

2433

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

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 executive law, as amended by section 14 of part B of chapter 56 of the laws of 2010, is amended to read as follows:
2
3 (q) request from any department, division, office, commission or other agency of the state or any political subdivision thereof, OR ANY PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPORATION, and the same are authorized to provide, such assistance, services and data as may be required by the division of homeland security and emergency services in carrying out the purposes of this article, subject to applicable laws, rules, and regulations;
4
5 S 2. The executive law is amended by adding a new section 719 to read as follows:
6
7 S 719. PROTECTION OF CRITICAL INFRASTRUCTURE; METROPOLITAN TRANSPORTATION AUTHORITY FACILITIES. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DIRECTOR OF THE OFFICE OF HOMELAND SECURITY AND EMERGENCY SERVICES SHALL CONDUCT A REVIEW AND ANALYSIS OF MEASURES BEING TAKEN BY THE METROPOLITAN TRANSPORTATION AUTHORITY AND ANY OTHER AGENCY OR AUTHORITY OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF AND, TO THE EXTENT PRACTICABLE, OF ANY FEDERAL ENTITY, TO PROTECT THE SECURITY OF CRITICAL INFRASTRUCTURE RELATED TO THE TRANSPORTATION FACILITIES, WHICH SHALL INCLUDE THOSE FACILITIES SET FORTH IN SUBDIVISION FOURTEEN OF SECTION TWELVE HUNDRED SIXTY-ONE OF THE PUBLIC AUTHORITIES LAW AND SHALL ALSO INCLUDE, FOR PURPOSES OF THIS SECTION, BRIDGES AND TUNNELS OF THE

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

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1 METROPOLITAN TRANSPORTATION AUTHORITY AND OF ALL SUBSIDIARIES OF SUCH
2 AUTHORITY. THE DIRECTOR OF THE OFFICE OF HOMELAND SECURITY AND EMERGEN-
3 CY SERVICES SHALL HAVE THE AUTHORITY TO REVIEW ANY AUDITS OR REPORTS
4 RELATED TO THE SECURITY OF SUCH CRITICAL INFRASTRUCTURE, INCLUDING
5 AUDITS OR REPORTS CONDUCTED AT THE REQUEST OF THE METROPOLITAN TRANSPOR-
6 TATION AUTHORITY OR ANY OTHER AGENCY OR AUTHORITY OF THE STATE OR ANY
7 POLITICAL SUBDIVISION THEREOF OR, TO THE EXTENT PRACTICABLE, OF ANY
8 FEDERAL ENTITY. THE OPERATORS OF SUCH TRANSPORTATION FACILITIES SHALL,
9 IN COMPLIANCE WITH ANY FEDERAL AND STATE REQUIREMENTS REGARDING THE
10 DISSEMINATION OF SUCH INFORMATION, PROVIDE ACCESS TO THE DIRECTOR OF THE
11 OFFICE OF HOMELAND SECURITY AND EMERGENCY SERVICES TO SUCH AUDITS OR
12 REPORTS REGARDING SUCH CRITICAL INFRASTRUCTURE PROVIDED, HOWEVER, THAT
13 EXCLUSIVE CUSTODY AND CONTROL OF SUCH AUDITS AND REPORTS SHALL REMAIN
14 SOLELY WITH THE OPERATORS OF SUCH TRANSPORTATION FACILITIES. FOR THE
15 PURPOSES OF THIS ARTICLE, THE TERM "CRITICAL INFRASTRUCTURE" HAS THE
16 MEANING ASCRIBED TO THAT TERM IN SUBDIVISION FIVE OF SECTION EIGHTY-SIX
17 OF THE PUBLIC OFFICERS LAW.

