

1 A bill to be entitled
2 An act relating to seaport security; creating s. 311.115,
3 F.S.; establishing the Seaport Security Standards Advisory
4 Council; providing for membership and terms of office;
5 providing duties; requiring reports to the Governor and
6 Legislature; amending s. 311.12, F.S.; revising provisions
7 relating to seaport security; authorizing the Department
8 of Law Enforcement to exempt all or part of a port from
9 certain security requirements; providing criteria for
10 determining eligibility to enter secure or restricted
11 areas; establishing a statewide access eligibility
12 reporting system within the department; requiring all
13 access eligibility to be submitted to the department and
14 retained within the system; deleting the requirement that
15 seaports promptly notify the department of any changes in
16 access levels; requiring changes in access eligibility
17 status to be reported within a certain time; providing for
18 fees; providing a procedure for obtaining access to secure
19 and restricted areas using federal credentialing;
20 specifying the process for conducting criminal history
21 checks and for the retention of fingerprint information;
22 providing a criminal penalty for providing false
23 information related to obtaining access to restricted
24 seaport areas; providing additional criminal offenses that
25 disqualify a person from employment by or access to a
26 seaport; deleting the requirement that the department
27 notify the port authority that denied employment of the
28 final disposition of a waiver request from background

29 screening requirements; allowing, rather than requiring,
 30 certain applications for a waiver from security
 31 requirements to be submitted to the Domestic Security
 32 Council for review; requiring a copy of the department's
 33 legislative report to be provided to each seaport
 34 governing body or authority; adding the department to
 35 those entities responsible for allocating funds for
 36 security projects; repealing s. 311.111, F.S., relating to
 37 unrestricted and restricted public access areas and
 38 secured restricted access areas; repealing s. 311.125,
 39 F.S., relating to the Uniform Port Access Credential
 40 System and the Uniform Port Access Credential Card;
 41 amending s. 311.121, F.S.; revising the membership of the
 42 Seaport Security Officer Qualification, Training, and
 43 Standards Coordinating Council; amending ss. 311.123,
 44 311.124, 311.13, 943.0585, and 943.059, F.S.; conforming
 45 terms and cross-references; directing the Office of Drug
 46 Control to commission an update of the Florida Seaport
 47 Security Assessment 2000, which shall be presented to the
 48 Legislature by a certain date; authorizing the Department
 49 of Law Enforcement to create a pilot project to implement
 50 the seaport employee access system; transferring certain
 51 equipment from the Department of Highway Safety and Motor
 52 Vehicles to the Department of Law Enforcement for use in
 53 the project; providing a contingency with respect to
 54 assessment briefings conducted by the department;
 55 providing an effective date.

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

58
59 Section 1. Section 311.115, Florida Statutes, is created
60 to read:

61 311.115 Seaport Security Standards Advisory Council.-

62 -The Seaport Security Standards Advisory Council is created
63 under the Office of Drug Control. The council shall serve as an
64 advisory council as provided in s. 20.03(7).

65 (1) The members of the council shall be appointed by the
66 Governor and consist of the following:

- 67 (a) Two seaport directors.
- 68 (b) Two seaport security directors.
- 69 (c) One designee to represent seaport tenants.
- 70 (d) One designee to represent seaport workers.
- 71 (e) One designee from the Department of Law Enforcement.
- 72 (f) One designee from the Office of Motor Carrier
73 Compliance of the Department of Transportation.
- 74 (g) One designee from the Attorney General's Office.
- 75 (h) One designee from the Department of Agriculture and
76 Consumer Services.
- 77 (i) One designee from the Office of Tourism, Trade, and
78 Economic Development.
- 79 (j) One designee from the Office of Drug Control.
- 80 (k) One designee from the Fish and Wildlife Conservation
81 Commission.
- 82 (1) The Director of the Division of Emergency Management,
83 or designee.
- 84 (2) In addition to the members designated in subsection

85 (1), the council may invite a representative of the United
 86 States Coast Guard to attend and participate in council meetings
 87 as an ex officio, nonvoting member of the council.

88 (3) Members of the council shall be appointed to 4-year
 89 terms. A vacancy shall be filled by the original appointing
 90 authority for the balance of the unexpired term.

91 (4) The council shall be chaired by a designee from the
 92 Office of Drug Control.

93 (5) Beginning January 15, 2007, and at least every 4 years
 94 thereafter, the Office of Drug Control shall convene the council
 95 to review the minimum security standards referenced in s.

