

By the Committees on Criminal and Civil Justice Appropriations; Criminal Justice; 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 (l) 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 (c) The provisions of s. 790.251 are not superseded,
139 preempted, or otherwise modified in any way by the provisions of
140 this section.

141 (2) EXEMPTION.—The Department of Law Enforcement may exempt
142 all or part of a seaport listed in s. 311.09 from the
143 requirements of this section if the department determines that
144 activity associated with the use of the seaport or part of the
145 seaport is not vulnerable to criminal activity or terrorism. The

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146 department shall periodically review such exemptions to
147 determine if there is a change in use. Such change may warrant
148 removal of all or part of the exemption.

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

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

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

172 (4) SECURE AND RESTRICTED AREAS.—Each seaport listed in s.
173 311.09 must clearly designate in seaport security plans, and
174 clearly identify with appropriate signs and markers on the

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175 premises of a seaport, all secure and restricted areas as
176 defined by the United State Department of Homeland Security-
177 United States Coast Guard Navigation and Vessel Inspection
178 Circular No. 03-07 and 49 C.F.R. part 1572. The plans must also
179 address access eligibility requirements and corresponding
180 security enforcement authorizations.

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

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

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

197 3. Persons found in these areas without the proper
198 permission are subject to the trespass provisions of ss. 810.08
199 and 810.09.

200 (c) As determined by the seaport director's most current
201 risk assessment report under paragraph (3) (a), any secure or
202 restricted area that has a potential human occupancy of 50
203 persons or more, any cruise terminal, or any business operation

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204 that is adjacent to a public access area must be protected from
205 the most probable and credible terrorist threat to human life.

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

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

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

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

232 1. A centralized, secure method of collecting and

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233 maintaining fingerprints, other biometric data, or other means
234 of confirming the identity of persons authorized to enter a
235 secure or restricted area of a seaport;

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

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

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

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

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

258 (d) All information submitted to the department regarding a
259 person's access eligibility screening may be retained by the
260 department for subsequent use in promoting seaport security,
261 including, but not limited to, the review of the person's

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262 criminal history status to ensure that the person has not become
263 disqualified for such access.

264 (e) The following fees shall be paid by the seaport,
265 another employing entity, or the person being entered into the
266 system to the department or to the seaport if the seaport is
267 acting as an agent of the department for the purpose of
268 collecting the fees. Such fees may not be charged by more than
269 one seaport.

270 1. The cost of the state criminal history check under
271 subsection (7).

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

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

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

289 (g) Persons, corporations, or other business entities that
290 employ persons to work or do business at seaports shall notify

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291 the seaport of the termination, resignation, work-related
292 incapacitation, or death of an employee who has access
293 permission.

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

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

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

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

310 (j) The submission of information known to be false or
311 misleading to the department for entry into the system is a
312 felony of the third degree, punishable as provided in s.
313 775.082, s. 775.083, or s. 775.084.

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

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

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320 indicates that:

321 1. The TWIC is currently valid and in full force and
322 effect;

323 2. He or she did not receive the TWIC through the waiver
324 process for disqualifying criminal history allowed by federal
325 law; and

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

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

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

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

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

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

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

362 (a) A person is disqualified from employment or unescorted
363 access if the person:

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

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

374 (b) The disqualifying offenses include:

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

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

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- 378 3. Planting of a hoax bomb as provided in s. 790.165.
379 4. A violation of s. 876.02 or 876.36.
380 5. A violation of s. 860.065.
381 6. Trafficking as provided in s. 893.135.
382 7. Racketeering activity as provided in s. 895.03.
383 8. Dealing in stolen property as provided in s. 812.019.
384 9. Money laundering as provided in s. 896.101.
385 10. Criminal use of personal identification as provided in
386 s. 817.568.
387 11. Bribery as provided in s. 838.015.
388 12. A violation of s. 316.302, relating to the transport of
389 hazardous materials.
390 13. A forcible felony as defined in s. 776.08.
391 14. A violation of s. 790.07.
392 15. Any crime which includes the use or possession of a
393 firearm.
394 16. A felony violation for theft as provided in s. 812.014.
395 17. Robbery as provided in s. 812.13.
396 18. Burglary as provided in s. 810.02.
397 19. Any violation involving the sale, manufacture,
398 delivery, or possession with intent to sell, manufacture, or
399 deliver a controlled substance.
400 20. Any offense under the laws of another jurisdiction that
401 is similar to an offense in this list.
402 21. Conspiracy or attempt to commit any of the listed
403 offenses.
404 (c) Each individual who is subject to a criminal history
405 check shall file a complete set of fingerprints taken in a
406 manner acceptable to the Department of Law Enforcement for state

