

FOR CONSIDERATION By the Committee on Military Affairs and Domestic Security

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1 A bill to be entitled
2 An act relating to seaport security; amending s.
3 311.12, F.S.; revising provisions relating to seaport
4 security; authorizing the Department of Law
5 Enforcement to exempt all or part of a port from
6 certain security requirements; adding the department
7 to those entities responsible for allocating funds for
8 security projects; providing criteria for determining
9 eligibility to enter restricted access areas;
10 establishing a statewide access eligibility reporting
11 system within the department; deleting the requirement
12 that seaports promptly notify the department of any
13 changes in access levels; specifying that costs for
14 the department's access reporting system may be
15 charged and paid by the seaport, other employing
16 entity, or person screened; providing additional
17 criminal offenses that disqualify a person from
18 employment by or access to a seaport; deleting the
19 requirement that the department notify the port
20 authority that denied employment of the final
21 disposition of a waiver request from background
22 screening requirements; allowing, rather than
23 requiring, certain applications for a waiver from
24 security requirements to be submitted to the Domestic
25 Security Council for review; requiring a copy of the
26 department's legislative report to be provided to each
27 seaport governing body or authority; repealing s.
28 311.111, F.S., relating to unrestricted and restricted
29 public access areas and secured restricted access

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30 areas; repealing s. 311.125, F.S., relating to the
31 Uniform Port Access Credential System and the Uniform
32 Port Access Credential Card; amending ss. 311.124,
33 311.13, 943.0585, and 943.059, F.S.; conforming terms
34 and cross-references; providing an effective date.
35

36 Be It Enacted by the Legislature of the State of Florida:
37

38 Section 1. Section 311.12, Florida Statutes, is amended to
39 read:

40 (Substantial rewording of section. See

41 s. 311.12, F.S., for present text.)

42 311.12 Seaport security.—

43 (1) SECURITY STANDARDS.—

44 (a) The statewide minimum standards for seaport security
45 applicable to seaports listed in s. 311.09 shall be those based
46 on the Florida Seaport Security Assessment 2000 and set forth in
47 the Port Security Standards Compliance Plan delivered to the
48 Speaker of the House of Representatives and the President of the
49 Senate on December 11, 2000. The Office of Drug Control within
50 the Executive Office of the Governor shall maintain a sufficient
51 number of copies of the standards for public use at its offices,
52 and shall provide copies to each affected seaport upon request.

53 (b) A seaport may implement security measures that are more
54 stringent, more extensive, or supplemental to the minimum
55 security standards established by this subsection, except that
56 for purposes of qualifying for employment and access to
57 restricted access areas, a seaport must meet but may not exceed
58 the disqualifying offenses provided in paragraph (6) (d).

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59 (2) EXEMPTION.—The Department of Law Enforcement may exempt
60 all or part of a seaport listed in s. 311.09 from the
61 requirements of this section if the department determines that
62 activity associated with the use of the seaport or part of the
63 seaport is not vulnerable to criminal activity or terrorism. The
64 department shall periodically review such exemptions to
65 determine if there is a change in use. Such change may warrant
66 removal of all or part of the exemption.

67 (3) SECURITY PLAN.—Each seaport listed in s. 311.09 shall
68 adopt and maintain a security plan specific to that seaport
69 which provides for a secure seaport infrastructure that promotes
70 the safety and security of state residents and visitors and the
71 flow of legitimate trade and travel.

72 (a) Beginning January 1, 2007, and every 5 years
73 thereafter, each seaport director, with the assistance of the
74 Regional Domestic Security Task Force and in conjunction with
75 the United States Coast Guard, shall revise the seaport's
76 security plan based on the director's ongoing assessment of
77 security risks, the risks of terrorist activities, and the
78 specific and identifiable needs of the seaport for ensuring that
79 the seaport is in substantial compliance with the minimum
80 security standards established under subsection (1).

81 (b) Each adopted or revised security plan must be reviewed
82 and approved by the Office of Drug Control and the Department of
83 Law Enforcement for compliance with federal facility security
84 assessment requirements under 33 C.F.R. s. 105.305 and the
85 minimum security standards established under subsection (1).
86 Within 30 days after completion, a copy of the written review
87 shall be delivered to the United States Coast Guard, the

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88 Regional Domestic Security Task Force, and the Domestic Security
89 Oversight Council.

