

By the Committees on Rules; Community Affairs; and
Transportation; and Senator Boyd

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1 A bill to be entitled
2 An act relating to state preemption of seaport
3 regulations; creating s. 311.25, F.S.; prohibiting a
4 local ballot initiative or referendum from restricting
5 maritime commerce in the seaports of this state;
6 providing that such a local ballot initiative,
7 referendum, or action adopted therein is prohibited,
8 void, and expressly preempted to the state;
9 prohibiting local governments and their political
10 subdivisions and special districts from restricting
11 maritime commerce in a seaport located in or adjoining
12 an area of critical state concern with respect to any
13 federally authorized passenger cruise vessel;
14 providing that certain actions relating to such
15 restrictions are prohibited, void, and expressly
16 preempted to the state; providing applicability;
17 clarifying remaining authority of certain local
18 entities; providing for severability; providing a
19 directive to the Division of Law Revision; providing
20 an effective date.

21
22 WHEREAS, maritime commerce between and among seaports, both
23 foreign and domestic, is the subject of extensive federal and
24 state regulation designed to protect the marine environment and
25 the health, safety, and welfare of the general public and those
26 involved in conducting that commerce, and

27 WHEREAS, the economic impact of a seaport extends far
28 beyond the boundaries of the local jurisdiction in which the
29 port is located, materially contributing to the economies of

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30 multiple cities and counties within the region and to the
31 economy of this state as a whole, and

32 WHEREAS, Florida seaports currently generate nearly 900,000
33 direct and indirect jobs and contribute \$117.6 billion in
34 economic value to this state through cargo and cruise
35 activities, accounting for approximately 13 percent of this
36 state's gross domestic product and \$4.2 billion in state and
37 local taxes, and

38 WHEREAS, because this state is a peninsula, much of this
39 state is highly dependent upon the unimpeded flow of maritime
40 commerce through its seaports, which is made even more critical
41 when this state is threatened or impacted by natural disasters,
42 such as tropical storms and hurricanes, and

43 WHEREAS, because of its geographic location, this state is
44 a hub for global maritime commerce and is uniquely positioned to
45 capture an even larger share of this commerce as global trade
46 routes shift, and

47 WHEREAS, the international, national, statewide, and
48 regional importance of Florida seaports has long been recognized
49 in federal and state law with respect to the regulation,
50 planning, and public financing of seaport operations and
51 facilities, and

52 WHEREAS, this state is widely known as the cruise capital
53 of the world, and the cruise industry is vital to this state's
54 economy, contributing more than \$9 billion in direct spending on
55 an annual basis and supporting 159,000 jobs with more than \$8
56 billion in total wages and salaries before the current pandemic,
57 and

58 WHEREAS, 8.3 million passengers boarded cruises from one of

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59 this state's five cruise ports in 2019, accounting for 60
60 percent of embarkations in the United States, generating 11
61 million passenger and crew onshore visits in both home port and
62 transit port calls in this state, and

63 WHEREAS, allowing a ballot initiative or referendum in each
64 local seaport jurisdiction to impose its own requirements on the
65 maritime commerce conducted in that port could result in abrupt
66 changes in the supply lines bringing goods into and out of this
67 state and could reasonably be expected to suppress such commerce
68 and potentially drive it out of the port and out of this state
69 in search of a more consistent and predictable operating
70 environment, thus disrupting this state's economy and
71 threatening the public's health, safety, and welfare, and

72 WHEREAS, allowing a ballot initiative or referendum in each
73 local seaport jurisdiction to impose its own requirements on the
74 maritime commerce conducted in that port could result in abrupt
75 changes in vessel traffic, frustrating the multiyear planning
76 process for all Florida seaports and the assumptions and
77 forecasts underlying federal and state financing of port
78 improvement projects, and

79 WHEREAS, this state must establish land and water
80 management policies to guide local decisions relating to growth
81 and development, protecting and optimizing the use of this
82 state's natural resources and environment while also preserving
83 private property rights and advancing the health, safety, and
84 welfare of the residents of this state, and

85 WHEREAS, the need for specific guidance and oversight in
86 the balancing of all of these interests, including the state's
87 interest in fostering tourism, is even more acute in areas of

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88 critical state concern designated under part I of chapter 380,
89 Florida Statutes, which help protect significant environmental,
90 natural, or other resources of regional or statewide importance
91 from uncoordinated development, and

92 WHEREAS, areas of critical state concern generate tourism
93 from both the residents of this state and visitors to this
94 state, allowing them to directly experience and learn about
95 these unique areas and generating additional tourism in the
96 broader region and the state, and

97 WHEREAS, passenger cruise vessels allow for increased
98 tourism in areas of critical state concern while avoiding many
99 of the environmental impacts that would otherwise be generated
100 by land-based tourism with respect to transportation, utility,
101 wastewater, and other infrastructure, and

