

1-1 By: Thompson of Brazoria (Senate Sponsor - Hancock) H.B. No. 3060
 1-2 (In the Senate - Received from the House April 26, 2023;
 1-3 May 2, 2023, read first time and referred to Committee on Natural
 1-4 Resources & Economic Development; May 9, 2023, reported favorably
 1-5 by the following vote: Yeas 7, Nays 0; May 9, 2023, sent to
 1-6 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 A BILL TO BE ENTITLED
 1-19 AN ACT

1-20 relating to the regulation of recycling and recycled products.
 1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-22 SECTION 1. Section 361.003, Health and Safety Code, is
 1-23 amended by amending Subdivisions (1), (10-a), (24-a), (25), (25-a),
 1-24 (26-a), (27), (34), (35), and (36) and adding Subdivisions (1-a),
 1-25 (6-a), and (37-a) to read as follows:
 1-26 (1) "Advanced recycling facility" means a
 1-27 manufacturing facility that receives, stores, and converts
 1-28 post-use polymers and recoverable feedstocks using advanced
 1-29 recycling technologies and processes including pyrolysis,
 1-30 gasification, solvolysis, and depolymerization. For purposes of
 1-31 this chapter and rules adopted by the commission under this
 1-32 chapter, an advanced recycling facility is not a solid waste
 1-33 facility, final disposal facility, waste-to-energy facility, or
 1-34 incinerator.
 1-35 (1-a) "Apparent recharge zone" means that recharge
 1-36 zone designated on maps prepared or compiled by, and located in the
 1-37 offices of, the commission.
 1-38 (6-a) "Depolymerization" means a manufacturing
 1-39 process through which post-use polymers are broken down into:
 1-40 (A) smaller molecules, including monomers and
 1-41 oligomers; or
 1-42 (B) raw materials or intermediate or final
 1-43 products, including plastics and chemical feedstocks, basic and
 1-44 unfinished chemicals, waxes, lubricants, or coatings.
 1-45 (10-a) "Gasification" means a process through which
 1-46 recoverable feedstocks are heated and converted into a fuel-gas
 1-47 mixture in an oxygen-deficient atmosphere and the mixture is
 1-48 converted into [a] valuable raw materials or valuable[7]
 1-49 intermediate[7] or final products [product], including plastic
 1-50 monomers, chemicals, waxes, lubricants, or chemical feedstocks [a
 1-51 plastic, monomer, chemical, wax, lubricant, or chemical feedstock
 1-52 or crude oil, diesel, gasoline, diesel and gasoline blendstock,
 1-53 home heating oil, ethanol, or another fuel]. The term does not
 1-54 include incineration.
 1-55 (24-a) "Post-use polymers" means plastics that:
 1-56 (A) are derived from any industrial, commercial,
 1-57 agricultural, or domestic activity, including preconsumer
 1-58 recovered materials and postconsumer materials;
 1-59 (B) are sorted from solid waste and other
 1-60 regulated waste and may contain residual amounts of organic
 1-61 material and incidental contaminants or impurities such as paper

2-1 labels or metal rings;

2-2 (C) are not mixed with solid waste or hazardous
2-3 waste onsite or during processing at an advanced recycling
2-4 facility;

2-5 (D) are used or intended for use as a feedstock or
2-6 for the production of feedstocks, raw materials, or other
2-7 intermediate or final products using advanced recycling; and

2-8 (E) are processed or held prior to processing at
2-9 an advanced recycling facility [~~plastic polymers that derive from~~
2-10 ~~any household, industrial, community, commercial, or other sources~~
2-11 ~~of operations or activities that might otherwise become waste if~~
2-12 ~~not converted into a valuable raw, intermediate, or final product.~~
2-13 ~~Post-use polymers include used polymers that contain incidental~~
2-14 ~~contaminants or impurities such as paper labels or metal rings but~~
2-15 ~~do not include used polymers mixed with solid waste, medical waste,~~
2-16 ~~hazardous waste, electronic waste, tires, or construction or~~
2-17 ~~demolition debris].~~

