

By the Committees on Military Affairs and Domestic Security; and
Military Affairs and Domestic Security

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1 A bill to be entitled
2 An act relating to seaport security; creating s.
3 311.115, F.S.; establishing the Seaport Security
4 Standards Advisory Council; providing for membership
5 and terms of office; providing duties; requiring
6 reports to the Governor and Legislature; amending s.
7 311.12, F.S.; revising provisions relating to seaport
8 security; authorizing the Department of Law
9 Enforcement to exempt all or part of a port from
10 certain security requirements; providing criteria for
11 determining eligibility to enter secure or restricted
12 areas; establishing a statewide access eligibility
13 reporting system within the department; requiring all
14 access eligibility to be submitted to the department
15 and retained within the system; deleting the
16 requirement that seaports promptly notify the
17 department of any changes in access levels; requiring
18 changes in access eligibility status to be reported
19 within a certain time; providing for fees; providing a
20 procedure for obtaining access to secure and
21 restricted areas using federal credentialing;
22 specifying the process for conducting criminal history
23 checks and for the retention of fingerprint
24 information; providing a criminal penalty for
25 providing false information related to obtaining
26 access to restricted seaport areas; providing
27 additional criminal offenses that disqualify a person
28 from employment by or access to a seaport; deleting
29 the requirement that the department notify the port

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30 authority that denied employment of the final
31 disposition of a waiver request from background
32 screening requirements; allowing, rather than
33 requiring, certain applications for a waiver from
34 security requirements to be submitted to the Domestic
35 Security Council for review; requiring a copy of the
36 department's legislative report to be provided to each
37 seaport governing body or authority; requiring the
38 department to provide assessment briefings to seaport
39 authority governing boards and local regional domestic
40 security task force co-chairs at least once per year;
41 requiring certain board members to attend assessment
42 briefings; adding the department to those entities
43 responsible for allocating funds for security
44 projects; repealing s. 311.111, F.S., relating to
45 unrestricted and restricted public access areas and
46 secured restricted access areas; repealing s. 311.125,
47 F.S., relating to the Uniform Port Access Credential
48 System and the Uniform Port Access Credential Card;
49 amending s. 311.121, F.S.; revising the membership of
50 the Seaport Security Officer Qualification, Training,
51 and Standards Coordinating Council; amending ss.
52 311.123, 311.124, 311.13, 943.0585, and 943.059, F.S.;
53 conforming terms and cross-references; directing the
54 Office of Drug Control to commission an update of the
55 Florida Seaport Security Assessment 2000, which shall
56 be presented to the Legislature by a certain date;
57 authorizing the Department of Law Enforcement to
58 create a pilot project to implement the seaport

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59 employee access system; transferring certain equipment
60 from the Department of Highway Safety and Motor
61 Vehicles to the Department of Law Enforcement for use
62 in the project; providing a contingency with respect
63 to assessment briefings conducted by the department;
64 providing an effective date.

65
66 Be It Enacted by the Legislature of the State of Florida:

67
68 Section 1. Section 311.115, Florida Statutes, is created to
69 read:

70 311.115 Seaport Security Standards Advisory Council.—The
71 Seaport Security Standards Advisory Council is created under the
72 Office of Drug Control. The council shall serve as an advisory
73 council as provided in s. 20.03(7).

74 (1) The members of the council shall be appointed by the
75 Governor and consist of the following:

76 (a) Two seaport directors.

77 (b) Two seaport security directors.

78 (c) One designee to represent seaport tenants.

79 (d) One designee to represent seaport workers.

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

81 (f) One designee from the Office of Motor Carrier

82 Compliance of the Department of Transportation.

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

84 (h) One designee from the Department of Agriculture and
85 Consumer Services.

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

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

89 (k) One designee from the Fish and Wildlife Conservation
90 Commission.

91 (1) The Director of the Division of Emergency Management,
92 or designee.

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

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

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

102 (5) Beginning January 15, 2007, and at least every 4 years
103 thereafter, the Office of Drug Control shall convene the council
104 to review the minimum security standards referenced in s.
105 311.12(1) for applicability to and effectiveness in combating
106 current narcotics and terrorism threats to the state's seaports.

107 All sources of information allowed by law shall be used in
108 assessing the applicability and effectiveness of the standards.

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

112 (7) The council shall consult with the appropriate area
113 maritime security committees to assess possible impacts to
114 commerce and trade contained in the council's nonclassified
115 recommendations and findings.

116 (8) The recommendations and findings of the council shall

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117 be transmitted to the Governor, the President of the Senate, and
118 the Speaker of the House of Representatives.

119 Section 2. Section 311.12, Florida Statutes, is amended to
120 read:

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

123 311.12 Seaport security.—

124 (1) SECURITY STANDARDS.—

125 (a) The statewide minimum standards for seaport security
126 applicable to seaports listed in s. 311.09 shall be those based
127 on the Florida Seaport Security Assessment 2000 and set forth in
128 the Port Security Standards Compliance Plan delivered to the
129 Speaker of the House of Representatives and the President of the
130 Senate on December 11, 2000. The Office of Drug Control within
131 the Executive Office of the Governor shall maintain a sufficient
132 number of copies of the standards at its offices for
133 distribution to the public, and provide copies to each affected
134 seaport upon request.

