

By: Thompson of Brazoria

H.B. No. 1953

A BILL TO BE ENTITLED

AN ACT

1
2 relating to relating to reducing the volume of wastes disposed of in
3 landfills by promoting the beneficial conversion of plastics and
4 other recoverable materials using pyrolysis and gasification
5 processes.

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

7 SECTION 1. Section 361.003, Health and Safety Code, is
8 amended by amending Subsection (35) and adding Subsections (40)
9 through (45) to read as follows:

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

21 (A) does not include:

22 (i) solid or dissolved material in domestic
23 sewage, or solid or dissolved material in irrigation return flows,
24 or industrial discharges subject to regulation by permit issued

1 under Chapter 26, Water Code;

2 (ii) soil, dirt, rock, sand, and other
3 natural or man-made inert solid materials used to fill land if the
4 object of the fill is to make the land suitable for the construction
5 of surface improvements; or

6 (iii) waste materials that result from
7 activities associated with the exploration, development, or
8 production of oil or gas or geothermal resources and other
9 substance or material regulated by the Railroad Commission of Texas
10 under Section 91.101, Natural Resources Code; and

11 (B) does include hazardous substances, for the
12 purposes of Sections 361.271 through 361.277, 361.280, and 361.343
13 through 361.345.; or

14 (iv) post-use polymers or recoverable
15 feedstocks processed through pyrolysis or gasification.

16 (40) "Gasification" means a process through which
17 recoverable feedstocks are heated and converted into a fuel-gas
18 mixture in an oxygen-deficient atmosphere and the mixture is
19 converted into valuable raw, intermediate and final products
20 including, but not limited to plastic, monomers, chemicals, waxes,
21 lubricants, chemical feedstocks, crude oil, diesel, gasoline,
22 diesel and gasoline blendstocks, home heating oil, and other fuels,
23 including ethanol and transportation fuel. Gasification shall not
24 be considered "processing" or "incineration."

25 (41) "Gasification facility" means a facility that
26 receives, separates, stores and converts post-use polymers and
27 recoverable feedstocks using gasification. The commission may not

1 consider a gasification facility to be a "solid waste facility,"
2 "solid waste management facility" or "incinerator."

3 (42) "Recoverable feedstocks" means one or more of the
4 following materials, derived from recoverable waste, that has been
5 processed so that it may be used as feedstock in a gasification
6 facility:

7 (a) Post-use polymers;

8 (b) Materials, including but not limited to
9 municipal solid waste that contains post-use polymers and other
10 post-industrial waste containing post-use polymers, that has been
11 processed into a fuel or feedstock for which the federal
12 Environmental Protection Agency has made a non-waste determination
13 under 40 CFR 241.3(c) or otherwise determined are not waste or for
14 which the Board has made a non-waste determination. Recoverable
15 feedstocks do not include coal refuse.

16 (43) "Post-use polymers" means plastic polymers that
17 derive from any household, industrial, community, commercial or
18 other sources of operations or activities which might otherwise
19 become a waste if not converted into valuable raw, intermediate and
20 final products including, but not limited to plastic, monomers,
21 chemicals, waxes, lubricants, chemical feedstocks, crude oil,
22 diesel, gasoline, diesel and gasoline blendstocks, home heating
23 oil, and other fuels, including ethanol and transportation fuel.
24 Post-use polymers as defined in this Section may contain incidental
25 contaminants or impurities such as paper labels or metal rings.
26 Post-use polymers are not mixed with solid waste, medical waste,
27 hazardous waste, e-waste, tires or construction demolition debris.

1 Post-use polymers as described in this Section are not "solid
2 wastes."

3 (44) "Pyrolysis" means a manufacturing process
4 through which post-use polymers are heated in the absence of oxygen
5 until melted, and thermally decomposed, and are then cooled,
6 condensed and converted into valuable raw, intermediate and final
7 products including, but not limited to plastic, monomers,
8 chemicals, waxes, lubricants, chemical feedstocks, crude oil,
9 diesel, gasoline, diesel and gasoline blendstocks, home heating
10 oil, and other fuels, including ethanol and transportation fuel.
11 Pyrolysis shall not be considered "processing" or "incineration."

