

By Senator Bennett

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1 A bill to be entitled
2 An act relating to seaport security; amending s.
3 311.12, F.S.; revising provisions relating to seaport
4 security; prohibiting a seaport from charging any fee
5 for administration or production of access control
6 credentials; providing for a fine; deleting certain
7 provisions relating to seaport security plans;
8 deleting provisions requiring that the Department of
9 Law Enforcement administer a statewide seaport access
10 eligibility reporting system; deleting provisions
11 requiring that persons seeking authorization to access
12 secure and restricted areas of a seaport execute an
13 affidavit; deleting provisions requiring fingerprint-
14 based criminal history checks of seaport employee
15 applicants, current employees, and other authorized
16 persons; revising provisions to conform to changes
17 made by the act; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Section 311.12, Florida Statutes, is amended to
22 read:

23 311.12 Seaport security.—

24 (1) SECURITY STANDARDS.—

25 (a) The statewide minimum standards for seaport security
26 applicable to seaports listed in s. 311.09 shall be those based
27 on the Florida Seaport Security Assessment 2000 and set forth in
28 the Port Security Standards Compliance Plan delivered to the
29 Speaker of the House of Representatives and the President of the

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30 Senate on December 11, 2000. The Office of Drug Control within
31 the Executive Office of the Governor shall maintain a sufficient
32 number of copies of the standards at its offices for
33 distribution to the public and provide copies to each affected
34 seaport upon request.

35 (b) A seaport may implement security measures that are more
36 stringent, more extensive, or supplemental to the minimum
37 security standards established by this subsection. However, a
38 seaport may not charge any fee for the administration or
39 production of any access control credentials in addition to the
40 fee for the federal Transportation Worker Identification
41 Credential (TWIC). Any cost associated with the administration
42 or production of any access card, except for the federal TWIC,
43 must be paid by the administering authority. Any attempt to pass
44 the cost of such a credential on to an employee working on the
45 seaport shall result in a civil fine of \$10,000.

46 (c) The provisions of s. 790.251 are not superseded,
47 preempted, or otherwise modified in any way by the provisions of
48 this section.

49 (2) EXEMPTION.—The Department of Law Enforcement may exempt
50 all or part of a seaport listed in s. 311.09 from the
51 requirements of this section if the department determines that
52 activity associated with the use of the seaport or part of the
53 seaport is not vulnerable to criminal activity or terrorism. The
54 department shall periodically review such exemptions to
55 determine if there is a change in use. Such change may warrant
56 removal of all or part of the exemption.

57 (3) SECURITY PLAN.—Each seaport listed in s. 311.09 shall
58 adopt and maintain a security plan specific to that seaport

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59 which provides for a secure seaport infrastructure that promotes
60 the safety and security of state residents and visitors and the
61 flow of legitimate trade and travel.

62 (a) Every 5 years after January 1, 2007, each seaport
63 director, with the assistance of the Regional Domestic Security
64 Task Force and in conjunction with the United States Coast
65 Guard, shall revise the seaport's security plan based on the
66 director's ongoing assessment of security risks, the risks of
67 terrorist activities, and the specific and identifiable needs of
68 the seaport for ensuring that the seaport is in substantial
69 compliance with the minimum security standards established under
70 subsection (1).

71 (b) Each adopted or revised security plan must be reviewed
72 and approved by the Office of Drug Control and the Department of
73 Law Enforcement for compliance with federal facility security
74 assessment requirements under 33 C.F.R. s. 105.305 and the
75 minimum security standards established under subsection (1).
76 Within 30 days after completion, a copy of the written review
77 shall be delivered to the United States Coast Guard, the
78 Regional Domestic Security Task Force, and the Domestic Security
79 Oversight Council.

80 (4) SECURE AND RESTRICTED AREAS.—Each seaport listed in s.
81 311.09 must clearly designate in seaport security plans, and
82 clearly identify with appropriate signs and markers on the
83 premises of a seaport, all secure and restricted areas as
84 defined by the United States Department of Homeland Security—
85 United States Coast Guard Navigation and Vessel Inspection
86 Circular No. 03-07 and 49 C.F.R. part 1572. ~~The plans must also~~
87 ~~address access eligibility requirements and corresponding~~

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88 ~~security enforcement authorizations.~~

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

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

99 2. All persons and objects in secure and restricted areas
100 are subject to search by a sworn state-certified law enforcement
101 officer, a Class D seaport security officer certified under
102 Maritime Transportation Security Act of 2002 guidelines and s.
103 311.121, or an employee of the seaport security force certified
104 under the Maritime Transportation Security Act of 2002
105 guidelines and s. 311.121.

