

2023 SESSION

LEGISLATION NOT PREPARED BY DLS
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HB1466

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HOUSE BILL NO. 1466

Offered January 11, 2023

Prefiled December 28, 2022

A BILL to amend the Code of Virginia by amending 10.1-1300 and adding 10.1-1307.06 and 10.1-1307.07 of the Virginia Code, relating to special provisions involving voluntary anti-forced labor and child slavery certifications for sales of low emissions and electric motor vehicles in the Commonwealth of Virginia; remedies for Attorney General when sufficient supply of EV and LEV vehicles are not available.

Patron—Anderson

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by amending §10.1-1300 and adding §10.1-1307.06 and §10.1-1307.07

§ 10.1-1300. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Advisory Board" means the State Advisory Board on Air Pollution.

"Air pollution" means the presence in the outdoor atmosphere of one or more substances which are or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interfere with the enjoyment by the people of life or property.

"Board" means the State Air Pollution Control Board.

COVERED BUSINESS ENTITY.—The term "covered business entity" means any automotive manufacturer selling new electric motor vehicles to the public in the Commonwealth of Virginia and has annual, worldwide gross receipts that exceed \$100,000,000

"Department" means the Department of Environmental Quality.

"Director" or "Executive Director" means the Executive Director of the Department of Environmental Quality.

"Electric motor vehicle" means a two-axle motor vehicle that uses electricity as its only source of motive power. "Electric motor vehicle" includes fuel cell electric vehicles.

FORCED LABOR.—The term "forced labor" means any labor practice or human trafficking activity in violation of national or international standards, including—

(i) International Labor Organization Convention No. 182;

(ii) the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.)

(iii) Virginia Human Rights Act;

(iv) Any manual labor involving children under 18 years of age.

(v) any act that would violate the criminal provisions related to slavery and human trafficking under chapter 77 of title 18, United States Code or under any provisions of the Code of Virginia, if the act had been committed within the jurisdiction of the Commonwealth of Virginia.

GROSS RECEIPTS. —The term "gross receipts" has the meaning given to the term in section 993(f) of the Internal Revenue Code of 1986.

Low Emission Vehicle - Means a motor vehicle that is a hybrid vehicle or a vehicle powered by electricity

"Manufacturer" means a person, partnership, association, corporation or entity engaged in the business of manufacturing or assembling motor vehicles, or of distributing motor vehicles to motor vehicle dealers or direct to Virginia consumers.

ON-SITE SERVICE. —The term "on-site service" means any service work provided on the site of a covered business entity directly for the covered business entity or for an entity in the supply chain for the covered business entity producing materials for the covered business entity.

ON-SITE SERVICE PROVIDER. —The term "on-site service provider" means any entity that provides workers who perform, collectively, a total of not less than 30 hours per week of on-site services for a covered business entity, or for an entity in the supply chain for the covered business entity producing materials for the covered business entity.

"Owner" shall have no connotation other than that customarily assigned to the term "person," but shall include bodies politic and corporate, associations, partnerships, personal representatives, trustees and committees, as well as individuals.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

59 "Purchase" means the purchase or lease of a new electric motor vehicle offered for sale by any
60 method in the Commonwealth of Virginia.

61 SECRETARY. —The term "Secretary" means the Virginia Secretary of Labor.

62 "Special order" means a special order issued under § 10.1-1309.

63 SUPPLY CHAIN. —The term "supply chain" means the end-to-end process for producing and
64 transporting goods beginning at the point of origin through a point of distribution to the destination,
65 inclusive of suppliers, manufacturers, and vendors.

66 "Wood heater" means a wood stove, pellet stove, wood-fired hydronic heater, wood-burning
67 forced-air furnace, or masonry wood heater, any of which is solely designed for heating a home or a
68 business and with either (i) uncontrolled fine particulate matter with an aerodynamic diameter less than
69 or equal to 2.5 micrometers (PM2.5) emissions of less than 10 tons per year or with a maximum heat
70 input of less than 1,000,000 Btu/hr or (ii) uncontrolled fine particulate matter with an aerodynamic
71 diameter less than or equal to 10 micrometers (PM10) emissions of less than 15 tons per year or with a
72 maximum heat input of less than 1,000,000 Btu/hr.

73 **§10.1-1307.06. Covered Business Entity Certification.**

74 (A) All covered business entity engaging in the sale of new low emission or electric vehicle sales in
75 Virginia may file annual reports, beginning, due on July 1 of 2024 and each year thereafter to the
76 Virginia Secretary of Labor that include the following:

77 (1) a disclosure of the covered business entity's policies to prevent the use of forced labor by
78 the covered business entity, its direct suppliers, and its on-site service providers;

79 (2) to the best of the covered entities knowledge, the covered business entity has found no
80 instances of the use of forced labor by the covered business entity or has disclosed every known
81 instance of the use of forced labor in its manufacturing material supply chain.

82 (3) No parts or components of any part of any new electric or low emission vehicle sold in
83 the Commonwealth, including the battery, were produced, mined or assembled using forced labor.

84 (4) Any person who knowingly makes any false statement, representation or certification in
85 any certification filed pursuant to this section shall upon conviction be punished by a fine of not more
86 than \$10,000, or by imprisonment for not more than six months or by both.

87 **§10.1-1307.07. Lack of Supply Chain Remedies.**

88 (A) The Attorney General or any citizen of the Commonwealth shall have standing to file a Writ of
89 Mandamus against the Air Pollution Control Board in the Virginia Supreme Court to suspend the
90 implementation of § 10.1-1307 and § 10.1-1307.04 of the Code of Virginia if there is sufficient evidence
91 that covered business entities cannot produce a sufficient supply of Electric or Low Emission Vehicles
92 in the Commonwealth to meet consumer demand. The Court when making its determination shall give
93 special consideration to the following evidence:

94 Projected demand of new of new vehicle sales for a calendar year

95 Projected supply of new vehicle production by manufacturers

96 Certifications of covered business entities pursuant to §10.1-1307.06

97 There shall be a rebuttable presumption that in the absence of certifications pursuant to
98 §10.1-1307.06 by covered business entities that electric vehicles sold in the Commonwealth contain
99 materials derived, produced or manufactured from or involving forced labor, and accordingly, any new
100 vehicles available for sale in the Commonwealth that lack such certification shall be excluded by the
101 Supreme Court as available supply to consumers of Low Emission or Electric vehicles in the
102 Commonwealth.

103 If such evidence exists, found by a preponderance of the evidence that a lack of supply of new
104 electric or low emission vehicles exists, the Supreme Court shall suspend the implementation of
105 §10.1-1307.04 of the Code of Virginia and any ancillary regulation or law until such a time as
106 necessary for covered businesses to make certifications pursuant to §10.1-1307.06 that new electric and
107 low emission vehicle sales in the Commonwealth of Virginia are produced with materials free of forced
108 labor.