

**CHAPTER 293****(HB 405)**

AN ACT relating to surface mining and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

- (1) For purposes of this section, "private land" means property that is owned by a not-for-profit organization or by a noncommercial private owner and is subject to the construction of improvements on that property, and includes land that requires alteration, modification, excavation, or landscaping in order to make it relate to, and support the function of, a facility or improvement. Private land includes but is not limited to a parking lot for a church, a recreational facility or court for a school, and land alteration related to improvements to a private residence or other private use.*
- (2) Removal of coal on private land, incidentally and as a necessary requirement of facility construction, or as a consequence of the excavation or landscaping required to make the land support the intended function of a facility under construction, shall not require the owner of that private land to obtain a surface mining permit as required under this chapter, or a mining license as required under this chapter, if:*
  - (a) The coal removed is five thousand (5,000) tons or less;*
  - (b) The coal removed is donated to a charitable, educational, or governmental organization, or the coal is sold and the proceeds are donated to such an organization; and*
  - (c) The landowner notifies the cabinet at the time that coal is first encountered and prior to removal, and if after inspection and review of site plans, construction contracts, or other indicia, the cabinet determines that the proposed project is eligible for this exemption. The cabinet may require implementation of such best management practices as are necessary to ensure compliance with stormwater discharge limits.*
- (3) The cabinet shall within ten (10) days of the effective date of this Act, seek an opinion from the Federal Office of Surface Mining relating to the provisions of this section and shall not implement or administer the provisions of subsection (2) of this section until July 1, 2004. However, if the cabinet receives a Federal Office of Surface Mining determination that subsections (1) to (2) of this section, and any related administrative regulations of the cabinet, are consistent with, or otherwise not in violation of, the Federal Surface Mining Control and Reclamation Act of 1977, the cabinet may implement and administer the provisions of subsection (2) of this section prior to July 1, 2004.*

Section 2. Whereas cabinet implementation of the provisions of Section 1 of this Act may proceed before July 1, 2004, if an opinion by the Federal Office of Surface Mining is received, and whereas time is of the essence for those who may be affected by the provisions of Section 1 of this Act, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Approved April 9, 2002**