90 (c) If funds are appropriated for seaport security, the
91 Office of Drug Control, the Department of Law Enforcement, and
92 the Florida Seaport Transportation and Economic Development
93 Council shall mutually determine the allocation of such funds
94 for security project needs identified in the approved seaport
95 security plans. Any seaport that receives state funds for
96 security projects must enter into a joint participation
97 agreement with the appropriate state entity and use the seaport
98 security plan as the basis for the agreement.

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

103 2. The agreement may include specific timeframes for
104 completion of a security project and the applicable funding
105 reimbursement dates. The agreement may also require a
106 contractual penalty of up to \$1,000 per day to be imposed for
107 failure to meet project completion dates if state funding is
108 available. Any such penalty shall be deposited into the State
109 Transportation Trust Fund and used for seaport security
110 operations and capital improvements.

111 (4) RESTRICTED ACCESS AREAS.—Each seaport listed in s.
112 311.09 must clearly designate in seaport security plans, and
113 clearly identify with appropriate signs and markers on the
114 premises of a seaport, all restricted access areas, access
115 eligibility requirements, and corresponding security enforcement
116 authorizations, which may include, but not be limited to, clear

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117 notice of the prohibition against possession of concealed
118 weapons and other contraband material on the premises of the
119 seaport, as provided in paragraph (e).

120 (a) The seaport's security plan must set forth the
121 conditions and restrictions to be imposed on persons employed
122 at, doing business at, or visiting the seaport relating to
123 restricted access areas that are sufficient to provide
124 substantial compliance with the minimum security standards
125 established in subsection (1).

126 (b) Seaport employees and other persons working at the
127 seaport who have regular access to such areas, visitors who have
128 business with the seaport, and cruise ship passengers holding
129 valid boarding documents have express permission to enter a
130 restricted access area.

131 1. Seaport employees or other persons working at the
132 seaport are considered to have "regular access" if they enter a
133 restricted area more than five times in a 90-day period.

134 2. A person who enters a restricted access area five times
135 or less in a 90-day period is considered a "visitor." Upon
136 arrival at a restricted access area, a visitor must, at a
137 minimum, stop at a check point, show valid identification, and
138 receive a visitor's pass before proceeding. The visitor's pass
139 must be plainly displayed on the person of the visitor or in the
140 windshield of the vehicle, and designate which area of the
141 seaport may be accessed by the visitor. Failure to display the
142 visitor's pass shall result in revocation of permission to work
143 at the seaport. Public conveyances, such as buses carrying
144 passengers into restricted access areas, must be able to verify
145 that all passengers have legitimate business at the seaport.

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146 Procedures for implementation of this requirement are the
147 responsibility of each seaport.

148 3. Cruise ship passengers are those persons scheduled for
149 immediate departure who have permission to board a ship that is
150 in port. Upon arrival at a restricted access area, cruise ship
151 passengers must, at a minimum, stop at a check point and show
152 valid identification and boarding documents.

153 4. Any person found in these areas without the proper
154 permission is subject to the trespass provisions of ss. 810.08
155 and 810.09.

156 5. All persons and objects in these areas are subject to
157 search by a sworn state-certified law enforcement officer, a
158 Class D seaport security officer certified under Maritime
159 Transportation Security Act guidelines and s. 311.121, or an
160 employee of the seaport security force certified under the
161 Maritime Transportation Security Act guidelines and s. 311.121.

162 (c) During a period of high terrorist threat level, as
163 designated by the United States Department of Homeland Security
164 or the Department of Law Enforcement, or during an emergency
165 declared at a port by the seaport security director due to
166 events applicable to that particular seaport, the management or
167 controlling authority of the port may temporarily designate any
168 part of the seaport property as a restricted access area. The
169 duration of such designation is limited to the period in which
170 the high terrorist threat level is in effect or a port emergency
171 exists.

172 (d) As determined by the seaport director's most current
173 risk assessment report under paragraph (3) (a), any restricted
174 access area that has a potential human occupancy of 50 persons

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175 or more, any cruise terminal, or any business operation that is
176 adjacent to a public access area must be protected from the most
177 probable and creditable terrorist threat to human life.

178 (e) Any person in a restricted access area who has in his
179 or her possession a concealed weapon, or who operates or has
180 possession or control of a vehicle in or upon which a concealed
181 weapon is placed or stored, commits a misdemeanor of the first
182 degree, punishable as provided in s. 775.082 or s. 775.083. This
183 paragraph does not apply to active-duty certified federal or
184 state law enforcement personnel or persons so designated by the
185 seaport director in writing.