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407 processing. The results of the criminal history check must be
408 reported to the requesting seaport and may be shared among
409 seaports.

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

423 (e) The Department of Law Enforcement shall establish a
424 waiver process for an individual who does not have a TWIC,
425 obtained a TWIC through a federal waiver process, or is found to
426 be unqualified under paragraph (a) and denied employment by a
427 seaport or unescorted access to secure or restricted areas. If
428 the individual does not have a TWIC and a federal criminal
429 history record check is required, the Department of Law
430 Enforcement may forward the fingerprints to the Federal Bureau
431 of Investigation for a national criminal history record check.
432 The cost of the national check must be paid by the seaport,
433 which may collect it as reimbursement from the individual.

434 1. Consideration for a waiver shall be based on the
435 circumstances of any disqualifying act or offense, restitution

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436 made by the individual, and other factors from which it may be
437 determined that the individual does not pose a risk of engaging
438 in any act within the public seaports regulated under this
439 chapter which poses a risk to or threatens the security of the
440 seaport and the public's health, safety, or welfare.

441 2. The waiver process begins when an individual who has
442 been denied initial employment within or unescorted access to
443 secure or restricted areas of a public seaport submits an
444 application for a waiver and a notarized letter or affidavit
445 from the individual's employer or union representative which
446 states the mitigating reasons for initiating the waiver process.

447 3. Within 90 days after receipt of the application, the
448 administrative staff of the Parole Commission shall conduct a
449 factual review of the waiver application. Findings of fact shall
450 be transmitted to the department for review. The department
451 shall make a copy of those findings available to the applicant
452 before final disposition of the waiver request.

453 4. The department shall make a final disposition of the
454 waiver request based on the factual findings of the
455 investigation by the Parole Commission. The department shall
456 notify the waiver applicant of the final disposition of the
457 waiver.

458 5. The review process under this paragraph is exempt from
459 chapter 120.

460 6. By October 1 of each year, each seaport shall report to
461 the department each instance of denial of employment within, or
462 access to, secure or restricted areas, and each instance waiving
463 an appeal of a denial occurring during the last 12 months. The
464 report must include the identity of the individual affected, the

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465 factors supporting the denial or waiver, and any other material
466 factors used to make the determination.

467 (f) In addition to the waiver procedure established by the
468 Department of Law Enforcement under paragraph (e), each seaport
469 security plan may establish a procedure to appeal a denial of
470 employment or access based upon procedural inaccuracies or
471 discrepancies regarding criminal history factors established
472 pursuant to this subsection.

473 (g) Each seaport may allow immediate waivers on a temporary
474 basis to meet special or emergency needs of the seaport or its
475 users. Policies, procedures, and criteria for implementation of
476 this provision must be included in the seaport security plan.
477 All waivers granted by the seaports pursuant to this paragraph
478 must be reported to the department within 30 days after
479 issuance.

480 (8) WAIVER FROM SECURITY REQUIREMENTS.—The Office of Drug
481 Control and the Department of Law Enforcement may modify or
482 wave any physical facility requirement or other requirement
483 contained in the minimum security standards upon a determination
484 that the purposes of the standards have been reasonably met or
485 exceeded by the seaport requesting the modification or waiver.
486 An alternate means of compliance must not diminish the safety or
487 security of the seaport and must be verified through an
488 extensive risk analysis conducted by the seaport director.