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

138 (2) EXEMPTION.—The Department of Law Enforcement may exempt
139 all or part of a seaport listed in s. 311.09 from the
140 requirements of this section if the department determines that
141 activity associated with the use of the seaport or part of the
142 seaport is not vulnerable to criminal activity or terrorism. The
143 department shall periodically review such exemptions to
144 determine if there is a change in use. Such change may warrant
145 removal of all or part of the exemption.

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146 (3) SECURITY PLAN.—Each seaport listed in s. 311.09 shall
147 adopt and maintain a security plan specific to that seaport
148 which provides for a secure seaport infrastructure that promotes
149 the safety and security of state residents and visitors and the
150 flow of legitimate trade and travel.

151 (a) Beginning January 1, 2007, and every 5 years
152 thereafter, each seaport director, with the assistance of the
153 Regional Domestic Security Task Force and in conjunction with
154 the United States Coast Guard, shall revise the seaport's
155 security plan based on the director's ongoing assessment of
156 security risks, the risks of terrorist activities, and the
157 specific and identifiable needs of the seaport for ensuring that
158 the seaport is in substantial compliance with the minimum
159 security standards established under subsection (1).

160 (b) Each adopted or revised security plan must be reviewed
161 and approved by the Office of Drug Control and the Department of
162 Law Enforcement for compliance with federal facility security
163 assessment requirements under 33 C.F.R. s. 105.305 and the
164 minimum security standards established under subsection (1).
165 Within 30 days after completion, a copy of the written review
166 shall be delivered to the United States Coast Guard, the
167 Regional Domestic Security Task Force, and the Domestic Security
168 Oversight Council.

169 (4) SECURE AND RESTRICTED AREAS.—Each seaport listed in s.
170 311.09 must clearly designate in seaport security plans, and
171 clearly identify with appropriate signs and markers on the
172 premises of a seaport, all secure and restricted areas as
173 defined by the United State Department of Homeland Security-
174 United States Coast Guard Navigation and Vessel Inspection

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175 Circular No. 03-07 and 49 C.F.R. part 1572. The plans must also
176 address access eligibility requirements and corresponding
177 security enforcement authorizations.

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

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

188 2. All persons and objects in secure and restricted areas
189 are subject to search by a sworn state-certified law enforcement
190 officer, a Class D seaport security officer certified under
191 Maritime Transportation Security Act guidelines and s. 311.121,
192 or an employee of the seaport security force certified under the
193 Maritime Transportation Security Act guidelines and s. 311.121.

194 3. Persons found in these areas without the proper
195 permission are subject to the trespass provisions of ss. 810.08
196 and 810.09.

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

203 (d) The seaport must provide clear notice of the

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204 prohibition against possession of concealed weapons and other
205 contraband material on the premises of the seaport. Any person
206 in a restricted area who has in his or her possession a
207 concealed weapon, or who operates or has possession or control
208 of a vehicle in or upon which a concealed weapon is placed or
209 stored, commits a misdemeanor of the first degree, punishable as
210 provided in s. 775.082 or s. 775.083. This paragraph does not
211 apply to active-duty certified federal or state law enforcement
212 personnel or persons so designated by the seaport director in
213 writing.

214 (e) During a period of high terrorist threat level, as
215 designated by the United States Department of Homeland Security
216 or the Department of Law Enforcement, or during an emergency
217 declared at a port by the seaport security director due to
218 events applicable to that particular seaport, the management or
219 controlling authority of the port may temporarily designate any
220 part of the seaport property as a secure or restricted area. The
221 duration of such designation is limited to the period in which
222 the high terrorist threat level is in effect or a port emergency
223 exists.

224 (5) ACCESS ELIGIBILITY REPORTING SYSTEM.—Subject to
225 legislative appropriations, the Department of Law Enforcement
226 shall administer a statewide seaport access eligibility
227 reporting system.

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

229 1. A centralized, secure method of collecting and
230 maintaining fingerprints, other biometric data, or other means
231 of confirming the identity of persons authorized to enter a
232 secure or restricted area of a seaport;

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

236 3. A means for receiving prompt notification from a seaport
237 when a person's authorization to enter a secure or restricted
238 area of a seaport has been suspended or revoked; and

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

242 (b) Each seaport listed in s. 311.09 is responsible for
243 granting, modifying, restricting, or denying access to secure
244 and restricted areas to seaport employees, other persons working
245 at the seaport, visitors who have business with the seaport, or
246 other persons regularly appearing at the seaport. Based upon the
247 person's criminal history check, each seaport may determine the
248 specific access eligibility to be granted to that person. Each
249 seaport is responsible for access eligibility verification at
250 its location.

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

255 (d) All information submitted to the department regarding a
256 person's access eligibility screening may be retained by the
257 department for subsequent use in promoting seaport security,
258 including, but not limited to, the review of the person's
259 criminal history status to ensure that the person has not become
260 disqualified for such access.

