

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4996

By Delegates Ridenour, Kirby, C. Pritt, Ward, Phillips,
Steele, Foster, Kimble, Hillenbrand, Gearheart, and
Mallow

[Introduced January 22, 2024; Referred to the
Committee on Government Organization then the
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §5A-1-10A, relating to government procurement of electric vehicles; prohibiting
 3 government contracts procuring electric vehicles that may have been made in whole or in
 4 part through forced labor; setting remedies and penalties for manufacturers; and providing
 5 an effective date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. DEPARTMENT OF ADMINISTRATION.

§5A-1-10A. Prohibition on state procurement of electric vehicles with forced labor components.

1 (a) Legislative Findings. — The State of West Virginia finds that:

2 (1) Many electric vehicles are being made with components created through the use of
 3 forced labor, including materials mined by Uyghurs and other Muslim minorities in China’s Xinjiang
 4 region;

5 (2) Concerns about the use of forced labor to create these components and materials
 6 prompted the federal government to pass the Uyghur Forced Labor Prevention Act (UFLPA) with
 7 overwhelming bipartisan support;

8 (3) Under the UFLPA, there is a rebuttable presumption that any product manufactured in
 9 whole or in part in the Xinjiang Uyghur Autonomous Region was produced by forced labor;

10 (4) The federal government recently restricted the application of its newly created tax
 11 credits for electric vehicles, so that "[b]eginning in 2024, an eligible clean vehicle may not contain
 12 any battery components that are manufactured by a foreign entity of concern and beginning in
 13 2025 an eligible clean vehicle may not contain any critical minerals that were extracted,
 14 processed, or recycled by a foreign entity of concern";

15 (5) The federal government recently proposed a regulation for another act that any
 16 company subject to China’s jurisdiction will be defined as a "foreign entity of concern", which
 17 would prevent federal tax credits from supporting sales of electric vehicles made with battery

18 components from Chinese entities;

19 (6) In addition, many electric vehicles also are being made with components created
20 through the use of oppressive child labor, most notably, through cobalt ore mined in dangerous
21 conditions by thousands of young children in the Democratic Republic of the Congo and sent to
22 China for use in manufacturing lithium-ion batteries;

23 (7) The federal government recently concluded that "downstream products containing
24 lithium-ion batteries may be produced with an input produced with child labor, such as electric
25 cars;"

26 (8) The use of forced labor is repugnant and deplorable, violates basic human rights,
27 constitutes unacceptable discrimination, and damages free and fair competition; and

28 (9) State governments should take steps to ensure that taxpayer dollars are not being used
29 to pay for electric vehicles that may have been partially manufactured through forced labor.

30 (b) Definitions. — (1) "Forced labor" means all work or service that is (i) obtained by force,
31 fraud, or coercion, including by threat of serious harm to, or physical restraint against, any person;
32 by means of any scheme, plan, or pattern intended to cause the person to believe that if the person
33 did not perform such labor or services, the person or another person would suffer serious harm or
34 physical restraint; or by means of the abuse or threatened abuse of law or the legal process; (ii)
35 imposed on the basis of a protected characteristic; (iii) not offered or provided voluntarily by the
36 worker; or (iv) produced through oppressive child labor.

37 (2) "Electric vehicle" means a motor vehicle which is propelled to a significant extent by an
38 electric motor which draws electricity from a battery which is capable of being recharged from an
39 external source of electricity.

40 (3) "Governmental entity" means a state agency, spending units of the State of West
41 Virginia, or political subdivision of the state, including but not limited to any county, city,
42 municipality, or any school, college, university, administration, authority, or other enterprise
43 operated or funded by the state or any political subdivision of the state.

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

47 (5) "Protected characteristic" means any characteristic protected by West Virginia civil
48 rights laws.

49 (6) "Spending unit of the State of West Virginia" means the State of West Virginia and all
50 agencies, offices, departments, divisions, boards, commissions, councils, committees or other
51 entities of the state government for which an appropriation is requested or to which an
52 appropriation is made by the Legislature.

53 (c) *Provision Required in Public Contract.* — No governmental entity or spending units of
54 the State of West Virginia may enter into a contract for the procurement of electric vehicles, or any
55 component of an electric vehicle, unless the governmental entity or spending units of the State of
56 West Virginia is provided a sworn certification from the manufacturer that (i) consents to personal
57 jurisdiction by the state over the manufacturer; and (ii) certifies that no entity involved in the
58 production of the electric vehicle or component for sale, including the production of any constituent
59 part, or the mining or other sourcing of any materials, used forced labor or oppressive child labor in
60 its activities.

61 (d) *Remedies and Enforcement.* — (1) In addition to any other remedies available at law or
62 equity, if the manufacturer or seller provide false or misleading information under §5A-1-10A(c) of
63 this code, then a civil penalty shall be imposed against the manufacturer or seller for the greater of
64 \$10,000 per false or misleading statement, or the total price paid by the governmental entity or
65 spending units of the State of West Virginia for the vehicles or components.

66 (2) Any government entity or spending units of the State of West Virginia that knowingly
67 violates §5A-1-10A(c) of this code shall return to the State Treasurer the greater of \$10,000 per
68 false or misleading statement, or the total price paid by the governmental entity or spending unit of
69 the State of West Virginia for the vehicles or components.

70 (3) Any employee that knowingly violates §5A-1-10A(c) of this code shall personally pay a
71 fine to the State Treasurer of \$10,000, or the total price paid by the governmental entity or
72 spending unit of the State of West Virginia for each vehicle or component.

73 (4) Each member voting in the affirmative of any board that authorizes a purchase that
74 violates §5A-1-10A(c) of this code shall personally pay a fine to the to the State Treasurer of
75 \$10,000, or the total price paid by the governmental entity or spending unit of the State of West
76 Virginia for each vehicle or component.

77 (5) Any citizen within the district of any government entity or impacted by any spending
78 units of the State of West Virginia that violates this statute has standing to bring enforcement of
79 this statute.

80 (e) Severability. — Each subsection, paragraph, and portion of each paragraph of this
81 section is severable. If one or more sections, paragraphs, or portions of one or more paragraphs of
82 this section are held invalid on their face or as applied to particular facts, then the remaining
83 portions and applications of the section shall be given full effect to the greatest extent practicable.

84 (f) Applicability and Effective Date. — The provisions of this section applies to all electric
85 vehicle procurement contracts entered into, amended, or renewed after July 1, 2024.

NOTE: The purpose of this bill is to prohibit governmental entities and spending units of the State of West Virginia from procuring of electric vehicles and prohibiting government contracts procuring electric vehicles that may have been made in whole or in part through forced labor; setting remedies and penalties for manufacturers; and providing an effective date.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.