489 (a) Waiver requests shall be submitted in writing, along
490 with supporting documentation, to the Office of Drug Control and
491 the Department of Law Enforcement. The office and the department
492 have 90 days to jointly grant or reject the waiver, in whole or
493 in part.

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494 (b) The seaport may submit any waivers that are not granted
495 or are jointly rejected to the Domestic Security Oversight
496 Council for review within 90 days. The council shall recommend
497 that the Office of Drug Control and the Department of Law
498 Enforcement grant the waiver or reject the waiver, in whole or
499 in part. The office and the department shall give great weight
500 to the council's recommendations.

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

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

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

511 (a) The Department of Law Enforcement, or any entity
512 designated by the department, shall conduct at least one annual
513 unannounced inspection of each seaport to determine whether the
514 seaport is meeting the minimum security standards established
515 pursuant to subsection (1), and to identify seaport security
516 changes or improvements needed or otherwise recommended.

517 (b) The Department of Law Enforcement, or any entity
518 designated by the department, may conduct additional announced
519 or unannounced inspections or operations within or affecting any
520 seaport to test compliance with, or the effectiveness of,
521 security plans and operations at each seaport, to determine
522 compliance with physical facility requirements and standards, or

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523 to assist the department in identifying changes or improvements
524 needed to bring a seaport into compliance with minimum security
525 standards.

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

529 (d) A seaport may request that the Domestic Security
530 Oversight Council review the findings in the department's report
531 as they relate to the requirements of this section. The council
532 may review only those findings that are in dispute by the
533 seaport. In reviewing the disputed findings, the council may
534 concur in the findings of the department or the seaport, or may
535 recommend corrective action to the seaport. The department and
536 the seaport shall give great weight to the council's findings
537 and recommendations.

538 (e) All seaports shall allow the Department of Law
539 Enforcement, or entity designated by the department, unimpeded
540 access to affected areas and facilities for the purpose of plan
541 or compliance inspections or other operations authorized by this
542 section.

543 (10) REPORTS.—

544 (a) The Department of Law Enforcement, in consultation with
545 the Office of Drug Control, shall annually complete a report
546 indicating the observations and findings of all reviews,
547 inspections, or other operations relating to the seaports
548 conducted during the year and any recommendations resulting from
549 such reviews, inspections, and operations. A copy of the report
550 shall be provided to the Governor, the President of the Senate,
551 the Speaker of the House of Representatives, the governing body

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552 of each seaport or seaport authority, and each seaport director.
553 The report must include each director's response indicating what
554 actions, if any, have been taken or are planned to be taken
555 pursuant to the observations, findings, and recommendations
556 reported by the department.

557 (b) After the Department of Law Enforcement completes the
558 annual inspection report in paragraph (a), the department shall
559 provide an assessment briefing to the board members of the
560 governing authority of each seaport and to the local regional
561 domestic security task force co-chairs. The briefing must
562 address the findings from the inspections, areas of concern, and
563 recommendations for improvements.

564 1. The department shall provide at least one assessment
565 briefing per year to the board during a meeting of the board.
566 The board must make transcripts and audio recordings of all
567 proceedings during such briefings.

568 2. Each board member of a governing authority having
569 responsibility for seaport oversight or operations must attend
570 the assessment briefings. All attendance records shall be
571 published and announced at the next regular meeting of the
572 board.

573 (11) FUNDING.—

574 (a) In making decisions regarding security projects or
575 other funding applicable to each seaport listed in s. 311.09,
576 the Legislature may consider the Department of Law Enforcement's
577 annual report under subsection (10) as authoritative, especially
578 regarding each seaport's degree of substantial compliance with
579 the minimum security standards established in subsection (1).

580 (b) The Legislature shall regularly review the ongoing

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581 costs of operational security on seaports, the impacts of this
582 section on those costs, mitigating factors that may reduce costs
583 without reducing security, and the methods by which seaports may
584 implement operational security using a combination of sworn law
585 enforcement officers and private security services.

586 (c) Subject to the provisions of this chapter and
587 appropriations made for seaport security, state funds may not be
588 expended for security costs without certification of need for
589 such expenditures by the Office of Ports Administrator within
590 the Department of Law Enforcement.