106 3. Persons found in these areas without the proper
107 permission are subject to the trespass provisions of ss. 810.08
108 and 810.09.

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

115 (c) The seaport must provide clear notice of the
116 prohibition against possession of concealed weapons and other

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117 contraband material on the premises of the seaport. Any person
118 in a restricted area who has in his or her possession a
119 concealed weapon, or who operates or has possession or control
120 of a vehicle in or upon which a concealed weapon is placed or
121 stored, commits a misdemeanor of the first degree, punishable as
122 provided in s. 775.082 or s. 775.083. This paragraph does not
123 apply to active-duty certified federal or state law enforcement
124 personnel or persons so designated by the seaport director in
125 writing.

126 (d) During a period of high terrorist threat level, as
127 designated by the United States Department of Homeland Security
128 or the Department of Law Enforcement, or during an emergency
129 declared at a port by the seaport security director due to
130 events applicable to that particular seaport, the management or
131 controlling authority of the port may temporarily designate any
132 part of the seaport property as a secure or restricted area. The
133 duration of such designation is limited to the period in which
134 the high terrorist threat level is in effect or a port emergency
135 exists.

136 ~~(5) ACCESS ELIGIBILITY REPORTING SYSTEM. Subject to~~
137 ~~legislative appropriations, the Department of Law Enforcement~~
138 ~~shall administer a statewide seaport access eligibility~~
139 ~~reporting system.~~

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

141 ~~1. A centralized, secure method of collecting and~~
142 ~~maintaining fingerprints, other biometric data, or other means~~
143 ~~of confirming the identity of persons authorized to enter a~~
144 ~~secure or restricted area of a seaport.~~

145 ~~2. A methodology for receiving from and transmitting~~

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146 ~~information to each seaport regarding a person's authority to~~
147 ~~enter a secure or restricted area of the seaport.~~

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

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

154 ~~(b) Each seaport listed in s. 311.09 is responsible for~~
155 ~~granting, modifying, restricting, or denying access to secure~~
156 ~~and restricted areas to seaport employees, other persons working~~
157 ~~at the seaport, visitors who have business with the seaport, or~~
158 ~~other persons regularly appearing at the seaport. Based upon the~~
159 ~~person's criminal history check, each seaport may determine the~~
160 ~~specific access eligibility to be granted to that person. Each~~
161 ~~seaport is responsible for access eligibility verification at~~
162 ~~its location.~~

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

167 ~~(d) All information submitted to the department regarding a~~
168 ~~person's access eligibility screening may be retained by the~~
169 ~~department for subsequent use in promoting seaport security,~~
170 ~~including, but not limited to, the review of the person's~~
171 ~~criminal history status to ensure that the person has not become~~
172 ~~disqualified for such access.~~

173 ~~(e) The following fees may not be charged by more than one~~
174 ~~seaport and shall be paid by the seaport, another employing~~

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175 ~~entity, or the person being entered into the system to the~~
176 ~~department or to the seaport if the seaport is acting as an~~
177 ~~agent of the department for the purpose of collecting the fees:~~

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

180 2. ~~A \$50 fee to cover the initial cost of entering the~~
181 ~~person into the system and an additional \$50 fee every 5 years~~
182 ~~thereafter to coincide with the issuance of the federal~~
183 ~~Transportation Worker Identification Credential described in~~
184 ~~subsection (6). The fee covers all costs for entering or~~
185 ~~maintaining the person in the system including the retention and~~
186 ~~use of the person's fingerprint, other biometric data, or other~~
187 ~~identifying information.~~

188 3. ~~The seaport entering the person into the system may~~
189 ~~charge an administrative fee to cover, but not exceed, the~~
190 ~~seaport's actual administrative costs for processing the results~~
191 ~~of the state criminal history check and entering the person into~~
192 ~~the system.~~

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

198 (g) ~~Persons, corporations, or other business entities that~~
199 ~~employ persons to work or do business at seaports shall notify~~
200 ~~the seaport of the termination, resignation, work-related~~
201 ~~incapacitation, or death of an employee who has access~~
202 ~~permission.~~