102 WHEREAS, the necessary constraints on development in areas
103 of critical state concern may increase the cost of land-based
104 tourism to such a degree that many people and families may find
105 themselves financially unable to visit these areas, and the
106 local workforce may find it more difficult to secure affordable
107 housing, and

108 WHEREAS, when considering local requirements that would
109 restrict cruise tourism in an area of critical state concern,
110 the more limited geographic and political scope of a local
111 government may make it less sensitive to the negative impact of
112 those requirements on neighboring jurisdictions and on the
113 region and the state, and

114 WHEREAS, many local and regional economies in this state
115 rely heavily on tourism, and the surrounding politics can be
116 particularly complex at a local level, significantly heightening

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117 concerns over the ability of a local government to impose
118 requirements that would restrict cruise tourism, and

119 WHEREAS, in light of the matters of regional and statewide
120 concern directly and indirectly affected by such actions, a
121 local government with jurisdiction over a seaport located in or
122 adjoining an area of critical state concern should not be
123 permitted to impose its own requirements that would restrict
124 maritime commerce with respect to federally authorized passenger
125 cruise vessels, and

126 WHEREAS, due to the potential negative impacts, the
127 permissible scope of local ballot initiatives or referendums and
128 of the powers of certain local governments in areas of critical
129 state concern must be appropriately limited, NOW, THEREFORE,

130

131 Be It Enacted by the Legislature of the State of Florida:

132

133 Section 1. Section 311.25, Florida Statutes, is created to
134 read:

135 311.25 Regulation of commerce in Florida seaports.-

136 (1) (a) A local ballot initiative or referendum may not
137 restrict maritime commerce in the seaports of this state,
138 including, but not limited to, restricting such commerce based
139 on any of the following:

140 1. Vessel type, size, number, or capacity.

141 2. Number, origin, nationality, embarkation, or
142 disembarkation of passengers or crew or their entry into this
143 state or any local jurisdiction.

144 3. Source, type, loading, or unloading of cargo.

145 4. Environmental or health records of a particular vessel

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146 or vessel line.

147 (b) Any local ballot initiative or referendum that is in
148 conflict with paragraph (a) and that was adopted before, on, or
149 after the effective date of this act, and any local law, charter
150 amendment, ordinance, resolution, regulation, or policy adopted
151 in such an initiative or referendum, is prohibited, void, and
152 expressly preempted to the state.

153 (2) (a) A local government or a political subdivision or
154 special district thereof may not restrict maritime commerce in
155 any seaport of this state located in or adjoining an area
156 designated as an area of critical state concern before, on, or
157 after the effective date of this act with respect to any
158 federally authorized passenger cruise vessel, including, but not
159 limited to, a restriction based on any of the following:

160 1. Vessel type, size, number, or capacity, except when the
161 port, by virtue of the physical limitations of its docking,
162 berthing, or navigational capabilities, is unable to accommodate
163 a passenger cruise vessel pursuant to applicable federal or
164 state laws or regulations.

165 2. Number, origin, nationality, embarkation, or
166 disembarkation of passengers or crew or their entry into this
167 state or any local jurisdiction.

168 3. Source, type, loading, or unloading of cargo related or
169 incidental to its use as a passenger cruise vessel.

170 4. Environmental or health records of a particular
171 passenger cruise vessel or cruise line.

172 (b) Any provision of a local law, a charter, an ordinance,
173 a resolution, a regulation, a policy, an initiative, or a
174 referendum which is in conflict with paragraph (a) and which

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175 existed before, on, or after the effective date of this act is
176 prohibited, void, and expressly preempted to the state.

177 (c) This subsection does not apply to a special district
178 established for port management by special act of the
179 Legislature.

180 (d) Except as provided in paragraph (a), this subsection
181 does not otherwise limit the authority of a subject local
182 government or a political subdivision or special district
183 thereof to:

184 1. Engage in any activity authorized under this chapter,
185 chapter 315, s. 313.22, or s. 313.23, including those
186 surrounding the continued operation and development of the port
187 and port facilities and the implementation of seaport security
188 measures pursuant to ss. 311.12-311.124.

189 2. Issue and enforce tariffs properly filed with the
190 Federal Maritime Commission.

191 3. Enter into leases, terminal agreements, or other
192 contracts with tenants, customers, and other users of port
193 facilities.

194 Section 2. If any provision of this act or its application
195 to any person or circumstance is held invalid, the invalidity
196 does not affect other provisions or applications of this act
197 which can be given effect without the invalid provision or
198 application, and to this end the provisions of this act are
199 severable.

200 Section 3. The Division of Law Revision is directed to
201 replace the phrase "the effective date of this act" wherever it
202 occurs in this act with the date this act becomes a law.

203 Section 4. This act shall take effect upon becoming a law.