186 (5) ACCESS ELIGIBILITY REPORTING SYSTEM.—

187 (a) The Department of Law Enforcement shall administer a
188 statewide seaport access eligibility reporting system. The
189 system must, at a minimum, consist of:

190 1. A centralized, secure database for collecting and
191 maintaining fingerprints and other biometric means of identity,
192 and any other identifying information of persons employed by or
193 doing business at a state seaport;

194 2. A methodology for receiving data from each seaport and
195 transmitting data to each seaport regarding access eligibility;
196 and

197 3. The ability to identify persons who have violated the
198 requirements of this subsection and to deactivate the access
199 eligibility of such persons.

200 (b) Each seaport listed in s. 311.09 is responsible for
201 granting, modifying, restricting, or denying access to
202 restricted access areas to seaport employees, other persons
203 working at the seaport, visitors who have business with the

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204 seaport, or other persons regularly appearing at the seaport.
205 Each seaport is responsible for access eligibility verification
206 at its location.

207 (c) Each person working at a seaport is eligible to enter a
208 seaport participating in the access eligibility reporting system
209 based on the level of permission allowed by each respective
210 seaport.

211 (d) A criminal history check must be performed on employee
212 applicants, current employees, and other persons working within
213 or authorized to regularly enter a restricted access area in
214 accordance with subsection (6). Based upon the criminal history
215 check, each seaport may determine the specific access
216 eligibility that shall be granted to that person.

217 (e) Persons, corporations, or other business entities that
218 employ persons to work or do business at seaports shall notify
219 the seaport of the termination, resignation, work-related
220 incapacitation, or death of an employee who has access
221 permission.

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

226 2. A business entity's failure to report a change in an
227 employee's work status within 7 days after that change may
228 result in revocation of the business entity's access to the
229 seaport.

230 (6) CRIMINAL HISTORY SCREENING.—

231 (a) In addition to other requirements for employment or
232 access established by each seaport in its seaport security plan,

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233 the plan must identify the criminal offenses listed in paragraph
234 (d) which disqualify a person from seaport employment or regular
235 access to restricted access areas of the seaport. A fingerprint-
236 based criminal history check shall be performed on employee
237 applicants, current employees, and other persons working within
238 or authorized to regularly enter a restricted access area, or
239 the entire seaport if the seaport security plan does not
240 designate one or more restricted access areas.

241 1. Such checks must be performed at least once every 5
242 years, or at more frequent intervals as provided by the seaport
243 security plan.

244 2. Each individual who is subject to a criminal history
245 check shall file a complete set of fingerprints taken in a
246 manner required by the Department of Law Enforcement and the
247 seaport security plan. Fingerprints shall be submitted to the
248 Department of Law Enforcement for state processing and forwarded
249 to the Federal Bureau of Investigation for federal processing.
250 The results of each fingerprint-based check must be reported to
251 the requesting seaport and may be shared among seaports.

252 (b) A Florida Crime Information Center name-based criminal
253 history clearance must be performed at least once a year, and
254 may be performed on more frequently a random basis more
255 frequently, to ensure that persons screened under paragraph (a)
256 continue to meet the screening requirements for restricted
257 access areas. Failure to comply with the criminal history
258 clearances is grounds for immediate denial of access. In
259 addition to access permissions granted or denied by seaports,
260 access eligibility may be restricted or revoked by the
261 Department of Law Enforcement if the person is suspected of

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262 terrorism or criminal violations that could affect the security
263 of a port or otherwise render the person ineligible for seaport
264 access.

265 (c) The cost of the criminal history checks, including the
266 cost of the initial state and federal fingerprint-based check,
267 the annual name-based criminal history clearance, and the use of
268 the Department of Law Enforcement's statewide access eligibility
269 reporting system shall be paid by the seaport, another employing
270 entity, or the person screened to the department or to the
271 seaport, if it is acting as an agent of the department for
272 purposes of collecting the remittance. A seaport may charge an
273 additional administrative fee to cover the costs of
274 participating in the access eligibility reporting system under
275 subsection (5).

276 (d) Any person who has been convicted of, or entered a plea
277 of guilty or nolo contendere to, regardless of adjudication, any
278 of the following offenses is disqualified from employment or
279 unescorted access unless, after release from incarceration or
280 any supervision imposed as a result of sentencing, the person
281 has remained free from a subsequent conviction, regardless of
282 adjudication, of the following listed offenses for at least 7
283 years before the employment or access date under consideration:

- 284 1. An act of terrorism as defined in s. 775.30.
- 285 2. A violation involving a weapon of mass destruction or
286 hoax weapon of mass destruction as provided in s. 790.166.
- 287 3. Planting of a hoax bomb as provided in s. 790.165.
- 288 4. A violation of s. 876.02 or 876.36.
- 289 5. A violation of s. 860.065.
- 290 6. Trafficking as provided in s. 893.135.

