

# An Act to Prohibit State Procurement of Scrutinized Electric Vehicles

## **Sec. 1. Legislative Findings.—**

The State of [name of state] finds that:

1. Forced labor and oppressive child labor in the context of the procurement of electric vehicles present threats to the economic and security interests of [State], with electric vehicles produced by Chinese companies presenting especially heightened threats.
2. Many electric vehicles are being made with components created through the use of forced labor, including products mined and manufactured by Uyghurs and other Muslim minorities targeted by the Chinese Communist Party in an ongoing genocide.
3. Concerns about the use of forced labor to create these components and materials prompted the federal government to pass the Uyghur Forced Labor Prevention Act (UFLPA) with overwhelming bipartisan support. The UFLPA establishes a rebuttable presumption that any product manufactured in whole or in part in the Xinjiang Uyghur Autonomous Region was produced by forced labor.
4. The federal government recently restricted the application of its newly created tax credits for electric vehicles, so that “[b]eginning in 2024, an eligible clean vehicle may not contain any battery components that are manufactured by a foreign entity of concern and beginning in 2025 an eligible clean vehicle may not contain any critical minerals that were extracted, processed, or recycled by a foreign entity of concern.”
5. The federal government recently established regulations defining any company subject to China’s jurisdiction as a “foreign entity of concern,” which would limit federal tax credits from supporting sales of electric vehicles made with battery components from Chinese entities.
6. In addition, many electric vehicles also are being made with components created through the use of oppressive child labor, most notably, through cobalt ore mined in dangerous conditions by thousands of young children in the Democratic Republic of the Congo and sent to China for use in manufacturing batteries.
7. The federal government recently concluded that “downstream products containing lithium-ion batteries may be produced with an input produced with child labor, such as electric cars.”
8. The use of forced labor is repugnant and deplorable, violates basic human rights, constitutes unacceptable discrimination, and damages free and fair competition, thereby harming [State] interests, including [State] economic interests.
9. State governments should ensure that taxpayer dollars are not used to pay for electric vehicles that are manufactured using forced labor.
10. Electric vehicles produced by Chinese companies present additional threats to the security of [State], including because such vehicles increasingly include surveillance technologies from manufacturers that are linked to and are required to aid China’s intelligence and defense agencies.
11. Such surveillance technologies include Light Detection and Ranging (LiDAR) systems, which are a dual-use remote sensing technology used for military applications as well as civilian autonomous driving functions, and are capable of “creating high-definition maps around autonomous vehicles, raising serious national security concerns related to data security, cybersecurity, and exquisite mapping of U.S. infrastructure,” according to the U.S. House of Representatives Select Committee on the Chinese Communist Party.

## **Sec. 2. Definitions.—**

In this Act:

(a) “Company” means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exist for the purpose of making profit.

(b) “People’s Republic of China” (or “PRC”) means the People’s Republic of China and all provinces and autonomous regions of the People’s Republic of China, including the Hong Kong Special Administrative Region of the People’s Republic of China, and the Macao Special Administrative Region of the People’s Republic of China; but does not include Taiwan.

(c) "Scrutinized company" means:

(1) Any company organized under the laws of the PRC or having its principal place of business in the PRC, and any subsidiary of any such company; or

(2) Any company owned or operated, in whole or in part, by the government of the PRC, or an entity controlled by the government of the PRC, and any subsidiary or parent of any such company.

(d) "Owned or operated, in whole or in part means:

(1) For a publicly traded company: that the government of the PRC has the ability to control the company, has access to any material non-public technical information in the possession of the company, or has any other rights or involvement in directing, dictating, controlling, or participating in the decision-making of the company beyond those available to a retail investor holding an equivalent share of ownership; and

(2) For a privately held company: that the government of the PRC holds any share of ownership.

(e) "Control" means the power, direct or indirect, whether or not exercised, to determine, direct, dictate, or decide important matters affecting an entity, including, but without limitation, through:

(1) The ownership of at least 20 percent of the total outstanding voting interest in an entity;

(2) Board representation;

(3) The ability to appoint or discharge any board members, officers, directors, employees, or contractors;

(4) Proxy voting, a special share, contractual arrangements, legal obligations, formal or informal arrangements to act in concert; or

(5) Other means.

(f) "Public entity" means the state, or any department, agency, commission, or other body of state government, including publicly funded institutions of higher education, and any local government, political subdivision, or school district, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public entity.

(g) "Electric vehicle" means a motor vehicle that is propelled to a significant extent by an electric motor that draws electricity from a battery that is capable of being recharged from an external source of electricity.

(h) "Forced labor" means all work or service that is:

(1) Obtained by force, fraud, or coercion, (including by threat of serious harm to, or physical restraint against, any person;

(2) Obtained by means of any scheme, plan, or pattern intended to cause the person to believe that if the person did not perform such labor or services, the person or another person would suffer serious harm or physical restraint;

(3) Obtained by means of the abuse or threatened abuse of law or the legal process;

(4) Imposed on the basis of a protected characteristic;

(5) Not offered or provided voluntarily by the worker; or

(6) Produced through oppressive child labor.

(i) "Oppressive child labor" means a condition of employment under which any person under the age of 14 years is employed in an occupation hazardous for the employment of children, such as manufacturing or mining.

(j) "Protected characteristic" means any characteristic protected by [State's civil rights law].

### **Sec. 3. Prohibitions.—**

(a) A scrutinized company shall be ineligible to, and shall not bid on, submit a proposal for, or enter into, directly or indirectly through a third party, any contract or contract renewal with any public entity for any electric vehicle, or any component of an electric vehicle.