

**By** the Committee on Transportation; and Senators Latvala, Hill, Garcia, Joyner, Ring, Storms, Gaetz, Bennett, and Jones

596-02582-11

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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  
6           exempt all or part of a seaport from specified  
7           requirements in certain circumstances; revising  
8           provisions relating to seaport security plans;  
9           revising requirements for certain secure or restricted  
10          areas; removing the Department of Law Enforcement and  
11          seaport security directors as entities authorized to  
12          designate a high terrorist threat level; deleting  
13          provisions requiring that the Department of Law  
14          Enforcement administer a statewide seaport access  
15          eligibility reporting system; deleting provisions  
16          requiring that persons seeking authorization to access  
17          secure and restricted areas of a seaport execute an  
18          affidavit; prohibiting a seaport from charging any fee  
19          for administration or production of access control  
20          credentials that require or are associated with a  
21          fingerprint-based background check, in addition to the  
22          fee for the federal TWIC; providing for issuance of  
23          seaport-specific access credentials; deleting  
24          provisions requiring fingerprint-based state criminal  
25          history checks on seaport employee applicants, current  
26          employees, and other authorized persons; deleting  
27          provisions authorizing waivers from security  
28          requirements in certain circumstances; revising  
29          provisions relating to inspections; revising reporting

596-02582-11

2011524c1

30 requirements; revising the parties that determine the  
31 allocation of appropriated funds for security project  
32 needs; amending ss. 311.121, 311.123, and 311.124,  
33 F.S.; conforming provisions to changes made by the  
34 act; repealing s. 311.115, F.S., relating to the  
35 Seaport Security Standards Advisory Council; amending  
36 s. 310.002, F.S.; redefining the term "port" to  
37 include Port Citrus; amending s. 311.09, F.S.;  
38 including a representative of Port Citrus as a member  
39 of the Florida Seaport Transportation and Economic  
40 Development Council; amending s. 374.976, F.S.;  
41 conforming provisions to include Port Citrus in  
42 provisions relating to the authority of inland  
43 navigation districts; amending s. 403.021, F.S.;  
44 conforming provisions to include Port Citrus in  
45 legislative declarations relating to environmental  
46 control; amending s. 403.061, F.S.; conforming  
47 provisions to include Port Citrus in provisions  
48 relating to powers of the Department of Environmental  
49 Protection; amending s. 403.813, F.S.; conforming  
50 provisions to include Port Citrus in provisions  
51 relating to permits issued at Department of  
52 Environmental Protection district centers; amending s.  
53 403.816, F.S.; conforming provisions to include Port  
54 Citrus in provisions relating to certain maintenance  
55 projects at deepwater ports and beach restoration  
56 projects; providing an effective date.

57  
58 Be It Enacted by the Legislature of the State of Florida:

596-02582-11

2011524c1

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

311.12 Seaport security.—

(1) SECURITY STANDARDS.—

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

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

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

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

596-02582-11

2011524c1

88 ~~department shall periodically review such exemptions to~~  
89 ~~determine if there is a change in use. Such change may warrant~~  
90 ~~removal of all or part of the exemption.~~

91 (2) ~~(3)~~ SECURITY PLAN.—

92 (a) Each seaport listed in s. 311.09 shall adopt and  
93 maintain a security plan specific to that seaport which provides  
94 for a secure seaport infrastructure that promotes the safety and  
95 security of state residents and visitors and the flow of  
96 legitimate trade and travel.

