

By: Zwiener

H.B. No. 4028

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of preproduction plastic by the Texas Commission on Environmental Quality.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 361.003, Health and Safety Code, is amended by adding Subdivision (40) to read as follows:

(40) "Preproduction plastic" means plastic resin pellets, flakes, fibers, and powders, and powdered coloring for plastics.

SECTION 2. Subchapter B, Chapter 361, Health and Safety Code, is amended by adding Section 361.0115 to read as follows:

Sec. 361.0115. CLASS II NONHAZARDOUS INDUSTRIAL WASTE: PREPRODUCTION PLASTIC. The commission by rule shall designate preproduction plastics as a Class II nonhazardous industrial waste.

SECTION 3. Section 26.0135(a), Water Code, is amended to read as follows:

(a) To ensure clean water, the commission shall establish the strategic and comprehensive monitoring of water quality and the periodic assessment of water quality in each watershed and river basin of the state. In order to conserve public funds and avoid duplication of effort, subject to adequate funding under Section 26.0291, river authorities shall, to the greatest extent possible and under the supervision of the commission, conduct water quality monitoring and assessments in their own watersheds. Watershed

1 monitoring and assessments involving agricultural or silvicultural
2 nonpoint source pollution shall be coordinated through the State
3 Soil and Water Conservation Board with local soil and water
4 conservation districts. The water quality monitoring and reporting
5 duties under this section apply only to a river authority that has
6 entered into an agreement with the commission to perform those
7 duties. The commission, either directly or through cooperative
8 agreements and contracts with local governments, shall conduct
9 monitoring and assessments of watersheds where a river authority is
10 unable to perform an adequate assessment of its own watershed. The
11 monitoring program shall provide data to identify significant
12 long-term water quality trends, characterize water quality
13 conditions, support the permitting process, and classify
14 unclassified waters. The commission shall consider available
15 monitoring data and assessment results in developing or reviewing
16 wastewater permits and stream standards and in conducting other
17 water quality management activities. The assessment must include a
18 review of wastewater discharges, nonpoint source pollution,
19 pollution from preproduction plastic, as defined by Section
20 26.0421, nutrient loading, toxic materials, biological health of
21 aquatic life, public education and involvement in water quality
22 issues, local and regional pollution prevention efforts, and other
23 factors that affect water quality within the watershed. The
24 monitoring and assessment required by this section is a continuing
25 duty, and the monitoring and assessment shall be periodically
26 revised to show changes in the factors subject to assessment.

27 SECTION 4. Section 26.023, Water Code, is amended to read as

1 follows:

2 Sec. 26.023. WATER QUALITY STANDARDS. (a) In this section:

3 (1) "Preproduction plastic" has the meaning assigned
4 by Section 26.0421.

5 (2) "Quality assured data" has the meaning assigned by
6 Section 26.0135(i).

7 (b) The commission by rule shall set water quality standards
8 for the water in the state and may amend the standards from time to
9 time. The commission has the sole and exclusive authority to set
10 water quality standards for all water in the state. The commission
11 shall consider the existence and effects of nonpoint source
12 pollution, preproduction plastic pollution, toxic materials, and
13 nutrient loading in developing water quality standards and related
14 waste load models for water quality. The commission shall develop
15 standards based on all quality assured data obtained by the
16 commission, including the local watershed and river basin database
17 described by Section 26.0135(c)(2). ~~[In this section, "quality~~
18 ~~assured data" has the meaning assigned by Section 26.0135(i).]~~

19 SECTION 5. Subchapter B, Chapter 26, Water Code, is amended
20 by adding Section 26.0421 to read as follows:

21 Sec. 26.0421. PREPRODUCTION PLASTIC MONITORING AND
22 REPORTING. (a) In this section:

23 (1) "Facility" means a facility where preproduction
24 plastic is manufactured, processed, handled, or transported.

25 (2) "Preproduction plastic" means pre-consumer
26 plastic resin, consisting of organic polymers and additives, in the
27 form of pellets, powder, flakes, or powdered additives.

1 (b) The commission by rule shall require a person who owns
2 or operates a facility operating under a multi-sector general
3 permit to:

4 (1) monitor for preproduction plastics in any
5 receiving waters around the facility; and

6 (2) conduct a monthly audit of any major spills of
7 preproduction plastics at the facility.

8 (c) The monitoring requirements required under Subsection
9 (b) must require the person who owns or operates the facility to
10 monitor any receiving waters for wastewater or stormwater
11 discharges:

12 (1) not less than once every month; and

13 (2) not later than eight hours after each rainfall
14 event at the facility.

15 (d) The auditing requirements required under Subsection (b)
16 must require the person who owns or operates the facility to:

17 (1) check the facility for any spills of preproduction
18 plastics;

19 (2) identify any major spill areas that resulted in
20 the discharge of preproduction plastics into the waters of this
21 state;

22 (3) determine the cause of each spill identified under
23 Subdivision (2);

24 (4) research methods to address each spill and any
25 associated problems;

26 (5) implement the most simple and effective solution;

27 and

1 (6) follow up each month to measure the success of
2 solutions adopted under Subdivision (5).

3 (e) The person who owns or operates a facility operating
4 under a multi-sector general permit shall notify the commission by
5 e-mail or telephone of a visible discharge of preproduction
6 plastics not later than 24 hours after the discharge occurs. The
7 notice must include:

8 (1) photographs and global positioning system
9 information of the location of all discharged or released
10 preproduction plastic;

11 (2) an estimate of the amount and location of
12 discharged or released preproduction plastic; and

13 (3) any cleanup efforts undertaken to remove
14 preproduction plastic for proper disposal.

15 SECTION 6. As soon as practicable after the effective date
16 of this Act, the Texas Commission on Environmental Quality shall
17 adopt rules necessary to implement the changes in law made by this
18 Act.

19 SECTION 7. This Act takes effect September 1, 2025.