

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

29 allocation of appropriated funds for security project
 30 needs; amending ss. 311.121, 311.123, and 311.124, F.S.;
 31 conforming provisions to changes made by the act;
 32 repealing s. 311.115, F.S., relating to the Seaport
 33 Security Standards Advisory Council; providing an
 34 effective date.

35
 36 Be It Enacted by the Legislature of the State of Florida:

37
 38 Section 1. Section 311.12, Florida Statutes, is amended to
 39 read:

40 311.12 Seaport security.—

41 (1) SECURITY STANDARDS.—

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

52 (a) ~~(b)~~ A seaport may implement security measures that are
 53 more stringent, more extensive, or supplemental to the
 54 applicable federal security regulations, including federal
 55 facility security assessment requirements under 33 C.F.R. s.
 56 105.305 ~~minimum security standards established by this~~

57 ~~subsection.~~

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

61 ~~(2) EXEMPTION. The Department of Law Enforcement may~~
 62 ~~exempt all or part of a seaport listed in s. 311.09 from the~~
 63 ~~requirements of this section if the department determines that~~
 64 ~~activity associated with the use of the seaport or part of the~~
 65 ~~seaport is not vulnerable to criminal activity or terrorism. The~~
 66 ~~department shall periodically review such exemptions to~~
 67 ~~determine if there is a change in use. Such change may warrant~~
 68 ~~removal of all or part of the exemption.~~

69 (2) ~~(3)~~ SECURITY PLAN.—

70 (a) Each seaport listed in s. 311.09 shall adopt and
 71 maintain a security plan specific to that seaport which provides
 72 for a secure seaport infrastructure that promotes the safety and
 73 security of state residents and visitors and the flow of
 74 legitimate trade and travel.

75 (b) ~~(a)~~ Each seaport ~~Every 5 years after January 1, 2007,~~
 76 ~~each seaport director, with the assistance of the Regional~~
 77 ~~Domestic Security Task Force and in conjunction with the United~~
 78 ~~States Coast Guard,~~ shall periodically revise the seaport's
 79 security plan based on the seaport's director's ongoing
 80 assessment of security risks, the risks of terrorist activities,
 81 and the specific and identifiable needs of the seaport for
 82 ensuring that the seaport is in substantial compliance with
 83 applicable federal security regulations, including federal
 84 facility security assessment requirements under 33 C.F.R. s.

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85 105.305 ~~the minimum security standards established under~~
86 ~~subsection (1).~~

87 ~~(b) Each adopted or revised security plan must be reviewed~~
88 ~~and approved by the Office of Drug Control and the Department of~~
89 ~~Law Enforcement for compliance with federal facility security~~
90 ~~assessment requirements under 33 C.F.R. s. 105.305 and the~~
91 ~~minimum security standards established under subsection (1).~~
92 ~~Within 30 days after completion, a copy of the written review~~
93 ~~shall be delivered to the United States Coast Guard, the~~
94 ~~Regional Domestic Security Task Force, and the Domestic Security~~
95 ~~Oversight Council.~~

96 (3)~~(4)~~ SECURE AND RESTRICTED AREAS.—Each seaport listed in
97 s. 311.09 must clearly designate in seaport security plans, and
98 clearly identify with appropriate signs and markers on the
99 premises of a seaport, all secure and restricted areas as
100 defined by 33 C.F.R. part 105 ~~the United States Department of~~
101 ~~Homeland Security United States Coast Guard Navigation and~~
102 ~~Vessel Inspection Circular No. 03-07 and 49 C.F.R. part 1572.~~
103 ~~The plans must also address access eligibility requirements and~~
104 ~~corresponding security enforcement authorizations.~~

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

111 1. All seaport employees and other persons working at the
112 seaport who have regular access to secure or restricted areas

113 must comply with federal access control regulations ~~and state~~
114 ~~criminal history checks~~ as prescribed in this section.

