

1                   A bill to be entitled  
2           An act relating to seaports; amending s. 311.12, F.S.;  
3           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; revising provisions relating  
10          to when a part of a seaport property may temporarily be  
11          designated as a secure or restricted area; deleting  
12          provisions requiring that the Department of Law  
13          Enforcement administer a statewide seaport access  
14          eligibility reporting system; deleting provisions  
15          requiring that persons seeking authorization to access  
16          secure and restricted areas of a seaport execute an  
17          affidavit; prohibiting a seaport from charging any fee for  
18          administration or production of access control credentials  
19          that require or are associated with a fingerprint-based  
20          background check, in addition to the fee for the federal  
21          TWIC; providing exceptions; providing for issuance of  
22          seaport-specific access credentials; deleting provisions  
23          requiring fingerprint-based state criminal history checks  
24          on seaport employee applicants, current employees, and  
25          other authorized persons; deleting provisions authorizing  
26          waivers from security requirements in certain  
27          circumstances; revising provisions relating to  
28          inspections; revising reporting requirements; revising the

29 parties that determine the allocation of appropriated  
 30 funds for security project needs; amending ss. 311.121,  
 31 311.123, and 311.124, F.S.; conforming provisions to  
 32 changes made by the act; repealing s. 311.115, F.S.,  
 33 relating to the Seaport Security Standards Advisory  
 34 Council; amending s. 310.002, F.S.; redefining the term  
 35 "port" for specified provisions to include Port Citrus;  
 36 amending s. 311.09, F.S.; including a representative of  
 37 Port Citrus as a member of the Florida Seaport  
 38 Transportation and Economic Development Council; amending  
 39 s. 374.976, F.S.; including Port Citrus in provisions  
 40 relating to the authority of inland navigation districts;  
 41 amending s. 403.021, F.S.; including Port Citrus in  
 42 legislative declarations relating to environmental  
 43 control; amending s. 403.061, F.S.; including Port Citrus  
 44 in provisions relating to powers of the Department of  
 45 Environmental Protection; amending s. 403.813, F.S.;  
 46 including Port Citrus in provisions relating to permits  
 47 issued at Department of Environmental Protection district  
 48 centers; amending s. 403.816, F.S.; including Port Citrus  
 49 in provisions relating to certain maintenance projects at  
 50 deepwater ports and beach restoration projects; providing  
 51 an effective date.

52  
 53 Be It Enacted by the Legislature of the State of Florida:

54  
 55 Section 1. Section 311.12, Florida Statutes, is amended to  
 56 read:

CS/CS/HB 283

2011

57 | 311.12 Seaport security.—

58 | (1) SECURITY STANDARDS.—

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

69 | (a)(b) A seaport may implement security measures that are  
70 | more stringent, more extensive, or supplemental to the  
71 | applicable federal security regulations, including federal  
72 | facility security assessment requirements under 33 C.F.R. s.  
73 | 105.305 ~~minimum security standards established by this~~  
74 | ~~subsection.~~

75 | (b)(e) The provisions of s. 790.251 are not superseded,  
76 | preempted, or otherwise modified in any way by the provisions of  
77 | this section.

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

85 ~~removal of all or part of the exemption.~~

86 ~~(2)(3)~~ SECURITY PLAN.—

87 (a) Each seaport listed in s. 311.09 shall adopt and  
88 maintain a security plan specific to that seaport which provides  
89 for a secure seaport infrastructure that promotes the safety and  
90 security of state residents and visitors and the flow of  
91 legitimate trade and travel.

92 ~~(b)(a)~~ Each seaport ~~Every 5 years after January 1, 2007,~~  
93 ~~each seaport director, with the assistance of the Regional~~  
94 ~~Domestic Security Task Force and in conjunction with the United~~  
95 ~~States Coast Guard,~~ shall periodically revise the seaport's  
96 security plan based on the seaport's director's ongoing  
97 assessment of security risks, the risks of terrorist activities,  
98 and the specific and identifiable needs of the seaport for  
99 ensuring that the seaport is in substantial compliance with  
100 applicable federal security regulations, including federal  
101 facility security assessment requirements under 33 C.F.R. s.  
102 105.305 ~~the minimum security standards established under~~  
103 ~~subsection (1).~~

