama" clearly  
21          stamped on the item or container in which it is transported  
22          within the state.

23          Section 5. This act shall apply to products that are  
24          manufactured, pursuant to this act, and retained in Alabama on  
25          or after October 1, 2011.

1                   Section 6. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.