115 2. All persons and objects in secure and restricted areas
116 are subject to search by a sworn state-certified law enforcement
117 officer, a Class D seaport security officer certified under
118 Maritime Transportation Security Act of 2002 guidelines ~~and s.~~
119 ~~311.121~~, or an employee of the seaport security force certified
120 under the Maritime Transportation Security Act of 2002
121 guidelines ~~and s. 311.121~~.

122 3. Persons found in these areas without the proper
123 permission are subject to the trespass provisions of ss. 810.08
124 and 810.09.

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

131 (b)(e) The seaport must provide clear notice of the
132 prohibition against possession of concealed weapons and other
133 contraband material on the premises of the seaport. Any person
134 in a restricted area who has in his or her possession a
135 concealed weapon, or who operates or has possession or control
136 of a vehicle in or upon which a concealed weapon is placed or
137 stored, commits a misdemeanor of the first degree, punishable as
138 provided in s. 775.082 or s. 775.083. This paragraph does not
139 apply to active-duty certified federal or state law enforcement
140 personnel or persons so designated by the seaport director in

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141 writing.

142 (c)~~(d)~~ During a period of high terrorist threat level, as
143 designated by the United States Department of Homeland Security
144 ~~or the Department of Law Enforcement, or during an emergency~~
145 ~~declared at a port by the seaport security director due to~~
146 ~~events applicable to that particular seaport,~~ the management or
147 controlling authority of the port may temporarily designate any
148 part of the seaport property as a secure or restricted area. The
149 duration of such designation is limited to the period in which
150 the high terrorist threat level is in effect or a port emergency
151 exists.

152 ~~(5) ACCESS ELIGIBILITY REPORTING SYSTEM. Subject to~~
153 ~~legislative appropriations, the Department of Law Enforcement~~
154 ~~shall administer a statewide seaport access eligibility~~
155 ~~reporting system.~~

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

157 1. ~~A centralized, secure method of collecting and~~
158 ~~maintaining fingerprints, other biometric data, or other means~~
159 ~~of confirming the identity of persons authorized to enter a~~
160 ~~secure or restricted area of a seaport.~~

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

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

167 4. ~~A means to communicate to seaports when a person's~~
168 ~~authorization to enter a secure or restricted area of a seaport~~

169 ~~has been suspended or revoked.~~

170 ~~(b) Each seaport listed in s. 311.09 is responsible for~~
171 ~~granting, modifying, restricting, or denying access to secure~~
172 ~~and restricted areas to seaport employees, other persons working~~
173 ~~at the seaport, visitors who have business with the seaport, or~~
174 ~~other persons regularly appearing at the seaport. Based upon the~~
175 ~~person's criminal history check, each seaport may determine the~~
176 ~~specific access eligibility to be granted to that person. Each~~
177 ~~seaport is responsible for access eligibility verification at~~
178 ~~its location.~~

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

183 ~~(d) All information submitted to the department regarding~~
184 ~~a person's access eligibility screening may be retained by the~~
185 ~~department for subsequent use in promoting seaport security,~~
186 ~~including, but not limited to, the review of the person's~~
187 ~~criminal history status to ensure that the person has not become~~
188 ~~disqualified for such access.~~

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

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

196 ~~2. A \$50 fee to cover the initial cost of entering the~~

197 ~~person into the system and an additional \$50 fee every 5 years~~
198 ~~thereafter to coincide with the issuance of the federal~~
199 ~~Transportation Worker Identification Credential described in~~
200 ~~subsection (6). The fee covers all costs for entering or~~
201 ~~maintaining the person in the system including the retention and~~
202 ~~use of the person's fingerprint, other biometric data, or other~~
203 ~~identifying information.~~

204 ~~3. The seaport entering the person into the system may~~
205 ~~charge an administrative fee to cover, but not exceed, the~~
206 ~~seaport's actual administrative costs for processing the results~~
207 ~~of the state criminal history check and entering the person into~~
208 ~~the system.~~