104 ~~(b)~~ ~~Each adopted or revised security plan must be reviewed~~  
105 ~~and approved by the Office of Drug Control and the Department of~~  
106 ~~Law Enforcement for compliance with federal facility security~~  
107 ~~assessment requirements under 33 C.F.R. s. 105.305 and the~~  
108 ~~minimum security standards established under subsection (1).~~  
109 ~~Within 30 days after completion, a copy of the written review~~  
110 ~~shall be delivered to the United States Coast Guard, the~~  
111 ~~Regional Domestic Security Task Force, and the Domestic Security~~  
112 ~~Oversight Council.~~

113        (3)~~(4)~~ SECURE AND RESTRICTED AREAS.—Each seaport listed in  
114 s. 311.09 must clearly designate in seaport security plans, and  
115 clearly identify with appropriate signs and markers on the  
116 premises of a seaport, all secure and restricted areas as  
117 defined by 33 C.F.R. part 105 ~~the United States Department of~~  
118 ~~Homeland Security United States Coast Guard Navigation and~~  
119 ~~Vessel Inspection Circular No. 03-07 and 49 C.F.R. part 1572.~~  
120 ~~The plans must also address access eligibility requirements and~~  
121 ~~corresponding security enforcement authorizations.~~

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

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

132        2. All persons and objects in secure and restricted areas  
133 are subject to search by a sworn state-certified law enforcement  
134 officer, a Class D seaport security officer certified under  
135 Maritime Transportation Security Act of 2002 guidelines ~~and s.~~  
136 ~~311.121~~, or an employee of the seaport security force certified  
137 under the Maritime Transportation Security Act of 2002  
138 guidelines ~~and s. 311.121~~.

139        3. Persons found in these areas without the proper  
140 permission are subject to the trespass provisions of ss. 810.08

141 and 810.09.

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

148 (b)~~(e)~~ The seaport must provide clear notice of the  
149 prohibition against possession of concealed weapons and other  
150 contraband material on the premises of the seaport. Any person  
151 in a restricted area who has in his or her possession a  
152 concealed weapon, or who operates or has possession or control  
153 of a vehicle in or upon which a concealed weapon is placed or  
154 stored, commits a misdemeanor of the first degree, punishable as  
155 provided in s. 775.082 or s. 775.083. This paragraph does not  
156 apply to active-duty certified federal or state law enforcement  
157 personnel or persons so designated by the seaport director in  
158 writing.

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

169       ~~(5) ACCESS ELIGIBILITY REPORTING SYSTEM. Subject to~~  
170 ~~legislative appropriations, the Department of Law Enforcement~~  
171 ~~shall administer a statewide seaport access eligibility~~  
172 ~~reporting system.~~

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

174           ~~1. A centralized, secure method of collecting and~~  
175 ~~maintaining fingerprints, other biometric data, or other means~~  
176 ~~of confirming the identity of persons authorized to enter a~~  
177 ~~secure or restricted area of a seaport.~~

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

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

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

187       ~~(b) Each seaport listed in s. 311.09 is responsible for~~  
188 ~~granting, modifying, restricting, or denying access to secure~~  
189 ~~and restricted areas to seaport employees, other persons working~~  
190 ~~at the seaport, visitors who have business with the seaport, or~~  
191 ~~other persons regularly appearing at the seaport. Based upon the~~  
192 ~~person's criminal history check, each seaport may determine the~~  
193 ~~specific access eligibility to be granted to that person. Each~~  
194 ~~seaport is responsible for access eligibility verification at~~  
195 ~~its location.~~

196       ~~(c) Upon determining that a person is eligible to enter a~~

197 ~~secure or restricted area of a port pursuant to subsections (6)~~  
198 ~~and (7), the seaport shall, within 3 business days, report the~~  
199 ~~determination to the department for inclusion in the system.~~

200 ~~(d) All information submitted to the department regarding~~  
201 ~~a person's access eligibility screening may be retained by the~~  
202 ~~department for subsequent use in promoting seaport security,~~  
203 ~~including, but not limited to, the review of the person's~~  
204 ~~criminal history status to ensure that the person has not become~~  
205 ~~disqualified for such access.~~

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

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

213 ~~2. A \$50 fee to cover the initial cost of entering the~~  
214 ~~person into the system and an additional \$50 fee every 5 years~~  
215 ~~thereafter to coincide with the issuance of the federal~~  
216 ~~Transportation Worker Identification Credential described in~~  
217 ~~subsection (6). The fee covers all costs for entering or~~  
218 ~~maintaining the person in the system including the retention and~~  
219 ~~use of the person's fingerprint, other biometric data, or other~~  
220 ~~identifying information.~~

