

2359--A

2011-2012 Regular Sessions

I N S E N A T E

January 19, 2011

Introduced by Sens. SEWARD, LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- recommitted to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the transportation law, the state finance law, the tax law and the public authorities law, in relation to programs that promote and protect the safety of truck drivers in New York state

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as "Jason's Law".
2 S 2. Legislative intent. The legislature finds and declares that there
3 is a great need to provide truck drivers with safe places to rest while
4 waiting for pending appointments or to comply with federal hours of
5 service regulations. Federal law requires motor carrier operators to
6 rest for a period of ten hours after driving for eleven consecutive
7 hours. Federal law further prohibits motor carrier operators from driv-
8 ing more than sixty hours over a seven day period. These requirements
9 are only exacerbating the shortage of safe parking areas for motor
10 carriers, forcing many drivers to park in desolate, poorly lit areas
11 with little or no security. Many shippers and receivers of freight do
12 not allow truckers into their facilities until just before their sched-
13 uled appointment time and insist that they leave promptly once delivery
14 is complete. It is imperative that the legislature address the current
15 shortage of long-term parking for commercial motor vehicles to ensure
16 the personal safety and security of those who transport goods and
17 provide essential services for the people of the state of New York.
18 S 3. The transportation law is amended by adding a new section 140-a
19 to read as follows:
20 S 140-A. MOTOR CARRIER SAFETY AND SECURITY REVOLVING LOAN PROGRAM. 1.
21 THE COMMISSIONER SHALL ESTABLISH AND MAINTAIN A MOTOR CARRIER SAFETY AND

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 SECURITY REVOLVING LOAN PROGRAM TO PROVIDE LOANS TO ELIGIBLE APPLICANTS
2 TO MAKE SAFETY AND SECURITY UPGRADES ON THEIR FACILITIES FOR THE
3 PURPOSES DESIGNATED IN THIS SECTION. SUCH PROGRAM SHALL PROVIDE INTEREST
4 FREE LOANS TO ELIGIBLE APPLICANTS FOR SUCH SAFETY AND SECURITY IMPROVE-
5 MENT PROJECTS AS THE COMMISSIONER SHALL DEEM TO BE ELIGIBLE PURSUANT TO
6 THIS SECTION.

7 2. STATE FINANCIAL ASSISTANCE IN THE FORM OF A LOAN MAY BE PROVIDED,
8 SUBJECT TO APPROPRIATION BY THE LEGISLATURE, TO RECIPIENTS FOR ELIGIBLE
9 PROJECTS AS DEFINED IN THIS SECTION. ANY FINANCIAL ASSISTANCE AWARDED
10 SHALL BE PROVIDED FROM THE MOTOR CARRIER SAFETY AND SECURITY REVOLVING
11 LOAN FUND ESTABLISHED PURSUANT TO SECTION NINETY-NINE-U OF THE STATE
12 FINANCE LAW.

13 3. ELIGIBLE APPLICANTS SHALL MEAN OWNERS AND OPERATORS OF PRIVATE REST
14 AREAS, TRUCK STOPS, TRAVEL PLAZAS, AND ANY OTHER FACILITY WHICH PROVIDES
15 MOTOR CARRIERS WITH A SAFE PLACE TO REST WHILE WAITING FOR SCHEDULED
16 APPOINTMENTS AND/OR COMPLYING WITH FEDERAL HOURS OF SERVICE REGULATIONS.

17 4. ELIGIBLE PROJECTS SHALL INCLUDE: (A) THE PURCHASE AND INSTALLATION
18 OF NEW SECURITY SYSTEMS, INCLUDING BUT NOT LIMITED TO ALARMS AND VIDEO
19 SURVEILLANCE EQUIPMENT; (B) THE PURCHASE AND INSTALLATION OF NEW OR
20 IMPROVED LIGHTING EQUIPMENT TO PROVIDE ENHANCED VISIBILITY IN PARKING
21 AREAS; (C) HIRING OR OTHERWISE MAINTAINING SECURITY GUARDS THAT PROVIDE
22 REGULAR PATROLS OF THE ENTIRE FACILITY; (D) THE CONSTRUCTION OF NEW
23 PARKING FACILITIES; AND (E) UPGRADING AND IMPROVING EXISTING PARKING
24 FACILITIES.

