

AN ACT

relating to the conversion of plastics and other recoverable materials through pyrolysis or gasification.

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

SECTION 1. Section 361.003, Health and Safety Code, is amended by amending Subdivisions (25), (34), (35), and (36) and adding Subdivisions (10-a), (10-b), (24-a), (25-a), (25-b), and (26-a) to read as follows:

(10-a) "Gasification" means a process through which recoverable feedstocks are heated and converted into a fuel-gas mixture in an oxygen-deficient atmosphere and the mixture is converted into a valuable raw, intermediate, or final product, including a plastic, monomer, chemical, wax, lubricant, or chemical feedstock or crude oil, diesel, gasoline, diesel and gasoline blendstock, home heating oil, ethanol, or another fuel. The term does not include incineration.

(10-b) "Gasification facility" means a facility that receives, separates, stores, and converts post-use polymers and recoverable feedstocks using gasification. The commission may not consider a gasification facility to be a hazardous waste management facility, a solid waste management facility, or an incinerator.

(24-a) "Post-use polymers" means plastic polymers that derive from any household, industrial, community, commercial, or other sources of operations or activities that might otherwise

1 become waste if not converted into a valuable raw, intermediate, or
2 final product. Post-use polymers include used polymers that
3 contain incidental contaminants or impurities such as paper labels
4 or metal rings but do not include used polymers mixed with solid
5 waste, medical waste, hazardous waste, electronic waste, tires, or
6 construction or demolition debris.

7 (25) "Processing" means the extraction of materials
8 from or the transfer, volume reduction, conversion to energy, or
9 other separation and preparation of solid waste for reuse or
10 disposal. The term includes the treatment or neutralization of
11 hazardous waste designed to change the physical, chemical, or
12 biological character or composition of a hazardous waste so as to
13 neutralize the waste, recover energy or material from the waste,
14 render the waste nonhazardous or less hazardous, make it safer to
15 transport, store, or dispose of, or render it amenable for recovery
16 or storage, or reduce its volume. The term does not include:

17 (A) pyrolysis or gasification; or

18 (B) activities concerning those materials
19 exempted by the administrator of the United States Environmental
20 Protection Agency under the federal Solid Waste Disposal Act, as
21 amended by the Resource Conservation and Recovery Act of 1976, as
22 amended (42 U.S.C. Section 6901 et seq.), unless the commission
23 determines that regulation of the activity under this chapter is
24 necessary to protect human health or the environment.

25 (25-a) "Pyrolysis" means a manufacturing process
26 through which post-use polymers are heated in an oxygen-deficient
27 atmosphere until melted and thermally decomposed and then cooled,

1 condensed, and converted into a valuable raw, intermediate, or
2 final product, including a plastic, monomer, chemical, wax,
3 lubricant, or chemical feedstock or crude oil, diesel, gasoline,
4 diesel and gasoline blendstock, home heating oil, ethanol, or
5 another fuel. The term does not include incineration.

6 (25-b) "Pyrolysis facility" means a manufacturing
7 facility that receives, separates, stores, and converts post-use
8 polymers using pyrolysis. The commission may not consider a
9 pyrolysis facility to be a hazardous waste management facility, a
10 solid waste management facility, or an incinerator.

11 (26-a) "Recoverable feedstock" means one or more of
12 the following materials, derived from recoverable waste other than
13 coal refuse, that has been processed so that it may be used as
14 feedstock in a gasification facility:

15 (A) post-use polymers; and

16 (B) material, including municipal solid waste
17 containing post-use polymers and other post-industrial waste
18 containing post-use polymers, that has been processed into a fuel
19 or feedstock for which the commission or the United States
20 Environmental Protection Agency has made a non-waste determination
21 under 40 C.F.R. Section 241.3(c).