12 (45) "Pyrolysis facility" means a manufacturing
13 facility that receives, separates, stores and converts post-use
14 polymers using pyrolysis. The commission may not consider a
15 pyrolysis facility to be a "solid waste facility," "solid waste
16 management facility" or "incinerator."

17 SECTION 2. Subchapter B, Chapter 361, Health and Safety
18 Code, is amended by adding Subsection 361.045 to read as follows:

19 Sec. 361.045. TREATMENT OF POST-USE POLYMER AND RECOVERABLE
20 FEEDSTOCKS AS SOLID WASTE. The commission may not consider
21 post-use polymers and recoverable feedstocks as solid waste if they
22 are converted using pyrolysis or gasification into valuable raw,
23 intermediate and final products including, but not limited to
24 plastic, monomers, chemicals, waxes, lubricants, chemical
25 feedstocks, crude oil, diesel, gasoline, diesel and gasoline
26 blendstocks, home heating oil, and other fuels, including ethanol
27 and transportation fuel.

1 SECTION 3. Section 361.119, Health and Safety Code, is
2 amended by adding a new Subsection (d) and renumbering Subsections
3 (d), (e), and (f) to read as follows:

4 Sec. 361.119. REGULATION OF CERTAIN FACILITIES AS SOLID
5 WASTE FACILITIES.

6 (d) A facility that reuses or converts recyclable
7 materials, including post-use polymers and recoverable feedstocks,
8 in a pyrolysis or gasification process, and the operations
9 conducted and materials handled at the facility, are not subject to
10 regulation under rules adopted under this section if the owner or
11 operator of the facility demonstrates that:

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

15 (2) all the solid waste generated from converting the
16 materials is disposed of in a solid waste facility authorized under
17 this chapter, with the exception of small amounts of solid waste
18 that may be inadvertently and unintentionally disposed of in
19 another manner.

20 (d) (e) A facility that is owned, operated, or affiliated
21 with a person that has a permit to dispose of municipal solid waste
22 is not subject to regulation or requirements for financial
23 assurance under rules adopted under this section.

24 (e) (f) A solid waste processing facility that is owned or
25 operated by a local government is not subject to rules adopted under
26 this section.

27 (f) (g) The commission shall adopt rules to ensure that the

1 owner or operator of a recycling facility, including a composting
2 or mulching facility, has in place sufficient financial assurance
3 conditioned on satisfactorily operating and closing the facility
4 and consistent with the requirements of Section 361.085 for a solid
5 waste facility other than a facility for the disposal of hazardous
6 waste. This subsection applies only to an owner or operator of a
7 recycling facility:

8 (1) at which combustible material is stored outdoors;
9 or

10 (2) that poses a significant risk to public health and
11 safety as determined by the commission.

12 SECTION 4. Section 361.421, Health and Safety Code, is
13 amended by amending Subsections (5), (6) and (8) to read as follows:

14 SUBCHAPTER N. WASTE REDUCTION PROGRAMS; DISPOSAL FEES

15 Sec. 361.421. DEFINITIONS. In this subchapter:

16 (5) "Recyclable material" means material that has been
17 recovered or diverted from the solid waste stream for purposes of
18 reuse, recycling, or reclamation, a substantial portion of which is
19 consistently used in the manufacture of products which may
20 otherwise be produced using raw or virgin materials. Recyclable
21 material is not solid waste unless the material is deemed to be
22 hazardous solid waste by the Administrator of the United States
23 Environmental Protection Agency, whereupon it shall be regulated
24 accordingly unless it is otherwise exempted in whole or in part from
25 regulation under the federal Solid Waste Disposal Act, as amended
26 by the Resource Conservation and Recovery Act of 1976 (42 U.S.C.
27 Section 6901 et seq.), by Environmental Protection Agency

1 regulation. However, recyclable material may become solid waste at
2 such time, if any, as it is abandoned or disposed of rather than
3 recycled, whereupon it will be solid waste with respect only to the
4 party actually abandoning or disposing of the material. For
5 purposes of this subchapter, the term includes post-use polymers
6 and recoverable feedstocks provided the materials are converted
7 using pyrolysis or gasification into valuable raw, intermediate and
8 final products including, but not limited to plastic, monomers,
9 chemicals, waxes, lubricants, chemical feedstocks, crude oil,
10 diesel, gasoline, diesel and gasoline blendstocks, home heating
11 oil, and other fuels, including ethanol and transportation fuel.

12 (6) "Recycled material" means materials, goods, or
13 products that consist of recyclable material or materials derived
14 from postconsumer waste, industrial waste, or hazardous waste which
15 may be used in place of a raw or virgin material in manufacturing a
16 new product. When used in a pyrolysis or gasification process, the
17 term "recycled materials" includes post-use polymers and
18 recoverable feedstocks.

19 (8) "Recycling" means a process by which materials
20 that have served their intended use or are scrapped, discarded,
21 used, surplus, or obsolete are collected, separated, or processed
22 and returned to use in the form of raw materials in the production
23 of new products. Recycling includes:

24 (A) the composting process if the compost
25 material is put to beneficial reuse as defined by the commission;
26 and

27 (B) the application to land, as organic

1 fertilizer, of processed sludge or biosolids from municipal
2 wastewater treatment plants and other organic matter resulting from
3 poultry, dairy, livestock, or other agricultural operations.; and
4 (C) the conversion of post-use polymers and
5 recoverable feedstocks using a pyrolysis or gasification process.

6 SECTION 5. Subchapter N, Chapter 361, Health and Safety
7 Code, is amended by adding Subsection 361.430 to read as follows:

8 Sec. 361.430. ALTERNATIVES AND INNOVATIVE TECHNOLOGIES.

9 (a) In developing and implementing the state solid waste
10 management strategies and plans, the commission and the controller
11 shall utilize the pollution prevention advisory committee as set
12 out in Section 361.0215 of the Health and Safety Code to promote
13 Sustainable Materials Management (SMM) and the development and use
14 of pyrolysis and gasification processes to divert recoverable
15 polymers and other materials away from landfills and toward
16 conversion into valuable raw, intermediate and final products
17 including, but not limited to plastic, monomers, chemicals, waxes,
18 lubricants, chemical feedstocks, crude oil, diesel, gasoline,
19 diesel and gasoline blendstocks, home heating oil, and other fuels,
20 including ethanol and transportation fuel, by reducing unnecessary
21 and inappropriate barriers to the siting, permitting and operation
22 of facilities utilizing such technologies.

23 (b) Definitions. In this Subsection:

24 (1) Engineered Fuel. The term "engineered fuel"
25 means a solid fuel that is manufactured from recoverable
26 constituents of municipal solid waste or other secondary materials.

27 (2) Feedstock. The term "feedstock" means raw

1 material that is used in a machine or industrial process."

2 (3) Sustainable Materials Management. The term
3 "sustainable materials management" means a systematic approach to
4 using and reusing materials more productively over their entire
5 life cycle, taking into account life-cycle cost benefit analysis
6 considerations.

7 (c) Study. With respect to post-use polymers and
8 recoverable feedstocks that are often deposited in landfills, the
9 commission shall conduct a study to: (a) evaluate recycling and
10 recovery based on the energy and water savings and greenhouse gas
11 reductions achieved by improving material recovery from the solid
12 waste stream, including by measuring certain environmental
13 benefits of waste prevention; and (b) determine the manner in which
14 the State and local government officials can promote and make
15 progress toward sustainable materials management and a
16 cost-effective system (including with respect to environmental
17 issues), through the use of pyrolysis, gasification, and other
18 innovative technologies such as engineered fuels, to convert
19 post-use polymers, alone or in combination with other recoverable
20 feedstocks, into materials that can be used as plastic, monomers,
21 chemicals and chemical feedstocks or to generate energy or fuels.

22 (d) Completion of Study. Not later than 2 years after the
23 date of enactment of this Act, the commission and controller shall
24 complete the study described in subsection (c) and submit to the
25 Governor and General Assembly a report providing findings and
26 recommendations developed through the study."

27 SECTION 6. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect _____.