

1 A bill to be entitled
2 An act relating to seaports; amending s. 311.09, F.S.;
3 including a representative of Port Citrus as a member of
4 the Florida Seaport Transportation and Economic
5 Development Council; providing that Citrus County may
6 apply for a grant for a feasibility study through the
7 Florida Seaport Transportation and Economic Development
8 Council; providing for the evaluation of the application;
9 requiring the Department of Transportation to include the
10 study in its budget request under certain circumstances;
11 terminating the membership of Port Citrus on the council
12 under certain circumstances; amending s. 311.12, F.S.;
13 deleting provisions relating to statewide minimum
14 standards for seaport security; deleting provisions
15 authorizing the Department of Law Enforcement to exempt
16 all or part of a seaport from specified requirements in
17 certain circumstances; revising provisions relating to
18 seaport security plans; revising requirements for certain
19 secure or restricted areas; revising provisions relating
20 to when a part of a seaport property may temporarily be
21 designated as a secure or restricted area; deleting
22 provisions requiring that the Department of Law
23 Enforcement administer a statewide seaport access
24 eligibility reporting system; deleting provisions
25 requiring that persons seeking authorization to access
26 secure and restricted areas of a seaport execute an
27 affidavit; prohibiting a seaport from charging any fee for
28 administration or production of access control credentials

29 | that require or are associated with a fingerprint-based
30 | background check, in addition to the fee for the federal
31 | TWIC; providing exceptions; providing for issuance of
32 | seaport-specific access credentials; deleting provisions
33 | requiring fingerprint-based state criminal history checks
34 | on seaport employee applicants, current employees, and
35 | other authorized persons; deleting provisions authorizing
36 | waivers from security requirements in certain
37 | circumstances; deleting provisions relating to
38 | inspections; deleting reporting requirements; deleting the
39 | provisions relating to the allocation of appropriated
40 | funds for security project needs; amending s. 311.121,
41 | F.S.; conforming provisions to changes made by the act;
42 | amending s. 311.123, F.S.; revising who may create a
43 | maritime domain security awareness training program;
44 | conforming provisions to changes made by the act; amending
45 | s. 311.124, F.S.; conforming provisions to changes made by
46 | the act; repealing s. 311.115, F.S., relating to the
47 | Seaport Security Standards Advisory Council; providing an
48 | effective date.

49 |
50 | Be It Enacted by the Legislature of the State of Florida:

51 |
52 | Section 1. Subsection (1) of section 311.09, Florida
53 | Statutes, is amended, and subsection (13) is added that section,
54 | to read:

55 | 311.09 Florida Seaport Transportation and Economic
56 | Development Council.—

57 (1) The Florida Seaport Transportation and Economic
 58 Development Council is created within the Department of
 59 Transportation. The council consists of the following 18 ~~17~~
 60 members: the port director, or the port director's designee, of
 61 each of the ports of Jacksonville, Port Canaveral, Port Citrus,
 62 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,
 63 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key
 64 West, and Fernandina; the secretary of the Department of
 65 Transportation or his or her designee; the director of the
 66 Office of Tourism, Trade, and Economic Development or his or her
 67 designee; and the secretary of the Department of Community
 68 Affairs or his or her designee.

69 (13) Until July 1, 2014, Citrus County may apply for a
 70 grant through the Florida Seaport Transportation and Economic
 71 Development Council to perform a feasibility study regarding the
 72 establishment of a port in Citrus County. The council shall
 73 evaluate such application pursuant to subsections (5)-(9) and,
 74 if approved, the Department of Transportation shall include the
 75 feasibility study in its budget request pursuant to subsection
 76 (10). If the study determines that a port in Citrus County is
 77 not feasible, the membership of Port Citrus on the council shall
 78 terminate.

