

# HB402 INTRODUCED



1 HB402  
2 IM9HWW6-1  
3 By Representatives Collins, Easterbrook  
4 RFD: Commerce and Small Business  
5 First Read: 02-Apr-24



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SYNOPSIS:

Under existing law, the disposal of solid wastes and the recycling of recyclable materials in this state are regulated under the Solid Wastes and Recyclable Materials Management Act.

This bill would define the term "mass balance attribution" as an optional chain of custody accounting method to record the input and output of materials.

This bill would provide that a recovered materials processing facility is a manufacturing facility for purposes of the Solid Wastes and Recyclable Materials Management Act.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to solid waste; to amend Section 22-27-2, Code of Alabama 1975, to provide definitions; and to provide that recovered materials processing facilities are deemed manufacturing facilities for purposes of the Solid Wastes and Recyclable Materials Management Act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 22-27-2, Code of Alabama 1975, is



## HB402 INTRODUCED

29 amended to read as follows:

30 "§22-27-2

31 For the purpose of this article, the following terms  
32 shall have the meanings respectively ascribed to them by this  
33 section:

34 (1) AGENCY. Any controlling agency, public or private,  
35 elected, appointed, or volunteer utilizing methods approved by  
36 the health department or the department for the purpose of  
37 controlling and supervising the collection or management of  
38 solid wastes or recyclable materials.

39 (2) ALTERNATIVE COVER. Material other than earth used  
40 to cover a landfill or sanitary landfill. An alternative cover  
41 shall be approved by the Department of Environmental  
42 Management in compliance with federal law and United States  
43 Environmental Protection Agency rules or guidance to achieve a  
44 level of performance equal to or greater than earthen cover  
45 material.

46 (3) ASHES. The solid residue from burning of wood,  
47 coal, coke, or other combustible material used for heating,  
48 from incineration of solid wastes, or for the production of  
49 electricity at electric generating plants.

50 (4) COAL COMBUSTION BY-PRODUCTS. Fly ash, bottom ash,  
51 boiler slag, or flue gas emission control by-products which  
52 result primarily from the combustion of coal or other fossil  
53 fuels at electric generating plants.

54 (5) COMPOSTING OR COMPOST PLANT. An officially  
55 controlled method or operation whereby putrescible solid  
56 wastes are broken down through microbic action to a material



## HB402 INTRODUCED

57 offering no hazard or nuisance factors to public health or  
58 well-being.

59 (6) DEPARTMENT. The Alabama Department of Environmental  
60 Management.

61 (7) DIRECTOR. The Director of the Alabama Department of  
62 Environmental Management or his or her designee.

63 (8) DISCHARGE. The accidental or intentional spilling,  
64 leaking, pumping, emitting, emptying, or dumping of solid  
65 waste, including leachate, into or on any land or water.

66 (9) DISPOSAL. The discharge, deposit, injection,  
67 dumping, spilling, leaking, or placing of any solid waste into  
68 or on any land or water so that the waste or any constituent  
69 thereof may enter the environment or be emitted into the air  
70 or discharged into any waters, including, but not limited to,  
71 ground waters.

72 (10) FACILITY. All contiguous land, structures, and  
73 other appurtenances used for the processing, treatment,  
74 storage, or disposal of solid waste, or the recovery of  
75 recyclable materials from solid waste, whether or not  
76 authorized or permitted, including, but not limited to, waste  
77 disposal areas and waste disposed therein.

78 (11) FINANCIAL ASSURANCE. A financial arrangement by  
79 the owner or operator of a municipal solid waste landfill  
80 which guarantees the availability of funds which may be used  
81 to close, provide post-closure care, or conduct corrective  
82 action at that facility if the owner or operator fails to  
83 properly execute his or her responsibilities under this  
84 article and any rules adopted by the department for closure,



## HB402 INTRODUCED

85 post-closure care, or corrective action and the terms of any  
86 permit issued for operation of that facility.

87 (12) GARBAGE. Putrescible animal and vegetable wastes  
88 resulting from the handling, preparation, cooking, and  
89 consumption of food, including wastes from markets, storage  
90 facilities, handling and sale of produce and other food  
91 products and excepting such materials that may be serviced by  
92 garbage grinders and handled as household sewage.