591 (d) If funds are appropriated for seaport security, the
592 Office of Drug Control, the Department of Law Enforcement, and
593 the Florida Seaport Transportation and Economic Development
594 Council shall mutually determine the allocation of such funds
595 for security project needs identified in the approved seaport
596 security plans. Any seaport that receives state funds for
597 security projects must enter into a joint participation
598 agreement with the appropriate state entity and use the seaport
599 security plan as the basis for the agreement.

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

604 2. The agreement may include specific timeframes for
605 completion of a security project and the applicable funding
606 reimbursement dates. The agreement may also require a
607 contractual penalty of up to \$1,000 per day to be imposed for
608 failure to meet project completion dates if state funding is
609 available. Any such penalty shall be deposited into the State

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610 Transportation Trust Fund and used for seaport security
611 operations and capital improvements.

612 Section 3. Sections 311.111 and 311.125, Florida Statutes,
613 are repealed.

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

616 311.121 Qualifications, training, and certification of
617 licensed security officers at Florida seaports.-

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

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

624 ~~1.a.~~ The seaport administrator of the Department of Law
625 Enforcement.

626 ~~2.b.~~ The Commissioner of Education or designee ~~chancellor~~
627 ~~of the Community College System.~~

628 ~~3.e.~~ The director of the Division of Licensing of the
629 Department of Agriculture and Consumer Services.

630 ~~4.d.~~ The administrator of the Florida Seaport
631 Transportation and Economic Development Council.

632 ~~5.e.~~ Two seaport security directors from seaports
633 designated under s. 311.09.

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

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

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

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

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639 ~~(b)2.~~ In addition to the members designated in paragraph
640 (a) subparagraph 1., the executive director may invite a
641 representative of the United States Coast Guard to attend and
642 participate in council meetings as an ex officio, nonvoting
643 member of the council.

644 (c) Council members designated under subparagraphs (a)1.-4.
645 ~~in sub-subparagraphs (b)1.a.-d.~~ shall serve for the duration of
646 their employment or appointment. Council members designated
647 under subparagraphs (b)5.-9. ~~sub-subparagraphs (b)1.e.-i.~~ shall
648 be appointed for ~~serve~~ 4-year terms, except that the initial
649 appointment for the representative of a local law enforcement
650 agency, one representative of a contract security agency, and
651 one seaport security director from a seaport designated in s.
652 311.09 shall be appointed for 2-year terms ~~serve for terms of 2~~
653 ~~years.~~

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

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

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

662 (g) ~~By December 1, 2006,~~ The council shall identify the
663 qualifications, training, and standards for seaport security
664 officer certification and recommend a curriculum for the seaport
665 security officer training program that includes at least ~~shall~~
666 ~~include no less than~~ 218 hours of initial certification training
667 and that conforms to or exceeds model courses approved under ~~by~~

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668 ~~the Federal Maritime Act under~~ s. 109 of the Federal Maritime
669 Transportation Security Act of 2002 for facility personnel with
670 specific security duties.

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

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

676 Section 5. Section 311.123, Florida Statutes, is amended to
677 read:

678 311.123 Maritime domain security awareness training
679 program.—

680 (1) The Florida Seaport Transportation and Economic
681 Development Council, in conjunction with the Department of Law
682 Enforcement and the Office of Drug Control within the Executive
683 Office of the Governor, shall create a maritime domain security
684 awareness training program to instruct all personnel employed
685 within a seaport's boundaries about the security procedures
686 required of them for implementation of the seaport security plan
687 required under s. 311.12(3).