79 Section 2. Section 311.12, Florida Statutes, is amended to
 80 read:

81 311.12 Seaport security.—

82 (1) SECURITY STANDARDS.—

83 ~~(a) The statewide minimum standards for seaport security~~
 84 ~~applicable to seaports listed in s. 311.09 shall be those based~~

85 ~~on the Florida Seaport Security Assessment 2000 and set forth in~~
86 ~~the Port Security Standards Compliance Plan delivered to the~~
87 ~~Speaker of the House of Representatives and the President of the~~
88 ~~Senate on December 11, 2000. The Office of Drug Control within~~
89 ~~the Executive Office of the Governor shall maintain a sufficient~~
90 ~~number of copies of the standards at its offices for~~
91 ~~distribution to the public and provide copies to each affected~~
92 ~~seaport upon request.~~

93 (a) ~~(b)~~ A seaport may implement security measures that are
94 more stringent, more extensive, or supplemental to the
95 applicable federal security regulations, including federal
96 facility security assessment requirements under 33 C.F.R. s.
97 105.305 minimum security standards established by this
98 subsection.

99 (b) ~~(e)~~ The provisions of s. 790.251 are not superseded,
100 preempted, or otherwise modified in any way by the provisions of
101 this section.

102 ~~(2) EXEMPTION. The Department of Law Enforcement may~~
103 ~~exempt all or part of a seaport listed in s. 311.09 from the~~
104 ~~requirements of this section if the department determines that~~
105 ~~activity associated with the use of the seaport or part of the~~
106 ~~seaport is not vulnerable to criminal activity or terrorism. The~~
107 ~~department shall periodically review such exemptions to~~
108 ~~determine if there is a change in use. Such change may warrant~~
109 ~~removal of all or part of the exemption.~~

110 (2) ~~(3)~~ SECURITY PLAN.—

111 (a) Each seaport listed in s. 311.09 shall adopt and
112 maintain a security plan specific to that seaport which provides

113 for a secure seaport infrastructure that promotes the safety and
114 security of state residents and visitors and the flow of
115 legitimate trade and travel.

116 (b) ~~(a)~~ Each seaport ~~Every 5 years after January 1, 2007,~~
117 ~~each seaport director, with the assistance of the Regional~~
118 ~~Domestic Security Task Force and in conjunction with the United~~
119 ~~States Coast Guard,~~ shall periodically revise the seaport's
120 security plan based on the seaport's ~~director's~~ ongoing
121 assessment of security risks, the risks of terrorist activities,
122 and the specific and identifiable needs of the seaport for
123 ensuring that the seaport is in substantial compliance with
124 applicable federal security regulations, including federal
125 facility security assessment requirements under 33 C.F.R. s.
126 105.305 ~~the minimum security standards established under~~
127 ~~subsection (1).~~

128 ~~(b)~~ ~~Each adopted or revised security plan must be reviewed~~
129 ~~and approved by the Office of Drug Control and the Department of~~
130 ~~Law Enforcement for compliance with federal facility security~~
131 ~~assessment requirements under 33 C.F.R. s. 105.305 and the~~
132 ~~minimum security standards established under subsection (1).~~
133 ~~Within 30 days after completion, a copy of the written review~~
134 ~~shall be delivered to the United States Coast Guard, the~~
135 ~~Regional Domestic Security Task Force, and the Domestic Security~~
136 ~~Oversight Council.~~

137 (3) ~~(4)~~ SECURE AND RESTRICTED AREAS.—Each seaport listed in
138 s. 311.09 must clearly designate in seaport security plans, and
139 clearly identify with appropriate signs and markers on the
140 premises of a seaport, all secure and restricted areas as

141 defined by 33 C.F.R. part 105 ~~the United States Department of~~
142 ~~Homeland Security United States Coast Guard Navigation and~~
143 ~~Vessel Inspection Circular No. 03-07 and 49 C.F.R. part 1572.~~
144 ~~The plans must also address access eligibility requirements and~~
145 ~~corresponding security enforcement authorizations.~~

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

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

156 2. All persons and objects in secure and restricted areas
157 are subject to search by a sworn state-certified law enforcement
158 officer, a Class D seaport security officer certified under
159 Maritime Transportation Security Act of 2002 guidelines ~~and s.~~
160 ~~311.121~~, or an employee of the seaport security force certified
161 under the Maritime Transportation Security Act of 2002
162 guidelines ~~and s. 311.121~~.

163 3. Persons found in these areas without the proper
164 permission are subject to the trespass provisions of ss. 810.08
165 and 810.09.