22 (34) This subdivision expires on delegation of the
23 Resource Conservation and Recovery Act of 1976 authority to the
24 Railroad Commission of Texas. Subject to the limitations of 42
25 U.S.C. Section 6903(27) and 40 C.F.R. Section 261.4(a), "solid
26 waste" means garbage, rubbish, refuse, sludge from a waste
27 treatment plant, water supply treatment plant, or air pollution

1 control facility, and other discarded material, including solid,
2 liquid, semisolid, or contained gaseous material resulting from
3 industrial, municipal, commercial, mining, and agricultural
4 operations and from community and institutional activities. The
5 term:

6 (A) does not include:

7 (i) solid or dissolved material in domestic
8 sewage, or solid or dissolved material in irrigation return flows,
9 or industrial discharges subject to regulation by permit issued
10 under Chapter 26, Water Code;

11 (ii) soil, dirt, rock, sand, and other
12 natural or man-made inert solid materials used to fill land if the
13 object of the fill is to make the land suitable for the construction
14 of surface improvements; [~~or~~]

15 (iii) waste materials that result from
16 activities associated with the exploration, development, or
17 production of oil or gas or geothermal resources and other
18 substance or material regulated by the Railroad Commission of Texas
19 under Section 91.101, Natural Resources Code, unless the waste,
20 substance, or material results from activities associated with
21 gasoline plants, natural gas or natural gas liquids processing
22 plants, pressure maintenance plants, or repressurizing plants and
23 is hazardous waste as defined by the administrator of the United
24 States Environmental Protection Agency under the federal Solid
25 Waste Disposal Act, as amended by the Resource Conservation and
26 Recovery Act of 1976, as amended (42 U.S.C. Section 6901 et seq.);

27 or

1 (iv) post-use polymers or recoverable
2 feedstocks processed through pyrolysis or gasification that do not
3 qualify as hazardous waste under the Resource Conservation and
4 Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.); and

5 (B) does include hazardous substances, for the
6 purposes of Sections 361.271 through 361.277 [~~361.280~~] and
7 361.343 through 361.345.

8 (35) This subdivision is effective on delegation of
9 the Resource Conservation and Recovery Act of 1976 authority to the
10 Railroad Commission of Texas. Subject to the limitations of 42
11 U.S.C. Section 6903(27) and 40 C.F.R. Section 261.4(a), "solid
12 waste" means garbage, rubbish, refuse, sludge from a waste
13 treatment plant, water supply treatment plant, or air pollution
14 control facility, and other discarded material, including solid,
15 liquid, semisolid, or contained gaseous material resulting from
16 industrial, municipal, commercial, mining, and agricultural
17 operations and from community and institutional activities. The
18 term:

19 (A) does not include:

20 (i) solid or dissolved material in domestic
21 sewage, or solid or dissolved material in irrigation return flows,
22 or industrial discharges subject to regulation by permit issued
23 under Chapter 26, Water Code;

24 (ii) soil, dirt, rock, sand, and other
25 natural or man-made inert solid materials used to fill land if the
26 object of the fill is to make the land suitable for the construction
27 of surface improvements; [~~or~~]

1 (iii) waste materials that result from
2 activities associated with the exploration, development, or
3 production of oil or gas or geothermal resources and other
4 substance or material regulated by the Railroad Commission of Texas
5 under Section 91.101, Natural Resources Code; or

6 (iv) post-use polymers or recoverable
7 feedstocks processed through pyrolysis or gasification that do not
8 qualify as hazardous waste under the Resource Conservation and
9 Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.); and

10 (B) does include hazardous substances, for the
11 purposes of Sections 361.271 through 361.277 [~~361.280~~] and
12 361.343 through 361.345.

13 (36) "Solid waste facility" means all contiguous land,
14 including structures, appurtenances, and other improvements on the
15 land, used for processing, storing, or disposing of solid waste.
16 The term includes a publicly or privately owned solid waste
17 facility consisting of several processing, storage, or disposal
18 operational units such as one or more landfills, surface
19 impoundments, or a combination of units. The term does not include
20 a pyrolysis or gasification facility.

