

STATE OF NEW YORK

448--B

Cal. No. 981

2023-2024 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2023

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 -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report -- reported favorably from said committee, amended on second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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:

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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;

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11 § 2. The executive law is amended by adding a new section 720 to read as follows:

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13 § 720. Protection of critical infrastructure; metropolitan transportation authority facilities. 1. Notwithstanding any other provision of law, the commissioner of the division 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

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

LBD02578-05-3

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

24 2. (a) On or before December thirty-first, two thousand twenty-five,
25 and not later than three years after such date, and every five years
26 thereafter, the commissioner of the division of homeland security and
27 emergency services shall report to the governor, the temporary president
28 of the senate, the speaker of the assembly and the board of any such
29 affected transportation authority. Such report shall review the securi-
30 ty measures being taken regarding critical infrastructure related to
31 transportation facilities, as defined in subdivision seventeen of
32 section twelve hundred sixty-one of the public authorities law, assess
33 the effectiveness thereof, and include recommendations to the legisla-
34 ture or the metropolitan transportation authority, if the commissioner
35 of the division of homeland security and emergency services determines
36 that additional measures are required to be implemented, considering
37 among other factors, the unique characteristics of each transportation
38 facility. On or before April thirtieth, two thousand twenty-five, the
39 commissioner of the division of homeland security and emergency services
40 shall make a preliminary report to the governor, the temporary president
41 of the senate, the speaker of the assembly and the board of any such
42 affected transportation authority.

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

1 services shall also develop protocols for his or her office related to
2 the maintenance and use of such report so as to ensure the confidential-
3 ity of the report and all information contained therein. On each report,
4 the commissioner of the division of homeland security and emergency
5 services shall prominently display the following statement: "This report
6 may contain information that if disclosed could endanger the life or
7 safety of the public, and therefore, pursuant to section seven hundred
8 eleven of this article, this report is to be maintained and used in a
9 manner consistent with protocols established to preserve the confiden-
10 tiality of the information contained herein in a manner consistent with
11 law."

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

16 § 3. This act shall take effect on the ninetieth day after it shall
17 have become a law.