

Column California fires a shot at Tesla over its labor policies



Tesla is expecting lots of consumer demand for its mass market-priced Model 3, starting next year. (Sept. 29, 2017)



By **Michael Hiltzik**

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To entrepreneur [Elon Musk](#), building [Tesla](#) electric vehicles is about creating “one of the great companies of the 21st century,” one that is “fair and just ... the only kind worth creating.”

To the [United Auto Workers](#), which is trying to unionize Tesla’s Fremont factory, building Tesla cars is about doing so at substandard wages and in dangerous conditions, accompanied by efforts to suppress the unionization campaign.

Then there are California legislators and Gov. Brown, who enacted legislation earlier this

month threatening to withhold rebates on electric vehicles unless their manufacturers can be certified “as being [fair and responsible in the treatment of their workers](#).”

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We want to make sure that the public investment California is making creates both cleaner air and good jobs for our economy.

— Angie Wei, California Labor Federation

That could be a considerable threat, since Tesla customers this year have been collecting almost \$1 million a month from the state in rebates on the automaker’s luxury Models S and X, at a rate of \$2,500 per car. The claims are certain to rise in coming years as Tesla ramps up production of its mass-market Model 3, which just began [coming off the assembly line](#).

The new law has stirred editorialists across the state, who have come down heavily on Tesla’s side. “Outrageous groveling to unions,” grouched [the San Jose Mercury](#); “a thinly veiled threat against an employer of thousands of Californians” was the description offered by [the San Francisco Chronicle](#). (These clips were brought to my attention by Tesla, as an indication of its opinion of the legislation.) The Times editorial board hasn’t spoken on the issue.

The legislation applies not only to Tesla, which is aiming to mass-manufacture cars in California, but to all automakers whose vehicles are eligible for state rebates. That includes Nissan, Toyota, [GM](#), Ford, BMW and lesser-known companies such as Bluecar and BYD.

The rebate program has been a boon for the electric carmakers, whose customers have collected nearly \$449 million in state rebates since the program began in March 2010. About \$140 million has been appropriated in the current fiscal year for the rebates, which are entirely funded from cap-and-trade program revenues; an allocation for the next fiscal year hasn’t yet been made. [Significantly fewer rebates](#) have been doled out this year — \$60.3 million through Sept. 28, compared with \$71 million in the same period in 2016 — but that’s mostly because the state imposed income limits in mid-2016 so the rebates wouldn’t go strictly to wealthy buyers. That may have hurt Tesla, a luxury brand that accounted for more than 21% of all rebate dollars last year, but only about 12.4% so

far in 2017.

Still, it appears that the state's shot was aimed chiefly at Tesla. The language was inspired by the California Labor Federation, which is affiliated with the UAW, which in turn is engaged in a ferocious unionization battle with Musk and Tesla.

"The big picture for us is that the auto manufacturing industry created at least two generations of middle-class families," Angie Wei, chief of staff of the labor federation, told me. "Now, not only are we replacing combustion-engine cars, but we're incentivizing it with public money. The question is whether that's going to duplicate the middle-class life that was created for so many families."

The unions say that won't happen at the wage rates and working conditions typical in the electric vehicle industry. Tesla's own figures put average annual hourly pay for Fremont workers who started in January 2013 at about \$39,000, or a bit less than \$19 an hour. "No one can survive in California on that," says Wei, "especially in the Bay Area." The corresponding hourly wage at General Motors, by Tesla's reckoning, is nearly \$24.

[Musk acknowledged in an email](#) to Tesla employees that cash compensation at Tesla, healthcare and other benefits have run well behind those of GM, Ford and Fiat Chrysler. He argued that the difference was more than balanced by Tesla workers' access to stock grants. By their nature, however, the value of those grants is conditional — as [J.P. Morgan once said, stocks "fluctuate."](#) Unless Tesla is guaranteeing its shares' value to employees, stock grants aren't the equivalent of hourly cash pay. It's true that over the last four years, the shares have gained nearly 90%, but there have been periods in that span when it's taken a tumble, too.

Workers who moved to Tesla from NUMMI, the joint Toyota-GM automaker that built the Fremont plant before shutting down in 2010, may feel the pinch especially acutely. Tesla production worker Hai Nguyen, 38, says he earned \$32 an hour at NUMMI, where he worked for nine years. Now he collects \$18 an hour at Tesla, where he's been employed for just over four and a half years performing roughly similar work. He says he received options on 60 shares of Tesla stock when he joined, but had to sell them to make ends meet when they vested four years later. Subsequent option bonuses, he says, are at the discretion of supervisors. Nguyen is involved in the UAW organizing campaign.

Tesla has mounted an aggressive anti-labor campaign that has resulted in [a formal accusation of unfair labor practices](#) lodged in August by the National Labor Relations

Board. A hearing is scheduled to begin in Oakland on Nov. 14. Among the allegations is that Tesla supervisors and security guards have improperly interfered with union leafletting.

The NLRB also indicated it regards the confidentiality agreement employees are required to sign as overly restrictive. The agreement states that “everything you work on, learn about or observe in your work about Tesla is confidential,” including information about other employees, and warns that “it is never OK to communicate with the media or someone closely related to the media about Tesla” without permission. The board has regarded some such agreements as violations of federal labor law, and [it’s prevailed in federal court](#). Tesla called the NLRB filing “baseless” and “entirely without merit.”

Musk’s own comments about the union drive also have a retrograde tone, not unlike what one might hear from an industrial magnate in the 1890s. Following [a post on Medium.com](#) about injuries and poor pay by Tesla worker Jose Moran, Musk accused Moran of being [a paid union agitator](#) and painted the UAW as an organization that “does not share our mission and whose true allegiance is to the giant car companies, where the money they take from employees in dues is vastly more than they could ever make from Tesla.” The company says it’s working to make Fremont “[the safest car factory](#) in the world” and that its safety record is “much better than [the] industry average.”

Some workers question that. Nguyen says the safety culture at Tesla doesn’t match NUMMI’s, where he says equipment was better maintained and work routines more standardized. “They don’t take safety as seriously as they say they do,” he told me. Workers often are loath to complain, because “there’s no job security.”

That brings us back to the state’s initiative on electric vehicle manufacturers’ labor relations. It’s unclear how much Tesla or any other companies have to fear from the legislation, which Gov. Brown signed on Sept. 16. The measure expresses the legislature’s “intent” that the secretary of Labor work with the Air Resources Board to “develop procedures” to certify the automakers as “fair and responsible” in time for the 2018-2019 rebate year. Labor Secretary David Lanier will start working on that process with “stakeholders” — including organized labor and the manufacturers — in coming months, according to his spokesman. Prospective buyers, who are the direct beneficiaries of the rebates, also can be expected to weigh in.

The process, in other words, is wide open. “We’re all trying to figure out how this will play out,” says Chuck Colgan, a spokesman for the Center for Sustainable Energy, a

nonprofit that runs the rebate program for the state.

The factors likely to be used to judge a company's employee relations are easy to guess, if not the weight they'll carry. Unresolved NLRB suits or a surfeit of OSHA complaints: bad. Competitive wage rates: good. The rules worked out by the Labor secretary and ARB will probably have to be approved by the legislature, so the industry's lobbying clout also will be stirred into the cauldron.

But encouraging good labor relations hasn't always been easy for government agencies, especially in recent years when corporate profits have soared and wages have stagnated. Critics of the "fair and responsible" rule should explain why it's wrong for California to hold manufacturers using millions of dollars in public funds to pump up their sales to broad standards of behavior. "We want to make sure," Wei says, "that the public investment California is making creates both cleaner air and good jobs for our economy."

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