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

5022

2009-2010 Regular Sessions

I N A S S E M B L Y

February 10, 2009

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

AN ACT to amend the transportation law, in relation to voluntary re-routing of hazardous cargoes by railroad carriers

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

Section 1. Section 14-f of the transportation law is amended by adding a new subdivision 7 to read as follows:

7. (A) THE COMMISSIONER SHALL APPOINT A TASK FORCE ON RAILROAD ROUTING OF SECURITY SENSITIVE CARGOES. THE TASK FORCE SHALL CONSIST OF FIVE MEMBERS, APPOINTED BY THE GOVERNOR AND CONFIRMED BY THE SENATE, ONE EACH TO BE RECOMMENDED BY THE GOVERNOR, SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE MINORITY LEADERS OF THE ASSEMBLY AND SENATE WHO SHALL BE REPRESENTATIVE OF THE RAIL INDUSTRY, THE STATE TRANSPORTATION DEPARTMENT, STATE HOMELAND SECURITY AND LOCAL GOVERNMENT. THE TASK FORCE SHALL BE CHARGED WITH DEVELOPING OPTIMAL DESIGNATION OF SAFE AND SECURE ROUTING AND STORAGE OF HAZARDOUS MATERIALS, AS DEFINED IN SUBDIVISION ONE OF THIS SECTION, BY RAIL CARRIERS IN THIS STATE. THE TASK FORCE SHALL STUDY PAST, CURRENT AND POSSIBLE FUTURE PATTERNS OF RAIL TRANSPORTATION OF HAZARDOUS MATERIALS THROUGH THE STATE INCLUDING INTERCHANGES BETWEEN CARRIERS.

(B) THE TASK FORCE SHALL, AS SOON AS POSSIBLE, NEGOTIATE VOLUNTARY AGREEMENTS WITH CARRIERS FOR DAILY, AS WELL AS FOR SPECIAL SECURITY EVENTS, ALTERNATIVE ROUTING, WHEREVER POSSIBLE, TO ELIMINATE OR REDUCE THE SAFETY AND SECURITY RISKS OF TRANSPORTATION OF HAZARDOUS MATERIALS. THE TASK FORCE SHALL PREPARE AND TRANSMIT TO THE GOVERNOR AND THE LEGISLATURE A REPORT ON THE PROGRESS AND STATUS OF THE DEVELOPMENT OF THE OPTIMAL DESIGNATION OF SAFE AND SECURE ROUTING AND STORAGE OF HAZARDOUS MATERIALS.

(C) THE TASK FORCE SHALL HIRE AN INDEPENDENT CONSULTANT TO ASSIST IN DEVELOPING AN ASSESSMENT TOOL FOR WEIGHTING THE COMPARATIVE SAFETY AND

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

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SECURITY RISKS OF EXISTING AND ALTERNATIVE PATTERNS OF ROUTING AND STORAGE OF HAZARDOUS MATERIALS. THIS ASSESSMENT TOOL SHALL PLACE CENTRAL WEIGHT ON THE POTENTIAL WORST CASE DISASTER CONSEQUENCES IN HIGH-CONSEQUENCE AREAS FROM EITHER ACCIDENTAL OR TERRORISM-CAUSED RELEASE OF ONE OR MORE CARGOES OF HAZARDOUS MATERIALS. THE TASK FORCE SHALL CONSULT WITH EXPERTS IN THE FIELD OF "DISASTER AVOIDANCE ROUTING" IN CONSIDERING APPROPRIATE WEIGHTS FOR ACCIDENT PROBABILITIES AND CONSEQUENCES. THE TASK FORCE SHALL APPLY THIS TOOL IN THE MAJOR HIGH-CONSEQUENCE URBAN AREAS OF THE STATE, MAKE IT AVAILABLE FOR USE BY ALL LOCAL GOVERNMENTS, AND ISSUE URBAN-AREA SPECIFIC REPORTS ON THE RESULTS.

(D) "HIGH-CONSEQUENCE AREAS" SHALL BE DEFINED AS THE HIGH THREAT URBAN AREAS IN THE STATE WHICH HAVE SINCE SEPTEMBER ELEVENTH, TWO THOUSAND ONE RECEIVED FUNDING UNDER THE FEDERAL URBAN AREAS SECURITY INITIATIVE PROGRAM BY THE U.S. DEPARTMENT OF HOMELAND SECURITY, ALONG WITH ANY ADDITIONAL AREAS DESIGNATED BY THE DEPARTMENT.

(E) THE TASK FORCE SHALL PREPARE A SUMMARY REPORT ON THE MAJOR COSTS AND BENEFITS OF RE-ROUTING OF THE COVERED MATERIALS TO AVOID MAJOR URBAN HIGH-CONSEQUENCE AREAS.

(F)(I) THE TASK FORCE SHALL MEET WITH THE APPROPRIATE SHIPPERS AND CARRIERS TO DISCUSS POTENTIALS FOR MARKET SWAPS THAT CAN GREATLY SHORTEN THE DISTANCES OVER WHICH COVERED HAZARDOUS MATERIALS ARE TRANSPORTED. IF NECESSARY AND APPROPRIATE, THE TASK FORCE SHALL SEEK WAIVERS OF OR AMENDMENTS TO FEDERAL ANTI-TRUST PROVISIONS AND/OR TO ANY PROVISIONS OF STATE LAW THAT MIGHT PREVENT SUCH RISK-REDUCTION ARRANGEMENTS.

(II) THE TASK FORCE SHALL ASSESS THE ADEQUACY OF THE ACCIDENT AND TERRORISM INSURANCE COVERAGE OF THE SHIPPERS AND CARRIERS OF SECURITY-SENSITIVE CARGOES IN THE STATE.

(III) THE TASK FORCE SHALL MAKE RECOMMENDATIONS ON HOW TO PROVIDE FOR APPROPRIATE STATE AND LOCAL GOVERNMENT AGENCIES' ACCESS TO AVAILABLE TRACKING MECHANISMS FOR COVERED HAZARDOUS CARGOES, AND FOR ENHANCED ACCESS TO SUCH INFORMATION DURING TIMES OF EMERGENCY OR SECURITY THREAT.

(IV) THE TASK FORCE SHALL MAKE RECOMMENDATIONS ON THE STATE AGENCY CAPABILITIES NEEDED ON AN ONGOING BASIS TO MONITOR THE TRANSPORTATION OF SECURITY-SENSITIVE CARGOES AND TO REDUCE OVER TIME THE OVERALL RISKS OF THESE, INCLUDING, AS APPROPRIATE, RECOMMENDATIONS FOR SUBSTITUTION OF SAFER CHEMICALS IN FACILITIES.

(V) THE TASK FORCE SHALL ENGAGE THE PUBLIC IN A PROCESS OF PUBLIC EDUCATION CONCERNING THE GENERAL RISKS OF SECURITY-SENSITIVE CARGOES, SO THE PUBLIC CAN ASSIST, USING ALREADY AVAILABLE INFORMATION TOOLS, IN MONITORING TRANSPORTATION SECURITY RISKS AND IN PRESSING FOR RISK REDUCTIONS. SUCH PUBLIC EDUCATION SHALL INCLUDE, BUT NOT BE LIMITED TO A SERIES OF STATE-WIDE PUBLIC HEARINGS.

S 2. This act shall take effect immediately.