2-18 (25) "Processing" means the extraction of materials
2-19 from or the transfer, volume reduction, conversion to energy, or
2-20 other separation and preparation of solid waste for reuse or
2-21 disposal. The term includes the treatment or neutralization of
2-22 hazardous waste designed to change the physical, chemical, or
2-23 biological character or composition of a hazardous waste so as to
2-24 neutralize the waste, recover energy or material from the waste,
2-25 render the waste nonhazardous or less hazardous, make it safer to
2-26 transport, store, or dispose of, or render it amenable for recovery
2-27 or storage, or reduce its volume. The term does not include:

2-28 (A) pyrolysis, [~~or~~] gasification, solvolysis, or
2-29 depolymerization; or

2-30 (B) activities concerning those materials
2-31 exempted by the administrator of the United States Environmental
2-32 Protection Agency under the federal Solid Waste Disposal Act, as
2-33 amended by the Resource Conservation and Recovery Act of 1976, as
2-34 amended (42 U.S.C. Section 6901 et seq.), unless the commission
2-35 determines that regulation of the activity under this chapter is
2-36 necessary to protect human health or the environment.

2-37 (25-a) "Pyrolysis" means a manufacturing process
2-38 through which post-use polymers are heated in an oxygen-deficient
2-39 atmosphere [~~until melted and thermally decomposed and then cooled,~~
2-40 ~~condensed,~~] and the pyrolysis product is converted into [a]
2-41 valuable raw materials or valuable[~~r~~] intermediate[~~r~~] or final
2-42 products [product], including plastic monomers, chemicals,
2-43 naphtha, waxes, polymers, or plastic and chemical feedstocks [a
2-44 plastic, monomer, chemical, wax, lubricant, or chemical feedstock
2-45 or crude oil, diesel, gasoline, diesel and gasoline blendstock,
2-46 home heating oil, ethanol, or another fuel]. The term does not
2-47 include incineration.

2-48 (26-a) "Recoverable feedstock" means one or more of
2-49 the following materials, derived from recoverable waste other than
2-50 coal refuse, that has been processed so that it may be used as
2-51 feedstock in an advanced recycling facility or through [a]
2-52 gasification [facility]:

2-53 (A) post-use polymers; and

2-54 (B) material, including municipal solid waste
2-55 [~~containing post-use polymers]~~ and other post-industrial waste:

2-56 (i) [~~containing post-use polymers, that has~~
2-57 ~~been processed into a fuel or feedstock]~~ for which the commission or
2-58 the United States Environmental Protection Agency has made a
2-59 non-waste determination under 40 C.F.R. Section 241.3(c); or

2-60 (ii) that the commission or the United
2-61 States Environmental Protection Agency has otherwise determined
2-62 are feedstocks and not solid waste.

2-63 (27) "Recycling" has the meaning assigned by Section
2-64 361.421 [~~means the legitimate use, reuse, or reclamation of solid~~
2-65 waste].

2-66 (34) This subdivision expires on delegation of the
2-67 Resource Conservation and Recovery Act of 1976 authority to the
2-68 Railroad Commission of Texas. Subject to the limitations of 42
2-69 U.S.C. Section 6903(27) and 40 C.F.R. Section 261.4(a), "solid

3-1 waste" means garbage, rubbish, refuse, sludge from a waste
3-2 treatment plant, water supply treatment plant, or air pollution
3-3 control facility, and other discarded material, including solid,
3-4 liquid, semisolid, or contained gaseous material resulting from
3-5 industrial, municipal, commercial, mining, and agricultural
3-6 operations and from community and institutional activities. The
3-7 term:

3-8 (A) does not include:

3-9 (i) solid or dissolved material in domestic
3-10 sewage, or solid or dissolved material in irrigation return flows,
3-11 or industrial discharges subject to regulation by permit issued
3-12 under Chapter 26, Water Code;

3-13 (ii) soil, dirt, rock, sand, and other
3-14 natural or man-made inert solid materials used to fill land if the
3-15 object of the fill is to make the land suitable for the construction
3-16 of surface improvements;

