

House Bill 3597

Sponsored by Representative GAMBA; Representatives NOSSE, PHAM K

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits Department of Environmental Quality from issuing permit or other authorization for construction or expansion of plastic conversion technology facility.

Prohibits local governments from issuing permit or other authorization for construction or expansion of plastic conversion technology facility.

Prohibits state agencies and local governments from providing incentives to plastic conversion technology facility.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to plastic conversion; creating new provisions; amending ORS 459A.920 and 459A.923; and
3 prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS chapter 468.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **“Plastic conversion facility” means any structure, place, amenity, equipment, tool or**
8 **operation that is built, installed or established for the purpose of performing, facilitating,**
9 **aiding or otherwise engaging in a plastic conversion technology.**

10 (b) **“Plastic conversion technology” means:**

11 (A) **The use of plastic as a fuel or fuel substitute;**

12 (B) **The use of plastic in energy production; or**

13 (C) **Any of the following processes:**

14 (i) **Gasification;**

15 (ii) **Pyrolysis;**

16 (iii) **Hydropyrolysis;**

17 (iv) **Methanolysis;**

18 (v) **Combustion;**

19 (vi) **Glycolysis;**

20 (vii) **Solvolysis;**

21 (viii) **Enzymatic breakdown;**

22 (ix) **Plasma arc; or**

23 (x) **Any other process used to convert plastics into chemicals, waxes, lubricants, chemi-**
24 **cal feedstocks, crude oil, diesel, gasoline or home heating oil.**

25 (2) **Notwithstanding ORS 459.205 to 459.385 and the provisions of ORS chapters 468A and**
26 **468B, the Department of Environmental Quality may not issue a permit or other authori-**
27 **zation for the construction or expansion of any plastic conversion facility.**

28 (3) **A local government may not issue any permit or other authorization for the con-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **struction or expansion of any regulated plastic conversion facility.**

2 (4)(a) **A state agency or local government may not provide any subsidy, grant, tax ex-**
 3 **penditure or other financial incentive, or any other incentive, to support the development**
 4 **of plastic conversion technologies or to support plastic conversion facilities.**

5 (b) **A producer responsibility organization, as defined in ORS 459A.863, is not required to**
 6 **pay a contamination management fee described in ORS 459A.920 or a processor commodity**
 7 **risk fee described in ORS 459A.923 to a plastic conversion facility.**

8 **SECTION 3.** ORS 459A.920 is amended to read:

9 459A.920. (1) The Environmental Quality Commission shall by rule adopt and periodically revise
 10 a contamination management fee to be paid by producer responsibility organizations to commingled
 11 recycling processing facilities to compensate the facilities for the costs of removing and disposing
 12 covered products that are contaminants. The amount of the fee shall be based on the result of the
 13 study conducted under subsection (2) of this section. Rules adopted under this section must:

14 (a) Provide that payment of the fee may not be required more frequently than once per month
 15 and must be paid within 45 days of a request for payment;

16 (b) Provide that the fee may not be based on commingled recycling originating outside of
 17 Oregon; and

18 (c) Establish a review process to ensure that the fee is appropriately charged.

19 (2) The Department of Environmental Quality shall contract with an independent organization
 20 to conduct the study under this subsection. The study must:

21 (a) Estimate the cost to commingled recycling processing facilities of removing and disposing
 22 of covered products that are contaminants, reported as the cost per ton of covered products; and

23 (b) Estimate the costs to commingled recycling processing facilities of removing and disposing
 24 of all contaminants, reported as the cost per ton of all contaminants.

25 (3) A commingled recycling processing facility that does not participate in the review process
 26 described in subsection (1) of this section or the study described in subsection (2) of this section is
 27 not eligible to receive a contamination management fee.

28 (4) Any proprietary information provided to the department under subsection (1) of this section
 29 or to a person conducting a study under subsection (2) of this section may be designated confidential
 30 by a commingled recycling processing facility. Information designated confidential is not subject to
 31 public disclosure under ORS 192.311 to 192.478, except that information may be disclosed as sum-
 32 marized or aggregated data if doing so does not directly or indirectly disclose the proprietary in-
 33 formation of any specific facility.

34 (5) The department shall review the contamination management fee at least once every five
 35 years. The department may not review the contamination management fee more frequently than once
 36 per year.

37 **(6) Rules adopted under this section may not require payment of a contamination man-**
 38 **agement fee to a plastic conversion facility, as defined in section 2 of this 2023 Act.**

39 **SECTION 4.** ORS 459A.923 is amended to read:

40 459A.923. (1) As used in this section:

41 (a) “Anticipated program cost” means all additional costs related to any new requirements of
 42 ORS 459A.860 to 459A.975 that are anticipated prior to the next review of the processor commodity
 43 risk fee under subsection (6) of this section.