221 ~~3. The seaport entering the person into the system may~~  
222 ~~charge an administrative fee to cover, but not exceed, the~~  
223 ~~seaport's actual administrative costs for processing the results~~  
224 ~~of the state criminal history check and entering the person into~~



225 ~~the system.~~

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

231 ~~(g) Persons, corporations, or other business entities that~~  
232 ~~employ persons to work or do business at seaports shall notify~~  
233 ~~the seaport of the termination, resignation, work-related~~  
234 ~~incapacitation, or death of an employee who has access~~  
235 ~~permission.~~

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

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

243 ~~(h) In addition to access permissions granted or denied by~~  
244 ~~seaports, access eligibility may be restricted or revoked by the~~  
245 ~~department if there is a reasonable suspicion that the person is~~  
246 ~~involved in terrorism or criminal violations that could affect~~  
247 ~~the security of a port or otherwise render the person ineligible~~  
248 ~~for seaport access.~~

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

252 ~~(j) The submission of information known to be false or~~

253 ~~misleading to the department for entry into the system is a~~  
 254 ~~felony of the third degree, punishable as provided in s.~~  
 255 ~~775.082, s. 775.083, or s. 775.084.~~

256 (4) ~~(6)~~ ACCESS TO SECURE AND RESTRICTED AREAS.—

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

261 (b) A seaport may not charge a fee for the administration  
 262 or production of any access control credential that requires or  
 263 is associated with a fingerprint-based background check, in  
 264 addition to the fee for the federal TWIC. Beginning July 1,  
 265 2013, a seaport may not charge a fee for a seaport-specific  
 266 access credential issued in addition to the federal TWIC, except  
 267 under the following circumstances:

268 1. The individual seeking to gain secured access is a new  
 269 hire as defined under 33 C.F.R. s. 105; or

270 2. The individual has lost or misplaced his or her federal  
 271 TWIC. and execute an affidavit under oath which provides TWIC  
 272 identification information and indicates the following:

273 1. The TWIC is currently valid and in full force and  
 274 effect.

275 2. The TWIC was not received through the waiver process  
 276 for disqualifying criminal history allowed by federal law.

277 3. He or she has not, in any jurisdiction, civilian or  
 278 military, been convicted of, entered a plea of guilty or nolo  
 279 contendere to, regardless of adjudication, or been found not  
 280 guilty by reason of insanity, of any disqualifying felony under

281 ~~subsection (7) or any crime that includes the use or possession~~  
282 ~~of a firearm.~~

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

288 ~~(c) Any port granting a person access to secure or~~  
289 ~~restricted areas shall report the grant of access to the~~  
290 ~~Department of Law Enforcement for inclusion in the access~~  
291 ~~eligibility reporting system under subsection (5) within 3~~  
292 ~~business days.~~

293 ~~(d) The submission of false information on the affidavit~~  
294 ~~required by this section is a felony of the third degree,~~  
295 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~  
296 ~~Upon conviction for a violation of this provision, the person~~  
297 ~~convicted forfeits all privilege of access to secure or~~  
298 ~~restricted areas of a seaport and is disqualified from future~~  
299 ~~approval for access to such areas.~~

300 ~~(e) Any affidavit form created for use under this~~  
301 ~~subsection must contain the following statement in conspicuous~~  
302 ~~type: "SUBMISSION OF FALSE INFORMATION ON THIS AFFIDAVIT IS A~~  
303 ~~FELONY UNDER FLORIDA LAW AND WILL, UPON CONVICTION, RESULT IN~~  
304 ~~DISQUALIFICATION FOR ACCESS TO A SECURE OR RESTRICTED AREA OF A~~  
305 ~~SEAPORT."~~

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

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

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

317 ~~1. Was convicted of, or entered a plea of guilty or nolo~~  
 318 ~~contendere to, regardless of adjudication, any of the offenses~~  
 319 ~~listed in paragraph (b) in any jurisdiction, civilian or~~  
 320 ~~military, including courts martial conducted by the Armed Forces~~  
 321 ~~of the United States, during the 7 years before the date of the~~  
 322 ~~person's application for access; or~~

