

By: Hancock

S.B. No. 1656

A BILL TO BE ENTITLED

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, chemical feedstock, 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 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, tires, or construction or
6 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) gasification or pyrolysis; 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 are then

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

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

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

(A) post-use polymers; and

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

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

1 facility, and other discarded material, including solid, liquid,
2 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, as amended (42 U.S.C. Section 6901 et seq.); or

27 (iv) post-use polymers or recoverable

1 feedstocks processed through pyrolysis or gasification; and

2 (B) does include hazardous substances, for the
3 purposes of Sections 361.271 through 361.277~~[, 361.280,]~~ and
4 361.343 through 361.345.

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

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

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

25 (iii) waste materials that result from
26 activities associated with the exploration, development, or
27 production of oil or gas or geothermal resources and other

substance or material regulated by the Railroad Commission of Texas under Section 91.101, Natural Resources Code; or

(iv) post-use polymers or recoverable feedstocks processed through pyrolysis or gasification; and

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

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

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

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

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

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

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

9 (2) all the solid waste generated from converting the
10 materials is disposed of in a solid waste facility authorized under
11 this chapter, with the exception of small amounts of solid waste
12 that may be inadvertently and unintentionally disposed of in
13 another manner.

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

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. The term
21 includes post-use polymers and recoverable feedstocks that are
22 converted through pyrolysis or gasification into valuable raw,
23 intermediate, and final products. Recyclable material is not solid
24 waste unless the material is deemed to be hazardous solid waste by
25 the Administrator of the United States Environmental Protection
26 Agency, whereupon it shall be regulated accordingly unless it is
27 otherwise exempted in whole or in part from regulation under the

federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), by Environmental Protection Agency regulation. However, recyclable material may become solid waste at such time, if any, as it is abandoned or disposed of rather than recycled, whereupon it will be solid waste with respect only to the party actually abandoning or disposing of the material.

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

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

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

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

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

SECTION 5. (a) In this section:

(1) "Advisory committee" means the pollution prevention advisory committee established under Section 361.0215, Health and Safety Code.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Engineered fuel" means a solid fuel that is manufactured from recoverable constituents of municipal solid waste or other secondary materials.

(4) "Feedstock" means raw material that is used in a machine or industrial process.

(5) "Sustainable materials management" means a systematic approach to using and reusing materials more productively over their entire life cycle, taking into account life-cycle cost benefit analysis considerations.

(b) To further develop and implement the state solid waste management strategies and plans, the commission and the comptroller of public accounts, in coordination with the advisory committee, shall conduct a study to promote sustainable materials management and the development and use of pyrolysis and gasification processes to divert recoverable polymers and other materials away from landfills and toward conversion into valuable raw, intermediate, and final products, including plastic, monomers, chemicals, waxes, lubricants, chemical feedstocks, crude oil, diesel, gasoline, diesel and gasoline blendstocks, home heating oil, ethanol, and other fuels, by reducing unnecessary and inappropriate barriers to the siting, permitting, and operation of facilities using the

1 technologies.

2 (c) The study must examine post-use polymers and
3 recoverable feedstocks that are often deposited in landfills to:

4 (1) evaluate recycling and recovery based on the
5 energy and water savings and greenhouse gas reductions achieved by
6 improving material recovery from the solid waste stream, including
7 by measuring certain environmental benefits of waste prevention;
8 and

9 (2) determine the manner in which state and local
10 government officials can promote sustainable materials management,
11 environmental issues, and a cost-effective system through the use
12 of pyrolysis, gasification, and other innovative technologies such
13 as engineered fuels, to convert post-use polymers, alone or in
14 combination with other recoverable feedstocks, into materials that
15 can be used as plastics, monomers, or chemicals and chemical
16 feedstocks, or to generate energy or produce fuels.

17 (d) Not later than two years after the effective date of
18 this Act, the commission and the comptroller of public accounts
19 shall complete the study under this section and report findings and
20 recommendations to the legislature and the governor.

21 (e) This section expires September 1, 2021.

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