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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2009	.	
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The Committee on Military Affairs and Domestic Security (Lynn) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 311.115, Florida Statutes, is created to
read:

311.115 Seaport Security Standards Advisory Council.—The
Seaport Security Standards Advisory Council is created under the
Office of Drug Control. The council shall serve as an advisory
council as provided in s. 20.03(7).

(1) The members of the council shall be appointed by the



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12 Governor and consist of the following:

13 (a) Two seaport directors.

14 (b) Two seaport security directors.

15 (c) One designee to represent seaport tenants.

16 (d) One designee to represent seaport workers.

17 (e) One designee from the Department of Law Enforcement.

18 (f) One designee from the Office of Motor Carrier
19 Compliance of the Department of Transportation.

20 (g) One designee from the Attorney General's Office.

21 (h) One designee from the Department of Agriculture and
22 Consumer Services.

23 (i) One designee from the Office of Tourism, Trade, and
24 Economic Development.

25 (j) One designee from the Office of Drug Control.

26 (k) One designee from the Fish and Wildlife Conservation
27 Commission.

28 (l) The Director of the Division of Emergency Management,
29 or designee.

30 (2) In addition to the members designated in subsection
31 (1), the council may invite a representative of the United
32 States Coast Guard to attend and participate in council meetings
33 as an ex officio, nonvoting member of the council.

34 (3) Members of the council shall be appointed to 4-year
35 terms. A vacancy shall be filled by the original appointing
36 authority for the balance of the unexpired term.

37 (4) The council shall be chaired by a designee from the
38 Office of Drug Control.

39 (5) Beginning January 15, 2007, and at least every 4 years
40 thereafter, the Office of Drug Control shall convene the council



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41 to review the minimum security standards referenced in s.
42 311.12(1) for applicability to and effectiveness in combating
43 current narcotics and terrorism threats to the state's seaports.
44 All sources of information allowed by law shall be used in
45 assessing the applicability and effectiveness of the standards.

46 (6) Council members shall serve without pay; however, per
47 diem and travel allowances may be claimed for attendance at
48 officially called meetings as provided by s. 112.061.

49 (7) The council shall consult with the appropriate area
50 maritime security committees to assess possible impacts to
51 commerce and trade contained in the council's nonclassified
52 recommendations and findings.

53 (8) The recommendations and findings of the council shall
54 be transmitted to the Governor, the President of the Senate, and
55 the Speaker of the House of Representatives.

56 Section 2. Section 311.12, Florida Statutes, is amended to
57 read:

58 (Substantial rewording of section. See
59 s. 311.12, F.S., for present text.)

60 311.12 Seaport security.—

61 (1) SECURITY STANDARDS.—

62 (a) The statewide minimum standards for seaport security
63 applicable to seaports listed in s. 311.09 shall be those based
64 on the Florida Seaport Security Assessment 2000 and set forth in
65 the Port Security Standards Compliance Plan delivered to the
66 Speaker of the House of Representatives and the President of the
67 Senate on December 11, 2000. The Office of Drug Control within
68 the Executive Office of the Governor shall maintain a sufficient
69 number of copies of the standards at its offices for



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70 distribution to the public, and provide copies to each affected
71 seaport upon request.

72 (b) A seaport may implement security measures that are more
73 stringent, more extensive, or supplemental to the minimum
74 security standards established by this subsection.

75 (2) EXEMPTION.—The Department of Law Enforcement may exempt
76 all or part of a seaport listed in s. 311.09 from the
77 requirements of this section if the department determines that
78 activity associated with the use of the seaport or part of the
79 seaport is not vulnerable to criminal activity or terrorism. The
80 department shall periodically review such exemptions to
81 determine if there is a change in use. Such change may warrant
82 removal of all or part of the exemption.

83 (3) SECURITY PLAN.—Each seaport listed in s. 311.09 shall
84 adopt and maintain a security plan specific to that seaport
85 which provides for a secure seaport infrastructure that promotes
86 the safety and security of state residents and visitors and the
87 flow of legitimate trade and travel.

88 (a) Beginning January 1, 2007, and every 5 years
89 thereafter, each seaport director, with the assistance of the
90 Regional Domestic Security Task Force and in conjunction with
91 the United States Coast Guard, shall revise the seaport's
92 security plan based on the director's ongoing assessment of
93 security risks, the risks of terrorist activities, and the
94 specific and identifiable needs of the seaport for ensuring that
95 the seaport is in substantial compliance with the minimum
96 security standards established under subsection (1).

97 (b) Each adopted or revised security plan must be reviewed
98 and approved by the Office of Drug Control and the Department of



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99 Law Enforcement for compliance with federal facility security
100 assessment requirements under 33 C.F.R. s. 105.305 and the
101 minimum security standards established under subsection (1).
102 Within 30 days after completion, a copy of the written review
103 shall be delivered to the United States Coast Guard, the
104 Regional Domestic Security Task Force, and the Domestic Security
105 Oversight Council.

106 (4) SECURE AND RESTRICTED AREAS.—Each seaport listed in s.
107 311.09 must clearly designate in seaport security plans, and
108 clearly identify with appropriate signs and markers on the
109 premises of a seaport, all secure and restricted areas as
110 defined by the United State Department of Homeland Security—
111 United States Coast Guard Navigation and Vessel Inspection
112 Circular No. 03-07 and 49 C.F.R. part 1572. The plans must also
113 address access eligibility requirements and corresponding
114 security enforcement authorizations.

115 (a) The seaport's security plan must set forth the
116 conditions and restrictions to be imposed on persons employed
117 at, doing business at, or visiting the seaport who have access
118 to secure and restricted areas that are sufficient to provide
119 substantial compliance with the minimum security standards
120 established in subsection (1) and federal regulations.

