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

1175

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. HEASTIE -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the transportation law, in relation to the New York city transit authority on-track and surface omnibus program

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

Section 1. Section 403 of the transportation law, as amended by chapter 505 of the laws of 2011, is amended to read as follows:

S 403. Definitions. For the purposes of this article:

1. "New York city transit authority" shall be deemed to include its subsidiary, the Manhattan and Bronx Surface Transit Operating Authority, and any other agency that may come under the control of the New York city transit authority.

2. "Daniel Boggs - Marvin Franklin New York city transit authority's on-track AND SURFACE OMNIBUS safety program" shall mean the program as described in section four hundred six AND SECTION FOUR HUNDRED EIGHT of this article.

S 2. Section 404 of the transportation law, as amended by chapter 505 of the laws of 2011, is amended to read as follows:

S 404. Establishment of the Daniel Boggs - Marvin Franklin New York city transit authority [track] ON-TRACK AND SURFACE OMNIBUS safety task force. There is hereby established the Daniel Boggs - Marvin Franklin New York city transit [track] ON-TRACK AND SURFACE OMNIBUS safety task force with responsibility for the review of the Daniel Boggs - Marvin Franklin New York city transit authority's on-track AND SURFACE OMNIBUS safety program, including the following:

1. training and qualifications of affected employees;

2. appropriate procedures for protecting New York city transit authority employees engaged in work along the track right-of-way, AND OPERA-

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

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TORS OF SURFACE OMNIBUS VEHICLES including good faith challenge procedures;

3. instructions to train AND SURFACE OMNIBUS operators;

4. relevant New York city transit authority rules;

5. third rail safety;

6. illumination; and

7. any additional related safety matters.

S 3. Section 405 of the transportation law, as amended by chapter 505 of the laws of 2011, is amended to read as follows:

S 405. Daniel Boggs - Marvin Franklin New York city transit authority [track] ON-TRACK AND SURFACE OMNIBUS safety task force membership. 1. The Daniel Boggs - Marvin Franklin New York city transit authority [track] ON-TRACK AND SURFACE OMNIBUS safety task force shall consist of a total of four members as follows:

(a) the commissioner or his or her designee;

(b) the commissioner of labor or his or her designee;

(c) the president of New York city transit authority or his or her designee; and

(d) the president of Transport Workers Union, Local 100, an affiliate of the New York state AFL-CIO, or his or her designee.

2. The commissioner or his or her designee shall be the chair of the [track] ON-TRACK AND SURFACE OMNIBUS safety task force.

3. The [track] ON-TRACK AND SURFACE OMNIBUS safety task force shall meet as often as deemed necessary by the chair but in no event less than four times per year. Any member may call a meeting on not less than ten days written notice to the other members.

4. The members of the [track] ON-TRACK AND SURFACE OMNIBUS safety task force shall receive no salary or other compensation for their services but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties.

S 4. Section 408 of article 16 of the transportation law is renumbered section 410 and two new sections 408 and 409 are added to read as follows:

S 408. SURFACE OMNIBUS SAFETY PROGRAM. 1. BY MAY FIRST, TWO THOUSAND FOURTEEN, THE DANIEL BOGGS - MARVIN FRANKLIN NEW YORK CITY TRANSIT AUTHORITY TRACK AND SURFACE OMNIBUS SAFETY TASK FORCE SHALL ISSUE ONE OR MORE REPORTS SETTING FORTH THE RECOMMENDATIONS OF ITS MEMBERS WITH RESPECT TO THE IMPLEMENTING OF THE NEW YORK CITY TRANSIT AUTHORITY SURFACE OMNIBUS SAFETY PROGRAM. SUCH REPORTS SHALL BE SENT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY.

2. SUCH TRACK AND SURFACE OMNIBUS SAFETY TASK FORCE SHALL ALSO PROVIDE TO THE PUBLIC EMPLOYEE SAFETY AND HEALTH BUREAU WITHIN THE DEPARTMENT OF LABOR AND TO ALL LABOR ORGANIZATIONS THAT REPRESENT NEW YORK CITY TRANSIT AUTHORITY EMPLOYEES ENGAGED IN WORK OPERATING AND MAINTAINING SURFACE OMNIBUS VEHICLES A COPY OF ITS REPORTS.