261 (e) The following fees shall be paid by the seaport,

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262 another employing entity, or the person being entered into the
263 system to the department or to the seaport if the seaport is
264 acting as an agent of the department for the purpose of
265 collecting the fees. Such fees may not be charged by more than
266 one seaport.

267 1. The cost of the state criminal history check under
268 subsection (7).

269 2. A \$50 fee to cover the initial cost of entering the
270 person into the system, and every 5 years thereafter to coincide
271 with the issuance of the federal Transportation Worker
272 Identification Credential described in subsection (6). The fee
273 covers all costs for entering or maintaining the person in the
274 system including the retention and use of their fingerprint,
275 other biometric data, or other identifying information.

276 3. The seaport entering the person into the system may
277 charge an administrative fee to cover, but not exceed, the
278 seaport's actual administrative costs for processing the results
279 of the state criminal history check and entering the person into
280 the system.

281 (f) All fees identified in paragraph (e) must be paid
282 before the person may be granted access to a secure or
283 restricted area. Failure to comply with the criminal history
284 check or to pay the fees are grounds for immediate denial of
285 access.

286 (g) Persons, corporations, or other business entities that
287 employ persons to work or do business at seaports shall notify
288 the seaport of the termination, resignation, work-related
289 incapacitation, or death of an employee who has access
290 permission.

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

295 2. A business entity's failure to report a change in an
296 employee's work status within 7 days after that change may
297 result in revocation of the business entity's access to the
298 seaport.

299 (h) In addition to access permissions granted or denied by
300 seaports, access eligibility may be restricted or revoked by the
301 department if there is a reasonable suspicion that the person is
302 involved in terrorism or criminal violations that could affect
303 the security of a port or otherwise render the person ineligible
304 for seaport access.

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

307 (j) The submission of information known to be false or
308 misleading to the department for entry into the system is a
309 felony of the third degree, punishable as provided in s.
310 775.082, s. 775.083, or s. 775.084.

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

312 (a) Any person seeking authorization for unescorted access
313 to secure and restricted areas of a seaport must, unless waived
314 under paragraph (7) (e), possess a valid federal Transportation
315 Worker Identification Credential (TWIC) and execute an affidavit
316 under oath which provides TWIC identification information and
317 indicates that:

318 1. The TWIC is currently valid and in full force and
319 effect;

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320 2. He or she did not receive the TWIC through the waiver
321 process for disqualifying criminal history allowed by federal
322 law; and

323 3. He or she has not, in any jurisdiction, civilian or
324 military, been charged with, been convicted of, entered a plea
325 of guilty or nolo contendere to, regardless of adjudication, or
326 been found not guilty by reason of insanity, of any
327 disqualifying felony under subsection (7) or any crime which
328 includes the use or possession of a weapon or firearm.

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

334 (c) Any port granting a person access to secure or
335 restricted areas shall report the grant of access to the
336 Department of Law Enforcement for inclusion in the access
337 eligibility reporting system under subsection (5) within 3
338 business days.

339 (d) The submission of false information on the affidavit
340 required by this section is a felony of the third degree,
341 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
342 Upon conviction for a violation of this provision, the person
343 forfeits all privilege of access to secure or restricted areas
344 of a seaport and is disqualified from future approval for access
345 to such areas.

346 (e) Any affidavit form created for use under this
347 subsection must conspicuously state: "Submission of false
348 information on this affidavit is a felony under Florida law and

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349 will, upon conviction, result in disqualification for access to
350 a secure or restricted area of a seaport."

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

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

359 (a) A person is disqualified from employment or unescorted
360 access if the person:

361 1. Was convicted of, or entered a plea of guilty or nolo
362 contendere to, regardless of adjudication, any of the offenses
363 listed in paragraph (b) in any jurisdiction, civilian or
364 military, during the 7 years before the date of the person's
365 application for access; or

366 2. Was released from incarceration, or any supervision
367 imposed as a result of sentencing, for committing any of the
368 disqualifying crimes listed in paragraph (b) in any
369 jurisdiction, civilian or military, during the 5 years before
370 the date of the person's application for access.

371 (b) The disqualifying offenses include:

372 1. An act of terrorism as defined in s. 775.30.

373 2. A violation involving a weapon of mass destruction or
374 hoax weapon of mass destruction as provided in s. 790.166.

375 3. Planting of a hoax bomb as provided in s. 790.165.

376 4. A violation of s. 876.02 or 876.36.

377 5. A violation of s. 860.065.