3-17 (iii) waste materials that result from
3-18 activities associated with the exploration, development, or
3-19 production of oil or gas or geothermal resources and other
3-20 substance or material regulated by the Railroad Commission of Texas
3-21 under Section 91.101, Natural Resources Code, unless the waste,
3-22 substance, or material results from activities associated with
3-23 gasoline plants, natural gas or natural gas liquids processing
3-24 plants, pressure maintenance plants, or repressurizing plants and
3-25 is hazardous waste as defined by the administrator of the United
3-26 States Environmental Protection Agency under the federal Solid
3-27 Waste Disposal Act, as amended by the Resource Conservation and
3-28 Recovery Act of 1976, as amended (42 U.S.C. Section 6901 et seq.);
3-29 or

3-30 (iv) post-use polymers or recoverable
3-31 feedstocks processed through pyrolysis, ~~[or]~~ gasification,
3-32 solvolysis, or depolymerization that do not qualify as hazardous
3-33 waste under the Resource Conservation and Recovery Act of 1976 (42
3-34 U.S.C. Section 6901 et seq.); and

3-35 (B) does include hazardous substances, for the
3-36 purposes of Sections 361.271 through 361.277 and 361.343 through
3-37 361.345.

3-38 (35) This subdivision is effective on delegation of
3-39 the Resource Conservation and Recovery Act of 1976 authority to the
3-40 Railroad Commission of Texas. Subject to the limitations of 42
3-41 U.S.C. Section 6903(27) and 40 C.F.R. Section 261.4(a), "solid
3-42 waste" means garbage, rubbish, refuse, sludge from a waste
3-43 treatment plant, water supply treatment plant, or air pollution
3-44 control facility, and other discarded material, including solid,
3-45 liquid, semisolid, or contained gaseous material resulting from
3-46 industrial, municipal, commercial, mining, and agricultural
3-47 operations and from community and institutional activities. The
3-48 term:

3-49 (A) does not include:

3-50 (i) solid or dissolved material in domestic
3-51 sewage, or solid or dissolved material in irrigation return flows,
3-52 or industrial discharges subject to regulation by permit issued
3-53 under Chapter 26, Water Code;

3-54 (ii) soil, dirt, rock, sand, and other
3-55 natural or man-made inert solid materials used to fill land if the
3-56 object of the fill is to make the land suitable for the construction
3-57 of surface improvements;

3-58 (iii) waste materials that result from
3-59 activities associated with the exploration, development, or
3-60 production of oil or gas or geothermal resources and other
3-61 substance or material regulated by the Railroad Commission of Texas
3-62 under Section 91.101, Natural Resources Code; or

3-63 (iv) post-use polymers or recoverable
3-64 feedstocks processed through pyrolysis, ~~[or]~~ gasification,
3-65 solvolysis, or depolymerization that do not qualify as hazardous
3-66 waste under the Resource Conservation and Recovery Act of 1976 (42
3-67 U.S.C. Section 6901 et seq.); and

3-68 (B) does include hazardous substances, for the
3-69 purposes of Sections 361.271 through 361.277 and 361.343 through

4-1 361.345.

4-2 (36) "Solid waste facility" means all contiguous land,
4-3 including structures, appurtenances, and other improvements on the
4-4 land, used for processing, storing, or disposing of solid
4-5 waste. The term includes a publicly or privately owned solid waste
4-6 facility consisting of several processing, storage, or disposal
4-7 operational units such as one or more landfills, surface
4-8 impoundments, or a combination of units. The term does not include
4-9 an advanced recycling [~~a pyrolysis or gasification~~] facility.

4-10 (37-a) "Solvolysis" means a manufacturing process
4-11 through which post-use polymers are purified with the aid of
4-12 solvents while heated at low temperatures, pressurized, or both
4-13 heated at low temperatures and pressurized, to remove additives and
4-14 contaminants and make useful products, including monomers,
4-15 intermediates, valuable chemicals, plastic and chemical
4-16 feedstocks, and raw materials. The process includes hydrolysis,
4-17 aminolysis, ammonolysis, methanolysis, and glycolysis.