203 1. ~~If the seaport determines that the person has been~~

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204 ~~employed by another appropriate entity or is self-employed for~~
205 ~~purposes of performing work at the seaport, the seaport may~~
206 ~~reinstate the person's access eligibility.~~

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

210 ~~(h) In addition to access permissions granted or denied by~~
211 ~~seaports, access eligibility may be restricted or revoked by the~~
212 ~~department if there is a reasonable suspicion that the person is~~
213 ~~involved in terrorism or criminal violations that could affect~~
214 ~~the security of a port or otherwise render the person ineligible~~
215 ~~for seaport access.~~

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

219 ~~(j) The submission of information known to be false or~~
220 ~~misleading to the department for entry into the system is a~~
221 ~~felony of the third degree, punishable as provided in s.~~
222 ~~775.082, s. 775.083, or s. 775.084.~~

223 (5) ~~(6)~~ ACCESS TO SECURE AND RESTRICTED AREAS.—

224 (a) Any person seeking authorization for unescorted access
225 to secure and restricted areas of a seaport must possess, ~~unless~~
226 ~~waived under paragraph (7)(c),~~ a valid federal Transportation
227 Worker Identification Credential (TWIC), and execute an
228 ~~affidavit under oath which provides TWIC identification~~
229 ~~information and indicates the following:~~

230 ~~1. The TWIC is currently valid and in full force and~~
231 ~~effect.~~

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

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233 ~~disqualifying criminal history allowed by federal law.~~

234 ~~3. He or she has not, in any jurisdiction, civilian or~~
235 ~~military, been convicted of, entered a plea of guilty or nolo~~
236 ~~contendere to, regardless of adjudication, or been found not~~
237 ~~guilty by reason of insanity, of any disqualifying felony under~~
238 ~~subsection (7) or any crime that includes the use or possession~~
239 ~~of a firearm.~~

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

245 ~~(c) Any port granting a person access to secure or~~
246 ~~restricted areas shall report the grant of access to the~~
247 ~~Department of Law Enforcement for inclusion in the access~~
248 ~~eligibility reporting system under subsection (5) within 3~~
249 ~~business days.~~

250 ~~(d) The submission of false information on the affidavit~~
251 ~~required by this section is a felony of the third degree,~~
252 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~
253 ~~Upon conviction for a violation of this provision, the person~~
254 ~~convicted forfeits all privilege of access to secure or~~
255 ~~restricted areas of a seaport and is disqualified from future~~
256 ~~approval for access to such areas.~~

257 ~~(e) Any affidavit form created for use under this~~
258 ~~subsection must contain the following statement in conspicuous~~
259 ~~type: "SUBMISSION OF FALSE INFORMATION ON THIS AFFIDAVIT IS A~~
260 ~~FELONY UNDER FLORIDA LAW AND WILL, UPON CONVICTION, RESULT IN~~
261 ~~DISQUALIFICATION FOR ACCESS TO A SECURE OR RESTRICTED AREA OF A~~

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262 SEAPORT."

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

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

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

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

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

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

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

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

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

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

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

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- 291 ~~6. Trafficking as provided in s. 893.135.~~
- 292 ~~7. Racketeering activity as provided in s. 895.03.~~
- 293 ~~8. Dealing in stolen property as provided in s. 812.019.~~
- 294 ~~9. Money laundering as provided in s. 896.101.~~
- 295 ~~10. Criminal use of personal identification as provided in~~
- 296 ~~s. 817.568.~~
- 297 ~~11. Bribery as provided in s. 838.015.~~
- 298 ~~12. A violation of s. 316.302, relating to the transport of~~
- 299 ~~hazardous materials.~~
- 300 ~~13. A forcible felony as defined in s. 776.08.~~
- 301 ~~14. A violation of s. 790.07.~~
- 302 ~~15. Any crime that includes the use or possession of a~~
- 303 ~~firearm.~~
- 304 ~~16. A felony violation for theft as provided in s. 812.014.~~
- 305 ~~17. Robbery as provided in s. 812.13.~~
- 306 ~~18. Burglary as provided in s. 810.02.~~
- 307 ~~19. Any violation involving the sale, manufacture,~~
- 308 ~~delivery, or possession with intent to sell, manufacture, or~~
- 309 ~~deliver a controlled substance.~~
- 310 ~~20. Any offense under the laws of another jurisdiction that~~
- 311 ~~is similar to an offense listed in this paragraph.~~
- 312 ~~21. Conspiracy or attempt to commit any of the offenses~~
- 313 ~~listed in this paragraph.~~
- 314 ~~(c) Each individual who is subject to a criminal history~~
- 315 ~~check shall file a complete set of fingerprints taken in a~~
- 316 ~~manner acceptable to the Department of Law Enforcement for state~~
- 317 ~~processing. The results of the criminal history check must be~~
- 318 ~~reported to the requesting seaport and may be shared among~~
- 319 ~~seaports.~~