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

214 ~~(g) Persons, corporations, or other business entities that~~
215 ~~employ persons to work or do business at seaports shall notify~~
216 ~~the seaport of the termination, resignation, work-related~~
217 ~~incapacitation, or death of an employee who has access~~
218 ~~permission.~~

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

223 ~~2. A business entity's failure to report a change in an~~
224 ~~employee's work status within 7 days after the change may result~~

225 ~~in revocation of the business entity's access to the seaport.~~

226 ~~(h) In addition to access permissions granted or denied by~~
 227 ~~seaports, access eligibility may be restricted or revoked by the~~
 228 ~~department if there is a reasonable suspicion that the person is~~
 229 ~~involved in terrorism or criminal violations that could affect~~
 230 ~~the security of a port or otherwise render the person ineligible~~
 231 ~~for seaport access.~~

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

235 ~~(j) The submission of information known to be false or~~
 236 ~~misleading to the department for entry into the system is a~~
 237 ~~felony of the third degree, punishable as provided in s.~~
 238 ~~775.082, s. 775.083, or s. 775.084.~~

239 (4)~~(6)~~ ACCESS TO SECURE AND RESTRICTED AREAS.—

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

244 (b) A seaport may not charge any fee for the
 245 administration or production of any access control credential
 246 that requires or is associated with a fingerprint-based
 247 background check, in addition to the fee for the federal TWIC. A
 248 seaport may issue its own seaport-specific access credential and
 249 may charge a fee no greater than its actual administrative costs
 250 for the production and issuance of the credential. and execute
 251 ~~an affidavit under oath which provides TWIC identification~~
 252 ~~information and indicates the following:~~

253 ~~1. The TWIC is currently valid and in full force and~~
254 ~~effect.~~

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

257 ~~3. He or she has not, in any jurisdiction, civilian or~~
258 ~~military, been convicted of, entered a plea of guilty or nolo~~
259 ~~contendere to, regardless of adjudication, or been found not~~
260 ~~guilty by reason of insanity, of any disqualifying felony under~~
261 ~~subsection (7) or any crime that includes the use or possession~~
262 ~~of a firearm.~~

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

268 ~~(c) Any port granting a person access to secure or~~
269 ~~restricted areas shall report the grant of access to the~~
270 ~~Department of Law Enforcement for inclusion in the access~~
271 ~~eligibility reporting system under subsection (5) within 3~~
272 ~~business days.~~

273 ~~(d) The submission of false information on the affidavit~~
274 ~~required by this section is a felony of the third degree,~~
275 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~
276 ~~Upon conviction for a violation of this provision, the person~~
277 ~~convicted forfeits all privilege of access to secure or~~
278 ~~restricted areas of a seaport and is disqualified from future~~
279 ~~approval for access to such areas.~~

280 ~~(e) Any affidavit form created for use under this~~

281 ~~subsection must contain the following statement in conspicuous~~
282 ~~type: "SUBMISSION OF FALSE INFORMATION ON THIS AFFIDAVIT IS A~~
283 ~~FELONY UNDER FLORIDA LAW AND WILL, UPON CONVICTION, RESULT IN~~
284 ~~DISQUALIFICATION FOR ACCESS TO A SECURE OR RESTRICTED AREA OF A~~
285 ~~SEAPORT."~~

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

289 ~~(7) CRIMINAL HISTORY SCREENING.—A fingerprint-based~~
290 ~~criminal history check must be performed on employee applicants,~~
291 ~~current employees, and other persons authorized to regularly~~
292 ~~enter a secure or restricted area, or the entire seaport if the~~
293 ~~seaport security plan does not designate one or more secure or~~
294 ~~restricted areas.~~

