

Prohibiting State Procurement of Electric Vehicles Produced by Forced Labor and Child Labor

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THE PROBLEM

- The majority of rare earth elements required for EVs come from China and the Democratic Republic of the Congo.
- The mining and refining processes of these rare earths are dependent upon forced labor—including child labor—typically performed by Uyghurs and other Muslim minorities in China and impoverished children of the DRC.
- China has a dominant hold on the rare earths market, with 60 percent of global production and 85 percent of processing capacity.
- More than 15 percent of China’s production of the aluminum crucial to the manufacture of EVs comes from Xinjiang, where internment camps holding approximately 1.8 million people are located, with the people in those camps being forced to perform hard labor.
- The DRC operates the world’s largest cobalt mine, which produces 95,000 tons of cobalt, representing nearly 41 percent of the world’s total supply.
- Concerns about the use of forced labor to create components necessary for electric vehicle production prompted the federal government, with bipartisan support, to pass the Uyghur Forced Labor Prevention Act (UFLPA) in December 2021.



THE SOLUTION

- State-level legislation intended to prohibit state procurement of electric vehicles with forced labor components coincides with federal guidelines but additionally leverages the state’s power of the purse and the power of state contracts.
- By requiring EV manufacturers to certify that their components were produced free of forced labor, lawmakers have an opportunity to step in and create an additional check to ensure that electric vehicles procured by states, with state contracts, are produced without forced labor and child labor.
- Through this policy, states can ensure that taxpayer dollars are not being used to pay for electric vehicles that, even partially, use oppressive forced and child labor.

Introduction: Rare Earth Elements and Electric Vehicles

Electric vehicles (EVs) are powered by lithium-ion batteries, which can only be manufactured with rare earth elements. Despite their name, rare earth elements are not rare; rather, they are found in low concentrations. This means that rare earth elements are much more difficult to extract than other metals and minerals. Moreover, it is very difficult to separate rare earths from the metal ores in which they are found.¹

The majority of rare earth deposits are found in China and the Democratic Republic of the Congo (DRC). The mining and refining of these rare earths frequently utilize forced labor—including child labor—typically performed by Uyghurs and other Muslim minorities in China and the impoverished children of the DRC.



through a system of mass internment camps. These detainees are subjected to forced labor, torture, and political indoctrination, along with myriad other human rights violations.³ According to a Human Rights Watch report, more than 15 percent of China’s production of the aluminum crucial to the manufacture of EVs comes from Xinjiang, where these internment camps are located.⁴

In the DRC, mining rare earth elements is performed by “artisanal miners,” which is what the low-paid, subsistence miners and their families are called. These artisanal miners live and work in brutal, unsafe conditions. Artisanal miners, often children because of their small size and stature, dig dangerous tunnels to reach the rare earth elements typically located 60 to 90 feet below ground. Hand-operated mining tools are used to access the rare earths, which are collected in bags and carried to roadside buying houses where they are sold. Nearly all the buying houses are operated by Chinese nationals, further cementing China’s hold on the rare earths market.⁵

China currently controls nearly 60 percent of rare earths global production and 85 percent of processing capacity.⁶ Furthermore, the DRC operates the world’s largest cobalt mine, which produces 95,000 tons of cobalt, representing nearly 41 percent of the world’s total supply.⁷ As mentioned, the cobalt ore mined from the DRC is obtained through the use of exploitative child labor in dangerous mining conditions and eventually flows into the Chinese-dominated rare earths supply chain.⁸

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There are two primary methods for mining rare earth elements. The first method relies on using toxic chemicals, which involves removing topsoil and creating a leaching pond where chemicals are added to separate metals. This reliance on chemical erosion allows the rare earths to separate and then be concentrated and refined. However, leaching ponds possessing toxic chemicals can easily leak into the groundwater, potentially corrupting entire waterways.²

The second method relies upon forced labor. Since 2017, in the Xinjiang Uyghur Autonomous Region of China, the Chinese government has detained approximately 1.8 million Uyghurs, Kazakhs, Kyrgyz, and members of other Muslim minority groups

Electric Vehicles and Forced Labor: What the Federal Government Has Done

Concerns about the use of forced labor to create components necessary for electric vehicle production prompted the federal government, with bipartisan support, to pass the Uyghur Forced Labor Prevention Act (UFLPA) in December 2021.⁹

The UFLPA directs the Forced Labor Enforcement Task Force to develop a strategy for supporting the administration of the prohibition on the importation of goods into the United States manufactured wholly or in part with forced labor, particularly from the Xinjiang Uyghur Autonomous Region.¹⁰

Furthermore, the federal government recently restricted the application of its newly created tax credits for EVs so that, “Beginning 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.”¹¹

State-Based Policy Recommendations

While this issue may seem niche, it is a growing concern among the federal government and state governments. In December 2021, the Biden administration issued an executive order¹² calling for most federal vehicle acquisitions to be zero-emission vehicles by 2035. Additionally, various states have attempted to follow suit with similar legislation such as Minnesota¹³, Illinois¹⁴, Hawaii¹⁵, Massachusetts¹⁶, and New York¹⁷.

To combat this growing problem, state lawmakers could propose a bill, as recommended by the American Legislative Exchange Council, “[R]elating to government procurement of electric vehicles; prohibiting government contracts procuring electric vehicles that may have been made through

forced labor; setting remedies and penalties for manufacturers; and providing an effective date.”¹⁸

State-level legislation intended to prohibit state procurement of electric vehicles with forced labor components not only follows suit with federal guidelines but additionally leverages the state’s power of the purse and the power of state contracts.

This policy solution would simply require that any EV manufacturer provide a sworn statement that consents to jurisdiction by the state over the manufacturer, and certify that no entity involved in the production of the EV or its component parts used forced labor or child labor throughout its supply chain.

In fact, this pushback has already begun to unfold, as major automakers have announced that they plan to remove rare earths from their next-generation EVs. Automakers have also said they are in the process of researching and developing EV motors that use little to no rare earth elements.¹⁹

Ultimately, no price is too high if it prevents slave labor and exploitation of children. State policymakers can and should become leaders in the fight to ensure taxpayer dollars are not being used to pay for electric vehicles that have been built on the back of forced labor.

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Endnotes

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