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320 ~~(d) All fingerprints submitted to the Department of Law~~
321 ~~Enforcement shall be retained by the department and entered into~~
322 ~~the statewide automated fingerprint identification system~~
323 ~~established in s. 943.05(2) (b) and available for use in~~
324 ~~accordance with s. 943.05(2) (g) and (h). An arrest record that~~
325 ~~is identified with the retained fingerprints of a person subject~~
326 ~~to the screening shall be reported to the seaport where the~~
327 ~~person has been granted access to a secure or restricted area.~~
328 ~~If the fingerprints of a person who has been granted access were~~
329 ~~not retained, or are otherwise not suitable for use by the~~
330 ~~department, the person must be refingerprinted in a manner that~~
331 ~~allows the department to perform its functions as provided in~~
332 ~~this section.~~

333 ~~(e) The Department of Law Enforcement shall establish a~~
334 ~~waiver process for a person who does not have a TWIC, obtained a~~
335 ~~TWIC through a federal waiver process, or is found to be~~
336 ~~unqualified under paragraph (a) and denied employment by a~~
337 ~~seaport or unescorted access to secure or restricted areas. If~~
338 ~~the person does not have a TWIC and a federal criminal history~~
339 ~~record check is required, the Department of Law Enforcement may~~
340 ~~forward the person's fingerprints to the Federal Bureau of~~
341 ~~Investigation for a national criminal history record check. The~~
342 ~~cost of the national check must be paid by the seaport, which~~
343 ~~may collect it as reimbursement from the person.~~

344 ~~1. Consideration for a waiver shall be based on the~~
345 ~~circumstances of any disqualifying act or offense, restitution~~
346 ~~made by the individual, and other factors from which it may be~~
347 ~~determined that the individual does not pose a risk of engaging~~
348 ~~in any act within the public seaports regulated under this~~

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chapter that would pose a risk to or threaten the security of the seaport and the public's health, safety, or welfare.

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

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

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

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

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

(f) In addition to the waiver procedure established by the

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378 ~~Department of Law Enforcement under paragraph (c), each seaport~~
379 ~~security plan may establish a procedure to appeal a denial of~~
380 ~~employment or access based upon procedural inaccuracies or~~
381 ~~discrepancies regarding criminal history factors established~~
382 ~~pursuant to this subsection.~~

383 ~~(g) Each seaport may allow immediate waivers on a temporary~~
384 ~~basis to meet special or emergency needs of the seaport or its~~
385 ~~users. Policies, procedures, and criteria for implementation of~~
386 ~~this paragraph must be included in the seaport security plan.~~
387 ~~All waivers granted by the seaports pursuant to this paragraph~~
388 ~~must be reported to the department within 30 days after~~
389 ~~issuance.~~

390 (6) ~~(8)~~ WAIVER FROM SECURITY REQUIREMENTS.—The Office of
391 Drug Control and the Department of Law Enforcement may modify or
392 waive any physical facility requirement or other requirement
393 contained in the minimum security standards upon a determination
394 that the purposes of the standards have been reasonably met or
395 exceeded by the seaport requesting the modification or waiver.
396 An alternate means of compliance must not diminish the safety or
397 security of the seaport and must be verified through an
398 extensive risk analysis conducted by the seaport director.

399 (a) Waiver requests shall be submitted in writing, along
400 with supporting documentation, to the Office of Drug Control and
401 the Department of Law Enforcement. The office and the department
402 have 90 days to jointly grant or reject the waiver, in whole or
403 in part.

404 (b) The seaport may submit any waivers that are not granted
405 or are jointly rejected to the Domestic Security Oversight
406 Council for review within 90 days. The council shall recommend

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407 that the Office of Drug Control and the Department of Law
408 Enforcement grant the waiver or reject the waiver, in whole or
409 in part. The office and the department shall give great weight
410 to the council's recommendations.