25 5. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS FOR THE
26 PURPOSE OF CARRYING OUT THE PROVISIONS OF THIS SECTION, INCLUDING ESTAB-
27 LISHING: (A) AN APPLICATION PROCESS WHEREBY ELIGIBLE APPLICANTS MAY
28 APPLY FOR LOANS; (B) CRITERIA AND STANDARDS FOR DETERMINING AN APPLI-
29 CANT'S ELIGIBILITY FOR A LOAN; (C) CRITERIA AND STANDARDS TO BE USED IN
30 DETERMINING THE AMOUNT OF FINANCIAL ASSISTANCE TO BE PROVIDED TO EACH
31 APPLICANT; AND (D) CRITERIA AND STANDARDS TO BE USED IN DETERMINING THE
32 LOAN REPAYMENT PERIODS AND THE TERMS OF REPAYMENT AGREEMENTS.

33 6. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT APPLICANTS
34 WHO HAVE RECEIVED TAX CREDITS PURSUANT TO SUBDIVISION FORTY-FIVE OF
35 SECTION TWO HUNDRED TEN OF THE TAX LAW FROM PARTICIPATING IN THE MOTOR
36 CARRIER SAFETY AND SECURITY REVOLVING LOAN PROGRAM OFFERED UNDER THIS
37 SECTION.

38 S 4. The state finance law is amended by adding a new section 99-u to
39 read as follows:

40 S 99-U. MOTOR CARRIER SAFETY AND SECURITY REVOLVING LOAN FUND. 1.
41 THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMP-
42 TROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO
43 BE KNOWN AS THE MOTOR CARRIER SAFETY AND SECURITY REVOLVING LOAN FUND.

44 2. SUCH FUND SHALL CONSIST OF ALL MONIES APPROPRIATED FOR ITS PURPOSE,
45 ALL MONIES TRANSFERRED TO SUCH FUND PURSUANT TO LAW AND ALL MONIES
46 REQUIRED TO BE PAID INTO OR CREDITED TO THIS FUND, INCLUDING ALL MONIES
47 RECEIVED BY THE FUND OR DONATED TO IT, AND PAYMENT OF PRINCIPAL ON LOANS
48 MADE FROM THE FUND.

49 3. MONIES OF THE FUND, WHEN ALLOCATED, SHALL BE MADE AVAILABLE TO THE
50 COMMISSIONER OF TRANSPORTATION TO PROVIDE LOANS PURSUANT TO SECTION ONE
51 HUNDRED FORTY-A OF THE TRANSPORTATION LAW.

52 S 5. Section 210 of the tax law is amended by adding two new subdivi-
53 sions 45 and 46 to read as follows:

54 45. CREDIT FOR PROVIDING A SAFE HARBOR FOR MOTOR CARRIERS. (A) FOR
55 TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIR-

TEEN, A QUALIFYING TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST ANY TAX DUE UNDER THIS ARTICLE IN AN AMOUNT OF TWENTY PERCENT.

(B) (1) FOR THE PURPOSES OF THIS SUBDIVISION, A "QUALIFYING TAXPAYER" ALLOWED A CREDIT SHALL MEAN A TAXPAYER ENGAGED IN THE SHIPPING AND/OR RECEIVING OF ANY COMMODITIES VIA A MOTOR CARRIER, OR AN INDIVIDUAL, EITHER OF WHICH PROVIDES QUALIFYING MOTOR CARRIERS SERVICES AT THEIR FACILITIES THAT PROVIDE A SECURE AREA IN WHICH SUCH MOTOR CARRIERS MAY WAIT FOR PENDING APPOINTMENTS OR TO COMPLY WITH FEDERAL HOURS OF SERVICE REGULATIONS.

(2) FOR THE PURPOSES OF THIS SUBDIVISION, A "QUALIFYING MOTOR CARRIER" SHALL MEAN A MOTOR CARRIER THAT IS NOT EMPLOYED BY THE TAXPAYER OR A COMPANY OR CORPORATION THAT IS AFFILIATED WITH THE TAXPAYER.

(C) QUALIFYING TAXPAYERS WHO APPLY FOR AND RECEIVE SUCH CREDIT FOR PROVIDING SAFE HARBOR FOR MOTOR CARRIERS SHALL NOT BE LIABLE FOR INJURY OR DEATH TO ANY PERSON OR FOR ANY PROPERTY DAMAGE OCCURRING ON OR AT THE FACILITY PROVIDED, HOWEVER, THAT SUCH TAXPAYER SHALL NOT BE PROTECTED FROM LIABILITY CAUSED BY THE INTENTIONAL, WILLFUL, AND RECKLESS MISCONDUCT OF SUCH TAXPAYER.