44 (b) “Average commodity value” means the average revenue paid by brokers or end markets, af-
 45 ter processing by a commingled recycling processing facility, for a composite ton of commingled

1 material collected for recycling in Oregon.

2 (c)(A) "Eligible processing cost" means all costs associated with owning and operating a
3 commingled recycling processing facility as determined by the study conducted under subsection (3)
4 of this section, including but not limited to sorting, handling, storing, disposal, marketing and ship-
5 ping, administration, rent, fees, depreciation, fixed costs, profit, the target price paid for commingled
6 recycling collected from Oregon as described in subsection (2)(d) of this section and anticipated
7 program costs.

8 (B) "Eligible processing cost" does not include revenue from the sale of recyclables and any
9 costs that are reimbursed by producer responsibility organizations or other parties, including the
10 contamination management fee established under ORS 459A.920.

11 (2) The Environmental Quality Commission shall by rule adopt and periodically revise a
12 processor commodity risk fee to be paid by producer responsibility organizations to commingled re-
13 cycling processing facilities to ensure that producers share in the costs of fully processing
14 commingled recyclables that are covered products and to allow local governments to reduce the fi-
15 nancial impacts on ratepayers. The processor commodity risk fee shall be based on the eligible
16 processing costs of facilities less the average commodity value of recyclable materials processed by
17 facilities. Rules adopted under this section must:

18 (a) Provide that payment of the fee may not be required more frequently than once per month
19 and must be paid within 45 days of a request for payment.

20 (b) Provide that the fee may not be based on commingled recycling originating outside of
21 Oregon.

22 (c) Establish a review process to ensure that the fee is appropriately charged.

23 (d) For purposes of calculating the processor commodity risk fee, allow the average fee charged
24 by commingled recycling processing facilities for acceptance of commingled recyclables collected
25 from Oregon to target a price of \$0 per ton, expressed on the basis of compensation per ton of de-
26 livered material.

27 (e) Provide that the fee is to be paid on the basis of recyclable material received by or sold from
28 a commingled recycling processing facility.

29 (f) Ensure that materials handled by more than one commingled recycling processing facility are
30 not double counted for purposes of calculating the fee.

31 (g) Allow local governments to protect ratepayers from cost increases associated with the
32 volatility of commodity markets.

33 (h) Establish methods to determine and periodically update, but no more frequently than once
34 per month, the average commodity value per ton of commingled materials collected from single-
35 family residences in Oregon and from all other sources in Oregon. The methods developed under this
36 paragraph must include:

37 (A) The average composition of materials by percentage in each mix, multiplied by published
38 market values;

39 (B) The sources of the published market values used; and

40 (C) Any adjustments to published market values for each commodity to reflect conditions in
41 Oregon.

42 (3) Subject to subsection (6) of this section, the Department of Environmental Quality shall
43 contract with an independent organization to conduct the study under this subsection. The study
44 must:

45 (a) Estimate the average eligible processing cost at commingled recycling facilities that process

1 commingled recycling generated in Oregon; and

2 (b) Report the costs on the basis of tons of commingled recycling received and materials shipped
3 to end markets.

4 (4) A commingled recycling facility that does not participate in the review process described in
5 subsection (2) of this section or the study described in subsection (3) of this section is not eligible
6 to receive a processor commodity risk fee.

7 (5) Any proprietary information provided to the department under subsection (2) of this section
8 or to a person conducting a study under subsection (3) of this section may be designated confidential
9 by a commingled recycling processing facility. Information designated confidential is not subject to
10 public disclosure under ORS 192.311 to 192.478, except that information may be disclosed as sum-
11 marized or aggregated data if doing so does not directly or indirectly disclose the proprietary in-
12 formation of any specific facility.

13 (6) The department shall contract for the study under subsection (3) of this section to be per-
14 formed at least once every five years. The department may contract for the study under subsection
15 (3) of this section to be performed no more than once per year. If a study under subsection (3) of
16 this section demonstrates that the average per-ton eligible processing cost has changed by more
17 than 10 percent since the commission last established the processor commodity risk fee, the com-
18 mission shall by rule revise the processor commodity risk fee.

19 **(7) Rules adopted under this section may not require payment of a processor commodity**
20 **risk fee to a plastic conversion facility, as defined in section 2 of this 2023 Act.**

21 **SECTION 5. This 2023 Act takes effect on the 91st day after the date on which the 2023**
22 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

23