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

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

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

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

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

333 ~~4. A violation of s. 876.02 or s. 876.36.~~

334 ~~5. A violation of s. 860.065.~~

335 ~~6. Trafficking as provided in s. 893.135.~~

336 ~~7. Racketeering activity as provided in s. 895.03.~~

- 337 ~~8. Dealing in stolen property as provided in s. 812.019.~~
- 338 ~~9. Money laundering as provided in s. 896.101.~~
- 339 ~~10. Criminal use of personal identification as provided in~~
- 340 ~~s. 817.568.~~
- 341 ~~11. Bribery as provided in s. 838.015.~~
- 342 ~~12. A violation of s. 316.302, relating to the transport~~
- 343 ~~of hazardous materials.~~
- 344 ~~13. A forcible felony as defined in s. 776.08.~~
- 345 ~~14. A violation of s. 790.07.~~
- 346 ~~15. Any crime that includes the use or possession of a~~
- 347 ~~firearm.~~
- 348 ~~16. A felony violation for theft as provided in s.~~
- 349 ~~812.014.~~
- 350 ~~17. Robbery as provided in s. 812.13.~~
- 351 ~~18. Burglary as provided in s. 810.02.~~
- 352 ~~19. Any violation involving the sale, manufacture,~~
- 353 ~~delivery, or possession with intent to sell, manufacture, or~~
- 354 ~~deliver a controlled substance.~~
- 355 ~~20. Any offense under the laws of another jurisdiction~~
- 356 ~~that is similar to an offense listed in this paragraph.~~
- 357 ~~21. Conspiracy or attempt to commit any of the offenses~~
- 358 ~~listed in this paragraph.~~
- 359 ~~(c) Each individual who is subject to a criminal history~~
- 360 ~~check shall file a complete set of fingerprints taken in a~~
- 361 ~~manner acceptable to the Department of Law Enforcement for state~~
- 362 ~~processing. The results of the criminal history check must be~~
- 363 ~~reported to the requesting seaport and may be shared among~~
- 364 ~~seaports.~~

365 ~~(d) All fingerprints submitted to the Department of Law~~  
366 ~~Enforcement shall be retained by the department and entered into~~  
367 ~~the statewide automated fingerprint identification system~~  
368 ~~established in s. 943.05(2)(b) and available for use in~~  
369 ~~accordance with s. 943.05(2)(g) and (h). An arrest record that~~  
370 ~~is identified with the retained fingerprints of a person subject~~  
371 ~~to the screening shall be reported to the seaport where the~~  
372 ~~person has been granted access to a secure or restricted area.~~  
373 ~~If the fingerprints of a person who has been granted access were~~  
374 ~~not retained, or are otherwise not suitable for use by the~~  
375 ~~department, the person must be refingerprinted in a manner that~~  
376 ~~allows the department to perform its functions as provided in~~  
377 ~~this section.~~

378 ~~(e) The Department of Law Enforcement shall establish a~~  
379 ~~waiver process for a person who does not have a TWIC, obtained a~~  
380 ~~TWIC through a federal waiver process, or is found to be~~  
381 ~~unqualified under paragraph (a) and denied employment by a~~  
382 ~~seaport or unescorted access to secure or restricted areas. If~~  
383 ~~the person does not have a TWIC and a federal criminal history~~  
384 ~~record check is required, the Department of Law Enforcement may~~  
385 ~~forward the person's fingerprints to the Federal Bureau of~~  
386 ~~Investigation for a national criminal history record check. The~~  
387 ~~cost of the national check must be paid by the seaport, which~~  
388 ~~may collect it as reimbursement from the person.~~

389 ~~1. Consideration for a waiver shall be based on the~~  
390 ~~circumstances of any disqualifying act or offense, restitution~~  
391 ~~made by the individual, and other factors from which it may be~~  
392 ~~determined that the individual does not pose a risk of engaging~~

393 ~~in any act within the public seaports regulated under this~~  
394 ~~chapter that would pose a risk to or threaten the security of~~  
395 ~~the seaport and the public's health, safety, or welfare.~~

396 ~~2. The waiver process begins when an individual who has~~  
397 ~~been denied initial employment within or denied unescorted~~  
398 ~~access to secure or restricted areas of a public seaport submits~~  
399 ~~an application for a waiver and a notarized letter or affidavit~~  
400 ~~from the individual's employer or union representative which~~  
401 ~~states the mitigating reasons for initiating the waiver process.~~