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- 378 6. Trafficking as provided in s. 893.135.
379 7. Racketeering activity as provided in s. 895.03.
380 8. Dealing in stolen property as provided in s. 812.019.
381 9. Money laundering as provided in s. 896.101.
382 10. Criminal use of personal identification as provided in
383 s. 817.568.
384 11. Bribery as provided in s. 838.015.
385 12. A violation of s. 316.302, relating to the transport of
386 hazardous materials.
387 13. A forcible felony as defined in s. 776.08.
388 14. A violation of s. 790.07.
389 15. Any crime which includes the use or possession of a
390 weapon or firearm.
391 16. A felony violation for theft as provided in s. 812.014.
392 17. Robbery as provided in s. 812.13.
393 18. Burglary as provided in s. 810.02.
394 19. Any violation involving the sale, manufacture,
395 delivery, or possession with intent to sell, manufacture, or
396 deliver a controlled substance.
397 20. Any offense under the laws of another jurisdiction that
398 is similar to an offense in this list.
399 21. Conspiracy or attempt to commit any of the listed
400 offenses.
401 (c) Each individual who is subject to a criminal history
402 check shall file a complete set of fingerprints taken in a
403 manner acceptable to the Department of Law Enforcement for state
404 processing. The results of the criminal history check must be
405 reported to the requesting seaport and may be shared among
406 seaports.

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407 (d) All fingerprints submitted to the Department of Law
408 Enforcement shall be retained by the department and entered into
409 the statewide automated fingerprint identification system
410 established in s. 943.05(2) (b) and available for use in
411 accordance with s. 943.05(2) (g) and (h). An arrest record that
412 is identified with the retained fingerprints of a person subject
413 to the screening shall be reported to the seaport where the
414 person has been granted access to a secure or restricted area.
415 If the fingerprints of a person who has been granted access were
416 not retained, or are otherwise not suitable for use by the
417 department, the person must be refingerprinted in a manner that
418 allows the department to perform its functions as provided
419 herein.

420 (e) The Department of Law Enforcement shall establish a
421 waiver process for an individual who does not have a TWIC,
422 obtained a TWIC through a federal waiver process, or is found to
423 be unqualified under paragraph (a) and denied employment by a
424 seaport or unescorted access to secure or restricted areas.

425 1. Consideration for a waiver shall be based on the
426 circumstances of any disqualifying act or offense, restitution
427 made by the individual, and other factors from which it may be
428 determined that the individual does not pose a risk of engaging
429 in any act within the public seaports regulated under this
430 chapter which poses a risk to or threatens the security of the
431 seaport and the public's health, safety, or welfare.

432 2. The waiver process begins when an individual who has
433 been denied initial employment within or unescorted access to
434 secure or restricted areas of a public seaport submits an
435 application for a waiver and a notarized letter or affidavit

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436 from the individual's employer or union representative which
437 states the mitigating reasons for initiating the waiver process.

438 3. Within 90 days after receipt of the application, the
439 administrative staff of the Parole Commission shall conduct a
440 factual review of the waiver application. Findings of fact shall
441 be transmitted to the department for review. The department
442 shall make a copy of those findings available to the applicant
443 before final disposition of the waiver request.

444 4. The department shall make a final disposition of the
445 waiver request based on the factual findings of the
446 investigation by the Parole Commission. The department shall
447 notify the waiver applicant of the final disposition of the
448 waiver.

449 5. The review process under this paragraph is exempt from
450 chapter 120.

451 6. By October 1 of each year, each seaport shall report to
452 the department each instance of denial of employment within, or
453 access to, secure or restricted areas, and each instance waiving
454 an appeal of a denial occurring during the last 12 months. The
455 report must include the identity of the individual affected, the
456 factors supporting the denial or waiver, and any other material
457 factors used to make the determination.

458 (f) In addition to the waiver procedure established by the
459 Department of Law Enforcement under paragraph (e), each seaport
460 security plan may establish a procedure to appeal a denial of
461 employment or access based upon procedural inaccuracies or
462 discrepancies regarding criminal history factors established
463 pursuant to this subsection.

464 (g) Each seaport may allow immediate waivers on a temporary

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465 basis to meet special or emergency needs of the seaport or its
466 users. Policies, procedures, and criteria for implementation of
467 this provision must be included in the seaport security plan.
468 All waivers granted by the seaports pursuant to this paragraph
469 must be reported to the department within 30 days after
470 issuance.

471 (8) WAIVER FROM SECURITY REQUIREMENTS.—The Office of Drug
472 Control and the Department of Law Enforcement may modify or
473 wave any physical facility requirement or other requirement
474 contained in the minimum security standards upon a determination
475 that the purposes of the standards have been reasonably met or
476 exceeded by the seaport requesting the modification or waiver.
477 An alternate means of compliance must not diminish the safety or
478 security of the seaport and must be verified through an
479 extensive risk analysis conducted by the seaport director.

480 (a) Waiver requests shall be submitted in writing, along
481 with supporting documentation, to the Office of Drug Control and
482 the Department of Law Enforcement. The office and the department
483 have 90 days to jointly grant or reject the waiver, in whole or
484 in part.

485 (b) The seaport may submit any waivers that are not granted
486 or are jointly rejected to the Domestic Security Oversight
487 Council for review within 90 days. The council shall recommend
488 that the Office of Drug Control and the Department of Law
489 Enforcement grant the waiver or reject the waiver, in whole or
490 in part. The office and the department shall give great weight
491 to the council's recommendations.

492 (c) A request seeking a waiver from the seaport law
493 enforcement personnel standards established under s. 311.122(3)

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494 may not be granted for percentages below 10 percent.

