

1 A bill to be entitled
2 An act relating to seaport security; amending s. 311.12,
3 F.S.; deleting provisions relating to statewide minimum
4 standards for seaport security; deleting provisions
5 authorizing the Department of Law Enforcement to exempt
6 all or part of a seaport from specified requirements in
7 certain circumstances; revising provisions relating to
8 seaport security plans; revising requirements for certain
9 secure or restricted areas; deleting provisions requiring
10 that the Department of Law Enforcement administer a
11 statewide seaport access eligibility reporting system;
12 deleting provisions requiring that persons seeking
13 authorization to access secure and restricted areas of a
14 seaport execute an affidavit; prohibiting a seaport from
15 charging any fee for administration or production of
16 access control credentials that require or are associated
17 with a fingerprint-based background check, in addition to
18 the fee for the federal TWIC; providing for issuance of
19 seaport-specific access credentials; deleting provisions
20 requiring fingerprint-based state criminal history checks
21 on seaport employee applicants, current employees, and
22 other authorized persons; deleting provisions authorizing
23 waivers from security requirements in certain
24 circumstances; revising provisions relating to
25 inspections; revising reporting requirements; revising the
26 parties that determine the allocation of appropriated
27 funds for security project needs; amending ss. 311.121,
28 311.123, and 311.124, F.S.; conforming provisions to

29 changes made by the act; repealing s. 311.115, F.S.,
 30 relating to the Seaport Security Standards Advisory
 31 Council; providing an effective date.

32
 33 Be It Enacted by the Legislature of the State of Florida:

34
 35 Section 1. Section 311.12, Florida Statutes, is amended to
 36 read:

37 311.12 Seaport security.—

38 (1) SECURITY STANDARDS.—

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

49 (a) (b) A seaport may implement security measures that are
 50 more stringent, more extensive, or supplemental to the
 51 applicable federal security regulations, including federal
 52 facility security assessment requirements under 33 C.F.R. s.
 53 105.305 ~~minimum security standards established by this~~
 54 ~~subsection.~~

55 (b) (c) The provisions of s. 790.251 are not superseded,
 56 preempted, or otherwise modified in any way by the provisions of

57 | this section.

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

66 | (2)(3) SECURITY PLAN.-

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

72 | (b)(a) Each seaport ~~Every 5 years after January 1, 2007,~~
 73 | ~~each seaport director, with the assistance of the Regional~~
 74 | ~~Domestic Security Task Force and in conjunction with the United~~
 75 | ~~States Coast Guard,~~ shall periodically revise the seaport's
 76 | security plan based on the seaport's director's ongoing
 77 | assessment of security risks, the risks of terrorist activities,
 78 | and the specific and identifiable needs of the seaport for
 79 | ensuring that the seaport is in substantial compliance with
 80 | applicable federal security regulations, including federal
 81 | facility security assessment requirements under 33 C.F.R. s.
 82 | 105.305 ~~the minimum security standards established under~~
 83 | ~~subsection (1).~~

84 | ~~(b) Each adopted or revised security plan must be reviewed~~

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85 ~~and approved by the Office of Drug Control and the Department of~~
86 ~~Law Enforcement for compliance with federal facility security~~
87 ~~assessment requirements under 33 C.F.R. s. 105.305 and the~~
88 ~~minimum security standards established under subsection (1).~~
89 ~~Within 30 days after completion, a copy of the written review~~
90 ~~shall be delivered to the United States Coast Guard, the~~
91 ~~Regional Domestic Security Task Force, and the Domestic Security~~
92 ~~Oversight Council.~~

93 (3)~~(4)~~ SECURE AND RESTRICTED AREAS.—Each seaport listed in
94 s. 311.09 must clearly designate in seaport security plans, and
95 clearly identify with appropriate signs and markers on the
96 premises of a seaport, all secure and restricted areas as
97 defined by the United States Department of Homeland Security—
98 United States Coast Guard Navigation and Vessel Inspection
99 Circular No. 03-07 and 49 C.F.R. part 1572. ~~The plans must also~~
100 ~~address access eligibility requirements and corresponding~~
101 ~~security enforcement authorizations.~~

102 (a) ~~The seaport's security plan must set forth the~~
103 ~~conditions and restrictions to be imposed on persons employed~~
104 ~~at, doing business at, or visiting the seaport who have access~~
105 ~~to secure and restricted areas which are sufficient to provide~~
106 ~~substantial compliance with the minimum security standards~~
107 ~~established in subsection (1) and federal regulations.~~

108 1. All seaport employees and other persons working at the
109 seaport who have regular access to secure or restricted areas
110 must comply with federal access control regulations ~~and state~~
111 ~~criminal history checks~~ as prescribed in this section.