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

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

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

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

- 309 | ~~1. An act of terrorism as defined in s. 775.30.~~
- 310 | ~~2. A violation involving a weapon of mass destruction or a~~
- 311 | ~~hoax weapon of mass destruction as provided in s. 790.166.~~
- 312 | ~~3. Planting of a hoax bomb as provided in s. 790.165.~~
- 313 | ~~4. A violation of s. 876.02 or s. 876.36.~~
- 314 | ~~5. A violation of s. 860.065.~~
- 315 | ~~6. Trafficking as provided in s. 893.135.~~
- 316 | ~~7. Racketeering activity as provided in s. 895.03.~~
- 317 | ~~8. Dealing in stolen property as provided in s. 812.019.~~
- 318 | ~~9. Money laundering as provided in s. 896.101.~~
- 319 | ~~10. Criminal use of personal identification as provided in~~
- 320 | ~~s. 817.568.~~
- 321 | ~~11. Bribery as provided in s. 838.015.~~
- 322 | ~~12. A violation of s. 316.302, relating to the transport~~
- 323 | ~~of hazardous materials.~~
- 324 | ~~13. A forcible felony as defined in s. 776.08.~~
- 325 | ~~14. A violation of s. 790.07.~~
- 326 | ~~15. Any crime that includes the use or possession of a~~
- 327 | ~~firearm.~~
- 328 | ~~16. A felony violation for theft as provided in s.~~
- 329 | ~~812.014.~~
- 330 | ~~17. Robbery as provided in s. 812.13.~~
- 331 | ~~18. Burglary as provided in s. 810.02.~~
- 332 | ~~19. Any violation involving the sale, manufacture,~~
- 333 | ~~delivery, or possession with intent to sell, manufacture, or~~
- 334 | ~~deliver a controlled substance.~~
- 335 | ~~20. Any offense under the laws of another jurisdiction~~
- 336 | ~~that is similar to an offense listed in this paragraph.~~

337 ~~21. Conspiracy or attempt to commit any of the offenses~~
338 ~~listed in this paragraph.~~

339 ~~(c) Each individual who is subject to a criminal history~~
340 ~~check shall file a complete set of fingerprints taken in a~~
341 ~~manner acceptable to the Department of Law Enforcement for state~~
342 ~~processing. The results of the criminal history check must be~~
343 ~~reported to the requesting seaport and may be shared among~~
344 ~~seaports.~~

345 ~~(d) All fingerprints submitted to the Department of Law~~
346 ~~Enforcement shall be retained by the department and entered into~~
347 ~~the statewide automated fingerprint identification system~~
348 ~~established in s. 943.05(2)(b) and available for use in~~
349 ~~accordance with s. 943.05(2)(g) and (h). An arrest record that~~
350 ~~is identified with the retained fingerprints of a person subject~~
351 ~~to the screening shall be reported to the seaport where the~~
352 ~~person has been granted access to a secure or restricted area.~~
353 ~~If the fingerprints of a person who has been granted access were~~
354 ~~not retained, or are otherwise not suitable for use by the~~
355 ~~department, the person must be refingerprinted in a manner that~~
356 ~~allows the department to perform its functions as provided in~~
357 ~~this section.~~

358 ~~(e) The Department of Law Enforcement shall establish a~~
359 ~~waiver process for a person who does not have a TWIC, obtained a~~
360 ~~TWIC through a federal waiver process, or is found to be~~
361 ~~unqualified under paragraph (a) and denied employment by a~~
362 ~~seaport or unescorted access to secure or restricted areas. If~~
363 ~~the person does not have a TWIC and a federal criminal history~~
364 ~~record check is required, the Department of Law Enforcement may~~

365 ~~forward the person's fingerprints to the Federal Bureau of~~
366 ~~Investigation for a national criminal history record check. The~~
367 ~~cost of the national check must be paid by the seaport, which~~
368 ~~may collect it as reimbursement from the person.~~

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

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

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

388 ~~4. The department shall make a final disposition of the~~
389 ~~waiver request based on the factual findings of the~~
390 ~~investigation by the Parole Commission. The department shall~~
391 ~~notify the waiver applicant of the final disposition of the~~
392 ~~waiver.~~

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

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

402 ~~(f) In addition to the waiver procedure established by the~~
403 ~~Department of Law Enforcement under paragraph (c), each seaport~~
404 ~~security plan may establish a procedure to appeal a denial of~~
405 ~~employment or access based upon procedural inaccuracies or~~
406 ~~discrepancies regarding criminal history factors established~~
407 ~~pursuant to this subsection.~~