121 1. All seaport employees and other persons working at the
122 seaport who have regular access to secure or restricted areas
123 must comply with federal access control regulations and state
124 criminal history checks as prescribed in this section.

125 2. All persons and objects in secure and restricted areas
126 are subject to search by a sworn state-certified law enforcement
127 officer, a Class D seaport security officer certified under



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128 Maritime Transportation Security Act guidelines and s. 311.121,
129 or an employee of the seaport security force certified under the
130 Maritime Transportation Security Act guidelines and s. 311.121.

131 3. Persons found in these areas without the proper
132 permission are subject to the trespass provisions of ss. 810.08
133 and 810.09.

134 (c) As determined by the seaport director's most current
135 risk assessment report under paragraph (3) (a), any secure or
136 restricted area that has a potential human occupancy of 50
137 persons or more, any cruise terminal, or any business operation
138 that is adjacent to a public access area must be protected from
139 the most probable and credible terrorist threat to human life.

140 (d) The seaport must provide clear notice of the
141 prohibition against possession of concealed weapons and other
142 contraband material on the premises of the seaport. Any person
143 in a restricted area who has in his or her possession a
144 concealed weapon, or who operates or has possession or control
145 of a vehicle in or upon which a concealed weapon is placed or
146 stored, commits a misdemeanor of the first degree, punishable as
147 provided in s. 775.082 or s. 775.083. This paragraph does not
148 apply to active-duty certified federal or state law enforcement
149 personnel or persons so designated by the seaport director in
150 writing.

151 (e) During a period of high terrorist threat level, as
152 designated by the United States Department of Homeland Security
153 or the Department of Law Enforcement, or during an emergency
154 declared at a port by the seaport security director due to
155 events applicable to that particular seaport, the management or
156 controlling authority of the port may temporarily designate any



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157 part of the seaport property as a secure or restricted area. The
158 duration of such designation is limited to the period in which
159 the high terrorist threat level is in effect or a port emergency
160 exists.

161 (5) ACCESS ELIGIBILITY REPORTING SYSTEM.—Subject to
162 legislative appropriations, the Department of Law Enforcement
163 shall administer a statewide seaport access eligibility
164 reporting system.

165 (a) The system must, at a minimum, include:

166 1. A centralized, secure method of collecting and
167 maintaining fingerprints, other biometric data, or other means
168 of confirming the identity of persons authorized to enter a
169 secure or restricted area of a seaport;

170 2. A methodology for receiving from and transmitting
171 information to each seaport regarding a person's authority to
172 enter a secure or restricted area of the seaport;

173 3. A means for receiving prompt notification from a seaport
174 when a person's authorization to enter a secure or restricted
175 area of a seaport has be suspended or revoked; and

176 4. A means to communicate to seaports when a person's
177 authorization to enter a secure or restricted area of a seaport
178 has been suspended or revoked.

179 (b) Each seaport listed in s. 311.09 is responsible for
180 granting, modifying, restricting, or denying access to secure
181 and restricted areas to seaport employees, other persons working
182 at the seaport, visitors who have business with the seaport, or
183 other persons regularly appearing at the seaport. Based upon the
184 person's criminal history check, each seaport may determine the
185 specific access eligibility to be granted to that person. Each



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186 seaport is responsible for access eligibility verification at
187 its location.

188 (c) Upon determining that a person is eligible to enter a
189 secure or restricted area of a port pursuant to subsections (6)
190 and (7), the seaport shall, within 3 business days, report the
191 determination to the department for inclusion in the system.

192 (d) All information submitted to the department regarding a
193 person's access eligibility screening may be retained by the
194 department for subsequent use in promoting seaport security,
195 including, but not limited to, the review of the person's
196 criminal history status to ensure that the person has not become
197 disqualified for such access.

198 (e) The following fees shall be paid by the seaport,
199 another employing entity, or the person being entered into the
200 system to the department or to the seaport if the seaport is
201 acting as an agent of the department for the purpose of
202 collecting the fees. Such fees may not be charged by more than
203 one seaport.

204 1. The cost of the state criminal history check under
205 subsection (7).

206 2. A \$50 fee to cover the initial cost of entering the
207 person into the system, and every 5 years thereafter to coincide
208 with the issuance of the federal Transportation Worker
209 Identification Credential described in subsection (6). The fee
210 covers all costs for entering or maintaining the person in the
211 system including the retention and use of their fingerprint,
212 other biometric data, or other identifying information.

213 3. The seaport entering the person into the system may
214 charge an administrative fee to cover, but not exceed, the



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215 seaport's actual administrative costs for processing the results
216 of the state criminal history check and entering the person into
217 the system.

218 (f) All fees identified in paragraph (e) must be paid
219 before the person may be granted access to a secure or
220 restricted area. Failure to comply with the criminal history
221 check or to pay the fees are grounds for immediate denial of
222 access.

223 (g) Persons, corporations, or other business entities that
224 employ persons to work or do business at seaports shall notify
225 the seaport of the termination, resignation, work-related
226 incapacitation, or death of an employee who has access
227 permission.

228 1. If the seaport determines that the person has been
229 employed by another appropriate entity or is self-employed for
230 purposes of performing work at the seaport, the seaport may
231 reinstate the person's access eligibility.

232 2. A business entity's failure to report a change in an
233 employee's work status within 7 days after that change may
234 result in revocation of the business entity's access to the
235 seaport.