402 ~~3. Within 90 days after receipt of the application, the~~  
403 ~~administrative staff of the Parole Commission shall conduct a~~  
404 ~~factual review of the waiver application. Findings of fact shall~~  
405 ~~be transmitted to the department for review. The department~~  
406 ~~shall make a copy of those findings available to the applicant~~  
407 ~~before final disposition of the waiver request.~~

408 ~~4. The department shall make a final disposition of the~~  
409 ~~waiver request based on the factual findings of the~~  
410 ~~investigation by the Parole Commission. The department shall~~  
411 ~~notify the waiver applicant of the final disposition of the~~  
412 ~~waiver.~~

413 ~~5. The review process under this paragraph is exempt from~~  
414 ~~chapter 120.~~

415 ~~6. By October 1 of each year, each seaport shall report to~~  
416 ~~the department each instance of denial of employment within, or~~  
417 ~~access to, secure or restricted areas, and each instance waiving~~  
418 ~~a denial occurring during the last 12 months. The report must~~  
419 ~~include the identity of the individual affected, the factors~~  
420 ~~supporting the denial or waiver, and any other material factors~~

421 ~~used to make the determination.~~

422 ~~(f) In addition to the waiver procedure established by the~~  
423 ~~Department of Law Enforcement under paragraph (e), each seaport~~  
424 ~~security plan may establish a procedure to appeal a denial of~~  
425 ~~employment or access based upon procedural inaccuracies or~~  
426 ~~discrepancies regarding criminal history factors established~~  
427 ~~pursuant to this subsection.~~

428 ~~(g) Each seaport may allow immediate waivers on a~~  
429 ~~temporary basis to meet special or emergency needs of the~~  
430 ~~seaport or its users. Policies, procedures, and criteria for~~  
431 ~~implementation of this paragraph must be included in the seaport~~  
432 ~~security plan. All waivers granted by the seaports pursuant to~~  
433 ~~this paragraph must be reported to the department within 30 days~~  
434 ~~after issuance.~~

435 ~~(8) WAIVER FROM SECURITY REQUIREMENTS. The Office of Drug~~  
436 ~~Control and the Department of Law Enforcement may modify or~~  
437 ~~wave any physical facility requirement or other requirement~~  
438 ~~contained in the minimum security standards upon a determination~~  
439 ~~that the purposes of the standards have been reasonably met or~~  
440 ~~exceeded by the seaport requesting the modification or waiver.~~  
441 ~~An alternate means of compliance must not diminish the safety or~~  
442 ~~security of the seaport and must be verified through an~~  
443 ~~extensive risk analysis conducted by the seaport director.~~

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



449 ~~(b) The seaport may submit any waivers that are not~~  
450 ~~granted or are jointly rejected to the Domestic Security~~  
451 ~~Oversight Council for review within 90 days. The council shall~~  
452 ~~recommend that the Office of Drug Control and the Department of~~  
453 ~~Law Enforcement grant the waiver or reject the waiver, in whole~~  
454 ~~or in part. The office and the department shall give great~~  
455 ~~weight to the council's recommendations.~~

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

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

462 (5) ~~(9)~~ INSPECTIONS.—It is the intent of the Legislature  
463 that the state's seaports adhere to security practices that are  
464 consistent with the risks assigned to each seaport through the  
465 ongoing risk assessment process established in paragraph  
466 (2) ~~(3)~~ (a).

467 (a) The Department of Law Enforcement, or any entity  
468 designated by the department, may ~~shall~~ conduct at least one  
469 ~~annual~~ unannounced inspections ~~inspection~~ of each seaport to  
470 determine whether the seaport is meeting the requirements under  
471 33 C.F.R. s. 105.305 ~~minimum security standards established~~  
472 ~~pursuant to subsection (1)~~ and to identify seaport security  
473 changes or improvements needed or otherwise recommended.