96 311.12(1) for applicability to and effectiveness in combating
 97 current narcotics and terrorism threats to the state's seaports.

98 All sources of information allowed by law shall be used in
 99 assessing the applicability and effectiveness of the standards.

100 (6) Council members shall serve without pay; however, per
 101 diem and travel allowances may be claimed for attendance at
 102 officially called meetings as provided by s. 112.061.

103 (7) The council shall consult with the appropriate area
 104 maritime security committees to assess possible impacts to
 105 commerce and trade contained in the council's nonclassified
 106 recommendations and findings.

107 (8) The recommendations and findings of the council shall be
 108 transmitted to the Governor, the President of the Senate, and
 109 the Speaker of the House of Representatives.

110 Section 2. Section 311.12, Florida Statutes, is amended to
 111 read:

112 (Substantial rewording of section. See

113 s. 311.12, F.S., for present text.)
 114 311.12 Seaport security.—
 115 (1) SECURITY STANDARDS.—
 116 (a) The statewide minimum standards for seaport security
 117 applicable to seaports listed in s. 311.09 shall be those based
 118 on the Florida Seaport Security Assessment 2000 and set forth in
 119 the Port Security Standards Compliance Plan delivered to the
 120 Speaker of the House of Representatives and the President of the
 121 Senate on December 11, 2000. The Office of Drug Control within
 122 the Executive Office of the Governor shall maintain a sufficient
 123 number of copies of the standards at its offices for
 124 distribution to the public, and provide copies to each affected
 125 seaport upon request.
 126 (b) A seaport may implement security measures that are
 127 more stringent, more extensive, or supplemental to the minimum
 128 security standards established by this subsection.
 129 (2) EXEMPTION.—The Department of Law Enforcement may
 130 exempt all or part of a seaport listed in s. 311.09 from the
 131 requirements of this section if the department determines that
 132 activity associated with the use of the seaport or part of the
 133 seaport is not vulnerable to criminal activity or terrorism. The
 134 department shall periodically review such exemptions to
 135 determine if there is a change in use. Such change may warrant
 136 removal of all or part of the exemption.
 137 (3) SECURITY PLAN.—Each seaport listed in s. 311.09 shall
 138 adopt and maintain a security plan specific to that seaport
 139 which provides for a secure seaport infrastructure that promotes
 140 the safety and security of state residents and visitors and the

141 flow of legitimate trade and travel.

142 (a) Beginning January 1, 2007, and every 5 years
 143 thereafter, each seaport director, with the assistance of the
 144 Regional Domestic Security Task Force and in conjunction with
 145 the United States Coast Guard, shall revise the seaport's
 146 security plan based on the director's ongoing assessment of
 147 security risks, the risks of terrorist activities, and the
 148 specific and identifiable needs of the seaport for ensuring that
 149 the seaport is in substantial compliance with the minimum
 150 security standards established under subsection (1).

151 (b) Each adopted or revised security plan must be reviewed
 152 and approved by the Office of Drug Control and the Department of
 153 Law Enforcement for compliance with federal facility security
 154 assessment requirements under 33 C.F.R. s. 105.305 and the
 155 minimum security standards established under subsection (1).
 156 Within 30 days after completion, a copy of the written review
 157 shall be delivered to the United States Coast Guard, the
 158 Regional Domestic Security Task Force, and the Domestic Security
 159 Oversight Council.

160 (4) SECURE AND RESTRICTED AREAS.—Each seaport listed in s.
 161 311.09 must clearly designate in seaport security plans, and
 162 clearly identify with appropriate signs and markers on the
 163 premises of a seaport, all secure and restricted areas as
 164 defined by the United State Department of Homeland Security-
 165 United States Coast Guard Navigation and Vessel Inspection
 166 Circular No. 03-07 and 49 C.F.R. part 1572. The plans must also
 167 address access eligibility requirements and corresponding
 168 security enforcement authorizations.

169 (a) The seaport's security plan must set forth the
 170 conditions and restrictions to be imposed on persons employed
 171 at, doing business at, or visiting the seaport who have access
 172 to secure and restricted areas that are sufficient to provide
 173 substantial compliance with the minimum security standards
 174 established in subsection (1) and federal regulations.

175 1. All seaport employees and other persons working at the
 176 seaport who have regular access to secure or restricted areas
 177 must comply with federal access control regulations and state
 178 criminal history checks as prescribed in this section.

