State of New York

Executive Chamber

No. 124

EXECUTIVE ORDER

DECLARING AN EMERGENCY IN ORDER TO APPOINT NEW JERSEY AND CONNECTICUT POLICE OFFICERS AS RAILROAD POLICE OFFICERS TO PROVIDE ENHANCED SECURITY ON COMMUTER TRAINS, BUSES AND FERRIES

WHEREAS, the 2014 Super Bowl will be held on Sunday, February 2, 2014 at the MetLife Stadium in East Rutherford, New Jersey; and

WHEREAS, an estimated 500,000 or more people will be visiting the New York City area to attend the Super Bowl and related public events and festivities in the days preceding the Super Bowl; and

WHEREAS, thousands of commuters are expected to travel between the states of New York, New Jersey and Connecticut to attend the Super Bowl and related public events and festivities via mass transit systems that include interstate rail, bus and ferry systems accessible to the public, and an enhanced law enforcement presence on these conveyances is prudent to protect public safety; and

WHEREAS, terrorists have used explosive and other devices to attack public and private transportation systems, as demonstrated by the bombings in London in 2005 and in Madrid in 2004, and while there is no known confirmed threat to the New York metropolitan area, the mass transit systems of New York, New Jersey and Connecticut are particularly high-risk targets; and

WHEREAS, the completed and attempted attacks in New York, including the 2012 plot by Raess Alam Qazi and his brother to carry out attacks at landmarks in New York; the plot against the PATH railway system by Assem Hammoud in 2006; the plot against New York City subways by Najibullah Zazi in 2009; the October 2012 foiled attempt by Quazi Mohammad Rezwanul Ahsan Nafis to detonate a 1,000 pound car bomb outside the Federal Reserve Bank of New York in Lower Manhattan; the 2011 plot by Ahmed Ferhani and Mohamed Mamdouh to bomb New York City synagogues, during which Ferhani and Mamdouh discussed additional targets in New York City, including churches and the Empire State Building; and the 2004 plot by Shahawar Matin Siraj and James Elshafay to bomb the Herald Square (34th Street) subway station and other mass transit stations in Manhattan demonstrate that terrorists continue to pose a persistent threat to the State of New York; and

WHEREAS, athletic events and mass gatherings have been subject to terror plots, including the 2013 Boston Marathon bombings which killed 3 people and injured 264 others; the 1996 Centennial Olympic Park bombing in Atlanta where two people were killed; and the 1972 Olympic Games in Munich where 11 members of the Israeli Olympic team were taken hostage and eventually killed; and

WHEREAS, New York's sister states, Connecticut and New Jersey, have agreed to deploy police officers from their states to provide increased security on commuter trains, buses and ferries going to and from New York State; and

WHEREAS, sworn members of the Connecticut State Police, sworn police officers of any county or municipality in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey are restricted in their law enforcement authority once such a conveyance crosses the jurisdictional boundary from Connecticut to New York or from New Jersey to New York respectively; and

WHEREAS, New York, New Jersey and Connecticut are all members of the Emergency Management Assistance Compact ("EMAC"), which allows for mutual assistance and resource sharing among sister states; and

WHEREAS, EMAC provides that emergency forces from the sending state, while operating within the jurisdictional boundaries of the receiving state pursuant to the compact, shall have the same powers (except that of arrest, unless specifically authorized by the receiving state), duties, rights and privileges as are afforded forces of the receiving state in which they are performing emergency services; and

WHEREAS, to utilize the police resources provided by our sister states, it is necessary to confer police officer powers, including arrest powers, on such officers while they are within the geographic jurisdiction of New York State; and

WHEREAS, Section 88 of the Railroad Law authorizes the Superintendent of the State Police to appoint any person as a railroad police officer only under prescribed circumstances and subject to certain limitations; and

WHEREAS, if such circumstances and limitations were applied to sworn police officers from New York's sister states who are serving as railroad police officers from January 26, 2014, through February 3, 2014, such application would prevent, hinder and delay action necessary to respond to a terrorist attack or a threat thereof; and

WHEREAS, Section 29-a of the Executive Law authorizes the suspension, alteration and modification of statutes, local laws, ordinances, orders, rules or regulations, or parts thereof, if compliance with such provisions would prevent, hinder or delay action necessary to cope with a disaster emergency and the inclusion of any other terms and conditions;

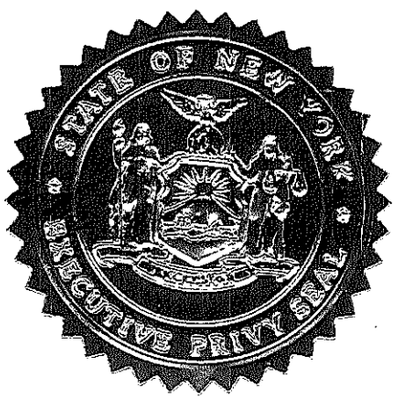
NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby find that a disaster to which the affected local governments are unable to respond adequately without assistance may be imminent. Therefore, pursuant to the authority vested in me by the Constitution of the State of New York and Section 28 of Article 2-B of the Executive Law, I hereby declare a State Disaster Emergency effective January 26, 2014; and

FURTHER, pursuant to the authority vested in me by Section 29-a of the Executive Law to temporarily suspend and modify specific provisions of any statute, local law, ordinance, order, rule or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such provisions would prevent, hinder or delay action necessary to cope with the disaster, I hereby temporarily suspend and modify, for the period from 12:01 AM on January 26, 2014 until 12:01 AM on February 3, 2014, the following laws for purposes of appointment of sworn members of the Connecticut State Police, sworn police officers of any county or municipality in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey as Railroad Police:

Subdivision 1 of Section 88 of the Railroad Law insofar as it requires the Superintendent of the State Police to appoint railroad police officers only upon the application of a corporation, express company, or steamboat company, is modified to the extent necessary to allow the Governor to appoint sworn members of the Connecticut State Police, sworn police officers of any county or municipality in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey as railroad police officers, and to include all rail and bus facilities and property owned, operated or in the custody or control of the Port Authority of New York and New Jersey or its subsidiaries, the Metropolitan Transit Authority or its subsidiaries, New Jersey Transit or its subsidiaries, and ferries certified to carry passengers to and from New York State; and

Subdivisions 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16 and 17 of Section 88 of the Railroad Law, as necessary to effectuate this Order; and

FURTHER, this Order shall take effect at 12:01 AM on January 26, 2014 and shall remain in effect until 12:01 AM on February 3, 2014.



GIVEN under my hand and the Privy Seal of the State in the City of Albany this twenty-fourth day of January in the year two thousand fourteen.

BY THE GOVERNOR

Secretary to the Governor