236 (h) In addition to access permissions granted or denied by
237 seaports, access eligibility may be restricted or revoked by the
238 department if there is a reasonable suspicion that the person is
239 involved in terrorism or criminal violations that could affect
240 the security of a port or otherwise render the person ineligible
241 for seaport access.

242 (i) Any suspension or revocation of port access must be
243 reported by the seaport to the department within 24 hours.



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244 (j) The submission of information known to be false or
245 misleading to the department for entry into the system is a
246 felony of the third degree, punishable as provided in s.
247 775.082, s. 775.083, or s. 775.084.

248 (6) ACCESS TO SECURE AND RESTRICTED AREAS.-

249 (a) Any person seeking authorization to access secure and
250 restricted areas of a seaport must, unless waived under
251 paragraph (7) (e), possess a valid federal Transportation Worker
252 Identification Credential (TWIC) and execute an affidavit under
253 oath which provides TWIC identification information and
254 indicates that:

255 1. The TWIC is currently valid and in full force and
256 effect;

257 2. He or she did not receive the TWIC through the waiver
258 process for disqualifying criminal history allowed by federal
259 law; and

260 3. He or she has not, in any jurisdiction, civilian or
261 military, been charged with, been convicted of, entered a plea
262 of guilty or nolo contendere to, regardless of adjudication, or
263 been found not guilty by reason of insanity, of any
264 disqualifying felony under subsection (7) or any crime which
265 includes the use or possession of a weapon or firearm.

266 (b) Upon submission of a completed affidavit as provided in
267 paragraph (a), the completion of the state criminal history
268 check as provided in subsection (7), and payment of all required
269 fees under subsection (5), a seaport may grant the person access
270 to secure or restricted areas of the port.

271 (c) Any port granting a person access to secure or
272 restricted areas shall report the grant of access to the



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273 Department of Law Enforcement for inclusion in the access
274 eligibility reporting system under subsection (5) within 3
275 business days.

276 (d) The submission of false information on the affidavit
277 required by this section is a felony of the third degree,
278 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
279 Upon conviction for a violation of this provision, the person
280 forfeits all privilege of access to secure or restricted areas
281 of a seaport and is disqualified from future approval for access
282 to such areas.

283 (e) Any affidavit form created for use under this
284 subsection must conspicuously state: "Submission of false
285 information on this affidavit is a felony under Florida law and
286 will, upon conviction, result in disqualification for access to
287 a secure or restricted area of a seaport."

288 (f) Upon each 5-year renewal of a person's TWIC, the person
289 must submit another affidavit as required by this subsection.

290 (7) CRIMINAL HISTORY SCREENING.—A fingerprint-based
291 criminal history check must be performed on employee applicants,
292 current employees, and other persons authorized to regularly
293 enter a secure or restricted area, or the entire seaport if the
294 seaport security plan does not designate one or more secure or
295 restricted areas.

296 (a) A person is disqualified from employment or unescorted
297 access if the person:

298 1. Was convicted of, or entered a plea of guilty or nolo
299 contendere to, regardless of adjudication, any of the offenses
300 listed in paragraph (b) in any jurisdiction, civilian or
301 military, during the 7 years before the date of the person's



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302 application for access; or
303 2. Was released from incarceration, or any supervision
304 imposed as a result of sentencing, for committing any of the
305 disqualifying crimes listed in paragraph (b) in any
306 jurisdiction, civilian or military, during the 5 years before
307 the date of the person's application for access.
308 (b) The disqualifying offenses include:
309 1. An act of terrorism as defined in s. 775.30.
310 2. A violation involving a weapon of mass destruction or
311 hoax weapon of mass destruction as provided in s. 790.166.
312 3. Planting of a hoax bomb as provided in s. 790.165.
313 4. A violation of s. 876.02 or 876.36.
314 5. A violation of s. 860.065.
315 6. Trafficking as provided in s. 893.135.
316 7. Racketeering activity as provided in s. 895.03.
317 8. Dealing in stolen property as provided in s. 812.019.
318 9. Money laundering as provided in s. 896.101.
319 10. Criminal use of personal identification as provided in
320 s. 817.568.
321 11. Bribery as provided in s. 838.015.
322 12. A violation of s. 316.302, relating to the transport of
323 hazardous materials.
324 13. A forcible felony as defined in s. 776.08.
325 14. A violation of s. 790.07.
326 15. Any crime which includes the use or possession of a
327 weapon or firearm.
328 16. A felony violation for theft as provided in s. 812.014.
329 17. Robbery as provided in s. 812.13.
330 18. Burglary as provided in s. 810.02.



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331 19. Any violation involving the sale, manufacture,
332 delivery, or possession with intent to sell, manufacture, or
333 deliver a controlled substance.

334 20. Any offense under the laws of another jurisdiction that
335 is similar to an offense in this list.

336 21. Conspiracy or attempt to commit any of the listed
337 offenses.

338 (c) Each individual who is subject to a criminal history
339 check shall file a complete set of fingerprints taken in a
340 manner acceptable to the Department of Law Enforcement for state
341 processing. The results of the criminal history check must be
342 reported to the requesting seaport and may be shared among
343 seaports.

344 (d) All fingerprints submitted to the Department of Law
345 Enforcement shall be retained by the department and entered into
346 the statewide automated fingerprint identification system
347 established in s. 943.05(2) (b) and available for use in
348 accordance with s. 943.05(2) (g) and (h). An arrest record that
349 is identified with the retained fingerprints of a person subject
350 to the screening shall be reported to the seaport where the
351 person has been granted access to a secure or restricted area.
352 If the fingerprints of a person who has been granted access were
353 not retained, or are otherwise not suitable for use by the
354 department, the person must be refingerprinted in a manner that
355 allows the department to perform its functions as provided
356 herein.