112 2. All persons and objects in secure and restricted areas

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113 are subject to search by a sworn state-certified law enforcement
114 officer, a Class D seaport security officer certified under
115 Maritime Transportation Security Act of 2002 guidelines ~~and s.~~
116 ~~311.121~~, or an employee of the seaport security force certified
117 under the Maritime Transportation Security Act of 2002
118 guidelines ~~and s. 311.121~~.

119 3. Persons found in these areas without the proper
120 permission are subject to the trespass provisions of ss. 810.08
121 and 810.09.

122 ~~(b) As determined by the seaport director's most current~~
123 ~~risk assessment under paragraph (3) (a), any secure or restricted~~
124 ~~area that has a potential human occupancy of 50 persons or more,~~
125 ~~any cruise terminal, or any business operation that is adjacent~~
126 ~~to a public access area must be protected from the most probable~~
127 ~~and credible terrorist threat to human life.~~

128 (b) ~~(e)~~ The seaport must provide clear notice of the
129 prohibition against possession of concealed weapons and other
130 contraband material on the premises of the seaport. Any person
131 in a restricted area who has in his or her possession a
132 concealed weapon, or who operates or has possession or control
133 of a vehicle in or upon which a concealed weapon is placed or
134 stored, commits a misdemeanor of the first degree, punishable as
135 provided in s. 775.082 or s. 775.083. This paragraph does not
136 apply to active-duty certified federal or state law enforcement
137 personnel or persons so designated by the seaport director in
138 writing.

139 (c) ~~(d)~~ During a period of high terrorist threat level, as
140 designated by the United States Department of Homeland Security

141 or the Department of Law Enforcement, or during an emergency
 142 declared at a port by the seaport security director due to
 143 events applicable to that particular seaport, the management or
 144 controlling authority of the port may temporarily designate any
 145 part of the seaport property as a secure or restricted area. The
 146 duration of such designation is limited to the period in which
 147 the high terrorist threat level is in effect or a port emergency
 148 exists.

149 ~~(5) ACCESS ELIGIBILITY REPORTING SYSTEM. Subject to~~
 150 ~~legislative appropriations, the Department of Law Enforcement~~
 151 ~~shall administer a statewide seaport access eligibility~~
 152 ~~reporting system.~~

153 ~~(a) The system must include, at a minimum, the following:~~

154 ~~1. A centralized, secure method of collecting and~~
 155 ~~maintaining fingerprints, other biometric data, or other means~~
 156 ~~of confirming the identity of persons authorized to enter a~~
 157 ~~secure or restricted area of a seaport.~~

158 ~~2. A methodology for receiving from and transmitting~~
 159 ~~information to each seaport regarding a person's authority to~~
 160 ~~enter a secure or restricted area of the seaport.~~

161 ~~3. A means for receiving prompt notification from a~~
 162 ~~seaport when a person's authorization to enter a secure or~~
 163 ~~restricted area of a seaport has been suspended or revoked.~~

164 ~~4. A means to communicate to seaports when a person's~~
 165 ~~authorization to enter a secure or restricted area of a seaport~~
 166 ~~has been suspended or revoked.~~

167 ~~(b) Each seaport listed in s. 311.09 is responsible for~~
 168 ~~granting, modifying, restricting, or denying access to secure~~

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169 ~~and restricted areas to seaport employees, other persons working~~
170 ~~at the seaport, visitors who have business with the seaport, or~~
171 ~~other persons regularly appearing at the seaport. Based upon the~~
172 ~~person's criminal history check, each seaport may determine the~~
173 ~~specific access eligibility to be granted to that person. Each~~
174 ~~seaport is responsible for access eligibility verification at~~
175 ~~its location.~~

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

180 ~~(d) All information submitted to the department regarding~~
181 ~~a person's access eligibility screening may be retained by the~~
182 ~~department for subsequent use in promoting seaport security,~~
183 ~~including, but not limited to, the review of the person's~~
184 ~~criminal history status to ensure that the person has not become~~
185 ~~disqualified for such access.~~