97 (b) ~~(a)~~ Each seaport ~~Every 5 years after January 1, 2007,~~  
98 ~~each seaport director, with the assistance of the Regional~~  
99 ~~Domestic Security Task Force and in conjunction with the United~~  
100 ~~States Coast Guard,~~ shall periodically revise the seaport's  
101 security plan based on the seaport's ~~director's~~ ongoing  
102 assessment of security risks, the risks of terrorist activities,  
103 and the specific and identifiable needs of the seaport for  
104 ensuring that the seaport is in substantial compliance with  
105 applicable federal security regulations, including federal  
106 facility security assessment requirements under 33 C.F.R. s.  
107 105.305 ~~the minimum security standards established under~~  
108 ~~subsection (1).~~

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

596-02582-11

2011524c1

117 ~~Oversight Council.~~

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

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

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

137 2. All persons and objects in secure and restricted areas  
138 are subject to search by a sworn state-certified law enforcement  
139 officer, a Class D seaport security officer certified under  
140 Maritime Transportation Security Act of 2002 guidelines ~~and s.~~  
141 ~~311.121~~, or an employee of the seaport security force certified  
142 under the Maritime Transportation Security Act of 2002  
143 guidelines ~~and s. 311.121~~.

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

596-02582-11

2011524c1

146 and 810.09.

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

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

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

174 ~~(5) ACCESS ELIGIBILITY REPORTING SYSTEM. Subject to~~

596-02582-11

2011524c1

175 ~~legislative appropriations, the Department of Law Enforcement~~  
176 ~~shall administer a statewide seaport access eligibility~~  
177 ~~reporting system.~~

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

179 ~~1. A centralized, secure method of collecting and~~  
180 ~~maintaining fingerprints, other biometric data, or other means~~  
181 ~~of confirming the identity of persons authorized to enter a~~  
182 ~~secure or restricted area of a seaport.~~

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

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

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

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

201 ~~(c) Upon determining that a person is eligible to enter a~~  
202 ~~secure or restricted area of a port pursuant to subsections (6)~~  
203 ~~and (7), the seaport shall, within 3 business days, report the~~

596-02582-11

2011524c1

204 ~~determination to the department for inclusion in the system.~~

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

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

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

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

226 ~~3. The seaport entering the person into the system may~~  
227 ~~charge an administrative fee to cover, but not exceed, the~~  
228 ~~seaport's actual administrative costs for processing the results~~  
229 ~~of the state criminal history check and entering the person into~~  
230 ~~the system.~~

231 ~~(f) All fees identified in paragraph (e) must be paid~~  
232 ~~before the person may be granted access to a secure or~~



596-02582-11

2011524c1

233 ~~restricted area. Failure to comply with the criminal history~~  
234 ~~check and failure to pay the fees are grounds for immediate~~  
235 ~~denial of access.~~

236 ~~(g) Persons, corporations, or other business entities that~~  
237 ~~employ persons to work or do business at seaports shall notify~~  
238 ~~the seaport of the termination, resignation, work-related~~  
239 ~~incapacitation, or death of an employee who has access~~  
240 ~~permission.~~

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

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

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

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

257 ~~(j) The submission of information known to be false or~~  
258 ~~misleading to the department for entry into the system is a~~  
259 ~~felony of the third degree, punishable as provided in s.~~  
260 ~~775.082, s. 775.083, or s. 775.084.~~

261 ~~(4) (6) ACCESS TO SECURE AND RESTRICTED AREAS.-~~

596-02582-11

2011524c1

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

266 (b) A seaport may not charge a fee for the administration  
267 or production of any access control credential that requires or  
268 is associated with a fingerprint-based background check, in  
269 addition to the fee for the federal TWIC. Beginning July 1,  
270 2013, a seaport may not charge a fee for a seaport-specific  
271 access credential issued in addition to the federal TWIC, except  
272 under the following circumstances:

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

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

278 1. The TWIC is currently valid and in full force and  
279 effect.

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

282 3. He or she has not, in any jurisdiction, civilian or  
283 military, been convicted of, entered a plea of guilty or nolo  
284 contendere to, regardless of adjudication, or been found not  
285 guilty by reason of insanity, of any disqualifying felony under  
286 subsection (7) or any crime that includes the use or possession  
287 of a firearm.