688 (2) The training program curriculum must include security
689 training required pursuant to 33 C.F.R. part 105 and must be
690 designed to enable the seaports in this state to meet the
691 training, drill, and exercise requirements of 33 C.F.R. part 105
692 and individual seaport security plans and to otherwise comply
693 with the requirements of s. 311.12 ~~relating to security~~
694 ~~awareness.~~

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

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697 311.124 Trespassing; detention by a certified seaport
698 security officer.—

699 (1) Any Class D or Class G seaport security officer
700 certified under the Maritime Transportation Security Act
701 guidelines and s. 311.121 or any employee of the seaport
702 security force certified under the Maritime Transportation
703 Security Act guidelines and s. 311.121 who has probable cause to
704 believe that a person is trespassing pursuant to ~~the provisions~~
705 ~~of~~ s. 810.08 or s. 810.09 or this chapter in a designated secure
706 or restricted area pursuant to s. 311.12(4) ~~s. 311.111~~ is
707 authorized to detain such person in a reasonable manner for a
708 reasonable period of time pending the arrival of a law
709 enforcement officer, and such action does ~~shall~~ not render the
710 security officer criminally or civilly liable for false arrest,
711 false imprisonment, or unlawful detention.

712 Section 7. Section 311.13, Florida Statutes, is amended to
713 read:

714 311.13 Certain information exempt from disclosure.—Seaport
715 security plans ~~of a seaport authority~~ created pursuant to s.
716 311.12 ~~by act of the Legislature or of a seaport department of a~~
717 ~~county or municipality that operates an international seaport~~
718 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
719 Constitution. In addition, photographs, maps, blueprints,
720 drawings, and similar materials that depict critical seaport
721 operating facilities are exempt from s. 119.07(1) and s. 24(a),
722 Art. I of the State Constitution, to the extent that a seaport
723 ~~authority created by act of the Legislature or a seaport~~
724 ~~department of a county or municipality that operates a seaport~~
725 reasonably determines that such items contain information that

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726 is not generally known and that could jeopardize the security of
727 the seaport; however, information relating to real estate
728 leases, layout plans, blueprints, or information relevant
729 thereto, is not ~~to be~~ included in this exemption. ~~The exemptions~~
730 ~~in this section are applicable only to records held by a seaport~~
731 ~~authority created by act of the Legislature or to records of a~~
732 ~~county or municipal seaport department that operates a seaport.~~

733 Section 8. Paragraph (a) of subsection (4) of section
734 943.0585, Florida Statutes, is amended to read:

735 943.0585 Court-ordered expunction of criminal history
736 records.—The courts of this state have jurisdiction over their
737 own procedures, including the maintenance, expunction, and
738 correction of judicial records containing criminal history
739 information to the extent such procedures are not inconsistent
740 with the conditions, responsibilities, and duties established by
741 this section. Any court of competent jurisdiction may order a
742 criminal justice agency to expunge the criminal history record
743 of a minor or an adult who complies with the requirements of
744 this section. The court shall not order a criminal justice
745 agency to expunge a criminal history record until the person
746 seeking to expunge a criminal history record has applied for and
747 received a certificate of eligibility for expunction pursuant to
748 subsection (2). A criminal history record that relates to a
749 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
750 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
751 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
752 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
753 any violation specified as a predicate offense for registration
754 as a sexual predator pursuant to s. 775.21, without regard to

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755 whether that offense alone is sufficient to require such
756 registration, or for registration as a sexual offender pursuant
757 to s. 943.0435, may not be expunged, without regard to whether
758 adjudication was withheld, if the defendant was found guilty of
759 or pled guilty or nolo contendere to the offense, or if the
760 defendant, as a minor, was found to have committed, or pled
761 guilty or nolo contendere to committing, the offense as a
762 delinquent act. The court may only order expunction of a
763 criminal history record pertaining to one arrest or one incident
764 of alleged criminal activity, except as provided in this
765 section. The court may, at its sole discretion, order the
766 expunction of a criminal history record pertaining to more than
767 one arrest if the additional arrests directly relate to the
768 original arrest. If the court intends to order the expunction of
769 records pertaining to such additional arrests, such intent must
770 be specified in the order. A criminal justice agency may not
771 expunge any record pertaining to such additional arrests if the
772 order to expunge does not articulate the intention of the court
773 to expunge a record pertaining to more than one arrest. This
774 section does not prevent the court from ordering the expunction
775 of only a portion of a criminal history record pertaining to one
776 arrest or one incident of alleged criminal activity.
777 Notwithstanding any law to the contrary, a criminal justice
778 agency may comply with laws, court orders, and official requests
779 of other jurisdictions relating to expunction, correction, or
780 confidential handling of criminal history records or information
781 derived therefrom. This section does not confer any right to the
782 expunction of any criminal history record, and any request for
783 expunction of a criminal history record may be denied at the

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784 sole discretion of the court.