186 ~~(e) The following fees may not be charged by more than one~~
187 ~~seaport and shall be paid by the seaport, another employing~~
188 ~~entity, or the person being entered into the system to the~~
189 ~~department or to the seaport if the seaport is acting as an~~
190 ~~agent of the department for the purpose of collecting the fees:~~

191 ~~1. The cost of the state criminal history check under~~
192 ~~subsection (7).~~

193 ~~2. A \$50 fee to cover the initial cost of entering the~~
194 ~~person into the system and an additional \$50 fee every 5 years~~
195 ~~thereafter to coincide with the issuance of the federal~~
196 ~~Transportation Worker Identification Credential described in~~

197 ~~subsection (6). The fee covers all costs for entering or~~
198 ~~maintaining the person in the system including the retention and~~
199 ~~use of the person's fingerprint, other biometric data, or other~~
200 ~~identifying information.~~

201 ~~3. The seaport entering the person into the system may~~
202 ~~charge an administrative fee to cover, but not exceed, the~~
203 ~~seaport's actual administrative costs for processing the results~~
204 ~~of the state criminal history check and entering the person into~~
205 ~~the system.~~

206 ~~(f) All fees identified in paragraph (e) must be paid~~
207 ~~before the person may be granted access to a secure or~~
208 ~~restricted area. Failure to comply with the criminal history~~
209 ~~check and failure to pay the fees are grounds for immediate~~
210 ~~denial of access.~~

211 ~~(g) Persons, corporations, or other business entities that~~
212 ~~employ persons to work or do business at seaports shall notify~~
213 ~~the seaport of the termination, resignation, work-related~~
214 ~~incapacitation, or death of an employee who has access~~
215 ~~permission.~~

216 ~~1. If the seaport determines that the person has been~~
217 ~~employed by another appropriate entity or is self-employed for~~
218 ~~purposes of performing work at the seaport, the seaport may~~
219 ~~reinstate the person's access eligibility.~~

220 ~~2. A business entity's failure to report a change in an~~
221 ~~employee's work status within 7 days after the change may result~~
222 ~~in revocation of the business entity's access to the seaport.~~

223 ~~(h) In addition to access permissions granted or denied by~~
224 ~~seaports, access eligibility may be restricted or revoked by the~~

225 ~~department if there is a reasonable suspicion that the person is~~
 226 ~~involved in terrorism or criminal violations that could affect~~
 227 ~~the security of a port or otherwise render the person ineligible~~
 228 ~~for seaport access.~~

229 ~~(i) Any suspension or revocation of port access must be~~
 230 ~~reported by the seaport to the department within 24 hours after~~
 231 ~~such suspension or revocation.~~

232 ~~(j) The submission of information known to be false or~~
 233 ~~misleading to the department for entry into the system is a~~
 234 ~~felony of the third degree, punishable as provided in s.~~
 235 ~~775.082, s. 775.083, or s. 775.084.~~

236 (4)(6) ACCESS TO SECURE AND RESTRICTED AREAS.-

237 (a) Any person seeking authorization for unescorted access
 238 to secure and restricted areas of a seaport must possess, ~~unless~~
 239 ~~waived under paragraph (7)(e),~~ a valid federal Transportation
 240 Worker Identification Credential (TWIC).

241 (b) A seaport may not charge any fee for the
 242 administration or production of any access control credential
 243 that requires or is associated with a fingerprint-based
 244 background check, in addition to the fee for the federal TWIC. A
 245 seaport may issue its own seaport-specific access credential and
 246 may charge a fee no greater than its actual administrative costs
 247 for the production and issuance of the credential. and execute
 248 ~~an affidavit under oath which provides TWIC identification~~
 249 ~~information and indicates the following:~~

250 ~~1. The TWIC is currently valid and in full force and~~
 251 ~~effect.~~

252 ~~2. The TWIC was not received through the waiver process~~

253 ~~for disqualifying criminal history allowed by federal law.~~

254 ~~3. He or she has not, in any jurisdiction, civilian or~~
255 ~~military, been convicted of, entered a plea of guilty or nolo~~
256 ~~contendere to, regardless of adjudication, or been found not~~
257 ~~guilty by reason of insanity, of any disqualifying felony under~~
258 ~~subsection (7) or any crime that includes the use or possession~~
259 ~~of a firearm.~~

