S T A T E O F N E W Y O R K

2359

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

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:

Section 1. This act shall be known and may be cited as "Jason's Law".

S 2. Legislative intent. The legislature finds and declares that there is a great need to provide truck drivers with safe places to rest while waiting for pending appointments or to comply with federal hours of service regulations. Federal law requires motor carrier operators to rest for a period of ten hours after driving for eleven consecutive hours. Federal law further prohibits motor carrier operators from driving more than sixty hours over a seven day period. These requirements are only exacerbating the shortage of safe parking areas for motor carriers, forcing many drivers to park in desolate, poorly lit areas with little or no security. Many shippers and receivers of freight do not allow truckers into their facilities until just before their scheduled appointment time and insist that they leave promptly once delivery is complete. It is imperative that the legislature address the current shortage of long-term parking for commercial motor vehicles to ensure the personal safety and security of those who transport goods and provide essential services for the people of the state of New York.

S 3. The transportation law is amended by adding a new section 140-a to read as follows:

S 140-A. MOTOR CARRIER SAFETY AND SECURITY REVOLVING LOAN PROGRAM. 1. THE COMMISSIONER SHALL ESTABLISH AND MAINTAIN A MOTOR CARRIER SAFETY AND SECURITY REVOLVING LOAN PROGRAM TO PROVIDE LOANS TO ELIGIBLE APPLICANTS TO MAKE SAFETY AND SECURITY UPGRADES ON THEIR FACILITIES FOR THE PURPOSES DESIGNATED IN THIS SECTION. SUCH PROGRAM SHALL PROVIDE INTEREST

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

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FREE LOANS TO ELIGIBLE APPLICANTS FOR SUCH SAFETY AND SECURITY IMPROVEMENT PROJECTS AS THE COMMISSIONER SHALL DEEM TO BE ELIGIBLE PURSUANT TO THIS SECTION.

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

3. ELIGIBLE APPLICANTS 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.

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

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

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

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

S 99-T. MOTOR CARRIER SAFETY AND SECURITY REVOLVING LOAN FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE MOTOR CARRIER SAFETY AND SECURITY REVOLVING LOAN FUND.

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

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

S 5. Section 210 of the tax law is amended by adding two new subdivisions 43 and 44 to read as follows:

43. CREDIT FOR PROVIDING A SAFE HARBOR FOR MOTOR CARRIERS. (A) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE, 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.

44. CREDIT FOR SECURITY UPGRADES AND PARKING IMPROVEMENTS AT REST AREAS. (A) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE, 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 388 to read as follows:

S 388. "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.

3. IN CONCERT WITH THE AFOREMENTIONED INVENTORYING AND PLANNING EFFORTS, THE COMMISSIONER SHALL INITIATE A DEMONSTRATION BULL PEN PILOT PROJECT WHICH SHALL TEST THE AFFORDABILITY AND EFFECTIVENESS OF DEVELOPING DEDICATED PARKING FACILITIES AS A LOW COST OPTION FOR OFFERING SAFE HARBOR FOR TRUCK DRIVERS IN NEW YORK STATE. SUCH FACILITIES SHALL BE

EQUIPPED WITH FENCING, SECURITY CAMERAS, GATED ENTRANCES, ELECTRIC HOOK-UPS FOR POWERING APPLIANCES AND EQUIPMENT IN INDIVIDUAL TRUCK CABINS AND TRUCK DRIVER SLEEPER QUARTERS AND LIMITED LAVATORY ACCOMMODATIONS. IN PURSUING SUCH FACILITIES, THE COMMISSIONER SHALL CONSIDER THE POTENTIAL FOR UTILIZING E-ZPASS TECHNOLOGY AS A MEANS FOR ENHANCING PUBLIC SAFETY AND SECURITY.

S 7. This act shall take effect immediately.