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- 291 7. Racketeering activity as provided in s. 895.03.
- 292 8. Dealing in stolen property as provided in s. 812.019.
- 293 9. Money laundering as provided in s. 896.101.
- 294 10. Criminal use of personal identification as provided in
295 s. 817.568.
- 296 11. Bribery as provided in s. 838.015.
- 297 12. A violation of s. 316.302 relating to the transport of
298 hazardous materials.
- 299 13. A forcible felony as defined in s. 776.08.
- 300 14. A violation of s. 790.07.
- 301 15. Any crime which includes the use or possession of a
302 weapon or firearm.
- 303 16. A felony violation for theft as provided in s. 812.014.
- 304 17. Robbery as provided in s. 812.13.
- 305 18. Burglary as provided in s. 810.02.
- 306 19. Any violation involving the sale, manufacture,
307 delivery, or possession with intent to sell, manufacture, or
308 deliver a controlled substance.
- 309 20. Any offense under the laws of another jurisdiction that
310 is similar to an offense in this list.
- 311 21. Conspiracy or attempt to commit any of the listed
312 offenses.
- 313 (e) The Department of Law Enforcement shall establish a
314 waiver process for an individual who is found to be unqualified
315 under paragraph (d) and denied employment by a seaport or
316 unescorted access to restricted access areas.
- 317 1. Consideration for a waiver shall be based on the
318 circumstances of any disqualifying act or offense, restitution
319 made by the individual, and other factors from which it may be

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320 determined that the individual does not pose a risk of engaging
321 in any act within the public seaports regulated under this
322 chapter which poses a risk to or threatens the security of the
323 seaport and the public's health, safety, or welfare.

324 2. The waiver process begins when an individual who has
325 been denied initial employment within or unescorted access to
326 restricted areas of a public seaport submits an application for
327 a waiver and a notarized letter or affidavit from the
328 individual's employer or union representative which states the
329 mitigating reasons for initiating the waiver process.

330 3. Within 90 days after receipt of the application, the
331 administrative staff of the Parole Commission shall conduct a
332 factual review of the waiver application. Findings of fact shall
333 be transmitted to the department for review. The department
334 shall make a copy of those findings available to the applicant
335 before final disposition of the waiver request.

336 4. The department shall make a final disposition of the
337 waiver request based on the factual findings of the
338 investigation by the Parole Commission. The department shall
339 notify the waiver applicant of the final disposition of the
340 waiver.

341 5. The review process under this paragraph is exempt from
342 chapter 120.

343 6. By October 1 of each year, each seaport shall report to
344 the department each instance of denial of employment within, or
345 access to, restricted areas, and each instance waiving an appeal
346 of a denial occurring during the last 12 months. The report must
347 include the identity of the individual affected, the factors
348 supporting the denial or waiver, and any other material factors

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349 used to make the determination.

350 (f) In addition to the waiver procedure established by the
351 Department of Law Enforcement under paragraph (e), each seaport
352 security plan may establish a procedure to appeal a denial of
353 employment or access based upon procedural inaccuracies or
354 discrepancies regarding criminal history factors established
355 pursuant to this subsection.

356 (g) Each seaport may allow immediate waivers on a temporary
357 basis to meet special or emergency needs of the seaport or its
358 users. Policies, procedures, and criteria for implementation of
359 this provision must be included in the seaport security plan.
360 All waivers granted by the seaports pursuant to this paragraph
361 must be reported to the department within 30 days after
362 issuance.

363 (7) WAIVER FROM SECURITY REQUIREMENTS.—The Office of Drug
364 Control and the Department of Law Enforcement may modify or
365 wave any physical facility requirement or other requirement
366 contained in the minimum security standards upon a determination
367 that the purposes of the standards have been reasonably met or
368 exceeded by the seaport requesting the modification or waiver.
369 An alternate means of compliance must not diminish the safety or
370 security of the seaport and must be verified through an
371 extensive risk analysis conducted by the seaport director.

372 (a) Waiver requests shall be submitted in writing, along
373 with supporting documentation, to the Office of Drug Control and
374 the Department of Law Enforcement. The office and the department
375 have 90 days to jointly grant or reject the waiver, in whole or
376 in part.