408 ~~(g) Each seaport may allow immediate waivers on a~~
409 ~~temporary basis to meet special or emergency needs of the~~
410 ~~seaport or its users. Policies, procedures, and criteria for~~
411 ~~implementation of this paragraph must be included in the seaport~~
412 ~~security plan. All waivers granted by the seaports pursuant to~~
413 ~~this paragraph must be reported to the department within 30 days~~
414 ~~after issuance.~~

415 ~~(8) WAIVER FROM SECURITY REQUIREMENTS. The Office of Drug~~
416 ~~Control and the Department of Law Enforcement may modify or~~
417 ~~wave any physical facility requirement or other requirement~~
418 ~~contained in the minimum security standards upon a determination~~
419 ~~that the purposes of the standards have been reasonably met or~~
420 ~~exceeded by the seaport requesting the modification or waiver.~~

421 ~~An alternate means of compliance must not diminish the safety or~~
422 ~~security of the seaport and must be verified through an~~
423 ~~extensive risk analysis conducted by the seaport director.~~

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

429 ~~(b) The seaport may submit any waivers that are not~~
430 ~~granted or are jointly rejected to the Domestic Security~~
431 ~~Oversight Council for review within 90 days. The council shall~~
432 ~~recommend that the Office of Drug Control and the Department of~~
433 ~~Law Enforcement grant the waiver or reject the waiver, in whole~~
434 ~~or in part. The office and the department shall give great~~
435 ~~weight to the council's recommendations.~~

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

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

442 (5)(9) INSPECTIONS.—It is the intent of the Legislature
443 that the state's seaports adhere to security practices that are
444 consistent with the risks assigned to each seaport through the
445 ongoing risk assessment process established in paragraph
446 (2)(3)(a).

447 (a) The Department of Law Enforcement, or any entity
448 designated by the department, may ~~shall~~ conduct at least one

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449 ~~annual~~ unannounced inspections ~~inspection~~ of each seaport to
450 determine whether the seaport is meeting the requirements under
451 33 C.F.R. s. 105.305 ~~minimum security standards established~~
452 ~~pursuant to subsection (1)~~ and to identify seaport security
453 changes or improvements needed or otherwise recommended.

454 (b) The Department of Law Enforcement, or any entity
455 designated by the department, may conduct additional announced
456 or unannounced inspections or operations within or affecting any
457 seaport to test compliance with, or the effectiveness of,
458 security plans and operations at each seaport, to determine
459 compliance with physical facility requirements and standards, ~~or~~
460 ~~to assist the department in identifying changes or improvements~~
461 ~~needed to bring a seaport into compliance with minimum security~~
462 ~~standards.~~

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

466 (d) A seaport may request that the Domestic Security
467 Oversight Council review the findings in the department's report
468 as they relate to the requirements of this section. The council
469 may review only those findings that are in dispute by the
470 seaport. In reviewing the disputed findings, the council may
471 concur in the findings of the department or the seaport or may
472 recommend corrective action to the seaport. The department and
473 the seaport shall give great weight to the council's findings
474 and recommendations.

475 (e) All seaports shall allow the Department of Law
476 Enforcement, or an entity designated by the department,

477 unimpeded access to affected areas and facilities for the
 478 purpose of plan or compliance inspections or other operations
 479 authorized by this section.

480 (6) ~~(10)~~ REPORTS.—The Department of Law Enforcement, ~~in~~
 481 ~~consultation with the Office of Drug Control,~~ shall annually
 482 complete a report indicating the observations and findings of
 483 all reviews, inspections, or other operations relating to the
 484 seaports conducted during the year and any recommendations
 485 resulting from such reviews, inspections, and operations. A copy
 486 of the report shall be provided to the Governor, the President
 487 of the Senate, the Speaker of the House of Representatives, the
 488 governing body of each seaport or seaport authority, and each
 489 seaport director. The report must include each director's
 490 response indicating what actions, if any, have been taken or are
 491 planned to be taken pursuant to the observations, findings, and
 492 recommendations reported by the department.