474 (b) The Department of Law Enforcement, or any entity  
475 designated by the department, may conduct additional announced  
476 or unannounced inspections or operations within or affecting any

477 seaport to test compliance with, or the effectiveness of,  
478 security plans and operations at each seaport, to determine  
479 compliance with physical facility requirements and standards, ~~or~~  
480 ~~to assist the department in identifying changes or improvements~~  
481 ~~needed to bring a seaport into compliance with minimum security~~  
482 ~~standards.~~

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

486 (d) A seaport may request that the Domestic Security  
487 Oversight Council review the findings in the department's report  
488 as they relate to the requirements of this section. The council  
489 may review only those findings that are in dispute by the  
490 seaport. In reviewing the disputed findings, the council may  
491 concur in the findings of the department or the seaport or may  
492 recommend corrective action to the seaport. The department and  
493 the seaport shall give great weight to the council's findings  
494 and recommendations.

495 (e) All seaports shall allow the Department of Law  
496 Enforcement, or an entity designated by the department,  
497 unimpeded access to affected areas and facilities for the  
498 purpose of plan or compliance inspections or other operations  
499 authorized by this section.

500 (6) ~~(10)~~ REPORTS.—The Department of Law Enforcement, ~~in~~  
501 ~~consultation with the Office of Drug Control,~~ shall annually  
502 complete a report indicating the observations and findings of  
503 all reviews, inspections, or other operations relating to the  
504 seaports conducted during the year and any recommendations

505 resulting from such reviews, inspections, and operations. A copy  
506 of the report shall be provided to the Governor, the President  
507 of the Senate, the Speaker of the House of Representatives, the  
508 governing body of each seaport or seaport authority, and each  
509 seaport director. The report must include each director's  
510 response indicating what actions, if any, have been taken or are  
511 planned to be taken pursuant to the observations, findings, and  
512 recommendations reported by the department.

513 (7)~~(11)~~ FUNDING.—

514 (a) In making decisions regarding security projects or  
515 other funding applicable to each seaport listed in s. 311.09,  
516 the Legislature may consider the Department of Law Enforcement's  
517 annual report under subsection (6) ~~(10)~~ as authoritative,  
518 ~~especially regarding each seaport's degree of substantial~~  
519 ~~compliance with the minimum security standards established in~~  
520 ~~subsection (1).~~

521 (b) The Legislature shall regularly review the ongoing  
522 costs of operational security on seaports, the impacts of this  
523 section on those costs, mitigating factors that may reduce costs  
524 without reducing security, and the methods by which seaports may  
525 implement operational security using a combination of sworn law  
526 enforcement officers and private security services.

527 (c) Subject to the provisions of this chapter and  
528 appropriations made for seaport security, state funds may not be  
529 expended for security costs without certification of need for  
530 such expenditures by the Office of Ports Administrator within  
531 the Department of Law Enforcement.

532 (d) If funds are appropriated for seaport security, ~~the~~

533 ~~Office of Drug Control,~~ the Department of Law Enforcement, and  
 534 the Florida Seaport Transportation and Economic Development  
 535 Council shall mutually determine the allocation of such funds  
 536 for security project needs identified in the approved seaport  
 537 security plans. Any seaport that receives state funds for  
 538 security projects must enter into a joint participation  
 539 agreement with the appropriate state entity and use the seaport  
 540 security plan as the basis for the agreement.

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

545 2. The agreement may include specific timeframes for  
 546 completion of a security project and the applicable funding  
 547 reimbursement dates. The agreement may also require a  
 548 contractual penalty of up to \$1,000 per day to be imposed for  
 549 failure to meet project completion dates if state funding is  
 550 available. Any such penalty shall be deposited into the State  
 551 Transportation Trust Fund and used for seaport security  
 552 operations and capital improvements.

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

555 311.121 Qualifications, training, and certification of  
 556 licensed security officers at Florida seaports.—

557 (2) The authority or governing board of each seaport  
 558 identified under s. 311.09 that is subject to the ~~statewide~~  
 559 ~~minimum~~ seaport security standards referenced ~~established~~ in s.  
 560 311.12 shall require that a candidate for certification as a

561 seaport security officer:

562 (a) Has received a Class D license as a security officer  
563 under chapter 493.

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

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

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

573 311.123 Maritime domain security awareness training  
574 program.—

575 (1) The Florida Seaport Transportation and Economic  
576 Development Council, in conjunction with the Department of Law  
577 Enforcement ~~and the Office of Drug Control within the Executive~~  
578 ~~Office of the Governor~~, shall create a maritime domain security  
579 awareness training program to instruct all personnel employed  
580 within a seaport's boundaries about the security procedures  
581 required of them for implementation of the seaport security plan  
582 required under s. 311.12(2)~~(3)~~.