357 (e) The Department of Law Enforcement shall establish a
358 waiver process for an individual who is does not have a TWIC,
359 obtained a TWIC though a federal waiver process, or is found to



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360 be unqualified under paragraph (a) and denied employment by a
361 seaport or unescorted access to secure or restricted areas.

362 1. Consideration for a waiver shall be based on the
363 circumstances of any disqualifying act or offense, restitution
364 made by the individual, and other factors from which it may be
365 determined that the individual does not pose a risk of engaging
366 in any act within the public seaports regulated under this
367 chapter which poses a risk to or threatens the security of the
368 seaport and the public's health, safety, or welfare.

369 2. The waiver process begins when an individual who has
370 been denied initial employment within or unescorted access to
371 secure or restricted areas of a public seaport submits an
372 application for a waiver and a notarized letter or affidavit
373 from the individual's employer or union representative which
374 states the mitigating reasons for initiating the waiver process.

375 3. Within 90 days after receipt of the application, the
376 administrative staff of the Parole Commission shall conduct a
377 factual review of the waiver application. Findings of fact shall
378 be transmitted to the department for review. The department
379 shall make a copy of those findings available to the applicant
380 before final disposition of the waiver request.

381 4. The department shall make a final disposition of the
382 waiver request based on the factual findings of the
383 investigation by the Parole Commission. The department shall
384 notify the waiver applicant of the final disposition of the
385 waiver.

386 5. The review process under this paragraph is exempt from
387 chapter 120.

388 6. By October 1 of each year, each seaport shall report to



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389 the department each instance of denial of employment within, or
390 access to, secure or restricted areas, and each instance waiving
391 an appeal of a denial occurring during the last 12 months. The
392 report must include the identity of the individual affected, the
393 factors supporting the denial or waiver, and any other material
394 factors used to make the determination.

395 (f) In addition to the waiver procedure established by the
396 Department of Law Enforcement under paragraph (e), each seaport
397 security plan may establish a procedure to appeal a denial of
398 employment or access based upon procedural inaccuracies or
399 discrepancies regarding criminal history factors established
400 pursuant to this subsection.

401 (g) Each seaport may allow immediate waivers on a temporary
402 basis to meet special or emergency needs of the seaport or its
403 users. Policies, procedures, and criteria for implementation of
404 this provision must be included in the seaport security plan.
405 All waivers granted by the seaports pursuant to this paragraph
406 must be reported to the department within 30 days after
407 issuance.

408 (8) WAIVER FROM SECURITY REQUIREMENTS.—The Office of Drug
409 Control and the Department of Law Enforcement may modify or
410 wave any physical facility requirement or other requirement
411 contained in the minimum security standards upon a determination
412 that the purposes of the standards have been reasonably met or
413 exceeded by the seaport requesting the modification or waiver.
414 An alternate means of compliance must not diminish the safety or
415 security of the seaport and must be verified through an
416 extensive risk analysis conducted by the seaport director.

417 (a) Waiver requests shall be submitted in writing, along



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418 with supporting documentation, to the Office of Drug Control and
419 the Department of Law Enforcement. The office and the department
420 have 90 days to jointly grant or reject the waiver, in whole or
421 in part.

422 (b) The seaport may submit any waivers that are not granted
423 or are jointly rejected to the Domestic Security Oversight
424 Council for review within 90 days. The council shall recommend
425 that the Office of Drug Control and the Department of Law
426 Enforcement grant the waiver or reject the waiver, in whole or
427 in part. The office and the department shall give great weight
428 to the council's recommendations.

429 (c) A request seeking a waiver from the seaport law
430 enforcement personnel standards established under s. 311.122(3)
431 may not be granted for percentages below 10 percent.

432 (d) Any modifications or waivers granted under this
433 subsection shall be noted in the annual report submitted by the
434 Department of Law Enforcement pursuant to subsection (10).

435 (9) INSPECTIONS.—It is the intent of the Legislature that
436 the state's seaports adhere to security practices that are
437 consistent with the risks assigned to each seaport through the
438 ongoing risk assessment process established in paragraph (3)(a).

439 (a) The Department of Law Enforcement, or any entity
440 designated by the department, shall conduct at least one annual
441 unannounced inspection of each seaport to determine whether the
442 seaport is meeting the minimum security standards established
443 pursuant to subsection (1), and to identify seaport security
444 changes or improvements needed or otherwise recommended.

445 (b) The Department of Law Enforcement, or any entity
446 designated by the department, may conduct additional announced



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447 or unannounced inspections or operations within or affecting any
448 seaport to test compliance with, or the effectiveness of,
449 security plans and operations at each seaport, to determine
450 compliance with physical facility requirements and standards, or
451 to assist the department in identifying changes or improvements
452 needed to bring a seaport into compliance with minimum security
453 standards.

454 (c) Within 30 days after completing the inspection report,
455 the department shall submit a copy of the report to the Domestic
456 Security Oversight Council.

457 (d) A seaport may request that the Domestic Security
458 Oversight Council review the findings in the department's report
459 as they relate to the requirements of this section. The council
460 may review only those findings that are in dispute by the
461 seaport. In reviewing the disputed findings, the council may
462 concur in the findings of the department or the seaport, or may
463 recommend corrective action to the seaport. The department and
464 the seaport shall give great weight to the council's findings
465 and recommendations.

466 (e) All seaports shall allow the Department of Law
467 Enforcement, or entity designated by the department, unimpeded
468 access to affected areas and facilities for the purpose of plan
469 or compliance inspections or other operations authorized by this
470 section.