166 (b) ~~As determined by the seaport director's most current~~
167 ~~risk assessment under paragraph (3) (a), any secure or restricted~~
168 ~~area that has a potential human occupancy of 50 persons or more,~~

169 ~~any cruise terminal, or any business operation that is adjacent~~
170 ~~to a public access area must be protected from the most probable~~
171 ~~and credible terrorist threat to human life.~~

172 (b)~~(e)~~ The seaport must provide clear notice of the
173 prohibition against possession of concealed weapons and other
174 contraband material on the premises of the seaport. Any person
175 in a restricted area who has in his or her possession a
176 concealed weapon, or who operates or has possession or control
177 of a vehicle in or upon which a concealed weapon is placed or
178 stored, commits a misdemeanor of the first degree, punishable as
179 provided in s. 775.082 or s. 775.083. This paragraph does not
180 apply to active-duty certified federal or state law enforcement
181 personnel or persons so designated by the seaport director in
182 writing.

183 (c)~~(d)~~ During a period of high terrorist threat level, as
184 designated by the United States Department of Homeland Security
185 ~~or the Department of Law Enforcement, or during an emergency~~
186 ~~declared at a port by the seaport security director due to~~
187 ~~events applicable to that particular seaport,~~ the management or
188 controlling authority of the port may temporarily designate any
189 part of the seaport property as a secure or restricted area. The
190 duration of such designation is limited to the period in which
191 the high terrorist threat level is in effect or a port emergency
192 exists.

193 ~~(5) ACCESS ELIGIBILITY REPORTING SYSTEM. Subject to~~
194 ~~legislative appropriations, the Department of Law Enforcement~~
195 ~~shall administer a statewide seaport access eligibility~~
196 ~~reporting system.~~

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

198 ~~1. A centralized, secure method of collecting and~~
 199 ~~maintaining fingerprints, other biometric data, or other means~~
 200 ~~of confirming the identity of persons authorized to enter a~~
 201 ~~secure or restricted area of a seaport.~~

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

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

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

211 ~~(b) Each seaport listed in s. 311.09 is responsible for~~
 212 ~~granting, modifying, restricting, or denying access to secure~~
 213 ~~and restricted areas to seaport employees, other persons working~~
 214 ~~at the seaport, visitors who have business with the seaport, or~~
 215 ~~other persons regularly appearing at the seaport. Based upon the~~
 216 ~~person's criminal history check, each seaport may determine the~~
 217 ~~specific access eligibility to be granted to that person. Each~~
 218 ~~seaport is responsible for access eligibility verification at~~
 219 ~~its location.~~

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

224 ~~(d) All information submitted to the department regarding~~

225 ~~a person's access eligibility screening may be retained by the~~
226 ~~department for subsequent use in promoting seaport security,~~
227 ~~including, but not limited to, the review of the person's~~
228 ~~criminal history status to ensure that the person has not become~~
229 ~~disqualified for such access.~~

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

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

237 ~~2. A \$50 fee to cover the initial cost of entering the~~
238 ~~person into the system and an additional \$50 fee every 5 years~~
239 ~~thereafter to coincide with the issuance of the federal~~
240 ~~Transportation Worker Identification Credential described in~~
241 ~~subsection (6). The fee covers all costs for entering or~~
242 ~~maintaining the person in the system including the retention and~~
243 ~~use of the person's fingerprint, other biometric data, or other~~
244 ~~identifying information.~~

245 ~~3. The seaport entering the person into the system may~~
246 ~~charge an administrative fee to cover, but not exceed, the~~
247 ~~seaport's actual administrative costs for processing the results~~
248 ~~of the state criminal history check and entering the person into~~
249 ~~the system.~~

250 ~~(f) All fees identified in paragraph (e) must be paid~~
251 ~~before the person may be granted access to a secure or~~
252 ~~restricted area. Failure to comply with the criminal history~~

253 ~~check and failure to pay the fees are grounds for immediate~~
 254 ~~denial of access.~~

255 ~~(g) Persons, corporations, or other business entities that~~
 256 ~~employ persons to work or do business at seaports shall notify~~
 257 ~~the seaport of the termination, resignation, work-related~~
 258 ~~incapacitation, or death of an employee who has access~~
 259 ~~permission.~~

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

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

267 ~~(h) In addition to access permissions granted or denied by~~
 268 ~~seaports, access eligibility may be restricted or revoked by the~~
 269 ~~department if there is a reasonable suspicion that the person is~~
 270 ~~involved in terrorism or criminal violations that could affect~~
 271 ~~the security of a port or otherwise render the person ineligible~~
 272 ~~for seaport access.~~