93 (13) GENERATION. The act or process of producing solid  
94 waste. Solid waste shall be considered to be generated at the  
95 point that waste materials are first discarded or collected,  
96 regardless of any subsequent materials recovery or recycling.

97 (14) HAZARDOUS WASTES. Those wastes defined in, and  
98 regulated under, the Alabama Hazardous Waste Management and  
99 Minimization Act of 1978, as amended.

100 (15) HEALTH DEPARTMENT. An approved county or district  
101 health department, including the Alabama State Department of  
102 Public Health and the affected state and county health  
103 department.

104 (16) HEALTH OFFICER. The state or affected county  
105 health officer or his or her designee.

106 (17) HOUSEHOLD WASTE. Any solid waste, including, but  
107 not limited to, garbage, trash, and sanitary waste in septic  
108 tanks derived from households, including single and multiple  
109 residences, hotels and motels, bunkhouses, ranger stations,  
110 crew quarters, campgrounds, picnic grounds, and day-use  
111 recreational areas. Sanitary waste in septic tanks shall be  
112 considered as household waste only when it is disposed in a



## HB402 INTRODUCED

113 landfill or unauthorized dump and its inclusion as a household  
114 waste shall in no way prohibit or supersede the authority of  
115 the board or the department to regulate onsite sewage systems  
116 or the management of sanitary waste in septic tanks.

117 (18) INCINERATOR. A device designed to burn that  
118 portion of garbage and rubbish which will be consumed at  
119 temperatures generally ranging 1,600 degrees Fahrenheit or  
120 over. The unburned residue from an incinerator, including  
121 metal, glass, and the like shall be called ashes.

122 (19) INDUSTRIAL SOLID WASTE. Solid waste generated by  
123 manufacturing or industrial processes that is not a hazardous  
124 waste regulated under Chapters 22 to 30, inclusive, of this  
125 title.

126 (20) INNOCENT LANDOWNER. An owner of real property upon  
127 which there is located an unauthorized dump and who meets all  
128 of the following conditions:

129 a. The solid waste was disposed of on the property  
130 after the owner acquired title to the property or the waste  
131 was disposed of before the owner acquired title to the  
132 property and the owner lacked actual knowledge of the waste  
133 after conducting reasonable due diligence or title was  
134 acquired by bequest or devise.

135 b. The owner did not have knowledge that the waste was  
136 being disposed of on the property or the owner took steps,  
137 including, but not limited to, posting signs to prevent  
138 disposal on the property.

139 c. The owner did not participate in or consent to the  
140 disposal of solid waste on the property.



## HB402 INTRODUCED

141 d. The owner did not receive any financial benefit from  
142 the disposal of solid waste on the property.

143 e. Title to the property was not transferred to the  
144 owner for the purpose of evading liability for operating an  
145 unauthorized dump.

146 f. The person or persons responsible for disposing of  
147 the solid waste on the property, in doing so, were not acting  
148 as an agent for the owner.

149 (21) LANDFILL. A method of compaction and earth or  
150 alternative cover of solid wastes other than those containing  
151 garbage or other putrescible wastes, including, but not  
152 limited to, tree limbs and stumps, demolition materials,  
153 incinerator residues, and like materials not constituting a  
154 health or nuisance hazard, where cover need not be applied on  
155 a per day used basis.

156 (22) MASS BALANCE ATTRIBUTION. A chain of custody  
157 accounting methodology for optional use by manufacturers to  
158 account for the input and output of materials.

159 a. Methodology may be defined by an optional  
160 third-party certification system identified and approved by  
161 the department.

162 b. A third-party certification system that enables the  
163 attribution of the mass of chemical recycling feedstocks to  
164 one or more chemical recycling products throughout the  
165 manufacturing process may be utilized by any manufacturer  
166 chemically processing, or recovering monomers, of recovered  
167 materials, including pre-consumer or post-consumer plastics or  
168 materials derived from pre-consumer or post-consumer plastics,



## HB402 INTRODUCED

169 for those products not sold as fuel to be considered recycled  
170 content.

