

2666

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. GANTT -- read once and referred to the Committee on Transportation

AN ACT to amend the transportation law, the environmental conservation law, the vehicle and traffic law and the insurance law, in relation to enacting the "hazardous materials transport security act"

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 the "hazardous
2 materials transport security act".
3 S 2. Legislative findings. Since the World Trade Center and Pentagon
4 attacks of September 11, 2001, it has become evident that terrorists
5 intend to attack the United States economy by any and every means avail-
6 able, including using hazardous materials vehicles as potential "weapons
7 of mass destruction". Although several laws, both at the federal and
8 state level, have been considered to enhance the security of transport-
9 ing these hazardous materials, much remains to be done, especially in
10 high-risk states such as New York. Basic best practices security regu-
11 lations must be implemented for the transport of hazardous materials to
12 protect the citizens, economy, and environment of New York from terror-
13 ist attacks. A successful attack would severely damage the New York
14 economy and, in particular, threaten the viability of the vital indus-
15 tries which now produce, transport, and consume the hazardous materials
16 that are essential inputs for a modern industrial economy.
17 The federal government has issued several warnings and advisories to
18 hazardous materials transporters that such vehicles could be weaponized
19 by terrorists or other enemies of the United States. There currently
20 exist many devices that can prevent the theft or hijacking of these
21 vehicles; other devices provide local law enforcement officials with the
22 tools to take control of such vehicles if a hijacking cannot be
23 prevented. This act establishes a task force to review, examine, and
24 make recommendations on the efficacy, operational feasibility, and

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

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1 economic impacts of mandating such security devices across the New York
2 hazardous materials fleet.

3 This act mandates that authorized representatives of generators of
4 products considered to be hazardous materials with responsibility for
5 loading those hazardous products and waste shall, prior to that loading,
6 ensure that the driver of the transport vehicle be in possession of the
7 proper commercial driver's license, including hazardous materials
8 endorsements, required to lawfully operate the transport vehicle with
9 its intended load. This act also mandates that vehicles used to trans-
10 port hazardous materials and wastes be equipped with a two-way communi-
11 cation device that would allow immediate communication with a New York
12 state-authorized emergency response center in the event of an emergency
13 involving hazardous materials.

14 S 3. Section 14-f of the transportation law is amended by adding a new
15 subdivision 7 to read as follows:

16 7. (A) THERE IS HEREBY ESTABLISHED WITHIN THE DEPARTMENT A TEMPORARY
17 TASK FORCE ON HAZARDOUS MATERIALS MOTOR CARRIER SECURITY TECHNOLOGY. THE
18 TASK FORCE SHALL CONSIST OF THIRTEEN MEMBERS. THE GOVERNOR SHALL APPOINT
19 FIVE MEMBERS AND THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER
20 OF THE ASSEMBLY SHALL EACH APPOINT FOUR MEMBERS. THE GOVERNOR'S APPOINT-
21 MENTS SHALL BE THE COMMISSIONER, WHO SHALL SERVE AS CHAIRPERSON OF THE
22 TASK FORCE, THE COMMISSIONER OF MOTOR VEHICLES, THE SUPERINTENDENT OF
23 STATE POLICE, THE DIRECTOR OF THE OFFICE FOR TECHNOLOGY, AND THE DIREC-
24 TOR OF THE OFFICE OF PUBLIC SECURITY, OR THEIR DESIGNATED REPRESENT-
25 ATIVES. THREE APPOINTMENTS OF THE TEMPORARY PRESIDENT OF THE SENATE AND
26 THREE APPOINTMENTS OF THE SPEAKER OF THE ASSEMBLY SHALL BE APPOINTED AS
27 FOLLOWS:

28 (1) ONE EACH SHALL BE A MEMBER, OFFICER, OR EMPLOYEE OF A FIRST
29 RESPONDER OR LAW ENFORCEMENT ORGANIZATION THAT SERVES A MUNICIPAL CORPO-
30 RATION;

31 (2) ONE EACH SHALL POSSESS EXPERTISE IN THE FIELD OF HOMELAND SECURITY
32 TECHNOLOGY; AND

33 (3) ONE EACH SHALL BE A REPRESENTATIVE IN THE FIELD OF MOTOR CARRIER
34 TRANSPORT OF HAZARDOUS MATERIALS.