377 (b) The seaport may submit any waivers that are not granted

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378 or are jointly rejected to the Domestic Security Oversight
379 Council for review within 90 days. The council shall recommend
380 that the Office of Drug Control and the Department of Law
381 Enforcement grant the waiver or reject the waiver, in whole or
382 in part. The office and the department shall give great weight
383 to the council's recommendations.

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

387 (d) Any modifications or waivers granted under this
388 subsection shall be noted in the annual report submitted by the
389 Department of Law Enforcement pursuant to subsection (9).

390 (8) INSPECTIONS.—It is the intent of the Legislature that
391 the state's seaports adhere to security practices that are
392 consistent with the risks assigned to each seaport through the
393 ongoing risk assessment process established in paragraph (3)(a).

394 (a) The Department of Law Enforcement, or any entity
395 designated by the department, shall conduct at least one annual
396 unannounced inspection of each seaport to determine whether the
397 seaport is meeting the minimum security standards established
398 pursuant to subsection (1), and to identify seaport security
399 changes or improvements needed or otherwise recommended.

400 (b) The Department of Law Enforcement, or any entity
401 designated by the department, may conduct additional announced
402 or unannounced inspections or operations within or affecting any
403 seaport to test compliance with, or the effectiveness of,
404 security plans and operations at each seaport, to determine
405 compliance with physical facility requirements and standards, or
406 to assist the department in identifying changes or improvements

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407 needed to bring a seaport into compliance with minimum security
408 standards.

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

412 (d) A seaport may request that the Domestic Security
413 Oversight Council review the findings in the department's report
414 as they relate to the requirements of this section. The council
415 may review only those findings that are in dispute by the
416 seaport. In reviewing the disputed findings, the council may
417 concur in the findings of the department or the seaport, or may
418 recommend corrective action to the seaport. The department and
419 the seaport shall give great weight to the council's findings
420 and recommendations.

421 (e) The seaport director shall immediately implement any
422 security changes or improvements needed or recommended in the
423 report or, if the director requested a review by Domestic
424 Security Oversight Council pursuant to paragraph (d),
425 immediately following the conclusion of that review.

426 (f) All seaports shall allow the Department of Law
427 Enforcement, or entity designated by the department, unimpeded
428 access to affected areas and facilities for the purpose of plan
429 or compliance inspections or other operations authorized by this
430 section.

431 (9) LEGISLATIVE REPORT.—

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

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436 conducted during the year and any recommendations resulting from
437 such reviews, inspections, and operations. A copy of the report
438 shall be provided to the Governor, the President of the Senate,
439 the Speaker of the House of Representatives, the governing body
440 of each seaport or seaport authority, and each seaport director.
441 The report must include each director's responses indicating
442 what actions, if any, have been taken or are planned to be taken
443 pursuant to the observations, findings, and recommendations
444 reported by the department.

445 (b) In making security project or other funding decisions
446 applicable to each seaport listed in s. 311.09, the Legislature
447 may consider the Department of Law Enforcement's annual report
448 as authoritative, especially regarding each seaport's degree of
449 substantial compliance with the minimum security standards
450 established in subsection (1).

451 (c) The Legislature shall regularly review the ongoing
452 costs of operational security on seaports, the impacts of this
453 section on those costs, mitigating factors that may reduce costs
454 without reducing security, and the methods by which seaports may
455 implement operational security using a combination of sworn law
456 enforcement officers and private security services.

457 (d) Subject to the provisions of this chapter and
458 appropriations made for seaport security, state funds may not be
459 expended for security costs without certification of need for
460 such expenditures by the Office of Ports Administrator within
461 the Department of Law Enforcement.

462 (10) SEAPORT SECURITY STANDARDS ADVISORY COUNCIL.—The
463 Seaport Security Standards Advisory Council is created under the
464 Office of Drug Control. The council shall serve as an advisory

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465 council as provided in s. 20.03(7).

466 (a) The members of the council shall be appointed by the
467 Governor and consist of the following:

468 1. Two seaport directors.

469 2. Two seaport security directors.

470 3. One designee from the Department of Law Enforcement.

471 4. One designee from the Office of Motor Carrier Compliance
472 of the Department of Transportation.

473 5. One designee from the Attorney General's Office.

474 6. One designee from the Department of Agriculture and
475 Consumer Services.

476 7. One designee from the Office of Tourism, Trade, and
477 Economic Development.

478 8. One designee from the Office of Drug Control.