46. CREDIT FOR SECURITY UPGRADES AND PARKING IMPROVEMENTS AT REST AREAS. (A) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, A QUALIFYING TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST ANY TAX DUE UNDER THIS ARTICLE IN AN AMOUNT EQUAL TO FIFTY PERCENT OF THE TOTAL EXPENDITURES FOR THE PURCHASE, INSTALLATION AND/OR MAINTENANCE OF A QUALIFYING PROJECT OR PROJECTS THAT ARE INTENDED TO IMPROVE THE SAFETY AND SECURITY OF FACILITIES OPERATED BY QUALIFYING TAXPAYERS.

(B) FOR THE PURPOSES OF THIS SUBDIVISION A "QUALIFYING TAXPAYER" SHALL MEAN OWNERS AND OPERATORS OF PRIVATE REST AREAS, TRUCK STOPS, TRAVEL PLAZAS AND ANY OTHER FACILITY WHICH PROVIDES MOTOR CARRIERS WITH A SAFE PLACE TO REST WHILE WAITING FOR SCHEDULED APPOINTMENTS AND/OR COMPLYING WITH FEDERAL HOURS OF SERVICE REGULATIONS.

(C) FOR PURPOSES OF THIS SUBDIVISION, A "QUALIFYING PROJECT" INCLUDES THE FOLLOWING:

(1) THE PURCHASE AND INSTALLATION OF NEW SECURITY SYSTEMS, INCLUDING BUT NOT LIMITED TO ALARMS AND VIDEO SURVEILLANCE EQUIPMENT;

(2) THE PURCHASE AND INSTALLATION OF NEW OR IMPROVED LIGHTING EQUIPMENT TO PROVIDE ENHANCED VISIBILITY IN PARKING AREAS;

(3) HIRING OR OTHERWISE MAINTAINING SECURITY GUARDS THAT PROVIDE REGULAR PATROLS OF THE ENTIRE FACILITY;

(4) THE CONSTRUCTION OF NEW PARKING FACILITIES; AND

(5) UPGRADING AND IMPROVING EXISTING PARKING FACILITIES.

(D) NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED TO PREVENT TAXPAYERS WHO HAVE RECEIVED FUNDING THROUGH THE MOTOR CARRIER SAFETY AND SECURITY REVOLVING LOAN PROGRAM FROM BEING ELIGIBLE FOR THE TAX CREDIT OFFERED IN THIS SECTION.

S 6. The public authorities law is amended by adding a new section 389 to read as follows:

S 389. "BULL PEN" DEMONSTRATION PROGRAM. 1. THE COMMISSIONER SHALL INITIATE A PROGRAM FOR THE ESTABLISHMENT OF ADDITIONAL REST AREAS FOR COMMERCIAL TRUCK DRIVERS ALONG THE NEW YORK STATE THRUWAY.

2. IN PURSUING THE DEVELOPMENT OF SUCH FACILITIES THE COMMISSIONER SHALL WORK IN CONSULTATION WITH REPRESENTATIVES OF THE NEW YORK TRUCKING INDUSTRY TO ASSESS POTENTIAL SITE OPTIONS WITH AN EMPHASIS ON ADAPTIVE REUSE AND/OR MODIFICATION OF EXISTING INFRASTRUCTURE AND CAPITAL FACILITIES TO MAXIMIZE THE AVAILABILITY OF REST AREA SERVICES IN THE MOST COST EFFECTIVE MANNER POSSIBLE.

1 3. IN CONCERT WITH THE AFOREMENTIONED INVENTORYING AND PLANNING
2 EFFORTS, THE COMMISSIONER SHALL INITIATE A DEMONSTRATION BULL PEN PILOT
3 PROJECT WHICH SHALL TEST THE AFFORDABILITY AND EFFECTIVENESS OF DEVELOP-
4 ING DEDICATED PARKING FACILITIES AS A LOW COST OPTION FOR OFFERING SAFE
5 HARBOR FOR TRUCK DRIVERS IN NEW YORK STATE. SUCH FACILITIES SHALL BE
6 EQUIPPED WITH FENCING, SECURITY CAMERAS, GATED ENTRANCES, ELECTRIC HOOK-
7 UPS FOR POWERING APPLIANCES AND EQUIPMENT IN INDIVIDUAL TRUCK CABINS AND
8 TRUCK DRIVER SLEEPER QUARTERS AND LIMITED LAVATORY ACCOMMODATIONS. IN
9 PURSUING SUCH FACILITIES, THE COMMISSIONER SHALL CONSIDER THE POTENTIAL
10 FOR UTILIZING E-ZPASS TECHNOLOGY AS A MEANS FOR ENHANCING PUBLIC SAFETY
11 AND SECURITY.
12 S 7. This act shall take effect immediately.