18 2. (A) ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN, AND
19 NOT LATER THAN THREE YEARS AFTER SUCH DATE, AND EVERY FIVE YEARS THERE-
20 AFTER, THE DIRECTOR OF THE OFFICE OF HOMELAND SECURITY AND EMERGENCY
21 SERVICES SHALL REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE
22 SENATE, THE SPEAKER OF THE ASSEMBLY AND THE BOARD OF ANY SUCH AFFECTED
23 TRANSPORTATION AUTHORITY. SUCH REPORT SHALL REVIEW THE SECURITY MEAS-
24 URES BEING TAKEN REGARDING CRITICAL INFRASTRUCTURE RELATED TO TRANSPOR-
25 TATION FACILITIES, AS DEFINED IN SUBDIVISION FOURTEEN OF SECTION TWELVE
26 HUNDRED SIXTY-ONE OF THE PUBLIC AUTHORITIES LAW, ASSESS THE EFFECTIVE-
27 NESS THEREOF, AND INCLUDE RECOMMENDATIONS TO THE LEGISLATURE OR THE
28 METROPOLITAN TRANSPORTATION AUTHORITY, IF THE DIRECTOR OF THE OFFICE OF
29 HOMELAND SECURITY AND EMERGENCY SERVICES DETERMINES THAT ADDITIONAL
30 MEASURES ARE REQUIRED TO BE IMPLEMENTED, CONSIDERING AMONG OTHER
31 FACTORS, THE UNIQUE CHARACTERISTICS OF EACH TRANSPORTATION FACILITY. ON
32 OR BEFORE APRIL THIRTIETH, TWO THOUSAND SIXTEEN, THE DIRECTOR OF THE
33 OFFICE OF HOMELAND SECURITY AND EMERGENCY SERVICES SHALL MAKE A PRELIMI-
34 NARY REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE
35 SPEAKER OF THE ASSEMBLY AND THE BOARD OF ANY SUCH AFFECTED TRANSPORTA-
36 TION AUTHORITY.

37 (B) BEFORE THE RECEIPT OF SUCH REPORT IDENTIFIED IN PARAGRAPH (A) OF
38 THIS SUBDIVISION, EACH RECIPIENT OF SUCH REPORT SHALL DEVELOP CONFIDEN-
39 TIALITY PROTOCOLS, WHICH SHALL BE BINDING UPON THE RECIPIENT WHO ISSUES
40 THE PROTOCOLS AND ANYONE TO WHOM THE RECIPIENT SHOWS A COPY OF THE
41 REPORT, IN CONSULTATION WITH THE DIRECTOR OF THE OFFICE OF HOMELAND
42 SECURITY AND EMERGENCY SERVICES FOR THE MAINTENANCE AND USE OF SUCH
43 REPORT SO AS TO ENSURE THE CONFIDENTIALITY OF THE REPORT AND ALL INFOR-
44 MATION CONTAINED THEREIN, PROVIDED, HOWEVER, THAT SUCH PROTOCOLS SHALL
45 NOT BE BINDING UPON A PERSON WHO IS PROVIDED ACCESS TO SUCH REPORT OR
46 ANY INFORMATION CONTAINED THEREIN PURSUANT TO SECTION EIGHTY-NINE OF THE
47 PUBLIC OFFICERS LAW AFTER A FINAL DETERMINATION THAT ACCESS TO SUCH
48 REPORT OR ANY INFORMATION CONTAINED THEREIN COULD NOT BE DENIED PURSUANT
49 TO SUBDIVISION TWO OF SECTION EIGHTY-SEVEN OF THE PUBLIC OFFICERS LAW.
50 THE DIRECTOR OF THE OFFICE OF HOMELAND SECURITY AND EMERGENCY SERVICES
51 SHALL ALSO DEVELOP PROTOCOLS FOR HIS OR HER OFFICE RELATED TO THE MAIN-
52 TENANCE AND USE OF SUCH REPORT SO AS TO ENSURE THE CONFIDENTIALITY OF
53 THE REPORT AND ALL INFORMATION CONTAINED THEREIN. ON EACH REPORT, THE
54 DIRECTOR OF THE OFFICE OF HOMELAND SECURITY AND EMERGENCY SERVICES SHALL
55 PROMINENTLY DISPLAY THE FOLLOWING STATEMENT: "THIS REPORT MAY CONTAIN
56 INFORMATION THAT IF DISCLOSED COULD ENDANGER THE LIFE OR SAFETY OF THE

1 PUBLIC, AND THEREFORE, PURSUANT TO SECTION SEVEN HUNDRED TEN OF THE
2 EXECUTIVE LAW, THIS REPORT IS TO BE MAINTAINED AND USED IN A MANNER
3 CONSISTENT WITH PROTOCOLS ESTABLISHED TO PRESERVE THE CONFIDENTIALITY OF
4 THE INFORMATION CONTAINED HEREIN IN A MANNER CONSISTENT WITH LAW".

5 (C) THE METROPOLITAN TRANSPORTATION AUTHORITY SHALL HAVE THE
6 DISCRETION TO REQUIRE THAT THE RECOMMENDATIONS OF THE DIRECTOR OF THE
7 OFFICE OF HOMELAND SECURITY AND EMERGENCY SERVICES BE IMPLEMENTED BY ANY
8 OPERATOR OF A TRANSPORTATION FACILITY.

9 S 3. This act shall take effect immediately.