260 ~~(b) Upon submission of a completed affidavit as provided~~
261 ~~in paragraph (a), the completion of the state criminal history~~
262 ~~check as provided in subsection (7), and payment of all required~~
263 ~~fees under subsection (5), a seaport may grant the person access~~
264 ~~to secure or restricted areas of the port.~~

265 ~~(c) Any port granting a person access to secure or~~
266 ~~restricted areas shall report the grant of access to the~~
267 ~~Department of Law Enforcement for inclusion in the access~~
268 ~~eligibility reporting system under subsection (5) within 3~~
269 ~~business days.~~

270 ~~(d) The submission of false information on the affidavit~~
271 ~~required by this section is a felony of the third degree,~~
272 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~
273 ~~Upon conviction for a violation of this provision, the person~~
274 ~~convicted forfeits all privilege of access to secure or~~
275 ~~restricted areas of a seaport and is disqualified from future~~
276 ~~approval for access to such areas.~~

277 ~~(e) Any affidavit form created for use under this~~
278 ~~subsection must contain the following statement in conspicuous~~
279 ~~type: "SUBMISSION OF FALSE INFORMATION ON THIS AFFIDAVIT IS A~~
280 ~~FELONY UNDER FLORIDA LAW AND WILL, UPON CONVICTION, RESULT IN~~

281 ~~DISQUALIFICATION FOR ACCESS TO A SECURE OR RESTRICTED AREA OF A~~
 282 ~~SEAPORT."~~

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

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

292 ~~(a) A person is disqualified from employment or unescorted~~
 293 ~~access if the person:~~

294 ~~1. Was convicted of, or entered a plea of guilty or nolo~~
 295 ~~contendere to, regardless of adjudication, any of the offenses~~
 296 ~~listed in paragraph (b) in any jurisdiction, civilian or~~
 297 ~~military, including courts-martial conducted by the Armed Forces~~
 298 ~~of the United States, during the 7 years before the date of the~~
 299 ~~person's application for access; or~~

300 ~~2. Was released from incarceration, or any supervision~~
 301 ~~imposed as a result of sentencing, for committing any of the~~
 302 ~~disqualifying crimes listed in paragraph (b) in any~~
 303 ~~jurisdiction, civilian or military, during the 5 years before~~
 304 ~~the date of the person's application for access.~~

305 ~~(b) Disqualifying offenses include:~~

306 ~~1. An act of terrorism as defined in s. 775.30.~~

307 ~~2. A violation involving a weapon of mass destruction or a~~
 308 ~~hoax weapon of mass destruction as provided in s. 790.166.~~

- 309 | ~~3. Planting of a hoax bomb as provided in s. 790.165.~~
- 310 | ~~4. A violation of s. 876.02 or s. 876.36.~~
- 311 | ~~5. A violation of s. 860.065.~~
- 312 | ~~6. Trafficking as provided in s. 893.135.~~
- 313 | ~~7. Racketeering activity as provided in s. 895.03.~~
- 314 | ~~8. Dealing in stolen property as provided in s. 812.019.~~
- 315 | ~~9. Money laundering as provided in s. 896.101.~~
- 316 | ~~10. Criminal use of personal identification as provided in~~
- 317 | ~~s. 817.568.~~
- 318 | ~~11. Bribery as provided in s. 838.015.~~
- 319 | ~~12. A violation of s. 316.302, relating to the transport~~
- 320 | ~~of hazardous materials.~~
- 321 | ~~13. A forcible felony as defined in s. 776.08.~~
- 322 | ~~14. A violation of s. 790.07.~~
- 323 | ~~15. Any crime that includes the use or possession of a~~
- 324 | ~~firearm.~~
- 325 | ~~16. A felony violation for theft as provided in s.~~
- 326 | ~~812.014.~~
- 327 | ~~17. Robbery as provided in s. 812.13.~~
- 328 | ~~18. Burglary as provided in s. 810.02.~~
- 329 | ~~19. Any violation involving the sale, manufacture,~~
- 330 | ~~delivery, or possession with intent to sell, manufacture, or~~
- 331 | ~~deliver a controlled substance.~~
- 332 | ~~20. Any offense under the laws of another jurisdiction~~
- 333 | ~~that is similar to an offense listed in this paragraph.~~
- 334 | ~~21. Conspiracy or attempt to commit any of the offenses~~
- 335 | ~~listed in this paragraph.~~
- 336 | ~~(c) Each individual who is subject to a criminal history~~