4-18 SECTION 2. Section 361.0151, Health and Safety Code, is
4-19 amended by adding Subsection (c) to read as follows:

4-20 (c) Notwithstanding any other law, the commission or a
4-21 political subdivision of this state that establishes goals or
4-22 requirements for recycling or the use of recycled material must
4-23 base those goals or requirements on the definitions and principles
4-24 established by Subchapter N. This subsection does not apply to a
4-25 program described by Subchapter Y or Z.

4-26 SECTION 3. Section 361.041(a), Health and Safety Code, is
4-27 amended to read as follows:

4-28 (a) The commission may not consider post-use polymers or
4-29 recoverable feedstock to be solid waste if they are converted using
4-30 pyrolysis, [~~or~~] gasification, solvolysis, or depolymerization into
4-31 [~~a~~] valuable raw materials or valuable[~~r~~] intermediate[~~r~~] or final
4-32 products [product], including plastic monomers, chemicals, waxes,
4-33 lubricants, or chemical feedstocks [a plastic, monomer, chemical,
4-34 wax, lubricant, or chemical feedstock or crude oil, diesel,
4-35 gasoline, diesel and gasoline blendstock, home heating oil,
4-36 ethanol, or another fuel].

4-37 SECTION 4. Section 361.119(c-1), Health and Safety Code, is
4-38 amended to read as follows:

4-39 (c-1) A facility that reuses or converts recyclable
4-40 materials through pyrolysis, [~~or~~] gasification, solvolysis, or
4-41 depolymerization, and the operations conducted and materials
4-42 handled at the facility, are not subject to regulation under rules
4-43 adopted under this section if the owner or operator of the facility
4-44 demonstrates that:

4-45 (1) the primary function of the facility is to convert
4-46 materials into products [~~that have a resale value greater than the~~
4-47 ~~cost of converting the materials~~] for subsequent beneficial use;
4-48 and

4-49 (2) all the solid waste generated from converting the
4-50 materials is disposed of in a hazardous solid waste management
4-51 facility or a solid waste facility authorized under this chapter,
4-52 as appropriate, with the exception of small amounts of solid waste
4-53 that may be inadvertently and unintentionally disposed of in
4-54 another manner.

4-55 SECTION 5. Section 361.421, Health and Safety Code, is
4-56 amended by amending Subdivisions (5), (6), (7), and (8) and adding
4-57 Subdivision (6-a) to read as follows:

4-58 (5) "Recyclable material" means material that can be
4-59 or has been recovered or diverted from the [solid] waste stream for
4-60 purposes of reuse, recycling, or reclamation, a substantial portion
4-61 of which is consistently used in the manufacture of products which
4-62 may otherwise be produced using raw or virgin materials. The term
4-63 includes any waste stream, including post-use polymers and
4-64 recoverable feedstocks that are converted through pyrolysis, [~~or~~]
4-65 gasification, solvolysis, or depolymerization into valuable raw
4-66 materials or valuable[~~r~~] intermediate[~~r~~] and final products.
4-67 Recyclable material is not solid waste unless the material is
4-68 deemed to be hazardous solid waste by the Administrator of the
4-69 United States Environmental Protection Agency, whereupon it shall

5-1 be regulated accordingly unless it is otherwise exempted in whole
 5-2 or in part from regulation under the federal Solid Waste Disposal
 5-3 Act, as amended by the Resource Conservation and Recovery Act of
 5-4 1976 (42 U.S.C. Section 6901 et seq.), by Environmental Protection
 5-5 Agency regulation. However, recyclable material may become solid
 5-6 waste at such time, if any, as it is abandoned or disposed of rather
 5-7 than recycled, whereupon it will be solid waste with respect only to
 5-8 the party actually abandoning or disposing of the material.

