

2015-2016 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2015

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

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

1 make recommendations on the efficacy, operational feasibility, and  
2 economic impacts of mandating such security devices across the New York  
3 hazardous materials fleet.

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

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

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

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

32 (II) ONE EACH SHALL POSSESS EXPERTISE IN THE FIELD OF HOMELAND SECURI-  
33 TY TECHNOLOGY; AND

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

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

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

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

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

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

55 (C) THE TASK FORCE SHALL MEET AS NECESSARY TO CARRY OUT ITS FUNCTIONS  
56 AND DUTIES. MEMBERS OF THE TASK FORCE SHALL RECEIVE NO COMPENSATION FOR

1 THEIR SERVICES AS MEMBERS BUT SHALL BE ALLOWED THEIR ACTUAL AND NECES-  
2 SARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES. THE TASK  
3 FORCE SHALL EXPIRE ON JANUARY FIRST, TWO THOUSAND SEVENTEEN.

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

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

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

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

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

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

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

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

1 THEFT DEVICE RECOMMENDED PURSUANT TO SUBDIVISION SEVEN OF SECTION FOUR-  
2 TEEN-F OF THE TRANSPORTATION LAW. THE SUPERINTENDENT SHALL, AFTER  
3 CONSULTING WITH THE DEPARTMENTS OF MOTOR VEHICLES AND TRANSPORTATION,  
4 PROMULGATE RULES AND REGULATIONS ESTABLISHING THE QUALIFICATIONS AND  
5 STANDARDS FOR THE APPROVAL, UTILIZATION, AND INSTALLATION OF SUCH  
6 DEVICES.

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