

# STATE OF NEW YORK

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2666

2017-2018 Regular Sessions

## IN SENATE

January 17, 2017

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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 (q) request from any department, division, office, commission or other  
3 agency of the state or any political subdivision thereof, or any public  
4 authority or public benefit corporation, and the same are authorized to  
5 provide, such assistance, services and data as may be required by the  
6 division of homeland security and emergency services in carrying out the  
7 purposes of this article, subject to applicable laws, rules, and regu-  
8 lations;  
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10  
11 § 2. The executive law is amended by adding a new section 719 to read  
12 as follows:

13 § 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  
19 extent practicable, of any federal entity, to protect the security of  
20 critical infrastructure related to the transportation facilities, which  
21 shall include those facilities set forth in subdivision fourteen of  
22 section twelve hundred sixty-one of the public authorities law and shall  
23 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 commissioner of the division of homeland security and  
3 emergency services shall have the authority to review any audits or  
4 reports related to the security of such critical infrastructure, includ-  
5 ing audits or reports conducted at the request of the metropolitan  
6 transportation authority or any other agency or authority of the state  
7 or any political subdivision thereof or, to the extent practicable, of  
8 any federal entity. The operators of such transportation facilities  
9 shall, in compliance with any federal and state requirements regarding  
10 the dissemination of such information, provide access to the commis-  
11 sioner of the division of homeland security and emergency services to such  
12 audits or reports regarding such critical infrastructure provided,  
13 however, that exclusive custody and control of such audits and reports  
14 shall remain solely with the operators of such transportation facili-  
15 ties. For the purposes of this article, the term "critical infrastruc-  
16 ture" has the meaning ascribed to that term in subdivision five of  
17 section eighty-six of the public officers law.

18 2. (a) On or before December thirty-first, two thousand eighteen, and  
19 not later than three years after such date, and every five years there-  
20 after, the commissioner of the division of homeland security and emer-  
21 gency services shall report to the governor, the temporary president of  
22 the senate, the speaker of the assembly and the board of any such  
23 affected transportation authority. Such report shall review the securi-  
24 ty measures being taken regarding critical infrastructure related to  
25 transportation facilities, as defined in subdivision fourteen of section  
26 twelve hundred sixty-one of the public authorities law, assess the  
27 effectiveness thereof, and include recommendations to the legislature or  
28 the metropolitan transportation authority, if the commissioner of the  
29 division of homeland security and emergency services determines that  
30 additional measures are required to be implemented, considering among  
31 other factors, the unique characteristics of each transportation facili-  
32 ty, and if such commissioner determines that the immediate implementa-  
33 tion of any or all such recommendations is necessary to guarantee the  
34 safety and security of any such critical infrastructure, he or she shall  
35 immediately direct such transportation authority to implement his or her  
36 recommendations. On or before April thirtieth, two thousand eighteen,  
37 the commissioner of the division of homeland security and emergency  
38 services shall make a preliminary report to the governor, the temporary  
39 president of the senate, the speaker of the assembly and the board of  
40 any such affected transportation authority.

41 (b) Before the receipt of such report identified in paragraph (a) of  
42 this subdivision, each recipient of such report shall develop confiden-  
43 tiality protocols, which shall be binding upon the recipient who issues  
44 the protocols and anyone to whom the recipient shows a copy of the  
45 report, in consultation with the commissioner of the division of home-  
46 land security and emergency services for the maintenance and use of such  
47 report so as to ensure the confidentiality of the report and all infor-  
48 mation contained therein, provided, however, that such protocols shall  
49 not be binding upon a person who is provided access to such report or  
50 any information contained therein pursuant to section eighty-nine of the  
51 public officers law after a final determination that access to such  
52 report or any information contained therein could not be denied pursuant  
53 to subdivision two of section eighty-seven of the public officers law.  
54 The commissioner of the division of homeland security and emergency  
55 services shall also develop protocols for his or her division related to  
56 the maintenance and use of such report so as to ensure the confiden-

1 ity of the report and all information contained therein. On each report,  
2 the commissioner of the division of homeland security and emergency  
3 services shall prominently display the following statement: "this report  
4 may contain information that if disclosed could endanger the life or  
5 safety of the public, and therefore, pursuant to section seven hundred  
6 ten of the executive law, this report is to be maintained and used in a  
7 manner consistent with protocols established to preserve the confiden-  
8 tiality of the information contained herein in a manner consistent with  
9 law".

10 (c) The metropolitan transportation authority shall have the  
11 discretion to require that the recommendations of the commissioner of  
12 the division of homeland security and emergency services be implemented  
13 by any operator of a transportation facility.

14 § 3. This act shall take effect immediately.