785 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
786 criminal history record of a minor or an adult which is ordered
787 expunged by a court of competent jurisdiction pursuant to this
788 section must be physically destroyed or obliterated by any
789 criminal justice agency having custody of such record; except
790 that any criminal history record in the custody of the
791 department must be retained in all cases. A criminal history
792 record ordered expunged that is retained by the department is
793 confidential and exempt from the provisions of s. 119.07(1) and
794 s. 24(a), Art. I of the State Constitution and not available to
795 any person or entity except upon order of a court of competent
796 jurisdiction. A criminal justice agency may retain a notation
797 indicating compliance with an order to expunge.

798 (a) The person who is the subject of a criminal history
799 record that is expunged under this section or under other
800 provisions of law, including former s. 893.14, former s. 901.33,
801 and former s. 943.058, may lawfully deny or fail to acknowledge
802 the arrests covered by the expunged record, except when the
803 subject of the record:

- 804 1. Is a candidate for employment with a criminal justice
805 agency;
- 806 2. Is a defendant in a criminal prosecution;
- 807 3. Concurrently or subsequently petitions for relief under
808 this section or s. 943.059;
- 809 4. Is a candidate for admission to The Florida Bar;
- 810 5. Is seeking to be employed or licensed by or to contract
811 with the Department of Children and Family Services, the Agency
812 for Health Care Administration, the Agency for Persons with

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813 Disabilities, or the Department of Juvenile Justice or to be
814 employed or used by such contractor or licensee in a sensitive
815 position having direct contact with children, the
816 developmentally disabled, the aged, or the elderly as provided
817 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
818 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4),
819 chapter 916, s. 985.644, chapter 400, or chapter 429;

820 6. Is seeking to be employed or licensed by the Department
821 of Education, any district school board, any university
822 laboratory school, any charter school, any private or parochial
823 school, or any local governmental entity that licenses child
824 care facilities; or

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

828 Section 9. Paragraph (a) of subsection (4) of section
829 943.059, Florida Statutes, is amended to read:

830 943.059 Court-ordered sealing of criminal history records.-
831 The courts of this state shall continue to have jurisdiction
832 over their own procedures, including the maintenance, sealing,
833 and correction of judicial records containing criminal history
834 information to the extent such procedures are not inconsistent
835 with the conditions, responsibilities, and duties established by
836 this section. Any court of competent jurisdiction may order a
837 criminal justice agency to seal the criminal history record of a
838 minor or an adult who complies with the requirements of this
839 section. The court shall not order a criminal justice agency to
840 seal a criminal history record until the person seeking to seal
841 a criminal history record has applied for and received a

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842 certificate of eligibility for sealing pursuant to subsection
843 (2). A criminal history record that relates to a violation of s.
844 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
845 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
846 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
847 916.1075, a violation enumerated in s. 907.041, or any violation
848 specified as a predicate offense for registration as a sexual
849 predator pursuant to s. 775.21, without regard to whether that
850 offense alone is sufficient to require such registration, or for
851 registration as a sexual offender pursuant to s. 943.0435, may
852 not be sealed, without regard to whether adjudication was
853 withheld, if the defendant was found guilty of or pled guilty or
854 nolo contendere to the offense, or if the defendant, as a minor,
855 was found to have committed or pled guilty or nolo contendere to
856 committing the offense as a delinquent act. The court may only
857 order sealing of a criminal history record pertaining to one
858 arrest or one incident of alleged criminal activity, except as
859 provided in this section. The court may, at its sole discretion,
860 order the sealing of a criminal history record pertaining to
861 more than one arrest if the additional arrests directly relate
862 to the original arrest. If the court intends to order the
863 sealing of records pertaining to such additional arrests, such
864 intent must be specified in the order. A criminal justice agency
865 may not seal any record pertaining to such additional arrests if
866 the order to seal does not articulate the intention of the court
867 to seal records pertaining to more than one arrest. This section
868 does not prevent the court from ordering the sealing of only a
869 portion of a criminal history record pertaining to one arrest or
870 one incident of alleged criminal activity. Notwithstanding any