479 (b) In addition to the members designated in paragraph (a),
480 the council may invite a representative of the United States
481 Coast Guard to attend and participate in council meetings as an
482 ex officio, nonvoting member of the council.

483 (c) Members of the council shall be appointed to 4-year
484 terms. A vacancy shall be filled by the original appointing
485 authority for the balance of the unexpired term.

486 (d) The council shall be chaired by a designee from the
487 Office of Drug Control.

488 (e) Commencing on January 15, 2007, and at least every 4
489 years thereafter, the Office of Drug Control shall convene the
490 council to review the minimum security standards for
491 applicability to and effectiveness in combating current
492 narcotics and terrorism threats to the state's seaports. All
493 sources of information allowed by law shall be used in assessing

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494 the applicability and effectiveness of the standards.

495 (f) Council members shall serve without pay; however, per
496 diem and travel allowances may be claimed for attendance at
497 officially called meetings as provided by s. 112.061.

498 (g) The council shall consult with the appropriate area
499 maritime security committees to assess possible impacts to
500 commerce and trade contained in the council's nonclassified
501 recommendations and findings.

502 (h) The recommendations and findings of the council shall
503 be transmitted to the Governor, the Speaker of the House of
504 Representatives, and the President of the Senate.

505 Section 2. Sections 311.111 and 311.125, Florida Statutes,
506 are repealed.

507 Section 3. Section 311.123, Florida Statutes, is amended to
508 read:

509 311.123 Maritime domain security awareness training
510 program.—

511 (1) The Florida Seaport Transportation and Economic
512 Development Council, in conjunction with the Department of Law
513 Enforcement and the Office of Drug Control within the Executive
514 Office of the Governor, shall create a maritime domain security
515 awareness training program to instruct all personnel employed
516 within a seaport's boundaries about the security procedures
517 required of them for implementation of the seaport security plan
518 required under s. 311.12(3).

519 (2) The training program curriculum must include security
520 training required pursuant to 33 C.F.R. part 105 and must be
521 designed to enable the seaports in this state to meet the
522 training, drill, and exercise requirements of 33 C.F.R. part 105

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523 and individual seaport security plans and to otherwise comply
524 with the requirements of s. 311.12 ~~relating to security~~
525 ~~awareness~~.

526 Section 4. Subsection (1) of section 311.124, Florida
527 Statutes, is amended to read:

528 311.124 Trespassing; detention by a certified seaport
529 security officer.—

530 (1) Any Class D or Class G seaport security officer
531 certified under the Maritime Transportation Security Act
532 guidelines and s. 311.121 or any employee of the seaport
533 security force certified under the Maritime Transportation
534 Security Act guidelines and s. 311.121 who has probable cause to
535 believe that a person is trespassing pursuant to ~~the provisions~~
536 ~~of~~ s. 810.08 or s. 810.09 or this chapter in a designated
537 restricted access area pursuant to s. 311.12(4) ~~s. 311.111~~ is
538 authorized to detain such person in a reasonable manner for a
539 reasonable period of time pending the arrival of a law
540 enforcement officer, and such action does ~~shall~~ not render the
541 security officer criminally or civilly liable for false arrest,
542 false imprisonment, or unlawful detention.

543 Section 5. Section 311.13, Florida Statutes, is amended to
544 read:

545 311.13 Certain information exempt from disclosure.—Seaport
546 security plans ~~of a seaport authority~~ created pursuant to s.
547 311.12 ~~by act of the Legislature or of a seaport department of a~~
548 ~~county or municipality that operates an international seaport~~
549 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
550 Constitution. In addition, photographs, maps, blueprints,
551 drawings, and similar materials that depict critical seaport

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552 operating facilities are exempt from s. 119.07(1) and s. 24(a),
553 Art. I of the State Constitution, to the extent that a seaport
554 ~~authority created by act of the Legislature or a seaport~~
555 ~~department of a county or municipality that operates a seaport~~
556 reasonably determines that such items contain information that
557 is not generally known and that could jeopardize the security of
558 the seaport; however, information relating to real estate
559 leases, layout plans, blueprints, or information relevant
560 thereto, is not ~~to be~~ included in this exemption. ~~The exemptions~~
561 ~~in this section are applicable only to records held by a seaport~~
562 ~~authority created by act of the Legislature or to records of a~~
563 ~~county or municipal seaport department that operates a seaport.~~