471 (10) REPORTS.—

472 (a) The Department of Law Enforcement, in consultation with
473 the Office of Drug Control, shall annually complete a report
474 indicating the observations and findings of all reviews,
475 inspections, or other operations relating to the seaports



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476 conducted during the year and any recommendations resulting from
477 such reviews, inspections, and operations. A copy of the report
478 shall be provided to the Governor, the President of the Senate,
479 the Speaker of the House of Representatives, the governing body
480 of each seaport or seaport authority, and each seaport director.
481 The report must include each director's response indicating what
482 actions, if any, have been taken or are planned to be taken
483 pursuant to the observations, findings, and recommendations
484 reported by the department.

485 (b) After the Department of Law Enforcement completes the
486 annual inspection report in paragraph (a), the department shall
487 provide an assessment briefing to the board members of the
488 governing authority of each seaport and to the local regional
489 domestic security task force co-chairs. The briefing must
490 address the findings from the inspections, areas of concern, and
491 recommendations for improvements.

492 1. The department shall provide at least one assessment
493 briefing per year to the board during a meeting of the board.
494 The board must make transcripts and audio recordings of all
495 proceedings during such briefings.

496 2. Each board member of a governing authority having
497 responsibility for seaport oversight or operations must attend
498 the assessment briefings. All attendance records shall be
499 published and announced at the next regular meeting of the
500 board.

501 (11) FUNDING.—

502 (a) In making decisions regarding security projects or
503 other funding applicable to each seaport listed in s. 311.09,
504 the Legislature may consider the Department of Law Enforcement's



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505 annual report under subsection (10) as authoritative, especially
506 regarding each seaport's degree of substantial compliance with
507 the minimum security standards established in subsection (1).

508 (b) The Legislature shall regularly review the ongoing
509 costs of operational security on seaports, the impacts of this
510 section on those costs, mitigating factors that may reduce costs
511 without reducing security, and the methods by which seaports may
512 implement operational security using a combination of sworn law
513 enforcement officers and private security services.

514 (c) Subject to the provisions of this chapter and
515 appropriations made for seaport security, state funds may not be
516 expended for security costs without certification of need for
517 such expenditures by the Office of Ports Administrator within
518 the Department of Law Enforcement.

519 (d) If funds are appropriated for seaport security, the
520 Office of Drug Control, the Department of Law Enforcement, and
521 the Florida Seaport Transportation and Economic Development
522 Council shall mutually determine the allocation of such funds
523 for security project needs identified in the approved seaport
524 security plans. Any seaport that receives state funds for
525 security projects must enter into a joint participation
526 agreement with the appropriate state entity and use the seaport
527 security plan as the basis for the agreement.

528 1. If funds are made available over more than 1 fiscal
529 year, the agreement must reflect the entire scope of the project
530 approved in the security plan and, as practicable, allow for
531 reimbursement for authorized projects over more than 1 year.

532 2. The agreement may include specific timeframes for
533 completion of a security project and the applicable funding



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534 reimbursement dates. The agreement may also require a
535 contractual penalty of up to \$1,000 per day to be imposed for
536 failure to meet project completion dates if state funding is
537 available. Any such penalty shall be deposited into the State
538 Transportation Trust Fund and used for seaport security
539 operations and capital improvements.

540 Section 3. Sections 311.111 and 311.125, Florida Statutes,
541 are repealed.

542 Section 4. Subsection (3) of section 311.121, Florida
543 Statutes, is amended to read:

544 311.121 Qualifications, training, and certification of
545 licensed security officers at Florida seaports.-

546 (3) ~~(a)~~ The Seaport Security Officer Qualification,
547 Training, and Standards Coordinating Council is created under
548 the Department of Law Enforcement.

549 ~~(a) (b) 1.~~ The executive director of the Department of Law
550 Enforcement shall appoint 11 members to the council to which
551 ~~shall~~ include:

552 ~~1. a.~~ The seaport administrator of the Department of Law
553 Enforcement.

554 ~~2. b.~~ The Commissioner of Education or designee ~~chancellor~~
555 ~~of the Community College System.~~

556 ~~3. c.~~ The director of the Division of Licensing of the
557 Department of Agriculture and Consumer Services.

558 ~~4. d.~~ The administrator of the Florida Seaport
559 Transportation and Economic Development Council.

560 ~~5. e.~~ Two seaport security directors from seaports
561 designated under s. 311.09.

562 ~~6. f.~~ One director of a state law enforcement academy.



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563 ~~7.g.~~ One representative of a local law enforcement agency.

564 ~~8.h.~~ Two representatives of contract security services.

565 ~~9.i.~~ One representative of the Division of Driver Licenses
566 of the Department of Highway Safety and Motor Vehicles.

567 ~~(b)2.~~ In addition to the members designated in paragraph
568 (a) subparagraph 1., the executive director may invite a
569 representative of the United States Coast Guard to attend and
570 participate in council meetings as an ex officio, nonvoting
571 member of the council.

572 (c) Council members designated under subparagraphs (a)1.-4.
573 ~~in sub-subparagraphs (b)1.a.-d.~~ shall serve for the duration of
574 their employment or appointment. Council members designated
575 under subparagraphs (b)5.-9. ~~sub-subparagraphs (b)1.e.-i.~~ shall
576 be appointed for ~~serve~~ 4-year terms, except that the initial
577 appointment for the representative of a local law enforcement
578 agency, one representative of a contract security agency, and
579 one seaport security director from a seaport designated in s.
580 311.09 shall be appointed for 2-year terms ~~serve for terms of 2~~
581 ~~years.~~

582 (d) The chancellor of the Community College System shall
583 serve as chair of the council.