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

276 ~~(j) The submission of information known to be false or~~
 277 ~~misleading to the department for entry into the system is a~~
 278 ~~felony of the third degree, punishable as provided in s.~~
 279 ~~775.082, s. 775.083, or s. 775.084.~~

280 (4) ~~(6)~~ ACCESS TO SECURE AND RESTRICTED AREAS.-

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

285 (b) A seaport may not charge a fee for the administration
 286 or production of any access control credential that requires or
 287 is associated with a fingerprint-based background check, in
 288 addition to the fee for the federal TWIC. Beginning July 1,
 289 2013, a seaport may not charge a fee for a seaport-specific
 290 access credential issued in addition to the federal TWIC, except
 291 under the following circumstances:

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

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

297 ~~1. The TWIC is currently valid and in full force and~~
 298 ~~effect.~~

299 ~~2. The TWIC was not received through the waiver process~~
 300 ~~for disqualifying criminal history allowed by federal law.~~

301 ~~3. He or she has not, in any jurisdiction, civilian or~~
 302 ~~military, been convicted of, entered a plea of guilty or nolo~~
 303 ~~contendere to, regardless of adjudication, or been found not~~
 304 ~~guilty by reason of insanity, of any disqualifying felony under~~
 305 ~~subsection (7) or any crime that includes the use or possession~~
 306 ~~of a firearm.~~

307 ~~(b) Upon submission of a completed affidavit as provided~~
 308 ~~in paragraph (a), the completion of the state criminal history~~

309 ~~check as provided in subsection (7), and payment of all required~~
310 ~~fees under subsection (5), a seaport may grant the person access~~
311 ~~to secure or restricted areas of the port.~~

312 ~~(c) Any port granting a person access to secure or~~
313 ~~restricted areas shall report the grant of access to the~~
314 ~~Department of Law Enforcement for inclusion in the access~~
315 ~~eligibility reporting system under subsection (5) within 3~~
316 ~~business days.~~

317 ~~(d) The submission of false information on the affidavit~~
318 ~~required by this section is a felony of the third degree,~~
319 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~
320 ~~Upon conviction for a violation of this provision, the person~~
321 ~~convicted forfeits all privilege of access to secure or~~
322 ~~restricted areas of a seaport and is disqualified from future~~
323 ~~approval for access to such areas.~~

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

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

333 ~~(7) CRIMINAL HISTORY SCREENING. A fingerprint-based~~
334 ~~criminal history check must be performed on employee applicants,~~
335 ~~current employees, and other persons authorized to regularly~~
336 ~~enter a secure or restricted area, or the entire seaport if the~~

337 ~~seaport security plan does not designate one or more secure or~~
 338 ~~restricted areas.~~

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

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

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

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

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

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

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

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

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

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

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

361 ~~8. Dealing in stolen property as provided in s. 812.019.~~

362 ~~9. Money laundering as provided in s. 896.101.~~

363 ~~10. Criminal use of personal identification as provided in~~
 364 ~~s. 817.568.~~

- 365 ~~11. Bribery as provided in s. 838.015.~~
- 366 ~~12. A violation of s. 316.302, relating to the transport~~
 367 ~~of hazardous materials.~~
- 368 ~~13. A forcible felony as defined in s. 776.08.~~
- 369 ~~14. A violation of s. 790.07.~~
- 370 ~~15. Any crime that includes the use or possession of a~~
 371 ~~firearm.~~
- 372 ~~16. A felony violation for theft as provided in s.~~
 373 ~~812.014.~~
- 374 ~~17. Robbery as provided in s. 812.13.~~
- 375 ~~18. Burglary as provided in s. 810.02.~~
- 376 ~~19. Any violation involving the sale, manufacture,~~
 377 ~~delivery, or possession with intent to sell, manufacture, or~~
 378 ~~deliver a controlled substance.~~
- 379 ~~20. Any offense under the laws of another jurisdiction~~
 380 ~~that is similar to an offense listed in this paragraph.~~
- 381 ~~21. Conspiracy or attempt to commit any of the offenses~~
 382 ~~listed in this paragraph.~~
- 383 ~~(c) Each individual who is subject to a criminal history~~
 384 ~~check shall file a complete set of fingerprints taken in a~~
 385 ~~manner acceptable to the Department of Law Enforcement for state~~
 386 ~~processing. The results of the criminal history check must be~~
 387 ~~reported to the requesting seaport and may be shared among~~
 388 ~~seaports.~~
- 389 ~~(d) All fingerprints submitted to the Department of Law~~
 390 ~~Enforcement shall be retained by the department and entered into~~
 391 ~~the statewide automated fingerprint identification system~~
 392 ~~established in s. 943.05(2)(b) and available for use in~~