288 ~~(b) Upon submission of a completed affidavit as provided in~~  
289 ~~paragraph (a), the completion of the state criminal history~~  
290 ~~check as provided in subsection (7), and payment of all required~~

596-02582-11

2011524c1

291 ~~fees under subsection (5), a seaport may grant the person access~~  
292 ~~to secure or restricted areas of the port.~~

293 ~~(c) Any port granting a person access to secure or~~  
294 ~~restricted areas shall report the grant of access to the~~  
295 ~~Department of Law Enforcement for inclusion in the access~~  
296 ~~eligibility reporting system under subsection (5) within 3~~  
297 ~~business days.~~

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

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

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

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

319 ~~(a) A person is disqualified from employment or unescorted~~

596-02582-11

2011524c1

320 ~~access if the person:~~

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

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

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

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

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

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

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

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

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

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

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

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

343 ~~10. Criminal use of personal identification as provided in~~  
344 ~~s. 817.568.~~

345 ~~11. Bribery as provided in s. 838.015.~~

346 ~~12. A violation of s. 316.302, relating to the transport of~~  
347 ~~hazardous materials.~~

348 ~~13. A forcible felony as defined in s. 776.08.~~

596-02582-11

2011524c1

- 349       ~~14. A violation of s. 790.07.~~
- 350       ~~15. Any crime that includes the use or possession of a~~  
351 ~~firearm.~~
- 352       ~~16. A felony violation for theft as provided in s. 812.014.~~
- 353       ~~17. Robbery as provided in s. 812.13.~~
- 354       ~~18. Burglary as provided in s. 810.02.~~
- 355       ~~19. Any violation involving the sale, manufacture,~~  
356 ~~delivery, or possession with intent to sell, manufacture, or~~  
357 ~~deliver a controlled substance.~~
- 358       ~~20. Any offense under the laws of another jurisdiction that~~  
359 ~~is similar to an offense listed in this paragraph.~~
- 360       ~~21. Conspiracy or attempt to commit any of the offenses~~  
361 ~~listed in this paragraph.~~
- 362       ~~(c) Each individual who is subject to a criminal history~~  
363 ~~check shall file a complete set of fingerprints taken in a~~  
364 ~~manner acceptable to the Department of Law Enforcement for state~~  
365 ~~processing. The results of the criminal history check must be~~  
366 ~~reported to the requesting seaport and may be shared among~~  
367 ~~seaports.~~
- 368       ~~(d) All fingerprints submitted to the Department of Law~~  
369 ~~Enforcement shall be retained by the department and entered into~~  
370 ~~the statewide automated fingerprint identification system~~  
371 ~~established in s. 943.05(2)(b) and available for use in~~  
372 ~~accordance with s. 943.05(2)(g) and (h). An arrest record that~~  
373 ~~is identified with the retained fingerprints of a person subject~~  
374 ~~to the screening shall be reported to the seaport where the~~  
375 ~~person has been granted access to a secure or restricted area.~~  
376 ~~If the fingerprints of a person who has been granted access were~~  
377 ~~not retained, or are otherwise not suitable for use by the~~

596-02582-11

2011524c1

378 ~~department, the person must be refingerprinted in a manner that~~  
379 ~~allows the department to perform its functions as provided in~~  
380 ~~this section.~~

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

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

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

405 ~~3. Within 90 days after receipt of the application, the~~  
406 ~~administrative staff of the Parole Commission shall conduct a~~

596-02582-11

2011524c1

407 ~~factual review of the waiver application. Findings of fact shall~~  
408 ~~be transmitted to the department for review. The department~~  
409 ~~shall make a copy of those findings available to the applicant~~  
410 ~~before final disposition of the waiver request.~~

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

416 ~~5. The review process under this paragraph is exempt from~~  
417 ~~chapter 120.~~

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

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

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

596-02582-11

2011524c1

436 ~~must be reported to the department within 30 days after~~  
437 ~~issuance.~~

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

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

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

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

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



596-02582-11

2011524c1

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

470        (a) The Department of Law Enforcement, or any entity  
471 designated by the department, may ~~shall~~ conduct ~~at least one~~  
472 ~~annual~~ unannounced inspections ~~inspection~~ of each seaport to  
473 determine whether the seaport is meeting the requirements under  
474 33 C.F.R. s. 105.305 ~~minimum security standards established~~  
475 ~~pursuant to subsection (1)~~ and to identify seaport security  
476 changes or improvements needed or otherwise recommended.