179 2. All persons and objects in secure and restricted areas
 180 are subject to search by a sworn state-certified law enforcement
 181 officer, a Class D seaport security officer certified under
 182 Maritime Transportation Security Act guidelines and s. 311.121,
 183 or an employee of the seaport security force certified under the
 184 Maritime Transportation Security Act guidelines and s. 311.121.

185 3. Persons found in these areas without the proper
 186 permission are subject to the trespass provisions of ss. 810.08
 187 and 810.09.

188 (c) As determined by the seaport director's most current
 189 risk assessment report under paragraph (3) (a), any secure or
 190 restricted area that has a potential human occupancy of 50
 191 persons or more, any cruise terminal, or any business operation
 192 that is adjacent to a public access area must be protected from
 193 the most probable and credible terrorist threat to human life.

194 (d) The seaport must provide clear notice of the
 195 prohibition against possession of concealed weapons and other
 196 contraband material on the premises of the seaport. Any person

197 in a restricted area who has in his or her possession a
 198 concealed weapon, or who operates or has possession or control
 199 of a vehicle in or upon which a concealed weapon is placed or
 200 stored, commits a misdemeanor of the first degree, punishable as
 201 provided in s. 775.082 or s. 775.083. This paragraph does not
 202 apply to active-duty certified federal or state law enforcement
 203 personnel or persons so designated by the seaport director in
 204 writing.

205 (e) During a period of high terrorist threat level, as
 206 designated by the United States Department of Homeland Security
 207 or the Department of Law Enforcement, or during an emergency
 208 declared at a port by the seaport security director due to
 209 events applicable to that particular seaport, the management or
 210 controlling authority of the port may temporarily designate any
 211 part of the seaport property as a secure or restricted area. The
 212 duration of such designation is limited to the period in which
 213 the high terrorist threat level is in effect or a port emergency
 214 exists.

215 (5) ACCESS ELIGIBILITY REPORTING SYSTEM.—Subject to
 216 legislative appropriations, the Department of Law Enforcement
 217 shall administer a statewide seaport access eligibility
 218 reporting system.

219 (a) The system must, at a minimum, include:

220 1. A centralized, secure method of collecting and
 221 maintaining fingerprints, other biometric data, or other means
 222 of confirming the identity of persons authorized to enter a
 223 secure or restricted area of a seaport;

224 2. A methodology for receiving from and transmitting

225 information to each seaport regarding a person's authority to
 226 enter a secure or restricted area of the seaport;

227 3. A means for receiving prompt notification from a
 228 seaport when a person's authorization to enter a secure or
 229 restricted area of a seaport has been suspended or revoked; and

230 4. A means to communicate to seaports when a person's
 231 authorization to enter a secure or restricted area of a seaport
 232 has been suspended or revoked.

233 (b) Each seaport listed in s. 311.09 is responsible for
 234 granting, modifying, restricting, or denying access to secure
 235 and restricted areas to seaport employees, other persons working
 236 at the seaport, visitors who have business with the seaport, or
 237 other persons regularly appearing at the seaport. Based upon the
 238 person's criminal history check, each seaport may determine the
 239 specific access eligibility to be granted to that person. Each
 240 seaport is responsible for access eligibility verification at
 241 its location.

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

246 (d) All information submitted to the department regarding
 247 a person's access eligibility screening may be retained by the
 248 department for subsequent use in promoting seaport security,
 249 including, but not limited to, the review of the person's
 250 criminal history status to ensure that the person has not become
 251 disqualified for such access.

252 (e) The following fees shall be paid by the seaport,

253 another employing entity, or the person being entered into the
 254 system to the department or to the seaport if the seaport is
 255 acting as an agent of the department for the purpose of
 256 collecting the fees. Such fees may not be charged by more than
 257 one seaport.

258 1. The cost of the state criminal history check under
 259 subsection (7).

260 2. A \$50 fee to cover the initial cost of entering the
 261 person into the system, and every 5 years thereafter to coincide
 262 with the issuance of the federal Transportation Worker
 263 Identification Credential described in subsection (6). The fee
 264 covers all costs for entering or maintaining the person in the
 265 system including the retention and use of their fingerprint,
 266 other biometric data, or other identifying information.

267 3. The seaport entering the person into the system may
 268 charge an administrative fee to cover, but not exceed, the
 269 seaport's actual administrative costs for processing the results
 270 of the state criminal history check and entering the person into
 271 the system.