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871 law to the contrary, a criminal justice agency may comply with
872 laws, court orders, and official requests of other jurisdictions
873 relating to sealing, correction, or confidential handling of
874 criminal history records or information derived therefrom. This
875 section does not confer any right to the sealing of any criminal
876 history record, and any request for sealing a criminal history
877 record may be denied at the sole discretion of the court.

878 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
879 history record of a minor or an adult which is ordered sealed by
880 a court of competent jurisdiction pursuant to this section is
881 confidential and exempt from the provisions of s. 119.07(1) and
882 s. 24(a), Art. I of the State Constitution and is available only
883 to the person who is the subject of the record, to the subject's
884 attorney, to criminal justice agencies for their respective
885 criminal justice purposes, which include conducting a criminal
886 history background check for approval of firearms purchases or
887 transfers as authorized by state or federal law, to judges in
888 the state courts system for the purpose of assisting them in
889 their case-related decisionmaking responsibilities, as set forth
890 in s. 943.053(5), or to those entities set forth in
891 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
892 licensing, access authorization, and employment purposes.

893 (a) The subject of a criminal history record sealed under
894 this section or under other provisions of law, including former
895 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
896 deny or fail to acknowledge the arrests covered by the sealed
897 record, except when the subject of the record:

898 1. Is a candidate for employment with a criminal justice
899 agency;

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- 900 2. Is a defendant in a criminal prosecution;
- 901 3. Concurrently or subsequently petitions for relief under
- 902 this section or s. 943.0585;
- 903 4. Is a candidate for admission to The Florida Bar;
- 904 5. Is seeking to be employed or licensed by or to contract
- 905 with the Department of Children and Family Services, the Agency
- 906 for Health Care Administration, the Agency for Persons with
- 907 Disabilities, or the Department of Juvenile Justice or to be
- 908 employed or used by such contractor or licensee in a sensitive
- 909 position having direct contact with children, the
- 910 developmentally disabled, the aged, or the elderly as provided
- 911 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
- 912 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
- 913 415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;
- 914 6. Is seeking to be employed or licensed by the Department
- 915 of Education, any district school board, any university
- 916 laboratory school, any charter school, any private or parochial
- 917 school, or any local governmental entity that licenses child
- 918 care facilities;
- 919 7. Is attempting to purchase a firearm from a licensed
- 920 importer, licensed manufacturer, or licensed dealer and is
- 921 subject to a criminal history ~~background~~ check under state or
- 922 federal law; or
- 923 8. Is seeking authorization from a Florida seaport
- 924 identified in s. 311.09 for employment within or access to one
- 925 or more of such seaports pursuant to s. 311.12 ~~or s. 311.125.~~
- 926 Section 10. The Office of Drug Control shall commission an
- 927 update of the Florida Seaport Security Assessment 2000
- 928 referenced in s. 311.12(1)(a), Florida Statutes. The office

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929 shall consult with the Seaport Security Standards Advisory
930 Council in forming the parameters of the update. The updated
931 assessment shall be presented to the Legislature for review by
932 January 1, 2010. Pursuant to s. 311.13, Florida Statutes, any
933 records included in the assessment which are exempt from s.
934 119.07(1), Florida Statutes, are exempt from disclosure.

935 Section 11. The Department of Law Enforcement may create a
936 pilot project of at least three seaports to perform the tasks
937 required in subsections (6) and (7) of s. 311.12, Florida
938 Statutes, as amended by this act. Equipment purchased by the
939 state to implement the Florida Uniform Port Access Control
940 system is transferred from the Department of Highway Safety and
941 Motor Vehicles to the Department of Law Enforcement for use in
942 the pilot project and to assist other seaports with compliance.

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

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