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

414 (d) Any modifications or waivers granted under this
415 subsection shall be noted in the annual report submitted by the
416 Department of Law Enforcement pursuant to subsection (8) ~~(10)~~.

417 (7) ~~(9)~~ INSPECTIONS.—It is the intent of the Legislature
418 that the state's seaports adhere to security practices that are
419 consistent with the risks assigned to each seaport through the
420 ongoing risk assessment process established in paragraph (3)(a).

421 (a) The Department of Law Enforcement, or any entity
422 designated by the department, shall conduct at least one annual
423 unannounced inspection of each seaport to determine whether the
424 seaport is meeting the minimum security standards established
425 pursuant to subsection (1) and to identify seaport security
426 changes or improvements needed or otherwise recommended.

427 (b) The Department of Law Enforcement, or any entity
428 designated by the department, may conduct additional announced
429 or unannounced inspections or operations within or affecting any
430 seaport to test compliance with, or the effectiveness of,
431 security plans and operations at each seaport, to determine
432 compliance with physical facility requirements and standards, or
433 to assist the department in identifying changes or improvements
434 needed to bring a seaport into compliance with minimum security
435 standards.

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

439 (d) A seaport may request that the Domestic Security
440 Oversight Council review the findings in the department's report
441 as they relate to the requirements of this section. The council
442 may review only those findings that are in dispute by the
443 seaport. In reviewing the disputed findings, the council may
444 concur in the findings of the department or the seaport or may
445 recommend corrective action to the seaport. The department and
446 the seaport shall give great weight to the council's findings
447 and recommendations.

448 (e) All seaports shall allow the Department of Law
449 Enforcement, or an entity designated by the department,
450 unimpeded access to affected areas and facilities for the
451 purpose of plan or compliance inspections or other operations
452 authorized by this section.

453 (8) ~~(10)~~ REPORTS.—The Department of Law Enforcement, in
454 consultation with the Office of Drug Control, shall annually
455 complete a report indicating the observations and findings of
456 all reviews, inspections, or other operations relating to the
457 seaports conducted during the year and any recommendations
458 resulting from such reviews, inspections, and operations. A copy
459 of the report shall be provided to the Governor, the President
460 of the Senate, the Speaker of the House of Representatives, the
461 governing body of each seaport or seaport authority, and each
462 seaport director. The report must include each director's
463 response indicating what actions, if any, have been taken or are
464 planned to be taken pursuant to the observations, findings, and

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465 recommendations reported by the department.

466 (9)~~(11)~~ FUNDING.—

467 (a) In making decisions regarding security projects or
468 other funding applicable to each seaport listed in s. 311.09,
469 the Legislature may consider the Department of Law Enforcement's
470 annual report under subsection (8) ~~(10)~~ as authoritative,
471 especially regarding each seaport's degree of substantial
472 compliance with the minimum security standards established in
473 subsection (1).

474 (b) The Legislature shall regularly review the ongoing
475 costs of operational security on seaports, the impacts of this
476 section on those costs, mitigating factors that may reduce costs
477 without reducing security, and the methods by which seaports may
478 implement operational security using a combination of sworn law
479 enforcement officers and private security services.

480 (c) Subject to the provisions of this chapter and
481 appropriations made for seaport security, state funds may not be
482 expended for security costs without certification of need for
483 such expenditures by the Office of Ports Administrator within
484 the Department of Law Enforcement.

485 (d) If funds are appropriated for seaport security, the
486 Office of Drug Control, the Department of Law Enforcement, and
487 the Florida Seaport Transportation and Economic Development
488 Council shall mutually determine the allocation of such funds
489 for security project needs identified in the approved seaport
490 security plans. Any seaport that receives state funds for
491 security projects must enter into a joint participation
492 agreement with the appropriate state entity and use the seaport
493 security plan as the basis for the agreement.

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

498 2. The agreement may include specific timeframes for
499 completion of a security project and the applicable funding
500 reimbursement dates. The agreement may also require a
501 contractual penalty of up to \$1,000 per day to be imposed for
502 failure to meet project completion dates if state funding is
503 available. Any such penalty shall be deposited into the State
504 Transportation Trust Fund and used for seaport security
505 operations and capital improvements.

506 Section 2. This act shall take effect July 1, 2011.