

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-0619.02 Sarah Lozano x3858

SENATE BILL 24-150

SENATE SPONSORSHIP

Cutter and Michaelson Jenet, Fields, Gonzales, Jaquez Lewis, Priola, Winter F.

HOUSE SPONSORSHIP

Froelich,

Senate Committees

Transportation & Energy

House Committees

Energy & Environment

Finance

Appropriations

A BILL FOR AN ACT

101 **CONCERNING REQUIREMENTS FOR THE PROCESSING OF MUNICIPAL**
102 **SOLID WASTE IN THE STATE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

On and after July 1, 2024, **section 2** of the bill prohibits a person from operating or expanding certain units that incinerate municipal solid waste (incineration unit).

On and after January 1, 2025, **section 2** also clarifies that incineration and incineration units do not meet certain standards established by state law or rules.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
3rd Reading Unamended
March 15, 2024

SENATE
Amended 2nd Reading
March 13, 2024

Section 3 changes current law to provide that synthetic gas produced by the pyrolysis of waste materials is not an eligible energy resource for the purpose of certain state-level renewable energy standards.

Section 4 changes current law to specify that methane derived from the pyrolysis of municipal solid waste is not recovered methane that is a clean heat resource for the purpose of clean heat plans.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that the combustion of municipal solid waste:

4 (a) Generates hazardous waste and toxic pollutants, which affect
5 the health of disproportionately impacted communities and low-income
6 communities;

7 (b) Destroys valuable materials that could be recycled back into
8 the supply chain;

9 (c) Perpetuates the extractive, polluting, linear economy by
10 investing in infrastructure that needs to be continuously supplied with
11 cardboard, paper, and plastics that could otherwise be reduced or
12 recycled; and

13 (d) Is an expensive approach to waste management that relies on
14 government investment of tax dollars or tax credits to build and maintain.

15 ■ ■

16 (2) The general assembly therefore determines that it is in the best
17 interest of the state to:

18 (a) Prohibit combustion units from being eligible for any
19 state-level incentives; and

20 (b) Require pyrolysis and gasification processes to be regulated
21 at the state and local level as solid waste-to-energy incineration systems.

22 **SECTION 2.** In Colorado Revised Statutes, **add** 25-17-109 as

1 follows:

2 **25-17-109. Units that combust municipal solid waste not**
3 **eligible for state-level incentives - definitions.** (1) AS USED IN THIS
4 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

5 (a) "ASTM D7566" MEANS THE ASTM INTERNATIONAL
6 STANDARD D7566 ENTITLED "STANDARD SPECIFICATION FOR AVIATION
7 TURBINE FUEL CONTAINING SYNTHESIZED HYDROCARBONS", AS
8 AMENDED.

9 (b) "BIOCHAR" MEANS A CHARCOAL THAT IS PRODUCED BY
10 PYROLYSIS OF BIOMASS AND THAT MAY BE USED AS A SOIL AMENDMENT.

11 (c) "BIOSOLIDS" HAS THE MEANING SET FORTH IN SECTION
12 25-8-103 (1.4).

13 (d) "COMBUSTION UNIT" MEANS A MUNICIPAL WASTE COMBUSTION
14 UNIT, AS DEFINED IN 40 CFR 60.2977, OR OTHER SOLID WASTE
15 INCINERATION (OSWI) UNIT, AS DEFINED IN 40 CFR 60.2977, THAT
16 COMBUSTS MUNICIPAL SOLID WASTE.

17 (e) "CREMATORY INCINERATOR" MEANS ANY INCINERATOR
18 DESIGNED AND USED SOLELY FOR THE BURNING OF ANATOMICAL
19 PATHOLOGICAL WASTE, WHICH INCINERATOR MAY ALSO BURN INCIDENTAL
20 ITEMS NORMALLY CREMATED AS PART OF THE FUNERAL PROCESS, OR AS
21 OTHERWISE DEFINED BY AIR QUALITY CONTROL COMMISSION RULE.

22 (f) "HAZARDOUS WASTE" HAS THE MEANING SET FORTH IN SECTION
23 25-15-101 (6).

24 (g) "MUNICIPAL SOLID WASTE" MEANS SOLID WASTE FROM
25 HOUSEHOLD, COMMUNITY, COMMERCIAL, OR INDUSTRIAL SOURCES THAT
26 DOES NOT CONTAIN HAZARDOUS WASTE.