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

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

502 (a) The Department of Law Enforcement, or any entity
503 designated by the department, shall conduct at least one annual
504 unannounced inspection of each seaport to determine whether the
505 seaport is meeting the minimum security standards established
506 pursuant to subsection (1), and to identify seaport security
507 changes or improvements needed or otherwise recommended.

508 (b) The Department of Law Enforcement, or any entity
509 designated by the department, may conduct additional announced
510 or unannounced inspections or operations within or affecting any
511 seaport to test compliance with, or the effectiveness of,
512 security plans and operations at each seaport, to determine
513 compliance with physical facility requirements and standards, or
514 to assist the department in identifying changes or improvements
515 needed to bring a seaport into compliance with minimum security
516 standards.

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

520 (d) A seaport may request that the Domestic Security
521 Oversight Council review the findings in the department's report
522 as they relate to the requirements of this section. The council

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523 may review only those findings that are in dispute by the
524 seaport. In reviewing the disputed findings, the council may
525 concur in the findings of the department or the seaport, or may
526 recommend corrective action to the seaport. The department and
527 the seaport shall give great weight to the council's findings
528 and recommendations.

529 (e) All seaports shall allow the Department of Law
530 Enforcement, or entity designated by the department, unimpeded
531 access to affected areas and facilities for the purpose of plan
532 or compliance inspections or other operations authorized by this
533 section.

534 (10) REPORTS.-

535 (a) The Department of Law Enforcement, in consultation with
536 the Office of Drug Control, shall annually complete a report
537 indicating the observations and findings of all reviews,
538 inspections, or other operations relating to the seaports
539 conducted during the year and any recommendations resulting from
540 such reviews, inspections, and operations. A copy of the report
541 shall be provided to the Governor, the President of the Senate,
542 the Speaker of the House of Representatives, the governing body
543 of each seaport or seaport authority, and each seaport director.
544 The report must include each director's response indicating what
545 actions, if any, have been taken or are planned to be taken
546 pursuant to the observations, findings, and recommendations
547 reported by the department.

548 (b) After the Department of Law Enforcement completes the
549 annual inspection report in paragraph (a), the department shall
550 provide an assessment briefing to the board members of the
551 governing authority of each seaport and to the local regional

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552 domestic security task force co-chairs. The briefing must
553 address the findings from the inspections, areas of concern, and
554 recommendations for improvements.

555 1. The department shall provide at least one assessment
556 briefing per year to the board during a meeting of the board.
557 The board must make transcripts and audio recordings of all
558 proceedings during such briefings.

559 2. Each board member of a governing authority having
560 responsibility for seaport oversight or operations must attend
561 the assessment briefings. All attendance records shall be
562 published and announced at the next regular meeting of the
563 board.

564 (11) FUNDING.—

565 (a) In making decisions regarding security projects or
566 other funding applicable to each seaport listed in s. 311.09,
567 the Legislature may consider the Department of Law Enforcement's
568 annual report under subsection (10) as authoritative, especially
569 regarding each seaport's degree of substantial compliance with
570 the minimum security standards established in subsection (1).

571 (b) The Legislature shall regularly review the ongoing
572 costs of operational security on seaports, the impacts of this
573 section on those costs, mitigating factors that may reduce costs
574 without reducing security, and the methods by which seaports may
575 implement operational security using a combination of sworn law
576 enforcement officers and private security services.

577 (c) Subject to the provisions of this chapter and
578 appropriations made for seaport security, state funds may not be
579 expended for security costs without certification of need for
580 such expenditures by the Office of Ports Administrator within

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581 the Department of Law Enforcement.

582 (d) If funds are appropriated for seaport security, the
583 Office of Drug Control, the Department of Law Enforcement, and
584 the Florida Seaport Transportation and Economic Development
585 Council shall mutually determine the allocation of such funds
586 for security project needs identified in the approved seaport
587 security plans. Any seaport that receives state funds for
588 security projects must enter into a joint participation
589 agreement with the appropriate state entity and use the seaport
590 security plan as the basis for the agreement.

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

595 2. The agreement may include specific timeframes for
596 completion of a security project and the applicable funding
597 reimbursement dates. The agreement may also require a
598 contractual penalty of up to \$1,000 per day to be imposed for
599 failure to meet project completion dates if state funding is
600 available. Any such penalty shall be deposited into the State
601 Transportation Trust Fund and used for seaport security
602 operations and capital improvements.

603 Section 3. Sections 311.111 and 311.125, Florida Statutes,
604 are repealed.

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

607 311.121 Qualifications, training, and certification of
608 licensed security officers at Florida seaports.-

609 (3)~~(a)~~ The Seaport Security Officer Qualification,

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610 Training, and Standards Coordinating Council is created under
611 the Department of Law Enforcement.

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

615 ~~1.a.~~ The seaport administrator of the Department of Law
616 Enforcement.

617 ~~2.b.~~ The Commissioner of Education or designee ~~chancellor~~
618 ~~of the Community College System.~~

619 ~~3.e.~~ The director of the Division of Licensing of the
620 Department of Agriculture and Consumer Services.