477        (b) The Department of Law Enforcement, or any entity  
478 designated by the department, may conduct additional announced  
479 or unannounced inspections or operations within or affecting any  
480 seaport to test compliance with, or the effectiveness of,  
481 security plans and operations at each seaport, to determine  
482 compliance with physical facility requirements and standards, ~~or~~  
483 ~~to assist the department in identifying changes or improvements~~  
484 ~~needed to bring a seaport into compliance with minimum security~~  
485 ~~standards~~.

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

489        (d) A seaport may request that the Domestic Security  
490 Oversight Council review the findings in the department's report  
491 as they relate to the requirements of this section. The council  
492 may review only those findings that are in dispute by the  
493 seaport. In reviewing the disputed findings, the council may

596-02582-11

2011524c1

494 concur in the findings of the department or the seaport or may  
495 recommend corrective action to the seaport. The department and  
496 the seaport shall give great weight to the council's findings  
497 and recommendations.

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

503 (6) ~~(10)~~ REPORTS.—The Department of Law Enforcement, ~~in~~  
504 ~~consultation with the Office of Drug Control,~~ shall annually  
505 complete a report indicating the observations and findings of  
506 all reviews, inspections, or other operations relating to the  
507 seaports conducted during the year and any recommendations  
508 resulting from such reviews, inspections, and operations. A copy  
509 of the report shall be provided to the Governor, the President  
510 of the Senate, the Speaker of the House of Representatives, the  
511 governing body of each seaport or seaport authority, and each  
512 seaport director. The report must include each director's  
513 response indicating what actions, if any, have been taken or are  
514 planned to be taken pursuant to the observations, findings, and  
515 recommendations reported by the department.

516 (7) ~~(11)~~ FUNDING.—

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

596-02582-11

2011524c1

523 ~~subsection (1).~~

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

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

535 (d) If funds are appropriated for seaport security, ~~the~~  
536 ~~Office of Drug Control,~~ the Department of Law Enforcement, ~~7~~ and  
537 the Florida Seaport Transportation and Economic Development  
538 Council shall mutually determine the allocation of such funds  
539 for security project needs identified in the approved seaport  
540 security plans. Any seaport that receives state funds for  
541 security projects must enter into a joint participation  
542 agreement with the appropriate state entity and use the seaport  
543 security plan as the basis for the agreement.

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

548 2. The agreement may include specific timeframes for  
549 completion of a security project and the applicable funding  
550 reimbursement dates. The agreement may also require a  
551 contractual penalty of up to \$1,000 per day to be imposed for

596-02582-11

2011524c1

552 failure to meet project completion dates if state funding is  
553 available. Any such penalty shall be deposited into the State  
554 Transportation Trust Fund and used for seaport security  
555 operations and capital improvements.

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

558 311.121 Qualifications, training, and certification of  
559 licensed security officers at Florida seaports.—

560 (2) The authority or governing board of each seaport  
561 identified under s. 311.09 that is subject to the ~~statewide~~  
562 ~~minimum~~ seaport security standards referenced ~~established~~ in s.  
563 311.12 shall require that a candidate for certification as a  
564 seaport security officer:

565 (a) Has received a Class D license as a security officer  
566 under chapter 493.

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

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

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

576 311.123 Maritime domain security awareness training  
577 program.—

578 (1) The Florida Seaport Transportation and Economic  
579 Development Council, in conjunction with the Department of Law  
580 Enforcement ~~and the Office of Drug Control within the Executive~~

596-02582-11

2011524c1

581 ~~Office of the Governor~~, shall create a maritime domain security  
582 awareness training program to instruct all personnel employed  
583 within a seaport's boundaries about the security procedures  
584 required of them for implementation of the seaport security plan  
585 required under s. 311.12 (2) ~~(3)~~.

