

SESSION OF 2023

SUPPLEMENTAL NOTE ON SENATE BILL NO. 114

As Amended by Senate Committee on
Commerce

Brief*

SB 114, as amended, would define advance recycling and related terms and provide exemptions to solid waste management system and similar terms.

Definitions

The bill would define the term “advanced recycling” as a manufacturing process where already sorted post-use polymers and recovered feedstocks are purchased and then converted into basic raw materials, feedstocks, chemicals, and other products through processes that include, but are not limited to, pyrolysis, gasification, depolymerization, catalytic cracking, reforming, hydrogenation, solvolysis, chemolysis, and other similar technologies.

The bill would also state that the term “advanced recycling” does not include the incineration of plastics or waste-to-energy processes or products sold as fuel.

The bill would also define the following terms:

- “Advanced recycling facility” would mean a manufacturing facility that:
 - Receives, stores, and converts post-use polymers and recovered feedstocks that are processed using advanced recycling;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Is a manufacturing facility subject to applicable Kansas Department of Health and Environment (KDHE) manufacturing regulations; and
- KDHE could inspect to ensure that post-use polymers are used as a raw material for advanced recycling and are not refuse or solid waste;
- “Mass balance attribution” would mean a chain of custody accounting methodology with rules defined by a third-party certification system that enables the attribution of the mass of advanced recycling feedstocks to one or more advanced recycling products;
- “Post-use polymer” would mean a plastic that:
 - Is derived from any industrial, commercial, or agricultural, or domestic activities and includes pre-consumer recovered materials and post-consumer materials;
 - Has been sorted from solid waste and other regulated waste but may contain residual amounts of waste such as organic material and incidental contaminants or impurities;
 - Is not mixed with solid waste or hazardous waste on site or during processing at the advanced recycling facility;
 - Is used or intended to be used as a feedstock for the manufacturing of feedstocks, raw materials, or other immediate products or final products using advanced recycling; and
 - Is processed at an advanced recycling facility or held as such facility prior to processing;
- “Recovered feedstock” would mean one or more of the following materials that has been processed so

that it may be used as feedstock in an advanced recycling facility:

- Post-use polymers; or
- Materials for which the U.S. Environmental Protection Agency has made a non-waste determination or has otherwise determined are feedstocks and not solid waste;
- “Recycled plastics” would mean products that are produced:
 - From mechanical recycling of pre-consumer recovered feedstocks or plastics and post-consumer plastics; or
 - From the advanced recycling of pre-consumer recovered feedstocks or plastics and post-consumer plastics through mass balance attribution under a third-party certification system; and
- “Third-party certification system” would mean an international and multi-national third-party certification system that consists of a set of rules for the implementation of mass balance attribution approaches for advanced recycling of materials. Third-party certification systems include, but are not limited to:
 - International sustainability and carbon certification;
 - Underwriter laboratories;
 - SCS recycled content;
 - Roundtable on sustainable biomaterials;
 - Ecoloop; and
 - REDcert2.

Exemptions

The bill would add an exemption to the definition of solid waste for post-use polymers and recovered feedstocks that are converted at an advanced recycling facility or held at such a facility prior to conversion through an advanced recycling process.

The bill would exempt advanced recycling facilities from the definitions of solid waste management system, solid waste processing facility, and waste-to-energy facility.

Background

The bill was introduced by the Senate Committee on Commerce at the request of Senator Dietrich on behalf of American Chemistry Council.

Senate Committee on Commerce

In the Senate Committee hearing, **proponent** testimony was provided by a representative of the American Chemistry Council. The proponent stated the bill would help bring added investments and jobs to the state of Kansas, while increasing recycling, conserving resources, and reducing plastic waste.

Representatives of the the Sierra Club and Natural Resources Defense Council testified as **opponents** of the bill. The opponents generally stated that advanced recycling creates toxic byproducts, produce little to no recycled plastics, and the facilities have a history of remaining in operation for a short amount of time.

Written-only neutral testimony was provided by a representative of the Kansas Department of Health and Environment and a private citizen.

The Senate Committee amended the bill to:

- Remove advanced recycling facility from the definition of closure; and
- Clarify that products sold as fuel are not recycled products.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Kansas Department of Health and Environment indicate that the bill would have no fiscal effect on agency operations.

Commerce; advanced recycling; solid waste; solid waste management system