27 (h) (I) "STATE INCENTIVE" MEANS ANY STATE-LEVEL GRANT,

1 LOAN, TAX CREDIT, TAX EXEMPTION, SUBSIDY, OR OTHER FINANCIAL
2 INCENTIVE.

3 (II) "STATE INCENTIVE" DOES NOT INCLUDE THE TAX CREDIT
4 ALLOWED PURSUANT TO SECTION 39-22-556.

5 (2) NOTWITHSTANDING ANY LAW TO THE CONTRARY:

6 (a) EXCEPT AS SET FORTH IN SUBSECTION (5) OF THIS SECTION, A
7 COMBUSTION UNIT IS NOT ELIGIBLE FOR ANY STATE INCENTIVES NOT
8 GRANTED OR AWARDED, OR THAT APPLY TO INCOME TAX YEARS, BEFORE
9 JANUARY 1, 2025; EXCEPT THAT THIS SUBSECTION (2)(a) DOES NOT APPLY
10 TO:

11 (I) OPERATIONS TO EXCLUSIVELY TREAT SOURCE-SEPARATED
12 ORGANIC MATERIALS FOR THE CREATION OF COMPOST, BIOSOLIDS, BIO-OIL,
13 AND BIOCHAR;

14 (II) OPERATIONS TO CONDUCT ANAEROBIC DIGESTION;

15 (III) AIR CURTAIN INCINERATORS USED FOR WILDFIRE MITIGATION
16 OR INCINERATION OF THE MATERIALS LISTED IN 40 CFR 60.2888 (b)(1) TO
17 (b)(4);

18 (IV) UNITS THAT COMBUST CONTRABAND OR PROHIBITED GOODS,
19 AS DEFINED IN 40 CFR 60.2887 (p);

20 (V) UNITS OPERATING AS A CREMATORY INCINERATOR;

21 (VI) BIOMASS BOILERS FIRING MATERIALS LISTED IN 40 CFR
22 60.2888 (b)(1) TO (b)(4) OR OTHER APPROVED FUELS; OR

23 (VII) PROCESSES TO PRODUCE SUSTAINABLE AVIATION FUEL, AS
24 DEFINED IN SECTION 40B(d) OF THE INTERNAL REVENUE CODE, SO LONG
25 AS THE PROCESSES UTILIZE A PATHWAY THAT COMPLIES WITH ASTM
26 D7566 AND ALL REQUIREMENTS OF THE FEDERAL "CLEAN AIR ACT", 42
27 U.S.C. SEC. 7401 ET SEQ., AS AMENDED, APPLICABLE TO THE PRODUCER OF

1 THE SUSTAINABLE AVIATION FUEL;

2 (b) ON AND AFTER JANUARY 1, 2025, COMBUSTION IS NOT
3 CONSIDERED "RECYCLING", "RENEWABLE ENERGY", "CLEAN ENERGY",
4 "GREEN ENERGY", "CLIMATE-FRIENDLY", "CARBON-FREE", "BIOFUEL",
5 "ZERO-CARBON", OR ANY OTHER SIMILAR TERM FOR THE PURPOSE OF A
6 PROGRAM ESTABLISHED BY STATE LAW OR RULES; AND

7 (c) ON AND AFTER JANUARY 1, 2025, A COMBUSTION UNIT DOES
8 NOT MEET A "RENEWABLE PORTFOLIO STANDARD", "LOW CARBON FUEL
9 STANDARD", "RENEWABLE FUEL STANDARD", OR ANY OTHER SIMILAR
10 STANDARD ESTABLISHED BY STATE LAW OR RULES.

11 (3) NOTHING IN THIS SECTION PROHIBITS STATE INCENTIVES FOR:

12 (a) ENTITIES PARTICIPATING IN THE WASTE TIRE CLEANUP
13 PROGRAM, AS DEFINED IN SECTION 30-20-1402 (13); OR

14 (b) FEDERAL AND STATE AGENCIES AND INSTITUTIONS OF HIGHER
15 EDUCATION CONDUCTING RESEARCH TO IMPROVE ENVIRONMENTAL AND
16 HEALTH OUTCOMES OF COMBUSTION UNITS, WHICH RESEARCH DOES NOT
17 INCLUDE THE OPERATION OF A COMMERCIAL-SCALE COMBUSTION UNIT.