564 Section 6. Paragraph (a) of subsection (4) of section
565 943.0585, Florida Statutes, is amended to read:

566 943.0585 Court-ordered expunction of criminal history
567 records.—The courts of this state have jurisdiction over their
568 own procedures, including the maintenance, expunction, and
569 correction of judicial records containing criminal history
570 information to the extent such procedures are not inconsistent
571 with the conditions, responsibilities, and duties established by
572 this section. Any court of competent jurisdiction may order a
573 criminal justice agency to expunge the criminal history record
574 of a minor or an adult who complies with the requirements of
575 this section. The court shall not order a criminal justice
576 agency to expunge a criminal history record until the person
577 seeking to expunge a criminal history record has applied for and
578 received a certificate of eligibility for expunction pursuant to
579 subsection (2). A criminal history record that relates to a
580 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,

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581 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
582 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
583 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
584 any violation specified as a predicate offense for registration
585 as a sexual predator pursuant to s. 775.21, without regard to
586 whether that offense alone is sufficient to require such
587 registration, or for registration as a sexual offender pursuant
588 to s. 943.0435, may not be expunged, without regard to whether
589 adjudication was withheld, if the defendant was found guilty of
590 or pled guilty or nolo contendere to the offense, or if the
591 defendant, as a minor, was found to have committed, or pled
592 guilty or nolo contendere to committing, the offense as a
593 delinquent act. The court may only order expunction of a
594 criminal history record pertaining to one arrest or one incident
595 of alleged criminal activity, except as provided in this
596 section. The court may, at its sole discretion, order the
597 expunction of a criminal history record pertaining to more than
598 one arrest if the additional arrests directly relate to the
599 original arrest. If the court intends to order the expunction of
600 records pertaining to such additional arrests, such intent must
601 be specified in the order. A criminal justice agency may not
602 expunge any record pertaining to such additional arrests if the
603 order to expunge does not articulate the intention of the court
604 to expunge a record pertaining to more than one arrest. This
605 section does not prevent the court from ordering the expunction
606 of only a portion of a criminal history record pertaining to one
607 arrest or one incident of alleged criminal activity.
608 Notwithstanding any law to the contrary, a criminal justice
609 agency may comply with laws, court orders, and official requests

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610 of other jurisdictions relating to expunction, correction, or
611 confidential handling of criminal history records or information
612 derived therefrom. This section does not confer any right to the
613 expunction of any criminal history record, and any request for
614 expunction of a criminal history record may be denied at the
615 sole discretion of the court.

616 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
617 criminal history record of a minor or an adult which is ordered
618 expunged by a court of competent jurisdiction pursuant to this
619 section must be physically destroyed or obliterated by any
620 criminal justice agency having custody of such record; except
621 that any criminal history record in the custody of the
622 department must be retained in all cases. A criminal history
623 record ordered expunged that is retained by the department is
624 confidential and exempt from the provisions of s. 119.07(1) and
625 s. 24(a), Art. I of the State Constitution and not available to
626 any person or entity except upon order of a court of competent
627 jurisdiction. A criminal justice agency may retain a notation
628 indicating compliance with an order to expunge.

629 (a) The person who is the subject of a criminal history
630 record that is expunged under this section or under other
631 provisions of law, including former s. 893.14, former s. 901.33,
632 and former s. 943.058, may lawfully deny or fail to acknowledge
633 the arrests covered by the expunged record, except when the
634 subject of the record:

- 635 1. Is a candidate for employment with a criminal justice
636 agency;
- 637 2. Is a defendant in a criminal prosecution;
- 638 3. Concurrently or subsequently petitions for relief under

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639 this section or s. 943.059;

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

641 5. Is seeking to be employed or licensed by or to contract
642 with the Department of Children and Family Services, the Agency
643 for Health Care Administration, the Agency for Persons with
644 Disabilities, or the Department of Juvenile Justice or to be
645 employed or used by such contractor or licensee in a sensitive
646 position having direct contact with children, the
647 developmentally disabled, the aged, or the elderly as provided
648 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
649 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4),
650 chapter 916, s. 985.644, chapter 400, or chapter 429;

651 6. Is seeking to be employed or licensed by the Department
652 of Education, any district school board, any university
653 laboratory school, any charter school, any private or parochial
654 school, or any local governmental entity that licenses child
655 care facilities; or

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

659 Section 7. Paragraph (a) of subsection (4) of section
660 943.059, Florida Statutes, is amended to read:

661 943.059 Court-ordered sealing of criminal history records.—
662 The courts of this state shall continue to have jurisdiction
663 over their own procedures, including the maintenance, sealing,
664 and correction of judicial records containing criminal history
665 information to the extent such procedures are not inconsistent
666 with the conditions, responsibilities, and duties established by
667 this section. Any court of competent jurisdiction may order a