272 (f) All fees identified in paragraph (e) must be paid
 273 before the person may be granted access to a secure or
 274 restricted area. Failure to comply with the criminal history
 275 check or to pay the fees are grounds for immediate denial of
 276 access.

277 (g) Persons, corporations, or other business entities that
 278 employ persons to work or do business at seaports shall notify
 279 the seaport of the termination, resignation, work-related
 280 incapacitation, or death of an employee who has access

281 permission.

282 1. If the seaport determines that the person has been
 283 employed by another appropriate entity or is self-employed for
 284 purposes of performing work at the seaport, the seaport may
 285 reinstate the person's access eligibility.

286 2. A business entity's failure to report a change in an
 287 employee's work status within 7 days after that change may
 288 result in revocation of the business entity's access to the
 289 seaport.

290 (h) In addition to access permissions granted or denied by
 291 seaports, access eligibility may be restricted or revoked by the
 292 department if there is a reasonable suspicion that the person is
 293 involved in terrorism or criminal violations that could affect
 294 the security of a port or otherwise render the person ineligible
 295 for seaport access.

296 (i) Any suspension or revocation of port access must be
 297 reported by the seaport to the department within 24 hours.

298 (j) The submission of information known to be false or
 299 misleading to the department for entry into the system is a
 300 felony of the third degree, punishable as provided in s.
 301 775.082, s. 775.083, or s. 775.084.

302 (6) ACCESS TO SECURE AND RESTRICTED AREAS.—

303 (a) Any person seeking authorization for unescorted access
 304 to secure and restricted areas of a seaport must, unless waived
 305 under paragraph (7)(e), possess a valid federal Transportation
 306 Worker Identification Credential (TWIC) and execute an affidavit
 307 under oath which provides TWIC identification information and
 308 indicates that:

309 1. The TWIC is currently valid and in full force and
 310 effect;

311 2. He or she did not receive the TWIC through the waiver
 312 process for disqualifying criminal history allowed by federal
 313 law; and

314 3. He or she has not, in any jurisdiction, civilian or
 315 military, been charged with, been convicted of, entered a plea
 316 of guilty or nolo contendere to, regardless of adjudication, or
 317 been found not guilty by reason of insanity, of any
 318 disqualifying felony under subsection (7) or any crime which
 319 includes the use or possession of a weapon or firearm.

320 (b) Upon submission of a completed affidavit as provided
 321 in paragraph (a), the completion of the state criminal history
 322 check as provided in subsection (7), and payment of all required
 323 fees under subsection (5), a seaport may grant the person access
 324 to secure or restricted areas of the port.

325 (c) Any port granting a person access to secure or
 326 restricted areas shall report the grant of access to the
 327 Department of Law Enforcement for inclusion in the access
 328 eligibility reporting system under subsection (5) within 3
 329 business days.

330 (d) The submission of false information on the affidavit
 331 required by this section is a felony of the third degree,
 332 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 333 Upon conviction for a violation of this provision, the person
 334 forfeits all privilege of access to secure or restricted areas
 335 of a seaport and is disqualified from future approval for access
 336 to such areas.

337 (e) Any affidavit form created for use under this
 338 subsection must conspicuously state: "Submission of false
 339 information on this affidavit is a felony under Florida law and
 340 will, upon conviction, result in disqualification for access to
 341 a secure or restricted area of a seaport."

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

345 (7) CRIMINAL HISTORY SCREENING.—A fingerprint-based
 346 criminal history check must be performed on employee applicants,
 347 current employees, and other persons authorized to regularly
 348 enter a secure or restricted area, or the entire seaport if the
 349 seaport security plan does not designate one or more secure or
 350 restricted areas.

351 (a) A person is disqualified from employment or unescorted
 352 access if the person:

353 1. Was convicted of, or entered a plea of guilty or nolo
 354 contendere to, regardless of adjudication, any of the offenses
 355 listed in paragraph (b) in any jurisdiction, civilian or
 356 military, during the 7 years before the date of the person's
 357 application for access; or

358 2. Was released from incarceration, or any supervision
 359 imposed as a result of sentencing, for committing any of the
 360 disqualifying crimes listed in paragraph (b) in any
 361 jurisdiction, civilian or military, during the 5 years before
 362 the date of the person's application for access.