18 (5) COMBUSTION UNITS THAT ARE IN EXISTENCE IN THE STATE ON
19 OR BEFORE JULY 1, 2024, ARE ELIGIBLE FOR A STATE INCENTIVE TO
20 CONDUCT TECHNOLOGICAL UPGRADES IF THE STATE AGENCY RESPONSIBLE
21 FOR ISSUING THE STATE INCENTIVE DETERMINES THAT THE STATE
22 INCENTIVE IMPROVES THE HEALTH AND SAFETY OF WORKERS, PROMOTES
23 WORKFORCE DEVELOPMENT, REDUCES NEGATIVE IMPACTS OF OPERATIONS
24 OF THE COMBUSTION UNIT, AND ENCOURAGES INVESTMENT IN THE
25 COMMUNITY OF THE COMBUSTION UNIT.

26 **SECTION 3.** In Colorado Revised Statutes, 30-20-902, **amend**
27 (1) as follows:

1 **30-20-902. Definitions.** As used in this part 9, unless the context
2 otherwise requires:

3 (1) (a) "Solid waste-to-energy incineration system" means the use
4 of flammable waste material as a primary or supplemental fuel for the
5 conversion of heat into steam, electrical power, or any other form of
6 energy.

7 (b) "SOLID WASTE-TO-ENERGY INCINERATION SYSTEM" INCLUDES
8 PYROLYSIS AND GASIFICATION PROCESSES.

9 **SECTION 4.** In Colorado Revised Statutes, 31-15-1002, **amend**
10 (1) as follows:

11 **31-15-1002. Definitions.** As used in this part 10, unless the
12 context otherwise requires:

13 (1) (a) "Solid waste-to-energy incineration system" means the use
14 of flammable waste material as a primary or supplemental fuel for the
15 conversion of heat into steam, electrical power, or any other form of
16 energy.

17 (b) "SOLID WASTE-TO-ENERGY INCINERATION SYSTEM" INCLUDES
18 PYROLYSIS AND GASIFICATION PROCESSES.

19 **SECTION 5.** In Colorado Revised Statutes, 40-2-124, **amend**
20 (1)(a) introductory portion as follows:

21 **40-2-124. Renewable energy standards - qualifying retail and**
22 **wholesale utilities - definitions - net metering - legislative declaration**
23 **- rules.** (1) Each provider of retail electric service in the state of
24 Colorado, other than municipally owned utilities that serve forty thousand
25 customers or fewer, is a qualifying retail utility. Each qualifying retail
26 utility, with the exception of cooperative electric associations that have
27 voted to exempt themselves from commission jurisdiction pursuant to

1 section 40-9.5-104 and municipally owned utilities, is subject to the rules
2 established under this article 2 by the commission. No additional
3 regulatory authority is provided to the commission other than that
4 specifically contained in this section. In accordance with article 4 of title
5 24, the commission shall revise or clarify existing rules to establish the
6 following:

7 (a) Definitions of eligible energy resources that can be used to
8 meet the standards. "Eligible energy resources" means recycled energy,
9 renewable energy resources, and renewable energy storage. In addition,
10 resources using coal mine methane ~~and synthetic gas produced by~~
11 ~~pyrolysis of waste materials~~ are eligible energy resources if the
12 commission determines that the electricity generated by those resources
13 is greenhouse gas neutral. SYNTHETIC GAS PRODUCED BY PYROLYSIS OF
14 WASTE MATERIALS IS NOT AN ELIGIBLE ENERGY RESOURCE. The
15 commission shall determine, following an evidentiary hearing, the extent
16 to which such electric generation technologies utilized in an optional
17 pricing program may be used to comply with this standard. A fuel cell
18 using hydrogen derived from an eligible energy resource is also an
19 eligible electric generation technology. Fossil and nuclear fuels and their
20 derivatives are not eligible energy resources. As used in this section:

21 ==
22 **SECTION 6.** In Colorado Revised Statutes, 40-3.2-108, ==
23 **repeal** (2)(n)(II)(B) as follows:

24 **40-3.2-108. Clean heat targets - legislative declaration -**
25 **definitions - plans - rules - reports. (2) Definitions.** As used in this
26 section, unless the context otherwise requires:

27 == ==

1 (n) "Recovered methane" means any of the following that are
2 located in Colorado and meet a recovered methane protocol approved by
3 the air quality control commission:

4 (II) Methane derived from:

5 (B) ~~The pyrolysis of municipal solid waste;~~

6 ==

7 **SECTION 7. Safety clause.** The general assembly finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, or safety or for appropriations for
10 the support and maintenance of the departments of the state and state
11 institutions.