21 SECTION 2. Subchapter B, Chapter 361, Health and Safety
22 Code, is amended by adding Section 361.041 to read as follows:

23 Sec. 361.041. TREATMENT OF POST-USE POLYMERS AND
24 RECOVERABLE FEEDSTOCKS AS SOLID WASTE. (a) The commission may not
25 consider post-use polymers or recoverable feedstock to be solid
26 waste if they are converted using pyrolysis or gasification into a
27 valuable raw, intermediate, or final product, including a plastic,

1 monomer, chemical, wax, lubricant, or chemical feedstock or crude
2 oil, diesel, gasoline, diesel and gasoline blendstock, home heating
3 oil, ethanol, or another fuel.

4 (b) The recycling and reuse of post-use polymers and
5 recoverable feedstocks classified as hazardous waste under federal
6 law are subject to the federal hazardous waste recycling
7 requirements.

8 SECTION 3. Section 361.119, Health and Safety Code, is
9 amended by adding Subsection (c-1) to read as follows:

10 (c-1) A facility that reuses or converts recyclable
11 materials through pyrolysis or gasification, and the operations
12 conducted and materials handled at the facility, are not subject to
13 regulation under rules adopted under this section if the owner or
14 operator of the facility demonstrates that:

15 (1) the primary function of the facility is to convert
16 materials that have a resale value greater than the cost of
17 converting the materials for subsequent beneficial use; and

18 (2) all the solid waste generated from converting the
19 materials is disposed of in a hazardous solid waste management
20 facility or a solid waste facility authorized under this chapter,
21 as appropriate, with the exception of small amounts of solid waste
22 that may be inadvertently and unintentionally disposed of in
23 another manner.

24 SECTION 4. Sections 361.421(5), (6), and (8), Health and
25 Safety Code, are amended to read as follows:

26 (5) "Recyclable material" means material that has been
27 recovered or diverted from the solid waste stream for purposes of

1 reuse, recycling, or reclamation, a substantial portion of which is
2 consistently used in the manufacture of products which may
3 otherwise be produced using raw or virgin materials. The term
4 includes post-use polymers and recoverable feedstocks that are
5 converted through pyrolysis or gasification into valuable raw,
6 intermediate, and final products. Recyclable material is not solid
7 waste unless the material is deemed to be hazardous solid waste by
8 the Administrator of the United States Environmental Protection
9 Agency, whereupon it shall be regulated accordingly unless it is
10 otherwise exempted in whole or in part from regulation under the
11 federal Solid Waste Disposal Act, as amended by the Resource
12 Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et
13 seq.), by Environmental Protection Agency regulation. However,
14 recyclable material may become solid waste at such time, if any, as
15 it is abandoned or disposed of rather than recycled, whereupon it
16 will be solid waste with respect only to the party actually
17 abandoning or disposing of the material.

18 (6) "Recycled material" means materials, goods, or
19 products that consist of recyclable material or materials derived
20 from postconsumer waste, industrial waste, or hazardous waste which
21 may be used in place of a raw or virgin material in manufacturing a
22 new product. The term includes post-use polymers and recoverable
23 feedstocks used in pyrolysis or gasification.

24 (8) "Recycling" means a process by which materials
25 that have served their intended use or are scrapped, discarded,
26 used, surplus, or obsolete are collected, separated, or processed
27 and returned to use in the form of raw materials in the production

1 of new products. Recycling includes:

2 (A) the composting process if the compost
3 material is put to beneficial reuse as defined by the commission;
4 [~~and~~]

5 (B) the application to land, as organic
6 fertilizer, of processed sludge or biosolids from municipal
7 wastewater treatment plants and other organic matter resulting from
8 poultry, dairy, livestock, or other agricultural operations; and

9 (C) the conversion of post-use polymers and
10 recoverable feedstocks through pyrolysis or gasification.

11 SECTION 5. As soon as practicable after the effective date
12 of this Act, the Texas Commission on Environmental Quality shall
13 adopt rules necessary to implement the changes in law made by this
14 Act.

15 SECTION 6. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I certify that H.B. No. 1953 was passed by the House on April 16, 2019, by the following vote: Yeas 130, Nays 5, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1953 was passed by the Senate on May 3, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor