

1-1 By: Thompson of Brazoria (Senate Sponsor - Hancock) H.B. No. 1953
 1-2 (In the Senate - Received from the House April 16, 2019;
 1-3 April 17, 2019, read first time and referred to Committee on
 1-4 Natural Resources & Economic Development; April 25, 2019, reported
 1-5 favorably by the following vote: Yeas 10, Nays 0; April 25, 2019,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to the conversion of plastics and other recoverable
 1-23 materials through pyrolysis or gasification.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 361.003, Health and Safety Code, is
 1-26 amended by amending Subdivisions (25), (34), (35), and (36) and
 1-27 adding Subdivisions (10-a), (10-b), (24-a), (25-a), (25-b), and
 1-28 (26-a) to read as follows:

1-29 (10-a) "Gasification" means a process through which
 1-30 recoverable feedstocks are heated and converted into a fuel-gas
 1-31 mixture in an oxygen-deficient atmosphere and the mixture is
 1-32 converted into a valuable raw, intermediate, or final product,
 1-33 including a plastic, monomer, chemical, wax, lubricant, or chemical
 1-34 feedstock or crude oil, diesel, gasoline, diesel and gasoline
 1-35 blendstock, home heating oil, ethanol, or another fuel. The term
 1-36 does not include incineration.

1-37 (10-b) "Gasification facility" means a facility that
 1-38 receives, separates, stores, and converts post-use polymers and
 1-39 recoverable feedstocks using gasification. The commission may not
 1-40 consider a gasification facility to be a hazardous waste management
 1-41 facility, a solid waste management facility, or an incinerator.

1-42 (24-a) "Post-use polymers" means plastic polymers
 1-43 that derive from any household, industrial, community, commercial,
 1-44 or other sources of operations or activities that might otherwise
 1-45 become waste if not converted into a valuable raw, intermediate, or
 1-46 final product. Post-use polymers include used polymers that
 1-47 contain incidental contaminants or impurities such as paper labels
 1-48 or metal rings but do not include used polymers mixed with solid
 1-49 waste, medical waste, hazardous waste, electronic waste, tires, or
 1-50 construction or demolition debris.

1-51 (25) "Processing" means the extraction of materials
 1-52 from or the transfer, volume reduction, conversion to energy, or
 1-53 other separation and preparation of solid waste for reuse or
 1-54 disposal. The term includes the treatment or neutralization of
 1-55 hazardous waste designed to change the physical, chemical, or
 1-56 biological character or composition of a hazardous waste so as to
 1-57 neutralize the waste, recover energy or material from the waste,
 1-58 render the waste nonhazardous or less hazardous, make it safer to
 1-59 transport, store, or dispose of, or render it amenable for recovery
 1-60 or storage, or reduce its volume. The term does not include:

1-61 (A) pyrolysis or gasification; or

2-1 (B) activities concerning those materials
 2-2 exempted by the administrator of the United States Environmental
 2-3 Protection Agency under the federal Solid Waste Disposal Act, as
 2-4 amended by the Resource Conservation and Recovery Act of 1976, as
 2-5 amended (42 U.S.C. Section 6901 et seq.), unless the commission
 2-6 determines that regulation of the activity under this chapter is
 2-7 necessary to protect human health or the environment.

2-8 (25-a) "Pyrolysis" means a manufacturing process
 2-9 through which post-use polymers are heated in an oxygen-deficient
 2-10 atmosphere until melted and thermally decomposed and then cooled,
 2-11 condensed, and converted into a valuable raw, intermediate, or
 2-12 final product, including a plastic, monomer, chemical, wax,
 2-13 lubricant, or chemical feedstock or crude oil, diesel, gasoline,
 2-14 diesel and gasoline blendstock, home heating oil, ethanol, or
 2-15 another fuel. The term does not include incineration.

2-16 (25-b) "Pyrolysis facility" means a manufacturing
 2-17 facility that receives, separates, stores, and converts post-use
 2-18 polymers using pyrolysis. The commission may not consider a
 2-19 pyrolysis facility to be a hazardous waste management facility, a
 2-20 solid waste management facility, or an incinerator.

2-21 (26-a) "Recoverable feedstock" means one or more of
 2-22 the following materials, derived from recoverable waste other than
 2-23 coal refuse, that has been processed so that it may be used as
 2-24 feedstock in a gasification facility:

2-25 (A) post-use polymers; and

2-26 (B) material, including municipal solid waste
 2-27 containing post-use polymers and other post-industrial waste
 2-28 containing post-use polymers, that has been processed into a fuel
 2-29 or feedstock for which the commission or the United States
 2-30 Environmental Protection Agency has made a non-waste determination
 2-31 under 40 C.F.R. Section 241.3(c).

2-32 (34) This subdivision expires on delegation of the
 2-33 Resource Conservation and Recovery Act of 1976 authority to the
 2-34 Railroad Commission of Texas. Subject to the limitations of 42
 2-35 U.S.C. Section 6903(27) and 40 C.F.R. Section 261.4(a), "solid
 2-36 waste" means garbage, rubbish, refuse, sludge from a waste
 2-37 treatment plant, water supply treatment plant, or air pollution
 2-38 control facility, and other discarded material, including solid,
 2-39 liquid, semisolid, or contained gaseous material resulting from
 2-40 industrial, municipal, commercial, mining, and agricultural
 2-41 operations and from community and institutional activities. The
 2-42 term:

2-43 (A) does not include:

2-44 (i) solid or dissolved material in domestic
 2-45 sewage, or solid or dissolved material in irrigation return flows,
 2-46 or industrial discharges subject to regulation by permit issued
 2-47 under Chapter 26, Water Code;

2-48 (ii) soil, dirt, rock, sand, and other
 2-49 natural or man-made inert solid materials used to fill land if the
 2-50 object of the fill is to make the land suitable for the construction
 2-51 of surface improvements; ~~[or]~~

2-52 (iii) waste materials that result from
 2-53 activities associated with the exploration, development, or
 2-54 production of oil or gas or geothermal resources and other
 2-55 substance or material regulated by the Railroad Commission of Texas
 2-56 under Section 91.101, Natural Resources Code, unless the waste,
 2-57 substance, or material results from activities associated with
 2-58 gasoline plants, natural gas or natural gas liquids processing
 2-59 plants, pressure maintenance plants, or repressurizing plants and
 2-60 is hazardous waste as defined by the administrator of the United
 2-61 States Environmental Protection Agency under the federal Solid
 2-62 Waste Disposal Act, as amended by the Resource Conservation and
 2-63 Recovery Act of 1976, as amended (42 U.S.C. Section 6901 et seq.);
 2-64 or

2-65 (iv) post-use polymers or recoverable
 2-66 feedstocks processed through pyrolysis or gasification that do not
 2-67 qualify as hazardous waste under the Resource Conservation and
 2-68 Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.); and

2-69 (B) does include hazardous substances, for the

3-1 purposes of Sections 361.271 through 361.277[~~361.280~~] and
 3-2 361.343 through 361.345.

3-3 (35) This subdivision is effective on delegation of
 3-4 the Resource Conservation and Recovery Act of 1976 authority to the
 3-5 Railroad Commission of Texas. Subject to the limitations of 42
 3-6 U.S.C. Section 6903(27) and 40 C.F.R. Section 261.4(a), "solid
 3-7 waste" means garbage, rubbish, refuse, sludge from a waste
 3-8 treatment plant, water supply treatment plant, or air pollution
 3-9 control facility, and other discarded material, including solid,
 3-10 liquid, semisolid, or contained gaseous material resulting from
 3-11 industrial, municipal, commercial, mining, and agricultural
 3-12 operations and from community and institutional activities. The
 3-13 term:

3-14 (A) does not include:

3-15 (i) solid or dissolved material in domestic
 3-16 sewage, or solid or dissolved material in irrigation return flows,
 3-17 or industrial discharges subject to regulation by permit issued
 3-18 under Chapter 26, Water Code;

3-19 (ii) soil, dirt, rock, sand, and other
 3-20 natural or man-made inert solid materials used to fill land if the
 3-21 object of the fill is to make the land suitable for the construction
 3-22 of surface improvements; ~~or~~

3-23 (iii) waste materials that result from
 3-24 activities associated with the exploration, development, or
 3-25 production of oil or gas or geothermal resources and other
 3-26 substance or material regulated by the Railroad Commission of Texas
 3-27 under Section 91.101, Natural Resources Code; or
 3-28 (iv) post-use polymers or recoverable
 3-29 feedstocks processed through pyrolysis or gasification that do not
 3-30 qualify as hazardous waste under the Resource Conservation and
 3-31 Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.); and

3-32 (B) does include hazardous substances, for the
 3-33 purposes of Sections 361.271 through 361.277[~~361.280~~] and
 3-34 361.343 through 361.345.

3-35 (36) "Solid waste facility" means all contiguous land,
 3-36 including structures, appurtenances, and other improvements on the
 3-37 land, used for processing, storing, or disposing of solid waste.
 3-38 The term includes a publicly or privately owned solid waste
 3-39 facility consisting of several processing, storage, or disposal
 3-40 operational units such as one or more landfills, surface
 3-41 impoundments, or a combination of units. The term does not include
 3-42 a pyrolysis or gasification facility.

3-43 SECTION 2. Subchapter B, Chapter 361, Health and Safety
 3-44 Code, is amended by adding Section 361.041 to read as follows:

3-45 Sec. 361.041. TREATMENT OF POST-USE POLYMERS AND
 3-46 RECOVERABLE FEEDSTOCKS AS SOLID WASTE. (a) The commission may not
 3-47 consider post-use polymers or recoverable feedstock to be solid
 3-48 waste if they are converted using pyrolysis or gasification into a
 3-49 valuable raw, intermediate, or final product, including a plastic,
 3-50 monomer, chemical, wax, lubricant, or chemical feedstock or crude
 3-51 oil, diesel, gasoline, diesel and gasoline blendstock, home heating
 3-52 oil, ethanol, or another fuel.

3-53 (b) The recycling and reuse of post-use polymers and
 3-54 recoverable feedstocks classified as hazardous waste under federal
 3-55 law are subject to the federal hazardous waste recycling
 3-56 requirements.

3-57 SECTION 3. Section 361.119, Health and Safety Code, is
 3-58 amended by adding Subsection (c-1) to read as follows:

3-59 (c-1) A facility that reuses or converts recyclable
 3-60 materials through pyrolysis or gasification, and the operations
 3-61 conducted and materials handled at the facility, are not subject to
 3-62 regulation under rules adopted under this section if the owner or
 3-63 operator of the facility demonstrates that:

3-64 (1) the primary function of the facility is to convert
 3-65 materials that have a resale value greater than the cost of
 3-66 converting the materials for subsequent beneficial use; and

3-67 (2) all the solid waste generated from converting the
 3-68 materials is disposed of in a hazardous solid waste management
 3-69 facility or a solid waste facility authorized under this chapter,

4-1 as appropriate, with the exception of small amounts of solid waste
4-2 that may be inadvertently and unintentionally disposed of in
4-3 another manner.

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

4-6 (5) "Recyclable material" means material that has been
4-7 recovered or diverted from the solid waste stream for purposes of
4-8 reuse, recycling, or reclamation, a substantial portion of which is
4-9 consistently used in the manufacture of products which may
4-10 otherwise be produced using raw or virgin materials. The term
4-11 includes post-use polymers and recoverable feedstocks that are
4-12 converted through pyrolysis or gasification into valuable raw,
4-13 intermediate, and final products. Recyclable material is not solid
4-14 waste unless the material is deemed to be hazardous solid waste by
4-15 the Administrator of the United States Environmental Protection
4-16 Agency, whereupon it shall be regulated accordingly unless it is
4-17 otherwise exempted in whole or in part from regulation under the
4-18 federal Solid Waste Disposal Act, as amended by the Resource
4-19 Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et
4-20 seq.), by Environmental Protection Agency regulation. However,
4-21 recyclable material may become solid waste at such time, if any, as
4-22 it is abandoned or disposed of rather than recycled, whereupon it
4-23 will be solid waste with respect only to the party actually
4-24 abandoning or disposing of the material.

4-25 (6) "Recycled material" means materials, goods, or
4-26 products that consist of recyclable material or materials derived
4-27 from postconsumer waste, industrial waste, or hazardous waste which
4-28 may be used in place of a raw or virgin material in manufacturing a
4-29 new product. The term includes post-use polymers and recoverable
4-30 feedstocks used in pyrolysis or gasification.

4-31 (8) "Recycling" means a process by which materials
4-32 that have served their intended use or are scrapped, discarded,
4-33 used, surplus, or obsolete are collected, separated, or processed
4-34 and returned to use in the form of raw materials in the production
4-35 of new products. Recycling includes:

4-36 (A) the composting process if the compost
4-37 material is put to beneficial reuse as defined by the commission;
4-38 [~~and~~]

4-39 (B) the application to land, as organic
4-40 fertilizer, of processed sludge or biosolids from municipal
4-41 wastewater treatment plants and other organic matter resulting from
4-42 poultry, dairy, livestock, or other agricultural operations; and

4-43 (C) the conversion of post-use polymers and
4-44 recoverable feedstocks through pyrolysis or gasification.

4-45 SECTION 5. As soon as practicable after the effective date
4-46 of this Act, the Texas Commission on Environmental Quality shall
4-47 adopt rules necessary to implement the changes in law made by this
4-48 Act.

4-49 SECTION 6. This Act takes effect immediately if it receives
4-50 a vote of two-thirds of all the members elected to each house, as
4-51 provided by Section 39, Article III, Texas Constitution. If this
4-52 Act does not receive the vote necessary for immediate effect, this
4-53 Act takes effect September 1, 2019.

4-54 * * * * *