

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Domestic Security Committee

BILL: SB 190

SPONSOR: Senator Wise

SUBJECT: Seaport Security

DATE: January 26, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Pardue</u>	<u>Skelton</u>	<u>DS</u>	Favorable
2.	_____	_____	<u>CJ</u>	_____
3.	_____	_____	<u>CM</u>	_____
4.	_____	_____	<u>JA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill establishes a waiver review process for persons who have been determined not qualified for unescorted access to a seaport pursuant to statute.

The bill also establishes a certification program that allows seaport authorities and governing boards to require security officers working on a seaport to receive additional training and designation as a certified seaport security officer.

This bill authorizes certified seaport security officers to detain, based on probable cause, persons believed to be trespassing in designated seaport restricted access areas pending the immediate arrival of a law enforcement officer.

Finally, the bill establishes a maritime domain awareness training program for security awareness training of all seaport workers.

This bill amends s. 311.12 and creates the following sections of the Florida Statutes: 311.121, 311.122, and 311.123.

II. Present Situation:

Seaport Access

Section 311.12, Florida Statutes, establishes statewide minimum security standards for Florida's twelve currently active public seaports. Pursuant to this section, ports are required to establish security plans that may establish restricted access areas within the port. Persons allowed regular access to port restricted access areas are subject to a fingerprint-based criminal history check as a

condition of access. Section 311.12, F.S., requires that any person who has been convicted within the past 7 years, regardless of whether adjudication was withheld, for a forcible felony, an act of terrorism, planting a hoax bomb, acts involving the attempted or threatened use of a weapon of mass destruction, dealing in stolen property, trafficking of a controlled substance, burglary, robbery, felony theft, any crime involving the use or possession of a firearm, or conviction for conspiracy to commit any of the above crimes shall not be qualified for initial employment within or regular access to a seaport or restricted access area.

Seaport Security Officer Training and Certification

Prior to 2000, seaport security in Florida was focused on supply chain theft prevention to protect the commercial interests of seaport tenants. Since 2001 considerable effort and resources have been devoted to improving physical security and security operations at Florida's commercial seaports to meet the ongoing concerns about drug trafficking and the emerging threat of terrorism. Florida pursued a successful strategy for seaport security improvements through grant funding now administered by the Transportation Security Administration of the Department of Homeland Security. However, these federal grants are restricted to pre-approved physical infrastructure improvements.

Improvements in security operations at Florida's seaports have been primarily funded through the Florida Seaport Transportation Economic Development Council (FSTED) and the commercial seaports individually. In order to accomplish these operational security improvements, the Council has voluntarily foregone needed economic development infrastructure projects. Concern for long-term funding of operational security costs prompted a review of operational structures at several public seaports by the Senate Domestic Security Committee. The statutory authority to use FSTED funds for seaport security has expired and there is no dedicated state funding source at this time.

Florida Senate Interim Project Report 2005-144, Seaport Security, November 2004, describes and documents the above situation and identifies several possible methods to reduce or mitigate operational security costs including the training and certification of seaport security officers.

As a general rule, private security personnel working on Florida's public seaports are required to maintain at a minimum, a CLASS D private security officer license,¹ including at least 40 hours of professional education completed at a school or training facility licensed by the Florida Department of Agriculture and Consumer Services. At least one port employs CLASS G security officers as a part of its private security force. These officers are permitted to carry firearms and must undergo additional training requirements prior to obtaining a state CLASS G license.²

With the exception of Port Manatee, the state's county-operated ports appear to have operational security costs which are substantially higher than other public ports. The extensive use of government law enforcement employees, with the inherent costs of salary and benefits associated with those personnel may be a driving factor in those higher costs. In fact, ports using a blend of sworn law enforcement, non-sworn law enforcement and private security forces had security

¹ S. 493.6303, F.S.

² S. 493.6115, F.S.

operating costs of less than half that of the county operated facilities. One factor in the cost of security which is difficult to account for is the size of each port, both geographically and operationally. The two county-operated ports are the largest operationally, and thus have more activity requiring security presence on a daily basis. However, the extreme differences in security costs between Port Everglades and Port of Miami as compared to Jaxport and Port of Tampa point to the method of service delivery being the reason for higher costs.

