

1968

2011-2012 Regular Sessions

I N S E N A T E

January 14, 2011

Introduced by Sen. GIANARIS -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the executive law, in relation to creation of security measures for the transportation facilities of the metropolitan transportation authority

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

1 Section 1. Paragraph (q) of subdivision 2 of section 709 of the execu-
2 tive law, as amended by section 14 of part B of chapter 56 of the laws
3 of 2010, is amended to read as follows:
4 (q) request from any department, division, office, commission or other
5 agency of the state or any political subdivision thereof, OR ANY PUBLIC
6 AUTHORITY OR PUBLIC BENEFIT CORPORATION, and the same are authorized to
7 provide, such assistance, services and data as may be required by the
8 division of homeland security and emergency services in carrying out the
9 purposes of this article, subject to applicable laws, rules, and regu-
10 lations;
11 S 2. The executive law is amended by adding a new section 718 to read
12 as follows:
13 S 718. PROTECTION OF CRITICAL INFRASTRUCTURE; METROPOLITAN TRANSPORTA-
14 TION AUTHORITY FACILITIES. 1. NOTWITHSTANDING ANY OTHER PROVISION OF
15 LAW, THE DIRECTOR OF THE OFFICE OF HOMELAND SECURITY SHALL CONDUCT A
16 REVIEW AND ANALYSIS OF MEASURES BEING TAKEN BY THE METROPOLITAN TRANS-
17 PORTATION AUTHORITY AND ANY OTHER AGENCY OR AUTHORITY OF THE STATE OR
18 ANY POLITICAL SUBDIVISION THEREOF AND, TO THE EXTENT PRACTICABLE, OF ANY
19 FEDERAL ENTITY, TO PROTECT THE SECURITY OF CRITICAL INFRASTRUCTURE
20 RELATED TO THE TRANSPORTATION FACILITIES, WHICH SHALL INCLUDE THOSE
21 FACILITIES SET FORTH IN SUBDIVISION FOURTEEN OF SECTION TWELVE HUNDRED
22 SIXTY-ONE OF THE PUBLIC AUTHORITIES LAW AND SHALL ALSO INCLUDE, FOR
23 PURPOSES OF THIS SECTION, BRIDGES AND TUNNELS, OF THE METROPOLITAN

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

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1 TRANSPORTATION AUTHORITY AND OF ALL SUBSIDIARIES OF SUCH AUTHORITY. THE
2 DIRECTOR OF THE OFFICE OF HOMELAND SECURITY SHALL HAVE THE AUTHORITY TO
3 REVIEW ANY AUDITS OR REPORTS RELATED TO THE SECURITY OF SUCH CRITICAL
4 INFRASTRUCTURE, INCLUDING AUDITS OR REPORTS CONDUCTED AT THE REQUEST OF
5 THE METROPOLITAN TRANSPORTATION AUTHORITY OR ANY OTHER AGENCY OR AUTHOR-
6 ITY OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF OR, TO THE EXTENT
7 PRACTICABLE, OF ANY FEDERAL ENTITY. THE OPERATORS OF SUCH TRANSPORTATION
8 FACILITIES SHALL, IN COMPLIANCE WITH ANY FEDERAL AND STATE REQUIREMENTS
9 REGARDING THE DISSEMINATION OF SUCH INFORMATION, PROVIDE ACCESS TO THE
10 DIRECTOR OF THE OFFICE OF HOMELAND SECURITY TO SUCH AUDITS OR REPORTS
11 REGARDING SUCH CRITICAL INFRASTRUCTURE PROVIDED, HOWEVER, THAT EXCLUSIVE
12 CUSTODY AND CONTROL OF SUCH AUDITS AND REPORTS SHALL REMAIN SOLELY WITH
13 THE OPERATORS OF SUCH TRANSPORTATION FACILITIES. FOR THE PURPOSES OF
14 THIS ARTICLE, THE TERM "CRITICAL INFRASTRUCTURE" HAS THE MEANING
15 ASCRIBED TO THAT TERM IN SUBDIVISION FIVE OF SECTION EIGHTY-SIX OF THE
16 PUBLIC OFFICERS LAW.