393 ~~accordance with s. 943.05(2)(g) and (h). An arrest record that~~
394 ~~is identified with the retained fingerprints of a person subject~~
395 ~~to the screening shall be reported to the seaport where the~~
396 ~~person has been granted access to a secure or restricted area.~~
397 ~~If the fingerprints of a person who has been granted access were~~
398 ~~not retained, or are otherwise not suitable for use by the~~
399 ~~department, the person must be refingerprinted in a manner that~~
400 ~~allows the department to perform its functions as provided in~~
401 ~~this section.~~

402 ~~(c) The Department of Law Enforcement shall establish a~~
403 ~~waiver process for a person who does not have a TWIC, obtained a~~
404 ~~TWIC through a federal waiver process, or is found to be~~
405 ~~unqualified under paragraph (a) and denied employment by a~~
406 ~~seaport or unescorted access to secure or restricted areas. If~~
407 ~~the person does not have a TWIC and a federal criminal history~~
408 ~~record check is required, the Department of Law Enforcement may~~
409 ~~forward the person's fingerprints to the Federal Bureau of~~
410 ~~Investigation for a national criminal history record check. The~~
411 ~~cost of the national check must be paid by the seaport, which~~
412 ~~may collect it as reimbursement from the person.~~

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

420 ~~2. The waiver process begins when an individual who has~~

421 ~~been denied initial employment within or denied unescorted~~
422 ~~access to secure or restricted areas of a public seaport submits~~
423 ~~an application for a waiver and a notarized letter or affidavit~~
424 ~~from the individual's employer or union representative which~~
425 ~~states the mitigating reasons for initiating the waiver process.~~

426 ~~3. Within 90 days after receipt of the application, the~~
427 ~~administrative staff of the Parole Commission shall conduct a~~
428 ~~factual review of the waiver application. Findings of fact shall~~
429 ~~be transmitted to the department for review. The department~~
430 ~~shall make a copy of those findings available to the applicant~~
431 ~~before final disposition of the waiver request.~~

432 ~~4. The department shall make a final disposition of the~~
433 ~~waiver request based on the factual findings of the~~
434 ~~investigation by the Parole Commission. The department shall~~
435 ~~notify the waiver applicant of the final disposition of the~~
436 ~~waiver.~~

437 ~~5. The review process under this paragraph is exempt from~~
438 ~~chapter 120.~~

439 ~~6. By October 1 of each year, each seaport shall report to~~
440 ~~the department each instance of denial of employment within, or~~
441 ~~access to, secure or restricted areas, and each instance waiving~~
442 ~~a denial occurring during the last 12 months. The report must~~
443 ~~include the identity of the individual affected, the factors~~
444 ~~supporting the denial or waiver, and any other material factors~~
445 ~~used to make the determination.~~

446 ~~(f) In addition to the waiver procedure established by the~~
447 ~~Department of Law Enforcement under paragraph (e), each seaport~~
448 ~~security plan may establish a procedure to appeal a denial of~~

449 ~~employment or access based upon procedural inaccuracies or~~
450 ~~discrepancies regarding criminal history factors established~~
451 ~~pursuant to this subsection.~~

452 ~~(g) Each seaport may allow immediate waivers on a~~
453 ~~temporary basis to meet special or emergency needs of the~~
454 ~~seaport or its users. Policies, procedures, and criteria for~~
455 ~~implementation of this paragraph must be included in the seaport~~
456 ~~security plan. All waivers granted by the seaports pursuant to~~
457 ~~this paragraph must be reported to the department within 30 days~~
458 ~~after issuance.~~