621 ~~4.d.~~ The administrator of the Florida Seaport
622 Transportation and Economic Development Council.

623 ~~5.e.~~ Two seaport security directors from seaports
624 designated under s. 311.09.

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

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

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

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

630 ~~(b) 2.~~ In addition to the members designated in paragraph

631 ~~(a) subparagraph 1.~~, the executive director may invite a
632 representative of the United States Coast Guard to attend and
633 participate in council meetings as an ex officio, nonvoting
634 member of the council.

635 (c) Council members designated under subparagraphs (a) 1.-4.
636 ~~in sub-subparagraphs (b) 1.a.-d.~~ shall serve for the duration of
637 their employment or appointment. Council members designated
638 under subparagraphs (b) 5.-9. ~~sub-subparagraphs (b) 1.e.-i.~~ shall

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639 be appointed for ~~serve~~ 4-year terms, except that the initial
640 appointment for the representative of a local law enforcement
641 agency, one representative of a contract security agency, and
642 one seaport security director from a seaport designated in s.
643 311.09 shall be appointed for 2-year terms ~~serve for terms of 2~~
644 ~~years.~~

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

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

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

653 (g) ~~By December 1, 2006,~~ The council shall identify the
654 qualifications, training, and standards for seaport security
655 officer certification and recommend a curriculum for the seaport
656 security officer training program that includes at least ~~shall~~
657 ~~include no less than~~ 218 hours of initial certification training
658 and that conforms to or exceeds model courses approved under ~~by~~
659 ~~the Federal Maritime Act under~~ s. 109 of the Federal Maritime
660 Transportation Security Act of 2002 for facility personnel with
661 specific security duties.

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

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

667 Section 5. Section 311.123, Florida Statutes, is amended to

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668 read:

669 311.123 Maritime domain security awareness training
670 program.—

671 (1) The Florida Seaport Transportation and Economic
672 Development Council, in conjunction with the Department of Law
673 Enforcement and the Office of Drug Control within the Executive
674 Office of the Governor, shall create a maritime domain security
675 awareness training program to instruct all personnel employed
676 within a seaport's boundaries about the security procedures
677 required of them for implementation of the seaport security plan
678 required under s. 311.12(3).

679 (2) The training program curriculum must include security
680 training required pursuant to 33 C.F.R. part 105 and must be
681 designed to enable the seaports in this state to meet the
682 training, drill, and exercise requirements of 33 C.F.R. part 105
683 and individual seaport security plans and to otherwise comply
684 with the requirements of s. 311.12 ~~relating to security~~
685 ~~awareness~~.

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

688 311.124 Trespassing; detention by a certified seaport
689 security officer.—

690 (1) Any Class D or Class G seaport security officer
691 certified under the Maritime Transportation Security Act
692 guidelines and s. 311.121 or any employee of the seaport
693 security force certified under the Maritime Transportation
694 Security Act guidelines and s. 311.121 who has probable cause to
695 believe that a person is trespassing pursuant to ~~the provisions~~
696 ~~of~~ s. 810.08 or s. 810.09 or this chapter in a designated secure

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697 or restricted area pursuant to s. 311.12(4) ~~s. 311.111~~ is
698 authorized to detain such person in a reasonable manner for a
699 reasonable period of time pending the arrival of a law
700 enforcement officer, and such action does ~~shall~~ not render the
701 security officer criminally or civilly liable for false arrest,
702 false imprisonment, or unlawful detention.

703 Section 7. Section 311.13, Florida Statutes, is amended to
704 read:

705 311.13 Certain information exempt from disclosure.—Seaport
706 security plans ~~of a seaport authority~~ created pursuant to s.
707 311.12 ~~by act of the Legislature or of a seaport department of a~~
708 ~~county or municipality that operates an international seaport~~
709 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
710 Constitution. In addition, photographs, maps, blueprints,
711 drawings, and similar materials that depict critical seaport
712 operating facilities are exempt from s. 119.07(1) and s. 24(a),
713 Art. I of the State Constitution, to the extent that a seaport
714 ~~authority created by act of the Legislature or a seaport~~
715 ~~department of a county or municipality that operates a seaport~~
716 reasonably determines that such items contain information that
717 is not generally known and that could jeopardize the security of
718 the seaport; however, information relating to real estate
719 leases, layout plans, blueprints, or information relevant
720 thereto, is not ~~to be~~ included in this exemption. ~~The exemptions~~
721 ~~in this section are applicable only to records held by a seaport~~
722 ~~authority created by act of the Legislature or to records of a~~
723 ~~county or municipal seaport department that operates a seaport.~~

