

2433--B

2015-2016 Regular Sessions

I N S E N A T E

January 23, 2015

Introduced by Sens. GIANARIS, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs -- recommitted to the Committee on Veterans, Homeland Security and Military Affairs in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 COMMISSIONER OF THE DIVISION 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

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

LBD00322-08-6

1 EXTENT PRACTICABLE, OF ANY FEDERAL ENTITY, TO PROTECT THE SECURITY OF
2 CRITICAL INFRASTRUCTURE RELATED TO THE TRANSPORTATION FACILITIES, WHICH
3 SHALL INCLUDE THOSE FACILITIES SET FORTH IN SUBDIVISION FOURTEEN OF
4 SECTION TWELVE HUNDRED SIXTY-ONE OF THE PUBLIC AUTHORITIES LAW AND SHALL
5 ALSO INCLUDE, FOR PURPOSES OF THIS SECTION, BRIDGES AND TUNNELS OF THE
6 METROPOLITAN TRANSPORTATION AUTHORITY AND OF ALL SUBSIDIARIES OF SUCH
7 AUTHORITY. THE COMMISSIONER OF THE DIVISION OF HOMELAND SECURITY AND
8 EMERGENCY SERVICES SHALL HAVE THE AUTHORITY TO REVIEW ANY AUDITS OR
9 REPORTS RELATED TO THE SECURITY OF SUCH CRITICAL INFRASTRUCTURE, INCLUD-
10 ING AUDITS OR REPORTS CONDUCTED AT THE REQUEST OF THE METROPOLITAN
11 TRANSPORTATION AUTHORITY OR ANY OTHER AGENCY OR AUTHORITY OF THE STATE
12 OR ANY POLITICAL SUBDIVISION THEREOF OR, TO THE EXTENT PRACTICABLE, OF
13 ANY FEDERAL ENTITY. THE OPERATORS OF SUCH TRANSPORTATION FACILITIES
14 SHALL, IN COMPLIANCE WITH ANY FEDERAL AND STATE REQUIREMENTS REGARDING
15 THE DISSEMINATION OF SUCH INFORMATION, PROVIDE ACCESS TO THE COMMISSION-
16 ER OF THE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES TO SUCH
17 AUDITS OR REPORTS REGARDING SUCH CRITICAL INFRASTRUCTURE PROVIDED,
18 HOWEVER, THAT EXCLUSIVE CUSTODY AND CONTROL OF SUCH AUDITS AND REPORTS
19 SHALL REMAIN SOLELY WITH THE OPERATORS OF SUCH TRANSPORTATION FACILI-
20 TIES. FOR THE PURPOSES OF THIS ARTICLE, THE TERM "CRITICAL INFRASTRUC-
21 TURE" HAS THE MEANING ASCRIBED TO THAT TERM IN SUBDIVISION FIVE OF
22 SECTION EIGHTY-SIX OF THE PUBLIC OFFICERS LAW.

23 2. (A) ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND SEVENTEEN, AND
24 NOT LATER THAN THREE YEARS AFTER SUCH DATE, AND EVERY FIVE YEARS THERE-
25 AFTER, THE COMMISSIONER OF THE DIVISION OF HOMELAND SECURITY AND EMER-
26 GENCY SERVICES SHALL REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF
27 THE SENATE, THE SPEAKER OF THE ASSEMBLY AND THE BOARD OF ANY SUCH
28 AFFECTED TRANSPORTATION AUTHORITY. SUCH REPORT SHALL REVIEW THE SECURI-
29 TY MEASURES BEING TAKEN REGARDING CRITICAL INFRASTRUCTURE RELATED TO
30 TRANSPORTATION FACILITIES, AS DEFINED IN SUBDIVISION FOURTEEN OF SECTION
31 TWELVE HUNDRED SIXTY-ONE OF THE PUBLIC AUTHORITIES LAW, ASSESS THE
32 EFFECTIVENESS THEREOF, AND INCLUDE RECOMMENDATIONS TO THE LEGISLATURE OR
33 THE METROPOLITAN TRANSPORTATION AUTHORITY, IF THE COMMISSIONER OF THE
34 DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES DETERMINES THAT
35 ADDITIONAL MEASURES ARE REQUIRED TO BE IMPLEMENTED, CONSIDERING AMONG
36 OTHER FACTORS, THE UNIQUE CHARACTERISTICS OF EACH TRANSPORTATION FACILI-
37 TY, AND IF SUCH COMMISSIONER DETERMINES THAT THE IMMEDIATE IMPLEMENTA-
38 TION OF ANY OR ALL SUCH RECOMMENDATIONS IS NECESSARY TO GUARANTEE THE
39 SAFETY AND SECURITY OF ANY SUCH CRITICAL INFRASTRUCTURE, HE OR SHE SHALL
40 IMMEDIATELY DIRECT SUCH TRANSPORTATION AUTHORITY TO IMPLEMENT HIS OR HER
41 RECOMMENDATIONS. ON OR BEFORE APRIL THIRTIETH, TWO THOUSAND SEVENTEEN,
42 THE COMMISSIONER OF THE DIVISION OF HOMELAND SECURITY AND EMERGENCY
43 SERVICES SHALL MAKE A PRELIMINARY REPORT TO THE GOVERNOR, THE TEMPORARY
44 PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY AND THE BOARD OF
45 ANY SUCH AFFECTED TRANSPORTATION AUTHORITY.