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

588 311.124 Trespassing; detention by a certified seaport  
589 security officer.—

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

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

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

606 310.002 Definitions.—As used in this chapter, except where  
607 the context clearly indicates otherwise:

608 (4) "Port" means any place in the state into which vessels  
609 enter or depart and includes, without limitation, Fernandina,

596-02582-11

2011524c1

610 Nassau Inlet, Jacksonville, St. Augustine, Canaveral, Port  
611 Citrus, Ft. Pierce, Palm Beach, Port Everglades, Miami, Key  
612 West, Boca Grande, Charlotte Harbor, Punta Gorda, Tampa, Port  
613 Tampa, Port Manatee, St. Petersburg, Clearwater, Apalachicola,  
614 Carrabelle, Panama City, Port St. Joe, and Pensacola.

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

617 311.09 Florida Seaport Transportation and Economic  
618 Development Council.—

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

631 Section 8. Paragraph (c) of subsection (1) of section  
632 374.976, Florida Statutes, is amended to read:

633 374.976 Authority to address impacts of waterway  
634 development projects.—

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

596-02582-11

2011524c1

639 (c) The district is authorized to aid and cooperate with  
640 the Federal Government; state; member counties; nonmember  
641 counties that contain any part of the intracoastal waterway  
642 within their boundaries; navigation districts; the seaports of  
643 Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm  
644 Beach, Port Everglades, Miami, Port Manatee, St. Petersburg,  
645 Tampa, Port St. Joe, Panama City, Pensacola, Key West, and  
646 Fernandina; and local governments within the district in  
647 planning and carrying out public navigation, local and regional  
648 anchorage management, beach renourishment, public recreation,  
649 inlet management, environmental education, and boating safety  
650 projects, directly related to the waterways. The district is  
651 also authorized to enter into cooperative agreements with the  
652 United States Army Corps of Engineers, state, and member  
653 counties, and to covenant in any such cooperative agreement to  
654 pay part of the costs of acquisition, planning, development,  
655 construction, reconstruction, extension, improvement, operation,  
656 and maintenance of such projects.

657 Section 9. Subsection (9) of section 403.021, Florida  
658 Statutes, is amended to read:

659 403.021 Legislative declaration; public policy.—

660 (9) (a) The Legislature finds and declares that it is  
661 essential to preserve and maintain authorized water depth in the  
662 existing navigation channels, port harbors, turning basins, and  
663 harbor berths of this state in order to provide for the  
664 continued safe navigation of deepwater shipping commerce. The  
665 department shall recognize that maintenance of authorized water  
666 depths consistent with port master plans developed pursuant to  
667 s. 163.3178(2) (k) is an ongoing, continuous, beneficial, and

596-02582-11

2011524c1

668 necessary activity that is in the public interest; and it shall  
669 develop a regulatory process that shall enable the ports of this  
670 state to conduct such activities in an environmentally sound,  
671 safe, expeditious, and cost-efficient manner. It is the further  
672 intent of the Legislature that the permitting and enforcement of  
673 dredging, dredged-material management, and other related  
674 activities for Florida's deepwater ports pursuant to this  
675 chapter and chapters 161, 253, and 373 shall be consolidated  
676 within the department's Division of Water Resource Management  
677 and, with the concurrence of the affected deepwater port or  
678 ports, may be administered by a district office of the  
679 department or delegated to an approved local environmental  
680 program.

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

688 Section 10. Subsection (26) of section 403.061, Florida  
689 Statutes, is amended to read:

690 403.061 Department; powers and duties.—The department shall  
691 have the power and the duty to control and prohibit pollution of  
692 air and water in accordance with the law and rules adopted and  
693 promulgated by it and, for this purpose, to:

694 (26) (a) Develop standards and criteria for waters used for  
695 deepwater shipping which standards and criteria consider  
696 existing water quality; appropriate mixing zones and other



596-02582-11

2011524c1

697 requirements for maintenance dredging in previously constructed  
698 deepwater navigation channels, port harbors, turning basins, or  
699 harbor berths; and appropriate mixing zones for disposal of  
700 spoil material from dredging and, where necessary, develop a  
701 separate classification for such waters. Such classification,  
702 standards, and criteria shall recognize that the present  
703 dedicated use of these waters is for deepwater commercial  
704 navigation.