724 Section 8. Paragraph (a) of subsection (4) of section
725 943.0585, Florida Statutes, is amended to read:

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726 943.0585 Court-ordered expunction of criminal history
727 records.—The courts of this state have jurisdiction over their
728 own procedures, including the maintenance, expunction, and
729 correction of judicial records containing criminal history
730 information to the extent such procedures are not inconsistent
731 with the conditions, responsibilities, and duties established by
732 this section. Any court of competent jurisdiction may order a
733 criminal justice agency to expunge the criminal history record
734 of a minor or an adult who complies with the requirements of
735 this section. The court shall not order a criminal justice
736 agency to expunge a criminal history record until the person
737 seeking to expunge a criminal history record has applied for and
738 received a certificate of eligibility for expunction pursuant to
739 subsection (2). A criminal history record that relates to a
740 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
741 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
742 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
743 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
744 any violation specified as a predicate offense for registration
745 as a sexual predator pursuant to s. 775.21, without regard to
746 whether that offense alone is sufficient to require such
747 registration, or for registration as a sexual offender pursuant
748 to s. 943.0435, may not be expunged, without regard to whether
749 adjudication was withheld, if the defendant was found guilty of
750 or pled guilty or nolo contendere to the offense, or if the
751 defendant, as a minor, was found to have committed, or pled
752 guilty or nolo contendere to committing, the offense as a
753 delinquent act. The court may only order expunction of a
754 criminal history record pertaining to one arrest or one incident

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755 of alleged criminal activity, except as provided in this
756 section. The court may, at its sole discretion, order the
757 expunction of a criminal history record pertaining to more than
758 one arrest if the additional arrests directly relate to the
759 original arrest. If the court intends to order the expunction of
760 records pertaining to such additional arrests, such intent must
761 be specified in the order. A criminal justice agency may not
762 expunge any record pertaining to such additional arrests if the
763 order to expunge does not articulate the intention of the court
764 to expunge a record pertaining to more than one arrest. This
765 section does not prevent the court from ordering the expunction
766 of only a portion of a criminal history record pertaining to one
767 arrest or one incident of alleged criminal activity.

768 Notwithstanding any law to the contrary, a criminal justice
769 agency may comply with laws, court orders, and official requests
770 of other jurisdictions relating to expunction, correction, or
771 confidential handling of criminal history records or information
772 derived therefrom. This section does not confer any right to the
773 expunction of any criminal history record, and any request for
774 expunction of a criminal history record may be denied at the
775 sole discretion of the court.

776 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
777 criminal history record of a minor or an adult which is ordered
778 expunged by a court of competent jurisdiction pursuant to this
779 section must be physically destroyed or obliterated by any
780 criminal justice agency having custody of such record; except
781 that any criminal history record in the custody of the
782 department must be retained in all cases. A criminal history
783 record ordered expunged that is retained by the department is

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784 confidential and exempt from the provisions of s. 119.07(1) and
785 s. 24(a), Art. I of the State Constitution and not available to
786 any person or entity except upon order of a court of competent
787 jurisdiction. A criminal justice agency may retain a notation
788 indicating compliance with an order to expunge.

789 (a) The person who is the subject of a criminal history
790 record that is expunged under this section or under other
791 provisions of law, including former s. 893.14, former s. 901.33,
792 and former s. 943.058, may lawfully deny or fail to acknowledge
793 the arrests covered by the expunged record, except when the
794 subject of the record:

- 795 1. Is a candidate for employment with a criminal justice
796 agency;
- 797 2. Is a defendant in a criminal prosecution;
- 798 3. Concurrently or subsequently petitions for relief under
799 this section or s. 943.059;
- 800 4. Is a candidate for admission to The Florida Bar;
- 801 5. Is seeking to be employed or licensed by or to contract
802 with the Department of Children and Family Services, the Agency
803 for Health Care Administration, the Agency for Persons with
804 Disabilities, or the Department of Juvenile Justice or to be
805 employed or used by such contractor or licensee in a sensitive
806 position having direct contact with children, the
807 developmentally disabled, the aged, or the elderly as provided
808 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
809 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4),
810 chapter 916, s. 985.644, chapter 400, or chapter 429;
- 811 6. Is seeking to be employed or licensed by the Department
812 of Education, any district school board, any university

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813 laboratory school, any charter school, any private or parochial
814 school, or any local governmental entity that licenses child
815 care facilities; or

816 7. Is seeking authorization from a ~~Florida~~ seaport listed
817 ~~identified~~ in s. 311.09 for employment within or access to one
818 or more of such seaports pursuant to s. 311.12 ~~or s. 311.125.~~

819 Section 9. Paragraph (a) of subsection (4) of section
820 943.059, Florida Statutes, is amended to read:

821 943.059 Court-ordered sealing of criminal history records.—
822 The courts of this state shall continue to have jurisdiction
823 over their own procedures, including the maintenance, sealing,
824 and correction of judicial records containing criminal history
825 information to the extent such procedures are not inconsistent
826 with the conditions, responsibilities, and duties established by
827 this section. Any court of competent jurisdiction may order a
828 criminal justice agency to seal the criminal history record of a
829 minor or an adult who complies with the requirements of this
830 section. The court shall not order a criminal justice agency to
831 seal a criminal history record until the person seeking to seal
832 a criminal history record has applied for and received a
833 certificate of eligibility for sealing pursuant to subsection
834 (2). A criminal history record that relates to a violation of s.
835 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
836 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
837 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
838 916.1075, a violation enumerated in s. 907.041, or any violation
839 specified as a predicate offense for registration as a sexual
840 predator pursuant to s. 775.21, without regard to whether that
841 offense alone is sufficient to require such registration, or for