337 ~~check shall file a complete set of fingerprints taken in a~~
338 ~~manner acceptable to the Department of Law Enforcement for state~~
339 ~~processing. The results of the criminal history check must be~~
340 ~~reported to the requesting seaport and may be shared among~~
341 ~~seaports.~~

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

355 ~~(e) The Department of Law Enforcement shall establish a~~
356 ~~waiver process for a person who does not have a TWIC, obtained a~~
357 ~~TWIC through a federal waiver process, or is found to be~~
358 ~~unqualified under paragraph (a) and denied employment by a~~
359 ~~seaport or unescorted access to secure or restricted areas. If~~
360 ~~the person does not have a TWIC and a federal criminal history~~
361 ~~record check is required, the Department of Law Enforcement may~~
362 ~~forward the person's fingerprints to the Federal Bureau of~~
363 ~~Investigation for a national criminal history record check. The~~
364 ~~cost of the national check must be paid by the seaport, which~~

365 ~~may collect it as reimbursement from the person.~~

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

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

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

385 ~~4. The department shall make a final disposition of the~~
 386 ~~waiver request based on the factual findings of the~~
 387 ~~investigation by the Parole Commission. The department shall~~
 388 ~~notify the waiver applicant of the final disposition of the~~
 389 ~~waiver.~~

390 ~~5. The review process under this paragraph is exempt from~~
 391 ~~chapter 120.~~

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

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393 ~~the department each instance of denial of employment within, or~~
394 ~~access to, secure or restricted areas, and each instance waiving~~
395 ~~a denial occurring during the last 12 months. The report must~~
396 ~~include the identity of the individual affected, the factors~~
397 ~~supporting the denial or waiver, and any other material factors~~
398 ~~used to make the determination.~~

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

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

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

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421 ~~(a) Waiver requests shall be submitted in writing, along~~
422 ~~with supporting documentation, to the Office of Drug Control and~~
423 ~~the Department of Law Enforcement. The office and the department~~
424 ~~have 90 days to jointly grant or reject the waiver, in whole or~~
425 ~~in part.~~

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

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

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

439 ~~(5)-(9)~~ INSPECTIONS.—It is the intent of the Legislature
440 that the state's seaports adhere to security practices that are
441 consistent with the risks assigned to each seaport through the
442 ongoing risk assessment process established in paragraph
443 ~~(2)-(3)~~ (a).

444 (a) The Department of Law Enforcement, or any entity
445 designated by the department, may ~~shall~~ conduct at least one
446 ~~annual~~ unannounced inspections ~~inspection~~ of each seaport to
447 determine whether the seaport is meeting the requirements under
448 33 C.F.R. s. 105.305 ~~minimum security standards established~~

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449 ~~pursuant to subsection (1)~~ and to identify seaport security
450 changes or improvements needed or otherwise recommended.

451 (b) The Department of Law Enforcement, or any entity
452 designated by the department, may conduct additional announced
453 or unannounced inspections or operations within or affecting any
454 seaport to test compliance with, or the effectiveness of,
455 security plans and operations at each seaport, to determine
456 compliance with physical facility requirements and standards, ~~or~~
457 ~~to assist the department in identifying changes or improvements~~
458 ~~needed to bring a seaport into compliance with minimum security~~
459 ~~standards.~~

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

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

472 (e) All seaports shall allow the Department of Law
473 Enforcement, or an entity designated by the department,
474 unimpeded access to affected areas and facilities for the
475 purpose of plan or compliance inspections or other operations
476 authorized by this section.

477 (6) ~~(10)~~ REPORTS.—The Department of Law Enforcement, ~~in~~
 478 ~~consultation with the Office of Drug Control,~~ shall annually
 479 complete a report indicating the observations and findings of
 480 all reviews, inspections, or other operations relating to the
 481 seaports conducted during the year and any recommendations
 482 resulting from such reviews, inspections, and operations. A copy
 483 of the report shall be provided to the Governor, the President
 484 of the Senate, the Speaker of the House of Representatives, the
 485 governing body of each seaport or seaport authority, and each
 486 seaport director. The report must include each director's
 487 response indicating what actions, if any, have been taken or are
 488 planned to be taken pursuant to the observations, findings, and
 489 recommendations reported by the department.