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668 criminal justice agency to seal the criminal history record of a
669 minor or an adult who complies with the requirements of this
670 section. The court shall not order a criminal justice agency to
671 seal a criminal history record until the person seeking to seal
672 a criminal history record has applied for and received a
673 certificate of eligibility for sealing pursuant to subsection
674 (2). A criminal history record that relates to a violation of s.
675 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
676 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
677 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
678 916.1075, a violation enumerated in s. 907.041, or any violation
679 specified as a predicate offense for registration as a sexual
680 predator pursuant to s. 775.21, without regard to whether that
681 offense alone is sufficient to require such registration, or for
682 registration as a sexual offender pursuant to s. 943.0435, may
683 not be sealed, without regard to whether adjudication was
684 withheld, if the defendant was found guilty of or pled guilty or
685 nolo contendere to the offense, or if the defendant, as a minor,
686 was found to have committed or pled guilty or nolo contendere to
687 committing the offense as a delinquent act. The court may only
688 order sealing of a criminal history record pertaining to one
689 arrest or one incident of alleged criminal activity, except as
690 provided in this section. The court may, at its sole discretion,
691 order the sealing of a criminal history record pertaining to
692 more than one arrest if the additional arrests directly relate
693 to the original arrest. If the court intends to order the
694 sealing of records pertaining to such additional arrests, such
695 intent must be specified in the order. A criminal justice agency
696 may not seal any record pertaining to such additional arrests if

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697 the order to seal does not articulate the intention of the court
698 to seal records pertaining to more than one arrest. This section
699 does not prevent the court from ordering the sealing of only a
700 portion of a criminal history record pertaining to one arrest or
701 one incident of alleged criminal activity. Notwithstanding any
702 law to the contrary, a criminal justice agency may comply with
703 laws, court orders, and official requests of other jurisdictions
704 relating to sealing, correction, or confidential handling of
705 criminal history records or information derived therefrom. This
706 section does not confer any right to the sealing of any criminal
707 history record, and any request for sealing a criminal history
708 record may be denied at the sole discretion of the court.

709 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
710 history record of a minor or an adult which is ordered sealed by
711 a court of competent jurisdiction pursuant to this section is
712 confidential and exempt from the provisions of s. 119.07(1) and
713 s. 24(a), Art. I of the State Constitution and is available only
714 to the person who is the subject of the record, to the subject's
715 attorney, to criminal justice agencies for their respective
716 criminal justice purposes, which include conducting a criminal
717 history background check for approval of firearms purchases or
718 transfers as authorized by state or federal law, to judges in
719 the state courts system for the purpose of assisting them in
720 their case-related decisionmaking responsibilities, as set forth
721 in s. 943.053(5), or to those entities set forth in
722 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
723 licensing, access authorization, and employment purposes.

724 (a) The subject of a criminal history record sealed under
725 this section or under other provisions of law, including former

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726 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
727 deny or fail to acknowledge the arrests covered by the sealed
728 record, except when the subject of the record:

- 729 1. Is a candidate for employment with a criminal justice
730 agency;
- 731 2. Is a defendant in a criminal prosecution;
- 732 3. Concurrently or subsequently petitions for relief under
733 this section or s. 943.0585;
- 734 4. Is a candidate for admission to The Florida Bar;
- 735 5. Is seeking to be employed or licensed by or to contract
736 with the Department of Children and Family Services, the Agency
737 for Health Care Administration, the Agency for Persons with
738 Disabilities, or the Department of Juvenile Justice or to be
739 employed or used by such contractor or licensee in a sensitive
740 position having direct contact with children, the
741 developmentally disabled, the aged, or the elderly as provided
742 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
743 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
744 415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;
- 745 6. Is seeking to be employed or licensed by the Department
746 of Education, any district school board, any university
747 laboratory school, any charter school, any private or parochial
748 school, or any local governmental entity that licenses child
749 care facilities;
- 750 7. Is attempting to purchase a firearm from a licensed
751 importer, licensed manufacturer, or licensed dealer and is
752 subject to a criminal history background check under state or
753 federal law; or
- 754 8. Is seeking authorization from a Florida seaport

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755 identified in s. 311.09 for employment within or access to one
756 or more of such seaports pursuant to s. 311.12 ~~or s. 311.125.~~

757 Section 8. This act shall take effect July 1, 2009.