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842 registration as a sexual offender pursuant to s. 943.0435, may
843 not be sealed, without regard to whether adjudication was
844 withheld, if the defendant was found guilty of or pled guilty or
845 nolo contendere to the offense, or if the defendant, as a minor,
846 was found to have committed or pled guilty or nolo contendere to
847 committing the offense as a delinquent act. The court may only
848 order sealing of a criminal history record pertaining to one
849 arrest or one incident of alleged criminal activity, except as
850 provided in this section. The court may, at its sole discretion,
851 order the sealing of a criminal history record pertaining to
852 more than one arrest if the additional arrests directly relate
853 to the original arrest. If the court intends to order the
854 sealing of records pertaining to such additional arrests, such
855 intent must be specified in the order. A criminal justice agency
856 may not seal any record pertaining to such additional arrests if
857 the order to seal does not articulate the intention of the court
858 to seal records pertaining to more than one arrest. This section
859 does not prevent the court from ordering the sealing of only a
860 portion of a criminal history record pertaining to one arrest or
861 one incident of alleged criminal activity. Notwithstanding any
862 law to the contrary, a criminal justice agency may comply with
863 laws, court orders, and official requests of other jurisdictions
864 relating to sealing, correction, or confidential handling of
865 criminal history records or information derived therefrom. This
866 section does not confer any right to the sealing of any criminal
867 history record, and any request for sealing a criminal history
868 record may be denied at the sole discretion of the court.

869 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
870 history record of a minor or an adult which is ordered sealed by

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871 a court of competent jurisdiction pursuant to this section is
872 confidential and exempt from the provisions of s. 119.07(1) and
873 s. 24(a), Art. I of the State Constitution and is available only
874 to the person who is the subject of the record, to the subject's
875 attorney, to criminal justice agencies for their respective
876 criminal justice purposes, which include conducting a criminal
877 history background check for approval of firearms purchases or
878 transfers as authorized by state or federal law, to judges in
879 the state courts system for the purpose of assisting them in
880 their case-related decisionmaking responsibilities, as set forth
881 in s. 943.053(5), or to those entities set forth in
882 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
883 licensing, access authorization, and employment purposes.

884 (a) The subject of a criminal history record sealed under
885 this section or under other provisions of law, including former
886 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
887 deny or fail to acknowledge the arrests covered by the sealed
888 record, except when the subject of the record:

- 889 1. Is a candidate for employment with a criminal justice
890 agency;
- 891 2. Is a defendant in a criminal prosecution;
- 892 3. Concurrently or subsequently petitions for relief under
893 this section or s. 943.0585;
- 894 4. Is a candidate for admission to The Florida Bar;
- 895 5. Is seeking to be employed or licensed by or to contract
896 with the Department of Children and Family Services, the Agency
897 for Health Care Administration, the Agency for Persons with
898 Disabilities, or the Department of Juvenile Justice or to be
899 employed or used by such contractor or licensee in a sensitive

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900 position having direct contact with children, the
901 developmentally disabled, the aged, or the elderly as provided
902 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
903 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
904 415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;

905 6. Is seeking to be employed or licensed by the Department
906 of Education, any district school board, any university
907 laboratory school, any charter school, any private or parochial
908 school, or any local governmental entity that licenses child
909 care facilities;

910 7. Is attempting to purchase a firearm from a licensed
911 importer, licensed manufacturer, or licensed dealer and is
912 subject to a criminal history ~~background~~ check under state or
913 federal law; or

914 8. Is seeking authorization from a Florida seaport
915 identified in s. 311.09 for employment within or access to one
916 or more of such seaports pursuant to s. 311.12 ~~or s. 311.125~~.

917 Section 10. The Office of Drug Control shall commission an
918 update of the Florida Seaport Security Assessment 2000
919 referenced in s. 311.12(1)(a), Florida Statutes. The office
920 shall consult with the Seaport Security Standards Advisory
921 Council in forming the parameters of the update. The updated
922 assessment shall be presented to the Legislature for review by
923 January 1, 2010. Pursuant to s. 311.13, Florida Statutes, any
924 records included in the assessment which are exempt from s.
925 119.07(1), Florida Statutes, are exempt from disclosure.

926 Section 11. The Department of Law Enforcement may create a
927 pilot project of at least three seaports to perform the tasks
928 required in subsections (6) and (7) of s. 311.12, Florida

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929 Statutes, as amended by this act. Equipment purchased by the
930 state to implement the Florida Uniform Port Access Control
931 system is transferred from the Department of Highway Safety and
932 Motor Vehicles to the Department of Law Enforcement for use in
933 the pilot project and to assist other seaports with compliance.

934 Section 12. Paragraph (b) of subsection (10) of s. 311.12,
935 Florida Statutes, as amended by this act, shall take effect only
936 if SB 2162, or similar legislation is enacted in the same
937 legislative session, or an extension thereof, and becomes law.

938 Section 13. Except as otherwise expressly provided in this
939 act, this act shall take effect July 1, 2009.