584 (e) The council shall meet upon the call of the chair, and
585 at least once a year to update or modify curriculum
586 recommendations.

587 (f) Council members shall serve without pay; however, per
588 diem and travel allowances may be claimed for attendance of
589 officially called meetings as provided by s. 112.061.

590 (g) ~~By December 1, 2006,~~ The council shall identify the
591 qualifications, training, and standards for seaport security



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592 officer certification and recommend a curriculum for the seaport
593 security officer training program that includes at least ~~shall~~
594 ~~include no less than~~ 218 hours of initial certification training
595 and that conforms to or exceeds model courses approved under ~~by~~
596 ~~the Federal Maritime Act under~~ s. 109 of the Federal Maritime
597 Transportation Security Act of 2002 for facility personnel with
598 specific security duties.

599 1. ~~(h)~~ The council may recommend training equivalencies that
600 may be substituted for portions of the required training.

601 2. ~~(i)~~ The council shall recommend a continuing education
602 curriculum of at least ~~no less than~~ 8 hours of additional
603 training for each annual licensing period.

604 Section 5. Section 311.123, Florida Statutes, is amended to
605 read:

606 311.123 Maritime domain security awareness training
607 program.—

608 (1) The Florida Seaport Transportation and Economic
609 Development Council, in conjunction with the Department of Law
610 Enforcement and the Office of Drug Control within the Executive
611 Office of the Governor, shall create a maritime domain security
612 awareness training program to instruct all personnel employed
613 within a seaport's boundaries about the security procedures
614 required of them for implementation of the seaport security plan
615 required under s. 311.12(3).

616 (2) The training program curriculum must include security
617 training required pursuant to 33 C.F.R. part 105 and must be
618 designed to enable the seaports in this state to meet the
619 training, drill, and exercise requirements of 33 C.F.R. part 105
620 and individual seaport security plans and to otherwise comply



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621 with the requirements of s. 311.12 ~~relating to security~~
622 ~~awareness.~~

623 Section 6. Subsection (1) of section 311.124, Florida
624 Statutes, is amended to read:

625 311.124 Trespassing; detention by a certified seaport
626 security officer.—

627 (1) Any Class D or Class G seaport security officer
628 certified under the Maritime Transportation Security Act
629 guidelines and s. 311.121 or any employee of the seaport
630 security force certified under the Maritime Transportation
631 Security Act guidelines and s. 311.121 who has probable cause to
632 believe that a person is trespassing pursuant to ~~the provisions~~
633 ~~of~~ s. 810.08 or s. 810.09 or this chapter in a designated secure
634 or restricted area pursuant to s. 311.12(4) ~~s. 311.111~~ is
635 authorized to detain such person in a reasonable manner for a
636 reasonable period of time pending the arrival of a law
637 enforcement officer, and such action does ~~shall~~ not render the
638 security officer criminally or civilly liable for false arrest,
639 false imprisonment, or unlawful detention.

640 Section 7. Section 311.13, Florida Statutes, is amended to
641 read:

642 311.13 Certain information exempt from disclosure.—Seaport
643 security plans ~~of a seaport authority created pursuant to s.~~
644 311.12 by act of the Legislature or of a seaport department of a
645 ~~county or municipality that operates an international seaport~~
646 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
647 Constitution. In addition, photographs, maps, blueprints,
648 drawings, and similar materials that depict critical seaport
649 operating facilities are exempt from s. 119.07(1) and s. 24(a),



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650 Art. I of the State Constitution, to the extent that a seaport
651 ~~authority created by act of the Legislature or a seaport~~
652 ~~department of a county or municipality that operates a seaport~~
653 reasonably determines that such items contain information that
654 is not generally known and that could jeopardize the security of
655 the seaport; however, information relating to real estate
656 leases, layout plans, blueprints, or information relevant
657 thereto, is not ~~to be~~ included in this exemption. ~~The exemptions~~
658 ~~in this section are applicable only to records held by a seaport~~
659 ~~authority created by act of the Legislature or to records of a~~
660 ~~county or municipal seaport department that operates a seaport.~~

661 Section 8. Paragraph (a) of subsection (4) of section
662 943.0585, Florida Statutes, is amended to read:

663 943.0585 Court-ordered expunction of criminal history
664 records.—The courts of this state have jurisdiction over their
665 own procedures, including the maintenance, expunction, and
666 correction of judicial records containing criminal history
667 information to the extent such procedures are not inconsistent
668 with the conditions, responsibilities, and duties established by
669 this section. Any court of competent jurisdiction may order a
670 criminal justice agency to expunge the criminal history record
671 of a minor or an adult who complies with the requirements of
672 this section. The court shall not order a criminal justice
673 agency to expunge a criminal history record until the person
674 seeking to expunge a criminal history record has applied for and
675 received a certificate of eligibility for expunction pursuant to
676 subsection (2). A criminal history record that relates to a
677 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
678 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.