35 (B) THE TASK FORCE SHALL HAVE THE FOLLOWING FUNCTIONS, POWERS AND
36 DUTIES:

37 (1) TO REVIEW EXISTING SECURITY DEVICES AND SYSTEMS AVAILABLE TO
38 PREVENT THE HIJACKING, MISUSE, OR UNAUTHORIZED USE OF COMMERCIAL MOTOR
39 VEHICLES USED TO TRANSPORT HAZARDOUS MATERIALS; THESE TECHNOLOGIES SHALL
40 BE EVALUATED FOR SEVERAL CRITERIA, INCLUDING COMMERCIAL AVAILABILITY,
41 EFFICACY, RELIABILITY, AND ECONOMIC FEASIBILITY;

42 (2) TO RECOMMEND A LIST OF THOSE SECURITY TECHNOLOGIES THAT THE
43 MEMBERS OF THE TASK FORCE DEEM TO BE MOST APPROPRIATE FOR USE BY MOTOR
44 VEHICLES TRANSPORTING HAZARDOUS MATERIALS;

45 (3) TO RECOMMEND APPROPRIATE FINANCIAL ASSISTANCE MECHANISMS FOR
46 OWNERS AND OPERATORS OF MOTOR VEHICLES TRANSPORTING HAZARDOUS MATERIALS
47 TO IMPLEMENT SUCH SECURITY DEVICES AND SYSTEMS;

48 (4) TO SUBMIT A REPORT ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOU-
49 SAND TEN TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE
50 SPEAKER OF THE ASSEMBLY INCLUDING SUCH RECOMMENDATIONS, AS WELL AS,
51 WHERE APPROPRIATE, FINANCIAL ASSISTANCE FOR OWNERS AND OPERATORS OF
52 MOTOR VEHICLES TRANSPORTING HAZARDOUS MATERIALS, TO IMPLEMENT SUCH SEC-
53 RITY DEVICES.

54 (C) THE TASK FORCE SHALL MEET AS NECESSARY TO CARRY OUT ITS FUNCTIONS
55 AND DUTIES. MEMBERS OF THE TASK FORCE SHALL RECEIVE NO COMPENSATION FOR
56 THEIR SERVICES AS MEMBERS BUT SHALL BE ALLOWED THEIR ACTUAL AND NECES-

SARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES. THE TASK FORCE SHALL EXPIRE ON JANUARY FIRST, TWO THOUSAND ELEVEN.

S 4. Subdivision 3 of section 27-0305 of the environmental conservation law, as amended by chapter 592 of the laws of 1981, is amended to read as follows:

3. A generator of a waste may obtain a permit pursuant to this title to transport his OR HER own waste or if he OR SHE contracts with another person to remove, transport, or dispose of regulated wastes. If a generator obtains such a permit, a person engaged in the removal, transportation or disposal of his OR HER waste shall not be required to obtain a permit pursuant to this title for the transportation of such wastes. AN AUTHORIZED REPRESENTATIVE OF THE GENERATOR THAT IS RESPONSIBLE FOR LOADING SUCH WASTES INTO A TRANSPORT VEHICLE SHALL, PRIOR TO SUCH LOADING, ENSURE THAT THE DRIVER OF THE TRANSPORT VEHICLE IS IN POSSESSION OF THE APPROPRIATE CLASS OF DRIVER'S LICENSE AND THAT SUCH LICENSE INDICATES ANY ENDORSEMENT REQUIRED TO LAWFULLY OPERATE THE TRANSPORT VEHICLE WITH ITS INTENDED LOAD.