459 ~~(8) WAIVER FROM SECURITY REQUIREMENTS. The Office of Drug~~
460 ~~Control and the Department of Law Enforcement may modify or~~
461 ~~wave any physical facility requirement or other requirement~~
462 ~~contained in the minimum security standards upon a determination~~
463 ~~that the purposes of the standards have been reasonably met or~~
464 ~~exceeded by the seaport requesting the modification or waiver.~~
465 ~~An alternate means of compliance must not diminish the safety or~~
466 ~~security of the seaport and must be verified through an~~
467 ~~extensive risk analysis conducted by the seaport director.~~

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

473 ~~(b) The seaport may submit any waivers that are not~~
474 ~~granted or are jointly rejected to the Domestic Security~~
475 ~~Oversight Council for review within 90 days. The council shall~~
476 ~~recommend that the Office of Drug Control and the Department of~~

477 ~~Law Enforcement grant the waiver or reject the waiver, in whole~~
 478 ~~or in part. The office and the department shall give great~~
 479 ~~weight to the council's recommendations.~~

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

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

486 ~~(9) INSPECTIONS. It is the intent of the Legislature that~~
 487 ~~the state's seaports adhere to security practices that are~~
 488 ~~consistent with the risks assigned to each seaport through the~~
 489 ~~ongoing risk assessment process established in paragraph (3)(a).~~

490 ~~(a) The Department of Law Enforcement, or any entity~~
 491 ~~designated by the department, shall conduct at least one annual~~
 492 ~~unannounced inspection of each seaport to determine whether the~~
 493 ~~seaport is meeting the minimum security standards established~~
 494 ~~pursuant to subsection (1) and to identify seaport security~~
 495 ~~changes or improvements needed or otherwise recommended.~~

496 ~~(b) The Department of Law Enforcement, or any entity~~
 497 ~~designated by the department, may conduct additional announced~~
 498 ~~or unannounced inspections or operations within or affecting any~~
 499 ~~seaport to test compliance with, or the effectiveness of,~~
 500 ~~security plans and operations at each seaport, to determine~~
 501 ~~compliance with physical facility requirements and standards, or~~
 502 ~~to assist the department in identifying changes or improvements~~
 503 ~~needed to bring a seaport into compliance with minimum security~~
 504 ~~standards.~~

505 ~~(c) Within 30 days after completing the inspection report,~~
506 ~~the department shall submit a copy of the report to the Domestic~~
507 ~~Security Oversight Council.~~

508 ~~(d) A seaport may request that the Domestic Security~~
509 ~~Oversight Council review the findings in the department's report~~
510 ~~as they relate to the requirements of this section. The council~~
511 ~~may review only those findings that are in dispute by the~~
512 ~~seaport. In reviewing the disputed findings, the council may~~
513 ~~concur in the findings of the department or the seaport or may~~
514 ~~recommend corrective action to the seaport. The department and~~
515 ~~the seaport shall give great weight to the council's findings~~
516 ~~and recommendations.~~

517 ~~(e) All seaports shall allow the Department of Law~~
518 ~~Enforcement, or an entity designated by the department,~~
519 ~~unimpeded access to affected areas and facilities for the~~
520 ~~purpose of plan or compliance inspections or other operations~~
521 ~~authorized by this section.~~

522 ~~(10) REPORTS. The Department of Law Enforcement, in~~
523 ~~consultation with the Office of Drug Control, shall annually~~
524 ~~complete a report indicating the observations and findings of~~
525 ~~all reviews, inspections, or other operations relating to the~~
526 ~~seaports conducted during the year and any recommendations~~
527 ~~resulting from such reviews, inspections, and operations. A copy~~
528 ~~of the report shall be provided to the Governor, the President~~
529 ~~of the Senate, the Speaker of the House of Representatives, the~~
530 ~~governing body of each seaport or seaport authority, and each~~
531 ~~seaport director. The report must include each director's~~
532 ~~response indicating what actions, if any, have been taken or are~~

533 ~~planned to be taken pursuant to the observations, findings, and~~
534 ~~recommendations reported by the department.~~

535 ~~(11) FUNDING.—~~

536 ~~(a) In making decisions regarding security projects or~~
537 ~~other funding applicable to each seaport listed in s. 311.09,~~
538 ~~the Legislature may consider the Department of Law Enforcement's~~
539 ~~annual report under subsection (10) as authoritative, especially~~
540 ~~regarding each seaport's degree of substantial compliance with~~
541 ~~the minimum security standards established in subsection (1).~~