705 (b) The provisions of paragraph (a) apply only to the port  
706 waters, spoil disposal sites, port harbors, navigation channels,  
707 turning basins, and harbor berths used for deepwater commercial  
708 navigation in the ports of Jacksonville, Tampa, Port Everglades,  
709 Miami, Port Canaveral, Port Citrus, Ft. Pierce, Palm Beach, Port  
710 Manatee, Port St. Joe, Panama City, St. Petersburg, Port Bartow,  
711 Florida Power Corporation's Crystal River Canal, Boca Grande,  
712 Green Cove Springs, and Pensacola.

713

714 The department shall implement such programs in conjunction with  
715 its other powers and duties and shall place special emphasis on  
716 reducing and eliminating contamination that presents a threat to  
717 humans, animals or plants, or to the environment.

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

720 403.813 Permits issued at district centers; exceptions.—

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

596-02582-11

2011524c1

726 (a) A mixing zone for turbidity is granted within a 150-  
727 meter radius from the point of dredging while dredging is  
728 ongoing, except that the mixing zone may not extend into areas  
729 supporting wetland communities, submerged aquatic vegetation, or  
730 hardbottom communities.

731 (b) The discharge of the return water from the site used  
732 for the disposal of dredged material shall be allowed only if  
733 such discharge does not result in a violation of water quality  
734 standards in the receiving waters. The return-water discharge  
735 into receiving waters shall be granted a mixing zone for  
736 turbidity within a 150-meter radius from the point of discharge  
737 during and immediately after the dredging, except that the  
738 mixing zone may not extend into areas supporting wetland  
739 communities, submerged aquatic vegetation, or hardbottom  
740 communities.

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

744 (d) The use of flocculants at the site used for disposal of  
745 the dredged material is allowed if the use, including supporting  
746 documentation, is coordinated in advance with the department and  
747 the department has determined that the use is not harmful to  
748 water resources.

749 (e) This subsection does not prohibit maintenance dredging  
750 of areas where the loss of original design function and  
751 constructed configuration has been caused by a storm event,  
752 provided that the dredging is performed as soon as practical  
753 after the storm event. Maintenance dredging that commences  
754 within 3 years after the storm event shall be presumed to

596-02582-11

2011524c1

755 satisfy this provision. If more than 3 years are needed to  
756 commence the maintenance dredging after the storm event, a  
757 request for a specific time extension to perform the maintenance  
758 dredging shall be submitted to the department, prior to the end  
759 of the 3-year period, accompanied by a statement, including  
760 supporting documentation, demonstrating that contractors are not  
761 available or that additional time is needed to obtain  
762 authorization for the maintenance dredging from the United  
763 States Army Corps of Engineers.

764 Section 12. Section 403.816, Florida Statutes, is amended  
765 to read:

766 403.816 Permits for maintenance dredging of deepwater ports  
767 and beach restoration projects.—

768 (1) The department shall establish a permit system under  
769 this chapter and chapter 253 which provides for the performance,  
770 for up to 25 years from the issuance of the original permit, of  
771 maintenance dredging of permitted navigation channels, port  
772 harbors, turning basins, harbor berths, and beach restoration  
773 projects approved pursuant to chapter 161. However, permits  
774 issued for dredging river channels which are not a part of a  
775 deepwater port shall be valid for no more than five years. No  
776 charge shall be exacted by the state for material removed during  
777 such maintenance dredging by a public port authority.

778 (2) The provisions of s. 253.77 do not apply to a permit  
779 for maintenance dredging and spoil site approval when there is  
780 no change in the size or location of the spoil disposal site and  
781 when the applicant provides documentation to the department that  
782 the appropriate lease, easement, or consent of use for the  
783 project site issued pursuant to chapter 253 is recorded in the

596-02582-11

2011524c1

784 county where the project is located.

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

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