S 5. Section 27-0305 of the environmental conservation law is amended by adding a new subdivision 13 to read as follows:

13. AS A CONDITION FOR THE PERMIT, ANY VEHICLE REQUIRED TO DISPLAY PLACARDS PURSUANT TO THIS SUBDIVISION OR SECTION FOURTEEN-F OF THE TRANSPORTATION LAW SHALL BE EQUIPPED WITH A TWO-WAY COMMUNICATION DEVICE, MAINTAINED IN GOOD WORKING ORDER, WHICH ENABLES THE DRIVER TO IMMEDIATELY CONTACT A NEW YORK STATE-DESIGNATED EMERGENCY RESPONSE CENTER THAT CAN PROVIDE IMMEDIATE EMERGENCY ASSISTANCE IN THE EVENT OF AN ACT OF TERRORISM OR ACCIDENT INVOLVING THE RELEASE OF A HAZARDOUS MATERIAL. FOR THE PURPOSES OF THIS SUBDIVISION, "TWO-WAY COMMUNICATION DEVICE" SHALL MEAN A RADIO, CELLULAR TELEPHONE, OR OTHER SIMILAR DEVICE THAT ALLOWS IMMEDIATE COMMUNICATION DIRECTLY WITH A DESIGNATED EMERGENCY RESPONSE CENTER FROM THOSE AREAS OF NEW YORK STATE WITH CELLULAR COVERAGE.

S 6. Section 375 of the vehicle and traffic law is amended by adding a new subdivision 52 to read as follows:

52. A VEHICLE REQUIRED TO DISPLAY PLACARDS PURSUANT TO SECTION 27-0305 OF THE ENVIRONMENTAL CONSERVATION LAW OR SECTION FOURTEEN-F OF THE TRANSPORTATION LAW SHALL BE EQUIPPED WITH A TWO-WAY COMMUNICATION DEVICE, MAINTAINED IN GOOD WORKING ORDER, WHICH ENABLES THE DRIVER TO IMMEDIATELY CONTACT A NEW YORK STATE-DESIGNATED EMERGENCY RESPONSE CENTER DESIGNED TO PROVIDE IMMEDIATE EMERGENCY ASSISTANCE IN THE EVENT OF AN ACT OF TERRORISM OR OTHER EMERGENCY INVOLVING THE RELEASE OF A HAZARDOUS MATERIAL. FOR THE PURPOSES OF THIS SUBDIVISION, "TWO-WAY COMMUNICATION DEVICE" SHALL MEAN A RADIO, CELLULAR TELEPHONE, OR OTHER SIMILAR DEVICE THAT ALLOWS IMMEDIATE COMMUNICATION DIRECTLY WITH AN EMERGENCY RESPONSE CENTER FROM THOSE AREAS OF NEW YORK STATE WITH CELLULAR COVERAGE.

S 7. Section 2336 of the insurance law is amended by adding a new subsection (i) to read as follows:

(I) BEGINNING JUNE FIRST, TWO THOUSAND TEN, ANY SCHEDULE OR RATING PLAN APPLICABLE TO COMMERCIAL RISK INSURANCE FOR MOTOR VEHICLES WEIGHING IN EXCESS OF TEN THOUSAND POUNDS WHICH TRANSPORT HAZARDOUS MATERIALS PURSUANT TO SECTION FOURTEEN-F OF THE TRANSPORTATION LAW SHALL PROVIDE FOR AN ACTUARIALLY APPROPRIATE REDUCTION IN PREMIUM CHARGES FOR BODILY INJURY LIABILITY, PROPERTY DAMAGE LIABILITY, THEFT, PERSONAL INJURY PROTECTION, MEDICAL PAYMENTS, COLLISION COVERAGE, AND CARGO LOSS AND DAMAGE, WITH RESPECT TO SUCH MOTOR VEHICLES EQUIPPED WITH ANY ANTI-THEFT DEVICE RECOMMENDED PURSUANT TO SUBDIVISION SEVEN OF SECTION FOURTEEN-F

1 OF THE TRANSPORTATION LAW. THE SUPERINTENDENT SHALL, AFTER CONSULTING
2 WITH THE DEPARTMENTS OF MOTOR VEHICLES AND TRANSPORTATION, PROMULGATE
3 RULES AND REGULATIONS ESTABLISHING THE QUALIFICATIONS AND STANDARDS FOR
4 THE APPROVAL, UTILIZATION, AND INSTALLATION OF SUCH DEVICES.

5 S 8. This act shall take effect immediately; provided that section
6 four of this act shall take effect on the thirtieth day after this act
7 shall have become a law and sections five and six of this act shall take
8 effect on the one hundred eightieth day after this act shall have become
9 a law.