493 (7) ~~(11)~~ FUNDING.—

494 (a) In making decisions regarding security projects or
 495 other funding applicable to each seaport listed in s. 311.09,
 496 the Legislature may consider the Department of Law Enforcement's
 497 annual report under subsection (6) ~~(10)~~ as authoritative, ~~and~~
 498 ~~especially regarding each seaport's degree of substantial~~
 499 ~~compliance with the minimum security standards established in~~
 500 ~~subsection (1).~~

501 (b) The Legislature shall regularly review the ongoing
 502 costs of operational security on seaports, the impacts of this
 503 section on those costs, mitigating factors that may reduce costs
 504 without reducing security, and the methods by which seaports may

505 implement operational security using a combination of sworn law
506 enforcement officers and private security services.

507 (c) Subject to the provisions of this chapter and
508 appropriations made for seaport security, state funds may not be
509 expended for security costs without certification of need for
510 such expenditures by the Office of Ports Administrator within
511 the Department of Law Enforcement.

512 (d) If funds are appropriated for seaport security, ~~the~~
513 ~~Office of Drug Control,~~ the Department of Law Enforcement, and
514 the Florida Seaport Transportation and Economic Development
515 Council shall mutually determine the allocation of such funds
516 for security project needs identified in the approved seaport
517 security plans. Any seaport that receives state funds for
518 security projects must enter into a joint participation
519 agreement with the appropriate state entity and use the seaport
520 security plan as the basis for the agreement.

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

525 2. The agreement may include specific timeframes for
526 completion of a security project and the applicable funding
527 reimbursement dates. The agreement may also require a
528 contractual penalty of up to \$1,000 per day to be imposed for
529 failure to meet project completion dates if state funding is
530 available. Any such penalty shall be deposited into the State
531 Transportation Trust Fund and used for seaport security
532 operations and capital improvements.

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

535 311.121 Qualifications, training, and certification of
 536 licensed security officers at Florida seaports.—

537 (2) The authority or governing board of each seaport
 538 identified under s. 311.09 that is subject to the ~~statewide~~
 539 ~~minimum~~ seaport security standards referenced ~~established~~ in s.
 540 311.12 shall require that a candidate for certification as a
 541 seaport security officer:

542 (a) Has received a Class D license as a security officer
 543 under chapter 493.

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

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

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

553 311.123 Maritime domain security awareness training
 554 program.—

555 (1) The Florida Seaport Transportation and Economic
 556 Development Council, in conjunction with the Department of Law
 557 Enforcement ~~and the Office of Drug Control within the Executive~~
 558 ~~Office of the Governor~~, shall create a maritime domain security
 559 awareness training program to instruct all personnel employed
 560 within a seaport's boundaries about the security procedures

561 required of them for implementation of the seaport security plan
 562 required under s. 311.12(2)~~(3)~~.

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

565 311.124 Trespassing; detention by a certified seaport
 566 security officer.—

567 (1) Any Class D or Class G seaport security officer
 568 certified under the federal Maritime Transportation Security Act
 569 of 2002 guidelines ~~and s. 311.121~~ or any employee of the seaport
 570 security force certified under the federal Maritime
 571 Transportation Security Act of 2002 guidelines ~~and s. 311.121~~
 572 who has probable cause to believe that a person is trespassing
 573 pursuant to s. 810.08 or s. 810.09 or this chapter in a
 574 designated secure or restricted area pursuant to s. 311.12(3)~~(4)~~
 575 is authorized to detain such person in a reasonable manner for a
 576 reasonable period of time pending the arrival of a law
 577 enforcement officer, and such action does not render the
 578 security officer criminally or civilly liable for false arrest,
 579 false imprisonment, or unlawful detention.

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

581 Section 6. This act shall take effect upon becoming a law.