

State Capitol
P.O. Box 942849
Sacramento, CA 94249-0115

Assembly California Legislature

January 10, 2017

Elon Musk, CEO, Tesla Motors
3500 Deer Creek Road, Palo Alto, CA 94304

Dear Mr. Musk:

As Members of the California State Assembly, we applaud Tesla's commitment to a better environment and its innovative technological advances.

However, it was brought to our attention that Tesla recently asked employees to sign a confidentiality agreement, including asking the workers to attest to the fact that they have complied with the policy over the last twelve months. While we certainly appreciate a company's right to protect its trade secrets and other proprietary information, we have concerns that the breadth of this agreement impermissibly violates protected employee activity under state and federal law, including the right to communicate to each other and the public about wages, working conditions, and other issues.

Primarily, the breadth of the agreement appears to violate employee rights under the National Labor Relations Act (NLRA) by both promulgating overly broad work rules directed at employees' union or concerted activities and by threatening employees for engaging in conduct which is part of union or concerted activities.

As the General Counsel of the NLRB recently stated in a March 18, 2015 memo, "Employees have a Section 7 right to discuss wages, hours, and other terms and conditions of employment with fellow employees, as well as with nonemployees, such as union representatives. Thus, an employer's confidentiality policy that either specifically prohibits employee discussions of terms and conditions of employment—such as wages, hours, or workplace complaints—or that employees would reasonably understand to prohibit such discussions, violates the Act."

In addition, several provisions of California law prohibit employers from having policies that prohibit employees from discussing wages and working conditions, or from retaliating against employees for doing so. (See California Labor Code sections 232, 232.5 and 1197.5(j)(1)).

We are concerned that over-broad language in the confidentiality agreement violates these provisions and has resulted in a chilling effect on workers' ability to engage in protected activity. As we are confident that this was not your intention, we respectfully request that Tesla revise this policy to protect employee rights and comply with the law, and immediately communicate this clarification to all workers.

Thank you for your attention to this matter, and we look forward to your reply.

Sincerely,



TONY THURMOND
Assemblymember,
15th District

BILL QUIRK
Assemblymember,
20th District

KANSEN CHU
Assemblymember,
25th District

ROB BONTA
Assemblymember,
18th District

ASH KALRA
Assemblymember,
27th District