3. SUCH TRACK AND SURFACE OMNIBUS SAFETY TASK FORCE SHALL SET FORTH PROCEDURES TO INSURE THAT PRIOR TO THE DAILY DEPLOYMENT OF ANY OMNIBUS VEHICLE TO PROVIDE MASS TRANSIT SERVICES TO THE PUBLIC A COMPREHENSIVE INSPECTION OF MECHANICAL SYSTEMS, GLASS, DOORS, TIRES AND LIFTS FOR HANDICAPPED PASSENGERS FOR SUCH VEHICLE IS COMPLETED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE COMMISSIONER, AND THAT ANY AND ALL DEFECTS DETECTED ARE PROPERLY REPAIRED PRIOR TO PLACING SUCH VEHICLE IN SERVICE, AND ANY OTHER SAFETY PROCEDURES ITS MEMBERS DEEM NECESSARY AND PRUDENT TO PROTECT EMPLOYEES OF THE NEW YORK CITY TRANSIT AUTHORITY AND THE PUBLIC-AT-LARGE. NOTWITHSTANDING ANY LAW, RULE OR CONTRACT PROVISION

TO THE CONTRARY, NO EMPLOYEE, AGENT OR OTHER PERSON ACTING ON BEHALF OF THE NEW YORK CITY TRANSIT AUTHORITY IS AUTHORIZED TO KNOWINGLY OPERATE OR KNOWINGLY OR RECKLESSLY COMPEL ANOTHER TO OPERATE AN OMNIBUS VEHICLE THAT HAS AN UNCORRECTED DEFICIENCY NOTED IN THE INSPECTION. THE TASK FORCE SHALL DOCUMENT IN ITS REPORTS THE NUMBER OF INSTANCES WHEN OMNIBUS VEHICLES ARE PLACED INTO SERVICE DESPITE HAVING UNCORRECTED DEFICIENCIES, AND THE ADVERSE PERSONNEL ACTION UNDERTAKEN, IF ANY, BY THE NEW YORK CITY TRANSIT AUTHORITY AS A RESULT OF SUCH IMPROPER DEPLOYMENTS INTO SERVICE.

S 409. WHISTLEBLOWER ACCESS AND ASSISTANCE PROGRAM. 1. "WHISTLEBLOWER", AS USED IN THIS ARTICLE, SHALL MEAN ANY EMPLOYEE OF THE NEW YORK CITY TRANSIT AUTHORITY OR ANY OF ITS SUBSIDIARIES, WHO DISCLOSES A MATERIAL BREACH OF ANY SAFETY PROCEDURE REQUIRED BY LAW, RULE OR REGULATION OF THE COMMISSIONER OR IN CONTRACT PROVISIONS, WHETHER OR NOT THE BREACH OF WHICH CAUSES OR COULD REASONABLY CAUSE INJURY TO AN EMPLOYEE OF SUCH TRANSIT AUTHORITY OR THE PUBLIC-AT-LARGE, TO THE METROPOLITAN TRANSPORTATION AUTHORITY INSPECTOR GENERAL. THE SCOPE OF THE PROTECTIONS UNDER THIS SECTION AND IN SECTION TWELVE HUNDRED SEVENTY-NINE OF THE PUBLIC AUTHORITIES LAW, WILL ALSO APPLY TO ANY INFORMATION RENDERED BY AN EMPLOYEE OF THE NEW YORK CITY TRANSIT AUTHORITY REGARDING THE UNAUTHORIZED DIRECTION BY ANOTHER EMPLOYEE, AGENT OR PERSON AFFILIATED WITH THE NEW YORK CITY TRANSIT AUTHORITY TO IGNORE OR OTHERWISE DISREGARD SUCH SAFETY PROCEDURES.

2. ANY COMMUNICATIONS BETWEEN AN EMPLOYEE AND THE METROPOLITAN TRANSPORTATION AUTHORITY INSPECTOR GENERAL PURSUANT TO THIS SECTION SHALL BE HELD STRICTLY CONFIDENTIAL BY THE INSPECTOR GENERAL, UNLESS THE EMPLOYEE SPECIFICALLY WAIVES IN WRITING THE RIGHT TO CONFIDENTIALITY, EXCEPT THAT SUCH CONFIDENTIALITY SHALL NOT EXEMPT THE INSPECTOR GENERAL FROM DISCLOSING SUCH INFORMATION, WHERE APPROPRIATE, TO THE STATE INSPECTOR GENERAL IN ACCORDANCE WITH SECTION FIFTY-FIVE OF THE EXECUTIVE LAW, OR PREVENT DISCLOSURE TO ANY LAW ENFORCEMENT AUTHORITY.

S 5. This act shall take effect immediately.