542 ~~(b) The Legislature shall regularly review the ongoing~~
543 ~~costs of operational security on seaports, the impacts of this~~
544 ~~section on those costs, mitigating factors that may reduce costs~~
545 ~~without reducing security, and the methods by which seaports may~~
546 ~~implement operational security using a combination of sworn law~~
547 ~~enforcement officers and private security services.~~

548 ~~(c) Subject to the provisions of this chapter and~~
549 ~~appropriations made for seaport security, state funds may not be~~
550 ~~expended for security costs without certification of need for~~
551 ~~such expenditures by the Office of Ports Administrator within~~
552 ~~the Department of Law Enforcement.~~

553 ~~(d) If funds are appropriated for seaport security, the~~
554 ~~Office of Drug Control, the Department of Law Enforcement, and~~
555 ~~the Florida Seaport Transportation and Economic Development~~
556 ~~Council shall mutually determine the allocation of such funds~~
557 ~~for security project needs identified in the approved seaport~~
558 ~~security plans. Any seaport that receives state funds for~~
559 ~~security projects must enter into a joint participation~~
560 ~~agreement with the appropriate state entity and use the seaport~~

561 ~~security plan as the basis for the agreement.~~

562 ~~1. If funds are made available over more than 1 fiscal~~
563 ~~year, the agreement must reflect the entire scope of the project~~
564 ~~approved in the security plan and, as practicable, allow for~~
565 ~~reimbursement for authorized projects over more than 1 year.~~

566 ~~2. The agreement may include specific timeframes for~~
567 ~~completion of a security project and the applicable funding~~
568 ~~reimbursement dates. The agreement may also require a~~
569 ~~contractual penalty of up to \$1,000 per day to be imposed for~~
570 ~~failure to meet project completion dates if state funding is~~
571 ~~available. Any such penalty shall be deposited into the State~~
572 ~~Transportation Trust Fund and used for seaport security~~
573 ~~operations and capital improvements.~~

574 Section 3. Subsection (2) of section 311.121, Florida
575 Statutes, is amended to read:

576 311.121 Qualifications, training, and certification of
577 licensed security officers at Florida seaports.—

578 (2) The authority or governing board of each seaport
579 identified under s. 311.09 that is subject to the ~~statewide~~
580 ~~minimum~~ seaport security standards referenced ~~established~~ in s.
581 311.12 shall require that a candidate for certification as a
582 seaport security officer:

583 (a) Has received a Class D license as a security officer
584 under chapter 493.

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

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

592 Section 4. Subsection (1) of section 311.123, Florida
 593 Statutes, is amended to read:

594 311.123 Maritime domain security awareness training
 595 program.—

596 (1) The Florida Seaport Transportation and Economic
 597 Development Council, ~~in conjunction with the Department of Law~~
 598 ~~Enforcement and the Office of Drug Control within the Executive~~
 599 ~~Office of the Governor,~~ shall create a maritime domain security
 600 awareness training program to instruct all personnel employed
 601 within a seaport's boundaries about the security procedures
 602 required of them for implementation of the seaport security plan
 603 required under s. 311.12(2)~~(3)~~.

604 Section 5. Subsection (1) of section 311.124, Florida
 605 Statutes, is amended to read:

606 311.124 Trespassing; detention by a certified seaport
 607 security officer.—

608 (1) Any Class D or Class G seaport security officer
 609 certified under the federal Maritime Transportation Security Act
 610 of 2002 guidelines ~~and s. 311.121~~ or any employee of the seaport
 611 security force certified under the federal Maritime
 612 Transportation Security Act of 2002 guidelines ~~and s. 311.121~~
 613 who has probable cause to believe that a person is trespassing
 614 pursuant to s. 810.08 or s. 810.09 or this chapter in a
 615 designated secure or restricted area pursuant to s. 311.12(3)~~(4)~~
 616 is authorized to detain such person in a reasonable manner for a

617 reasonable period of time pending the arrival of a law
618 enforcement officer, and such action does not render the
619 security officer criminally or civilly liable for false arrest,
620 false imprisonment, or unlawful detention.

621 Section 6. Section 311.115, Florida Statutes, is repealed.

622 Section 7. This act shall take effect upon becoming a law.