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

585 311.124 Trespassing; detention by a certified seaport  
586 security officer.—

587 (1) Any Class D or Class G seaport security officer  
588 certified under the federal Maritime Transportation Security Act

589 of 2002 guidelines ~~and s. 311.121~~ or any employee of the seaport  
 590 security force certified under the federal Maritime  
 591 Transportation Security Act of 2002 guidelines ~~and s. 311.121~~  
 592 who has probable cause to believe that a person is trespassing  
 593 pursuant to s. 810.08 or s. 810.09 or this chapter in a  
 594 designated secure or restricted area pursuant to s. 311.12(3)~~(4)~~  
 595 is authorized to detain such person in a reasonable manner for a  
 596 reasonable period of time pending the arrival of a law  
 597 enforcement officer, and such action does not render the  
 598 security officer criminally or civilly liable for false arrest,  
 599 false imprisonment, or unlawful detention.

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

601 Section 6. Subsection (4) of section 310.002, Florida  
 602 Statutes, is amended to read:

603 310.002 Definitions.—As used in this chapter, except where  
 604 the context clearly indicates otherwise:

605 (4) "Port" means any place in the state into which vessels  
 606 enter or depart and includes, without limitation, Fernandina,  
 607 Nassau Inlet, Jacksonville, St. Augustine, Canaveral, Port  
 608 Citrus, Ft. Pierce, Palm Beach, Port Everglades, Miami, Key  
 609 West, Boca Grande, Charlotte Harbor, Punta Gorda, Tampa, Port  
 610 Tampa, Port Manatee, St. Petersburg, Clearwater, Apalachicola,  
 611 Carrabelle, Panama City, Port St. Joe, and Pensacola.

612 Section 7. Subsection (1) of section 311.09, Florida  
 613 Statutes, is amended to read:

614 311.09 Florida Seaport Transportation and Economic  
 615 Development Council.—

616 (1) The Florida Seaport Transportation and Economic

617 Development Council is created within the Department of  
 618 Transportation. The council consists of the following 18 ~~17~~  
 619 members: the port director, or the port director's designee, of  
 620 each of the ports of Jacksonville, Port Canaveral, Port Citrus,  
 621 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,  
 622 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key  
 623 West, and Fernandina; the secretary of the Department of  
 624 Transportation or his or her designee; the director of the  
 625 Office of Tourism, Trade, and Economic Development or his or her  
 626 designee; and the secretary of the Department of Community  
 627 Affairs or his or her designee.

628 Section 8. Paragraph (c) of subsection (1) of section  
 629 374.976, Florida Statutes, is amended to read:

630 374.976 Authority to address impacts of waterway  
 631 development projects.—

632 (1) Each inland navigation district is empowered and  
 633 authorized to undertake programs intended to alleviate the  
 634 problems associated with its waterway or waterways, including,  
 635 but not limited to, the following:

636 (c) The district is authorized to aid and cooperate with  
 637 the Federal Government; state; member counties; nonmember  
 638 counties that contain any part of the intracoastal waterway  
 639 within their boundaries; navigation districts; the seaports of  
 640 Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm  
 641 Beach, Port Everglades, Miami, Port Manatee, St. Petersburg,  
 642 Tampa, Port St. Joe, Panama City, Pensacola, Key West, and  
 643 Fernandina; and local governments within the district in  
 644 planning and carrying out public navigation, local and regional

645 anchorage management, beach renourishment, public recreation,  
 646 inlet management, environmental education, and boating safety  
 647 projects, directly related to the waterways. The district is  
 648 also authorized to enter into cooperative agreements with the  
 649 United States Army Corps of Engineers, state, and member  
 650 counties, and to covenant in any such cooperative agreement to  
 651 pay part of the costs of acquisition, planning, development,  
 652 construction, reconstruction, extension, improvement, operation,  
 653 and maintenance of such projects.

654 Section 9. Paragraph (b) of subsection (9) of section  
 655 403.021, Florida Statutes, is amended to read:

656 403.021 Legislative declaration; public policy.—

657 (9)

658 (b) The provisions of paragraph (a) apply only to the port  
 659 waters, dredged-material management sites, port harbors,  
 660 navigation channels, turning basins, and harbor berths used for  
 661 deepwater commercial navigation in the ports of Jacksonville,  
 662 Tampa, Port Everglades, Miami, Port Canaveral, Port Citrus, Ft.  
 663 Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St.  
 664 Petersburg, Pensacola, Fernandina, and Key West.