490 (7) ~~(11)~~ FUNDING.—

491 (a) In making decisions regarding security projects or
 492 other funding applicable to each seaport listed in s. 311.09,
 493 the Legislature may consider the Department of Law Enforcement's
 494 annual report under subsection (6) ~~(10)~~ as authoritative, ~~and~~
 495 ~~especially regarding each seaport's degree of substantial~~
 496 ~~compliance with the minimum security standards established in~~
 497 ~~subsection (1).~~

498 (b) The Legislature shall regularly review the ongoing
 499 costs of operational security on seaports, the impacts of this
 500 section on those costs, mitigating factors that may reduce costs
 501 without reducing security, and the methods by which seaports may
 502 implement operational security using a combination of sworn law
 503 enforcement officers and private security services.

504 (c) Subject to the provisions of this chapter and

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505 appropriations made for seaport security, state funds may not be
506 expended for security costs without certification of need for
507 such expenditures by the Office of Ports Administrator within
508 the Department of Law Enforcement.

509 (d) If funds are appropriated for seaport security, ~~the~~
510 ~~Office of Drug Control,~~ the Department of Law Enforcement, and
511 the Florida Seaport Transportation and Economic Development
512 Council shall mutually determine the allocation of such funds
513 for security project needs identified in the approved seaport
514 security plans. Any seaport that receives state funds for
515 security projects must enter into a joint participation
516 agreement with the appropriate state entity and use the seaport
517 security plan as the basis for the agreement.

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

522 2. The agreement may include specific timeframes for
523 completion of a security project and the applicable funding
524 reimbursement dates. The agreement may also require a
525 contractual penalty of up to \$1,000 per day to be imposed for
526 failure to meet project completion dates if state funding is
527 available. Any such penalty shall be deposited into the State
528 Transportation Trust Fund and used for seaport security
529 operations and capital improvements.

530 Section 2. Subsection (2) of section 311.121, Florida
531 Statutes, is amended to read:

532 311.121 Qualifications, training, and certification of

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533 licensed security officers at Florida seaports.—

534 (2) The authority or governing board of each seaport
 535 identified under s. 311.09 that is subject to the ~~statewide~~
 536 ~~minimum~~ seaport security standards referenced ~~established~~ in s.
 537 311.12 shall require that a candidate for certification as a
 538 seaport security officer:

539 (a) Has received a Class D license as a security officer
 540 under chapter 493.

541 (b) Has successfully completed the certified training
 542 curriculum for a Class D license or has been determined by the
 543 Department of Agriculture and Consumer Services to have
 544 equivalent experience as established by rule of the department.

545 (c) Has completed the training or training equivalency and
 546 testing process established by this section for becoming a
 547 certified seaport security officer.

548 Section 3. Subsection (1) of section 311.123, Florida
 549 Statutes, is amended to read:

550 311.123 Maritime domain security awareness training
 551 program.—

552 (1) The Florida Seaport Transportation and Economic
 553 Development Council, in conjunction with the Department of Law
 554 Enforcement ~~and the Office of Drug Control within the Executive~~
 555 ~~Office of the Governor~~, shall create a maritime domain security
 556 awareness training program to instruct all personnel employed
 557 within a seaport's boundaries about the security procedures
 558 required of them for implementation of the seaport security plan
 559 required under s. 311.12 (2) ~~(3)~~.

560 Section 4. Subsection (1) of section 311.124, Florida

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561 Statutes, is amended to read:

562 311.124 Trespassing; detention by a certified seaport
563 security officer.—

564 (1) Any Class D or Class G seaport security officer
565 certified under the federal Maritime Transportation Security Act
566 of 2002 guidelines ~~and s. 311.121~~ or any employee of the seaport
567 security force certified under the federal Maritime
568 Transportation Security Act of 2002 guidelines ~~and s. 311.121~~
569 who has probable cause to believe that a person is trespassing
570 pursuant to s. 810.08 or s. 810.09 or this chapter in a
571 designated secure or restricted area pursuant to s. 311.12 (3) ~~(4)~~
572 is authorized to detain such person in a reasonable manner for a
573 reasonable period of time pending the arrival of a law
574 enforcement officer, and such action does not render the
575 security officer criminally or civilly liable for false arrest,
576 false imprisonment, or unlawful detention.

577 Section 5. Section 311.115, Florida Statutes, is repealed.

578 Section 6. This act shall take effect July 1, 2011.