171 ~~(22)~~ (23) MATERIALS RECOVERY FACILITY. A solid waste  
172 management facility that provides for the extraction from  
173 solid waste of recyclable materials, materials suitable for  
174 use as a fuel or soil amendment, or any combination of those  
175 materials. A materials recovery facility shall be deemed to be  
176 a solid waste treatment facility.

177 ~~(23)~~ (24) MEDICAL WASTE. A solid waste or combination of  
178 solid wastes which because of its infectious characteristics  
179 may either:

180 a. Cause, or significantly contribute to, an increase  
181 in mortality or an increase in serious irreversible or  
182 incapacitating reversible illness.

183 b. Pose a substantial present hazard or potential  
184 hazard to human health or the environment when improperly  
185 treated, stored, transported, disposed, or otherwise managed.

186 ~~(24)~~ (25) MUNICIPAL SOLID WASTE LANDFILL. A discrete  
187 area of land or an excavation that receives household waste  
188 and that is not a land application unit, surface impoundment,  
189 injection well, or waste pile. A municipal solid waste  
190 landfill may also receive other types of solid wastes, such as  
191 commercial solid waste, nonhazardous sludge, conditionally  
192 exempt small quantity generator waste, industrial solid waste,  
193 construction/demolition waste, and rubbish. A municipal solid  
194 waste landfill is a sanitary landfill.

195 ~~(25)~~ (26) PERSON. An individual, trust, firm, joint  
196 stock company, corporation (including a government





## HB402 INTRODUCED

197 corporation), partnership, agent, agency, association, state,  
198 municipality, commission, political subdivision of a state, an  
199 interstate body, or other private or public legal entity.

200 ~~(26)~~ (27) PRIVATE SOLID WASTE MANAGEMENT FACILITY. A  
201 solid waste management facility that is operated exclusively  
202 by and for a private solid waste generator for the purpose of  
203 accepting solid waste generated ~~on-site~~ onsite or by the  
204 permittee.

205 ~~(27)~~ (28) PUBLIC SOLID WASTE MANAGEMENT FACILITY. A  
206 solid waste management facility that accepts solid waste from  
207 the public generally or for a fee or any solid waste  
208 management facility that is not a private solid waste  
209 management facility.

210 ~~(28)~~ (29) RECOVERED MATERIALS. Those materials which  
211 have known recycling potential; which can be feasibly  
212 recycled; which have been diverted or removed from the solid  
213 waste stream for recycling, whether or not requiring  
214 subsequent separation and processing; ~~and~~ which have a  
215 substantial portion that is consistently used in the  
216 manufacture of products which may otherwise be produced from  
217 raw or virgin materials. Recovered materials shall not include  
218 solvents or materials, except sawdust, bark, and paper  
219 materials that are destined for incineration, energy recovery,  
220 or any use which constitutes disposal. Recovered materials  
221 shall only be those materials for which during the calendar  
222 year, commencing on January 1, the amount of material recycled  
223 or diverted from the solid waste stream for recycling and  
224 transferred to a different site ~~for recycling~~ equals at least



## HB402 INTRODUCED

225 75 percent by weight or volume of the amount of that material  
226 accumulated at the beginning of the period.

227 ~~(29)~~ (30) RECOVERED MATERIALS PROCESSING FACILITY. A  
228 facility primarily engaged in the storage, processing, and  
229 resale or reuse of recovered materials. A recovered materials  
230 processing facility is a manufacturing facility and is not a  
231 solid waste management facility; however, any solid waste  
232 resulting from the operation of a facility shall be subject to  
233 all applicable laws and regulations relating to solid waste  
234 and shall be deemed to be generated for purposes of reporting  
235 pursuant to solid waste reduction goals, at the point of  
236 collection of the recovered materials from which the solid  
237 waste resulted. A recovered material processing facility shall  
238 provide notification to the department according to rules  
239 adopted by the department not later than January 1, 2025.

240 ~~(30)~~ (31) RECYCLABLE MATERIALS. Those materials which  
241 are capable of being recycled, whether or not the materials  
242 have been diverted or removed from the solid waste stream.