665 Section 10. Paragraph (b) of subsection (26) of section  
 666 403.061, Florida Statutes, is amended to read:

667 403.061 Department; powers and duties.—The department  
 668 shall have the power and the duty to control and prohibit  
 669 pollution of air and water in accordance with the law and rules  
 670 adopted and promulgated by it and, for this purpose, to:

671 (26)

672 (b) The provisions of paragraph (a) apply only to the port



673 waters, spoil disposal sites, port harbors, navigation channels,  
 674 turning basins, and harbor berths used for deepwater commercial  
 675 navigation in the ports of Jacksonville, Tampa, Port Everglades,  
 676 Miami, Port Canaveral, Port Citrus, Ft. Pierce, Palm Beach, Port  
 677 Manatee, Port St. Joe, Panama City, St. Petersburg, Port Bartow,  
 678 Florida Power Corporation's Crystal River Canal, Boca Grande,  
 679 Green Cove Springs, and Pensacola.

680  
 681 The department shall implement such programs in conjunction with  
 682 its other powers and duties and shall place special emphasis on  
 683 reducing and eliminating contamination that presents a threat to  
 684 humans, animals or plants, or to the environment.

685 Section 11. Subsection (3) of section 403.813, Florida  
 686 Statutes, is amended to read:

687 403.813 Permits issued at district centers; exceptions.—

688 (3) For maintenance dredging conducted under this section  
 689 by the seaports of Jacksonville, Port Canaveral, Port Citrus,  
 690 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,  
 691 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key  
 692 West, and Fernandina or by inland navigation districts:

693 (a) A mixing zone for turbidity is granted within a 150-  
 694 meter radius from the point of dredging while dredging is  
 695 ongoing, except that the mixing zone may not extend into areas  
 696 supporting wetland communities, submerged aquatic vegetation, or  
 697 hardbottom communities.

698 (b) The discharge of the return water from the site used  
 699 for the disposal of dredged material shall be allowed only if  
 700 such discharge does not result in a violation of water quality

701 standards in the receiving waters. The return-water discharge  
702 into receiving waters shall be granted a mixing zone for  
703 turbidity within a 150-meter radius from the point of discharge  
704 during and immediately after the dredging, except that the  
705 mixing zone may not extend into areas supporting wetland  
706 communities, submerged aquatic vegetation, or hardbottom  
707 communities.

708 (c) The state may not exact a charge for material that  
709 this subsection allows a public port or an inland navigation  
710 district to remove.

711 (d) The use of flocculants at the site used for disposal  
712 of the dredged material is allowed if the use, including  
713 supporting documentation, is coordinated in advance with the  
714 department and the department has determined that the use is not  
715 harmful to water resources.

716 (e) This subsection does not prohibit maintenance dredging  
717 of areas where the loss of original design function and  
718 constructed configuration has been caused by a storm event,  
719 provided that the dredging is performed as soon as practical  
720 after the storm event. Maintenance dredging that commences  
721 within 3 years after the storm event shall be presumed to  
722 satisfy this provision. If more than 3 years are needed to  
723 commence the maintenance dredging after the storm event, a  
724 request for a specific time extension to perform the maintenance  
725 dredging shall be submitted to the department, prior to the end  
726 of the 3-year period, accompanied by a statement, including  
727 supporting documentation, demonstrating that contractors are not  
728 available or that additional time is needed to obtain

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729 authorization for the maintenance dredging from the United  
730 States Army Corps of Engineers.

731 Section 12. Subsection (3) of section 403.816, Florida  
732 Statutes, is amended to read:

733 403.816 Permits for maintenance dredging of deepwater  
734 ports and beach restoration projects.-

735 (3) The provisions of this section relating to ports apply  
736 only to the port waters, spoil disposal sites, port harbors,  
737 navigation channels, turning basins, and harbor berths used for  
738 deepwater commercial navigation in the ports of Jacksonville,  
739 Tampa, Port Everglades, Miami, Port Canaveral, Port Citrus, Ft.  
740 Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St.  
741 Petersburg, Port Bartow, Florida Power Corporation's Crystal  
742 River Canal, Boca Grande, Green Cove Springs, and Pensacola.

743 Section 13. This act shall take effect upon becoming a  
744 law.