17 2. (A) ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE, AND
18 NOT LATER THAN THREE YEARS AFTER SUCH DATE, AND EVERY FIVE YEARS THERE-
19 AFTER, THE DIRECTOR OF THE OFFICE OF HOMELAND SECURITY SHALL REPORT TO
20 THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE
21 ASSEMBLY, AND THE BOARD OF ANY SUCH AFFECTED TRANSPORTATION AUTHORITY.
22 SUCH REPORT SHALL REVIEW THE SECURITY MEASURES BEING TAKEN REGARDING
23 CRITICAL INFRASTRUCTURE RELATED TO TRANSPORTATION FACILITIES, AS DEFINED
24 IN SUBDIVISION FOURTEEN OF SECTION TWELVE HUNDRED SIXTY-ONE OF THE
25 PUBLIC AUTHORITIES LAW, ASSESS THE EFFECTIVENESS THEREOF, AND INCLUDE
26 RECOMMENDATIONS TO THE LEGISLATURE, OR THE METROPOLITAN TRANSPORTATION
27 AUTHORITY IF THE DIRECTOR OF THE OFFICE OF HOMELAND SECURITY DETERMINES
28 THAT ADDITIONAL MEASURES ARE REQUIRED TO BE IMPLEMENTED, CONSIDERING
29 AMONG OTHER FACTORS, THE UNIQUE CHARACTERISTICS OF EACH TRANSPORTATION
30 FACILITY. ON OR BEFORE APRIL THIRTIETH, TWO THOUSAND TWELVE, THE DIREC-
31 TOR OF THE OFFICE OF HOMELAND SECURITY SHALL MAKE A PRELIMINARY REPORT
32 TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF
33 THE ASSEMBLY, AND THE BOARD OF ANY SUCH AFFECTED TRANSPORTATION AUTHORI-
34 TY.

35 (B) BEFORE THE RECEIPT OF SUCH REPORT IDENTIFIED IN PARAGRAPH (A) OF
36 THIS SUBDIVISION, EACH RECIPIENT OF SUCH REPORT SHALL DEVELOP CONFIDEN-
37 TIALITY PROTOCOLS, WHICH SHALL BE BINDING UPON THE RECIPIENT WHO ISSUES
38 THE PROTOCOLS AND ANYONE TO WHOM THE RECIPIENT SHOWS A COPY OF THE
39 REPORT, IN CONSULTATION WITH THE DIRECTOR OF THE OFFICE OF HOMELAND
40 SECURITY FOR THE MAINTENANCE AND USE OF SUCH REPORT SO AS TO ENSURE THE
41 CONFIDENTIALITY OF THE REPORT AND ALL INFORMATION CONTAINED THEREIN,
42 PROVIDED, HOWEVER, THAT SUCH PROTOCOLS SHALL NOT BE BINDING UPON A
43 PERSON WHO IS PROVIDED ACCESS TO SUCH REPORT OR ANY INFORMATION
44 CONTAINED THEREIN PURSUANT TO SECTION EIGHTY-NINE OF THE PUBLIC OFFICERS
45 LAW AFTER A FINAL DETERMINATION THAT ACCESS TO SUCH REPORT OR ANY INFOR-
46 MATION CONTAINED THEREIN COULD NOT BE DENIED PURSUANT TO SUBDIVISION TWO
47 OF SECTION EIGHTY-SEVEN OF THE PUBLIC OFFICERS LAW. THE DIRECTOR OF THE
48 OFFICE OF HOMELAND SECURITY SHALL ALSO DEVELOP PROTOCOLS FOR HIS OR HER
49 OFFICE RELATED TO THE MAINTENANCE AND USE OF SUCH REPORT SO AS TO ENSURE
50 THE CONFIDENTIALITY OF THE REPORT AND ALL INFORMATION CONTAINED THEREIN.
51 ON EACH REPORT, THE DIRECTOR OF THE OFFICE OF HOMELAND SECURITY SHALL
52 PROMINENTLY DISPLAY THE FOLLOWING STATEMENT: "THIS REPORT MAY CONTAIN
53 INFORMATION THAT IF DISCLOSED COULD ENDANGER THE LIFE OR SAFETY OF THE
54 PUBLIC, AND THEREFORE, PURSUANT TO SECTION SEVEN HUNDRED TEN OF THE
55 EXECUTIVE LAW, THIS REPORT IS TO BE MAINTAINED AND USED IN A MANNER

1 CONSISTENT WITH PROTOCOLS ESTABLISHED TO PRESERVE THE CONFIDENTIALITY OF
2 THE INFORMATION CONTAINED HEREIN IN A MANNER CONSISTENT WITH LAW".

3 (C) THE METROPOLITAN TRANSPORTATION AUTHORITY SHALL HAVE THE
4 DISCRETION TO REQUIRE THAT THE RECOMMENDATIONS OF THE DIRECTOR OF THE
5 OFFICE OF HOMELAND SECURITY BE IMPLEMENTED BY ANY OPERATOR OF A TRANS-
6 PORTATION FACILITY.

7 S 3. This act shall take effect immediately.