

588

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

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 719 to read
12 as follows:
13 S 719. 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 AND EMERGENCY
16 SERVICES SHALL CONDUCT A REVIEW AND ANALYSIS OF MEASURES BEING TAKEN BY
17 THE METROPOLITAN TRANSPORTATION AUTHORITY AND ANY OTHER AGENCY OR
18 AUTHORITY OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF AND, TO THE
19 EXTENT PRACTICABLE, OF ANY FEDERAL ENTITY, TO PROTECT THE SECURITY OF
20 CRITICAL INFRASTRUCTURE RELATED TO THE TRANSPORTATION FACILITIES, WHICH
21 SHALL INCLUDE THOSE FACILITIES SET FORTH IN SUBDIVISION FOURTEEN OF
22 SECTION TWELVE HUNDRED SIXTY-ONE OF THE PUBLIC AUTHORITIES LAW AND SHALL

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

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

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

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

1 INFORMATION THAT IF DISCLOSED COULD ENDANGER THE LIFE OR SAFETY OF THE
2 PUBLIC, AND THEREFORE, PURSUANT TO SECTION SEVEN HUNDRED TEN OF THE
3 EXECUTIVE LAW, THIS REPORT IS TO BE MAINTAINED AND USED IN A MANNER
4 CONSISTENT WITH PROTOCOLS ESTABLISHED TO PRESERVE THE CONFIDENTIALITY OF
5 THE INFORMATION CONTAINED HEREIN IN A MANNER CONSISTENT WITH LAW".
6 (C) THE METROPOLITAN TRANSPORTATION AUTHORITY SHALL HAVE THE
7 DISCRETION TO REQUIRE THAT THE RECOMMENDATIONS OF THE DIRECTOR OF THE
8 OFFICE OF HOMELAND SECURITY AND EMERGENCY SERVICES BE IMPLEMENTED BY ANY
9 OPERATOR OF A TRANSPORTATION FACILITY.
10 S 3. This act shall take effect immediately.