5-9 (6) "Recycled material" means materials, goods, or
 5-10 products that consist of recovered recyclable material or materials
 5-11 derived from recoverable feedstocks, post-use polymers,
 5-12 postconsumer waste, industrial waste, or hazardous waste which may
 5-13 be used in place of a raw or virgin material in manufacturing a new
 5-14 product or that are certified under a third-party certification
 5-15 system for mass balance attribution identified by the commission
 5-16 under Section 361.4215. The term includes recycled plastics
 5-17 [post-use polymers and recoverable feedstocks used in pyrolysis or
 5-18 gasification].

5-19 (6-a) "Recycled plastics" means products that are
 5-20 produced from:

5-21 (A) mechanical recycling of post-use polymers;
 5-22 or

5-23 (B) nonmechanical recycling of recoverable
 5-24 feedstocks or post-use polymers that are certified under a
 5-25 third-party certification system for mass balance attribution
 5-26 identified by the commission under Section 361.4215.

5-27 (7) "Recycled product" means a product that is
 5-28 eligible to be considered a recycled product under ~~[which meets the~~
 5-29 ~~requirements for recycled material content as prescribed by]~~ the
 5-30 rules established by the commission under ~~[described in]~~ Section
 5-31 361.427. The term does not include a product sold as fuel.

5-32 (8) "Recycling" means a process by which materials
 5-33 that have served their intended use or are scrapped, discarded,
 5-34 used, surplus, or obsolete are collected, separated, or processed
 5-35 and returned to use in the form of raw materials or feedstocks used
 5-36 in the manufacture [production] of new products. The term does not
 5-37 include incineration of plastics or waste-to-energy processes.
 5-38 Recycling includes:

5-39 (A) the composting process if the compost
 5-40 material is put to beneficial reuse as defined by the commission;

5-41 (B) the application to land, as organic
 5-42 fertilizer, of processed sludge or biosolids from municipal
 5-43 wastewater treatment plants and other organic matter resulting from
 5-44 poultry, dairy, livestock, or other agricultural operations; and

5-45 (C) the conversion of post-use polymers and
 5-46 recoverable feedstocks through pyrolysis, ~~[or]~~ gasification,
 5-47 solvolysis, or depolymerization.

5-48 SECTION 6. Subchapter N, Chapter 361, Health and Safety
 5-49 Code, is amended by adding Section 361.4215 to read as follows:

5-50 Sec. 361.4215. MASS BALANCE ATTRIBUTION. The commission by
 5-51 rule shall identify third-party certification systems for mass
 5-52 balance attribution that may be used for the purposes of Sections
 5-53 361.421(6) and (6-a).

5-54 SECTION 7. Sections 361.427(a) and (b), Health and Safety
 5-55 Code, are amended to read as follows:

5-56 (a) The commission, in consultation with the comptroller,
 5-57 shall promulgate rules to establish guidelines by which a product
 5-58 is eligible to be considered a recycled product based on:

5-59 (1) the percent of the total content of a product that
 5-60 consists of recycled material; or

5-61 (2) the portion of the total content of a product that
 5-62 is determined to consist of recycled material according to a
 5-63 third-party certification system for mass balance attribution
 5-64 identified by the commission under Section 361.4215. [which specify
 5-65 the percent of the total content of a product which must consist of
 5-66 recycled material for the product to be a "recycled product."]

5-67 (b) The guidelines established under this section shall
 5-68 specify a minimum percent of the recycled material in a product
 5-69 which must be postconsumer waste or post-use polymers.

6-1 SECTION 8. Sections 361.003(10-b) and (25-b), Health and
6-2 Safety Code, are repealed.

6-3 SECTION 9. As soon as practicable after the effective date
6-4 of this Act, the Texas Commission on Environmental Quality shall
6-5 adopt rules necessary to implement the changes in law made by this
6-6 Act.

6-7 SECTION 10. This Act takes effect immediately if it
6-8 receives a vote of two-thirds of all the members elected to each
6-9 house, as provided by Section 39, Article III, Texas Constitution.
6-10 If this Act does not receive the vote necessary for immediate
6-11 effect, this Act takes effect September 1, 2023.

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