46 (B) BEFORE THE RECEIPT OF SUCH REPORT IDENTIFIED IN PARAGRAPH (A) OF
47 THIS SUBDIVISION, EACH RECIPIENT OF SUCH REPORT SHALL DEVELOP CONFIDEN-
48 TIALITY PROTOCOLS, WHICH SHALL BE BINDING UPON THE RECIPIENT WHO ISSUES
49 THE PROTOCOLS AND ANYONE TO WHOM THE RECIPIENT SHOWS A COPY OF THE
50 REPORT, IN CONSULTATION WITH THE COMMISSIONER OF THE DIVISION OF HOME-
51 LAND SECURITY AND EMERGENCY SERVICES FOR THE MAINTENANCE AND USE OF SUCH
52 REPORT SO AS TO ENSURE THE CONFIDENTIALITY OF THE REPORT AND ALL INFOR-
53 MATION CONTAINED THEREIN, PROVIDED, HOWEVER, THAT SUCH PROTOCOLS SHALL
54 NOT BE BINDING UPON A PERSON WHO IS PROVIDED ACCESS TO SUCH REPORT OR
55 ANY INFORMATION CONTAINED THEREIN PURSUANT TO SECTION EIGHTY-NINE OF THE
56 PUBLIC OFFICERS LAW AFTER A FINAL DETERMINATION THAT ACCESS TO SUCH

1 REPORT OR ANY INFORMATION CONTAINED THEREIN COULD NOT BE DENIED PURSUANT
2 TO SUBDIVISION TWO OF SECTION EIGHTY-SEVEN OF THE PUBLIC OFFICERS LAW.
3 THE COMMISSIONER OF THE DIVISION OF HOMELAND SECURITY AND EMERGENCY
4 SERVICES SHALL ALSO DEVELOP PROTOCOLS FOR HIS OR HER DIVISION RELATED TO
5 THE MAINTENANCE AND USE OF SUCH REPORT SO AS TO ENSURE THE CONFIDENTIAL-
6 ITY OF THE REPORT AND ALL INFORMATION CONTAINED THEREIN. ON EACH REPORT,
7 THE COMMISSIONER OF THE DIVISION OF HOMELAND SECURITY AND EMERGENCY
8 SERVICES SHALL PROMINENTLY DISPLAY THE FOLLOWING STATEMENT: "THIS REPORT
9 MAY CONTAIN INFORMATION THAT IF DISCLOSED COULD ENDANGER THE LIFE OR
10 SAFETY OF THE PUBLIC, AND THEREFORE, PURSUANT TO SECTION SEVEN HUNDRED
11 TEN OF THE EXECUTIVE LAW, THIS REPORT IS TO BE MAINTAINED AND USED IN A
12 MANNER CONSISTENT WITH PROTOCOLS ESTABLISHED TO PRESERVE THE CONFIDEN-
13 TIALITY OF THE INFORMATION CONTAINED HEREIN IN A MANNER CONSISTENT WITH
14 LAW".

15 (C) THE METROPOLITAN TRANSPORTATION AUTHORITY SHALL HAVE THE
16 DISCRETION TO REQUIRE THAT THE RECOMMENDATIONS OF THE COMMISSIONER OF
17 THE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES BE IMPLEMENTED
18 BY ANY OPERATOR OF A TRANSPORTATION FACILITY.

19 S 3. This act shall take effect immediately.