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679 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
680 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
681 any violation specified as a predicate offense for registration
682 as a sexual predator pursuant to s. 775.21, without regard to
683 whether that offense alone is sufficient to require such
684 registration, or for registration as a sexual offender pursuant
685 to s. 943.0435, may not be expunged, without regard to whether
686 adjudication was withheld, if the defendant was found guilty of
687 or pled guilty or nolo contendere to the offense, or if the
688 defendant, as a minor, was found to have committed, or pled
689 guilty or nolo contendere to committing, the offense as a
690 delinquent act. The court may only order expunction of a
691 criminal history record pertaining to one arrest or one incident
692 of alleged criminal activity, except as provided in this
693 section. The court may, at its sole discretion, order the
694 expunction of a criminal history record pertaining to more than
695 one arrest if the additional arrests directly relate to the
696 original arrest. If the court intends to order the expunction of
697 records pertaining to such additional arrests, such intent must
698 be specified in the order. A criminal justice agency may not
699 expunge any record pertaining to such additional arrests if the
700 order to expunge does not articulate the intention of the court
701 to expunge a record pertaining to more than one arrest. This
702 section does not prevent the court from ordering the expunction
703 of only a portion of a criminal history record pertaining to one
704 arrest or one incident of alleged criminal activity.
705 Notwithstanding any law to the contrary, a criminal justice
706 agency may comply with laws, court orders, and official requests
707 of other jurisdictions relating to expunction, correction, or



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708 confidential handling of criminal history records or information
709 derived therefrom. This section does not confer any right to the
710 expunction of any criminal history record, and any request for
711 expunction of a criminal history record may be denied at the
712 sole discretion of the court.

713 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
714 criminal history record of a minor or an adult which is ordered
715 expunged by a court of competent jurisdiction pursuant to this
716 section must be physically destroyed or obliterated by any
717 criminal justice agency having custody of such record; except
718 that any criminal history record in the custody of the
719 department must be retained in all cases. A criminal history
720 record ordered expunged that is retained by the department is
721 confidential and exempt from the provisions of s. 119.07(1) and
722 s. 24(a), Art. I of the State Constitution and not available to
723 any person or entity except upon order of a court of competent
724 jurisdiction. A criminal justice agency may retain a notation
725 indicating compliance with an order to expunge.

726 (a) The person who is the subject of a criminal history
727 record that is expunged under this section or under other
728 provisions of law, including former s. 893.14, former s. 901.33,
729 and former s. 943.058, may lawfully deny or fail to acknowledge
730 the arrests covered by the expunged record, except when the
731 subject of the record:

- 732 1. Is a candidate for employment with a criminal justice
733 agency;
- 734 2. Is a defendant in a criminal prosecution;
- 735 3. Concurrently or subsequently petitions for relief under
736 this section or s. 943.059;



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737 4. Is a candidate for admission to The Florida Bar;
738 5. Is seeking to be employed or licensed by or to contract
739 with the Department of Children and Family Services, the Agency
740 for Health Care Administration, the Agency for Persons with
741 Disabilities, or the Department of Juvenile Justice or to be
742 employed or used by such contractor or licensee in a sensitive
743 position having direct contact with children, the
744 developmentally disabled, the aged, or the elderly as provided
745 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
746 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4),
747 chapter 916, s. 985.644, chapter 400, or chapter 429;
748 6. Is seeking to be employed or licensed by the Department
749 of Education, any district school board, any university
750 laboratory school, any charter school, any private or parochial
751 school, or any local governmental entity that licenses child
752 care facilities; or
753 7. Is seeking authorization from a ~~Florida~~ seaport listed
754 ~~identified~~ in s. 311.09 for employment within or access to one
755 or more of such seaports pursuant to s. 311.12 ~~or s. 311.125~~.
756 Section 9. Paragraph (a) of subsection (4) of section
757 943.059, Florida Statutes, is amended to read:
758 943.059 Court-ordered sealing of criminal history records.-
759 The courts of this state shall continue to have jurisdiction
760 over their own procedures, including the maintenance, sealing,
761 and correction of judicial records containing criminal history
762 information to the extent such procedures are not inconsistent
763 with the conditions, responsibilities, and duties established by
764 this section. Any court of competent jurisdiction may order a
765 criminal justice agency to seal the criminal history record of a



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766 minor or an adult who complies with the requirements of this
767 section. The court shall not order a criminal justice agency to
768 seal a criminal history record until the person seeking to seal
769 a criminal history record has applied for and received a
770 certificate of eligibility for sealing pursuant to subsection
771 (2). A criminal history record that relates to a violation of s.
772 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
773 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
774 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
775 916.1075, a violation enumerated in s. 907.041, or any violation
776 specified as a predicate offense for registration as a sexual
777 predator pursuant to s. 775.21, without regard to whether that
778 offense alone is sufficient to require such registration, or for
779 registration as a sexual offender pursuant to s. 943.0435, may
780 not be sealed, without regard to whether adjudication was
781 withheld, if the defendant was found guilty of or pled guilty or
782 nolo contendere to the offense, or if the defendant, as a minor,
783 was found to have committed or pled guilty or nolo contendere to
784 committing the offense as a delinquent act. The court may only
785 order sealing of a criminal history record pertaining to one
786 arrest or one incident of alleged criminal activity, except as
787 provided in this section. The court may, at its sole discretion,
788 order the sealing of a criminal history record pertaining to
789 more than one arrest if the additional arrests directly relate
790 to the original arrest. If the court intends to order the
791 sealing of records pertaining to such additional arrests, such
792 intent must be specified in the order. A criminal justice agency
793 may not seal any record pertaining to such additional arrests if
794 the order to seal does not articulate the intention of the court



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795 to seal records pertaining to more than one arrest. This section
796 does not prevent the court from ordering the sealing of only a
797 portion of a criminal history record pertaining to one arrest or
798 one incident of alleged criminal activity. Notwithstanding any
799 law to the contrary, a criminal justice agency may comply with
800 laws, court orders, and official requests of other jurisdictions
801 relating to sealing, correction, or confidential handling of
802 criminal history records or information derived therefrom. This
803 section does not confer any right to the sealing of any criminal
804 history record, and any request for sealing a criminal history
805 record may be denied at the sole discretion of the court.