243 ~~(31)~~ (32) RECYCLING. Any process by which materials are  
244 collected, separated, stored, recovered, or processed and  
245 reused or returned to use in the form of raw materials or  
246 products, but does not include the use of materials as a fuel,  
247 or for any use which constitutes disposal.

248 ~~(32)~~ (33) RUBBISH. Nonputrescible solid wastes,  
249 excluding ashes, consisting of both combustible and  
250 noncombustible wastes. Combustible rubbish includes paper,  
251 rags, cartons, wood, furniture, rubber, plastics, yard  
252 trimmings, leaves, and similar materials. Noncombustible



## HB402 INTRODUCED

253 rubbish includes glass, crockery, metal cans, metal furniture,  
254 and like materials which will not burn at ordinary incinerator  
255 temperatures, not less than 1,600 degrees Fahrenheit.

256 ~~(33)~~ (34) SANITARY LANDFILL. A controlled area of land  
257 upon which solid waste is deposited and is compacted and  
258 covered with earth or an alternative cover each day as  
259 deposited, with no on-site burning of wastes, and so located,  
260 contoured, and drained that it will not constitute a source of  
261 water pollution as determined by the department.

262 ~~(34)~~ (35) SOLID WASTE. Any garbage, rubbish,  
263 construction or demolition debris, ash, or sludge from a waste  
264 treatment facility, water supply plant, or air pollution  
265 control facility, and any other discarded materials, including  
266 solid, liquid, semisolid, or contained gaseous material  
267 resulting from industrial, commercial, mining, or agricultural  
268 operations or community activities, or materials intended for  
269 or capable of recycling, but which have not been diverted or  
270 removed from the solid waste stream. The term "solid waste"  
271 does not include recovered materials, solid or dissolved  
272 materials in domestic sewage, solid or dissolved ~~material~~  
273 materials in irrigation return flows, or industrial discharges  
274 which are point sources subject to the National Pollutant  
275 Discharge Elimination System permits under the Federal Water  
276 Pollution Control Act, as amended, or the Alabama Waste  
277 Pollution Control Act, as amended; or source, special,  
278 nuclear, or by-product materials as defined by the Atomic  
279 Energy Act of 1954, as amended. Also excluded from this  
280 definition are land applications of crop residues, animal



## HB402 INTRODUCED

281 manure, and ash resulting exclusively from the combustion of  
282 wood during accepted agricultural operations, waste from  
283 silvicultural operations, or refuse as defined and regulated  
284 pursuant to the Alabama Surface Mining Act of 1969, Article 1,  
285 commencing with Section 9-16-1, of Chapter 16 of Title 9.

286 ~~(35)~~ (36) SOLID WASTE DISPOSAL FACILITY. Any landfill or  
287 part of a facility where final deposition of solid waste  
288 occurs and at which waste may remain after closure.

289 ~~(36)~~ (37) SOLID WASTE MANAGEMENT. The systematic control  
290 of solid waste, including its storage, processing, treatment,  
291 recovery of materials from solid waste, or disposal.

292 ~~(37)~~ (38) SOLID WASTE MANAGEMENT FACILITY. Any solid  
293 waste volume reduction plant, transfer station, material  
294 recovery facility, or other facility, the purpose of which is  
295 the storage, treatment, utilization, processing, disposal, or  
296 recovery of materials from solid waste, or any combination  
297 thereof.

298 ~~(38)~~ (39) UNAUTHORIZED DUMP. Any collection of solid  
299 wastes either dumped or caused to be dumped or placed on any  
300 public or private property, whether or not regularly used, and  
301 not having a permit from the department. Abandoned  
302 automobiles, large appliances, or similar large items of solid  
303 waste shall be considered an unauthorized dump within the  
304 meaning of this article. The careless littering of a  
305 relatively few, smaller individual items such as tires,  
306 bottles, cans, and the like shall not be considered an  
307 unauthorized dump, unless the accumulation of solid waste  
308 poses a threat to human health or the environment. An



## HB402 INTRODUCED

309 unauthorized dump shall also mean any solid waste disposal  
310 site which does not meet the regulatory provisions of this  
311 article."

312 Section 2. This act shall become effective on October  
313 1, 2024.