

By: Hancock

S.B. No. 2044

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of recycling and recycled products.

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

SECTION 1. Sections 361.003(10-a), (10-b), (25-a), (25-b), and (27), Health and Safety Code, are amended 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 materials or valuable ~~[r]~~ intermediate~~[r]~~ or final products ~~[product]~~, including plastic monomers, chemicals, waxes, lubricants, or chemical feedstocks and other basic hydrocarbons ~~[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.

(25-a) "Pyrolysis" means a manufacturing process through which post-use polymers are heated in an oxygen-deficient atmosphere ~~[until melted and thermally decomposed and then cooled, condensed,]~~ and converted into ~~[a]~~ valuable raw materials or

1 valuable~~[,]~~ intermediate~~[,]~~ or final products [~~product~~], including
2 plastic monomers, chemicals, naphtha, waxes, or plastic and
3 chemical feedstocks and other basic hydrocarbons [~~a plastic,~~
4 ~~monomer, chemical, wax, lubricant, or chemical feedstock or crude~~
5 ~~oil, diesel, gasoline, diesel and gasoline blendstock, home heating~~
6 ~~oil, ethanol, or another fuel~~]. The term does not include
7 incineration.

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

13 (27) "Recycling" has the meaning assigned by Section
14 361.421 [~~means the legitimate use, reuse, or reclamation of solid~~
15 ~~waste~~].

16 SECTION 2. Section 361.0151, Health and Safety Code, is
17 amended by adding Subsection (c) to read as follows:

18 (c) Notwithstanding any other law, the commission or
19 another political subdivision of this state that establishes goals
20 or requirements for recycling or the use of recycled material must
21 base those goals or requirements on the definitions and principles
22 established by Subchapter N. This subsection does not apply to a
23 program described by Subchapter Y or Z.

24 SECTION 3. Section 361.041(a), Health and Safety Code, is
25 amended to read as follows:

26 (a) The commission may not consider post-use polymers or
27 recoverable feedstock to be solid waste if they are converted using

1 pyrolysis or gasification into [a] valuable raw materials or
2 valuable[7] intermediate[7] or final products [~~product~~], including
3 plastic monomers, chemicals, waxes, lubricants, or chemical
4 feedstocks and other basic hydrocarbons [~~a plastic, monomer,~~
5 ~~chemical, wax, lubricant, or chemical feedstock or crude oil,~~
6 ~~diesel, gasoline, diesel and gasoline blendstock, home heating oil,~~
7 ~~ethanol, or another fuel~~].

8 SECTION 4. Section 361.119(c-1), Health and Safety Code, is
9 amended 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 into products for subsequent beneficial use that have a
17 resale value greater than the cost of converting the materials [~~for~~
18 ~~subsequent beneficial use~~]; and

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

25 SECTION 5. Section 361.421, Health and Safety Code, is
26 amended by amending Subdivisions (5), (6), (7), and (8) and adding
27 Subdivision (6-a) to read as follows:

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

20 (6) "Recycled material" means materials, goods, or
21 products that consist of recyclable material or materials derived
22 from post-use polymers or postconsumer waste~~[, industrial waste, or~~
23 ~~hazardous waste]~~ which may be used in place of a raw or virgin
24 material in manufacturing a new product or that are certified under
25 a mass balance attribution system identified by the commission
26 under Section 361.4215. The term includes recycled plastics
27 ~~[post-use polymers and recoverable feedstocks used in pyrolysis or~~

1 ~~gasification~~].

2 (6-a) "Recycled plastics" means products that are
3 produced from:

4 (A) mechanical recycling of post-use polymers;
5 or

6 (B) nonmechanical recycling of post-use polymers
7 certified under a mass balance attribution system identified by the
8 commission under Section 361.4215.

9 (7) "Recycled product" means a product that is
10 eligible to be considered a recycled product under ~~[which meets the~~
11 ~~requirements for recycled material content as prescribed by]~~ the
12 rules established by the commission under ~~[described in]~~ Section
13 [361.427](#).

14 (8) "Recycling" means a process by which materials
15 that have served their intended use or are scrapped, discarded,
16 used, surplus, or obsolete are collected, separated, or processed
17 and returned to use in the form of raw materials or feedstocks used
18 in the production of new products. The term does not include
19 incineration of plastics or waste-to-energy processes. Recycling
20 includes:

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

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

27 (C) the conversion of post-use polymers and

1 recoverable feedstocks through pyrolysis or gasification.

2 SECTION 6. Subchapter N, Chapter 361, Health and Safety
3 Code, is amended by adding Section 361.4215 to read as follows:

4 Sec. 361.4215. MASS BALANCE ATTRIBUTION. The commission by
5 rule shall identify third-party certification systems for mass
6 balance attribution that may be used for the purposes of Sections
7 361.421(6) and (6-a), such as the International Sustainability and
8 Carbon Certification system.

9 SECTION 7. Section 361.427(b), Health and Safety Code, is
10 amended to read as follows:

11 (b) The guidelines established under this section shall
12 specify a minimum percent of the recycled material in a product
13 which must be postconsumer waste or post-use polymer.

14 SECTION 8. As soon as practicable after the effective date
15 of this Act, the Texas Commission on Environmental Quality shall
16 adopt rules necessary to implement the changes in law made by this
17 Act.

18 SECTION 9. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2023.