806 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
807 history record of a minor or an adult which is ordered sealed by
808 a court of competent jurisdiction pursuant to this section is
809 confidential and exempt from the provisions of s. 119.07(1) and
810 s. 24(a), Art. I of the State Constitution and is available only
811 to the person who is the subject of the record, to the subject's
812 attorney, to criminal justice agencies for their respective
813 criminal justice purposes, which include conducting a criminal
814 history background check for approval of firearms purchases or
815 transfers as authorized by state or federal law, to judges in
816 the state courts system for the purpose of assisting them in
817 their case-related decisionmaking responsibilities, as set forth
818 in s. 943.053(5), or to those entities set forth in
819 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
820 licensing, access authorization, and employment purposes.

821 (a) The subject of a criminal history record sealed under
822 this section or under other provisions of law, including former
823 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully



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824 deny or fail to acknowledge the arrests covered by the sealed
825 record, except when the subject of the record:

826 1. Is a candidate for employment with a criminal justice
827 agency;

828 2. Is a defendant in a criminal prosecution;

829 3. Concurrently or subsequently petitions for relief under
830 this section or s. 943.0585;

831 4. Is a candidate for admission to The Florida Bar;

832 5. Is seeking to be employed or licensed by or to contract
833 with the Department of Children and Family Services, the Agency
834 for Health Care Administration, the Agency for Persons with
835 Disabilities, or the Department of Juvenile Justice or to be
836 employed or used by such contractor or licensee in a sensitive
837 position having direct contact with children, the

838 developmentally disabled, the aged, or the elderly as provided
839 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
840 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
841 415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;

842 6. Is seeking to be employed or licensed by the Department
843 of Education, any district school board, any university
844 laboratory school, any charter school, any private or parochial
845 school, or any local governmental entity that licenses child
846 care facilities;

847 7. Is attempting to purchase a firearm from a licensed
848 importer, licensed manufacturer, or licensed dealer and is
849 subject to a criminal history ~~background~~ check under state or
850 federal law; or

851 8. Is seeking authorization from a Florida seaport
852 identified in s. 311.09 for employment within or access to one



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853 or more of such seaports pursuant to s. 311.12 ~~or s. 311.125.~~

854 Section 10. The Office of Drug Control shall commission an
855 update of the Florida Seaport Security Assessment 2000
856 referenced in s. 311.12(1)(a), Florida Statutes. The office
857 shall consult with the Seaport Security Standards Advisory
858 Council in forming the parameters of the update. The updated
859 assessment shall be presented to the Legislature for review by
860 January 1, 2010. Pursuant to s. 311.13, Florida Statutes, any
861 records included in the assessment which are exempt from s.
862 119.07(1), Florida Statutes, are exempt from disclosure.

863 Section 11. Paragraph (b) of subsection (10) of s. 311.12,
864 Florida Statutes, as amended by this act, shall take effect only
865 if SB 2162, or similar legislation is enacted in the same
866 legislative session, or an extension thereof, and becomes law.

867 Section 12. Except as otherwise expressly provided in this
868 act, this act shall take effect July 1, 2009.

869

870

871 ===== T I T L E A M E N D M E N T =====

872 And the title is amended as follows:

873 Delete everything before the enacting clause
874 and insert:

875 A bill to be entitled
876 An act relating to seaport security; creating s.
877 311.115, F.S.; establishing the Seaport Security
878 Standards Advisory Council; providing for membership
879 and terms of office; providing duties; requiring
880 reports to the Governor and Legislature; amending s.
881 311.12, F.S.; revising provisions relating to seaport



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882 security; authorizing the Department of Law
883 Enforcement to exempt all or part of a port from
884 certain security requirements; providing criteria for
885 determining eligibility to enter secure or restricted
886 areas; establishing a statewide access eligibility
887 reporting system within the department; requiring all
888 access eligibility to be submitted to the department
889 and retained within the system; deleting the
890 requirement that seaports promptly notify the
891 department of any changes in access levels; requiring
892 changes in access eligibility status to be reported
893 within a certain time; providing for fees; providing a
894 procedure for obtaining access to secure and
895 restricted areas using federal credentialing;
896 specifying the process for conducting criminal history
897 checks and for the retention of fingerprint
898 information; providing a criminal penalty for
899 providing false information related to obtaining
900 access to restricted seaport areas; providing
901 additional criminal offenses that disqualify a person
902 from employment by or access to a seaport; deleting
903 the requirement that the department notify the port
904 authority that denied employment of the final
905 disposition of a waiver request from background
906 screening requirements; allowing, rather than
907 requiring, certain applications for a waiver from
908 security requirements to be submitted to the Domestic
909 Security Council for review; requiring a copy of the
910 department's legislative report to be provided to each



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911 seaport governing body or authority; requiring the
912 department to provide assessment briefings to seaport
913 authority governing boards and local regional domestic
914 security task force co-chairs at least once per year;
915 requiring certain board members to attend assessment
916 briefings; adding the department to those entities
917 responsible for allocating funds for security
918 projects; repealing s. 311.111, F.S., relating to
919 unrestricted and restricted public access areas and
920 secured restricted access areas; repealing s. 311.125,
921 F.S., relating to the Uniform Port Access Credential
922 System and the Uniform Port Access Credential Card;
923 amending s. 311.121, F.S.; revising the membership of
924 the Seaport Security Officer Qualification, Training,
925 and Standards Coordinating Council; amending ss.
926 311.123, 311.124, 311.13, 943.0585, and 943.059, F.S.;
927 conforming terms and cross-references; directing the
928 Office of Drug Control to commission an update of the
929 Florida Seaport Security Assessment 2000, which shall
930 be presented to the Legislature by a certain date;
931 providing a contingency with respect to assessment
932 briefings conducted by the department; providing an
933 effective date.
934