The use of some form of blended security force, either through additional port security officers holding appropriate state licenses, or through contracted services provided by licensed personnel from private security firms might provide some reduction in costs for ports now using county personnel. For example, Port Everglades, through its contract with the Broward County Sheriff's Office, pays overtime costs to non-sworn personnel (CSAs) to stand guard post assignments in cruise terminals when ships are in port. A private security officer, under the direction of sworn law enforcement, could perform this same duty under an hourly contract, thus saving the port the overhead costs of salary, benefits, administration and supervision. A focused review of the use of sworn and non-sworn law enforcement personnel by each public seaport could result in cost savings through a different proportion of sworn and non-sworn government and private personnel without the loss of appropriate levels of security.

Proper training of private security personnel employed to protect Florida's public seaports is an ongoing concern. Prevention, protection and response procedures on seaports are quite unique and require specialized education and training. While CLASS D and CLASS G security officers must receive specialized patrol and firearms training, respectively, there is no required additional training, nor any additional specialized seaport security certification or separate class of security officers that have completed such training, recognized by the State of Florida.

The Power to Detain

Florida Statute authorizes a law enforcement officer, a merchant, a farmer, or their employee or agent, who has probable cause to believe that a retail theft, farm theft, or trespass, has been committed by a person and, in the case of retail or farm theft, that the property can be recovered by taking the offender into custody may, for the purpose of attempting to effect such recovery or for prosecution, take the offender into custody and detain the offender in a reasonable manner for a reasonable length of time.³ The subsection further prescribes that in the event the merchant, merchant's employee, farmer, or a transit agency's employee or agent takes the person into custody, a law enforcement officer shall be called to the scene immediately after the person has been taken into custody. The subsection is also applicable to transit fare evasion with respect to detention.

No similar authorization to detain exists in Florida Statute in the case of a trespass offender found in a restricted area on a seaport. A licensed seaport security officer is currently not authorized to detain such a person pending the arrival of a law enforcement officer.

³ S 812.015 (3) (a), F.S.

III. Effect of Proposed Changes:

This bill amends s. 311.12, F.S., in order to provide a review process for individuals who have been found unqualified for unescorted access and denied employment by a seaport. Under this provision, the Department of Law Enforcement will conduct a review based on a request for waiver from an individual who has been found unqualified according to the provisions of s. 311.12 (3) (c), F.S. The review will be based on information submitted by the applicant and findings of fact received from the Parole Commission administrative staff. Such review is exempt from procedures required under the Administrative Procedures Act, Chapter 120, F.S.

This bill creates s. 311.121, F.S., allowing each seaport authority or governing board subject to statewide minimum seaport security standards to require security officers working on the seaport to undergo additional training and become certified as a seaport security officer. The bill establishes eligibility criteria to undergo training or present equivalency qualifications for certification as a seaport security officer. In addition, it grants the Department of Agriculture and Consumer Services authority to evaluate and determine equivalency.

The bill provides for a steering committee to establish and periodically review a training curriculum for seaport security officers. The bill further assigns the Department of Education the responsibility for implementing the steering committee curriculum recommendations and requires instructors conducting seaport security officer training to hold a CLASS DI license pursuant to s. 493.6301, F.S. The bill clarifies that organizations desiring to teach the curriculum may apply to become a licensed school pursuant to s. 493.6304, F.S.

The bill also requires a candidate for certification to pass a proficiency examination and establishes criteria for maintaining valid certification. Finally, the bill provides for the administration of the certification process and notification to the Division of Licensing of the Department of Agriculture and Consumer Services that a certificate has been issued.

The bill also creates s. 311.122, F.S., authorizing a seaport security officer holding a CLASS D or CLASS G license and seaport security officer certification and acting as an agent of the seaport's federally designated Facility Security Officer (FSO), to detain a person believed to be trespassing in a designated seaport restricted access area until a law enforcement officer arrives on scene. In addition, the bill provides protection for the Seaport Security Officer from criminal or civil liability for false arrest, false imprisonment, and unlawful detention.

Finally, the bill creates s. 311.123, F.S. This section establishes a maritime domain awareness training program to instruct all workers within a seaport's boundaries about security awareness procedures.

This bill provides an effective date of July 1, 2006

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

There will be a cost associated with providing additional training for certification. This cost will likely be borne by the individual applicant seeking upgraded skills and certification. The impact to private sector security agency employers seeking higher skill level security officers is unknown.

C. Government Sector Impact:

The bill is permissive to seaport authorities and governing boards with regard to requiring certified seaport security officers. However, there are potential cost savings to public seaports given the ability to design an optimum security force mix of sworn and non-sworn law enforcement officers and certified seaport security officers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