363 (b) The disqualifying offenses include:

364 1. An act of terrorism as defined in s. 775.30.

- 365 2. A violation involving a weapon of mass destruction or
- 366 hoax weapon of mass destruction as provided in s. 790.166.
- 367 3. Planting of a hoax bomb as provided in s. 790.165.
- 368 4. A violation of s. 876.02 or 876.36.
- 369 5. A violation of s. 860.065.
- 370 6. Trafficking as provided in s. 893.135.
- 371 7. Racketeering activity as provided in s. 895.03.
- 372 8. Dealing in stolen property as provided in s. 812.019.
- 373 9. Money laundering as provided in s. 896.101.
- 374 10. Criminal use of personal identification as provided in
- 375 s. 817.568.
- 376 11. Bribery as provided in s. 838.015.
- 377 12. A violation of s. 316.302, relating to the transport
- 378 of hazardous materials.
- 379 13 A forcible felony as defined in s. 776.08.
- 380 14. A violation of s. 790.07.
- 381 15. Any crime which includes the use or possession of a
- 382 weapon or firearm.
- 383 16. A felony violation for theft as provided in s.
- 384 812.014.
- 385 17. Robbery as provided in s. 812.13.
- 386 18. Burglary as provided in s. 810.02.
- 387 19. Any violation involving the sale, manufacture,
- 388 delivery, or possession with intent to sell, manufacture, or
- 389 deliver a controlled substance.
- 390 20. Any offense under the laws of another jurisdiction
- 391 that is similar to an offense in this list.
- 392 21. Conspiracy or attempt to commit any of the listed

393 offenses.

394 (c) Each individual who is subject to a criminal history
 395 check shall file a complete set of fingerprints taken in a
 396 manner acceptable to the Department of Law Enforcement for state
 397 processing. The results of the criminal history check must be
 398 reported to the requesting seaport and may be shared among
 399 seaports.

400 (d) All fingerprints submitted to the Department of Law
 401 Enforcement shall be retained by the department and entered into
 402 the statewide automated fingerprint identification system
 403 established in s. 943.05(2)(b) and available for use in
 404 accordance with s. 943.05(2)(g) and (h). An arrest record that
 405 is identified with the retained fingerprints of a person subject
 406 to the screening shall be reported to the seaport where the
 407 person has been granted access to a secure or restricted area.
 408 If the fingerprints of a person who has been granted access were
 409 not retained, or are otherwise not suitable for use by the
 410 department, the person must be refingerprinted in a manner that
 411 allows the department to perform its functions as provided
 412 herein.

413 (e) The Department of Law Enforcement shall establish a
 414 waiver process for an individual who does not have a TWIC,
 415 obtained a TWIC though a federal waiver process, or is found to
 416 be unqualified under paragraph (a) and denied employment by a
 417 seaport or unescorted access to secure or restricted areas.

418 1. Consideration for a waiver shall be based on the
 419 circumstances of any disqualifying act or offense, restitution
 420 made by the individual, and other factors from which it may be

421 determined that the individual does not pose a risk of engaging
 422 in any act within the public seaports regulated under this
 423 chapter which poses a risk to or threatens the security of the
 424 seaport and the public's health, safety, or welfare.

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

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

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

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

444 6. By October 1 of each year, each seaport shall report to
 445 the department each instance of denial of employment within, or
 446 access to, secure or restricted areas, and each instance waiving
 447 an appeal of a denial occurring during the last 12 months. The
 448 report must include the identity of the individual affected, the

449 factors supporting the denial or waiver, and any other material
450 factors used to make the determination.

451 (f) In addition to the waiver procedure established by the
452 Department of Law Enforcement under paragraph (e), each seaport
453 security plan may establish a procedure to appeal a denial of
454 employment or access based upon procedural inaccuracies or
455 discrepancies regarding criminal history factors established
456 pursuant to this subsection.

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

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

473 (a) Waiver requests shall be submitted in writing, along
474 with supporting documentation, to the Office of Drug Control and
475 the Department of Law Enforcement. The office and the department
476 have 90 days to jointly grant or reject the waiver, in whole or

477 in part.

478 (b) The seaport may submit any waivers that are not
 479 granted or are jointly rejected to the Domestic Security
 480 Oversight Council for review within 90 days. The council shall
 481 recommend that the Office of Drug Control and the Department of
 482 Law Enforcement grant the waiver or reject the waiver, in whole
 483 or in part. The office and the department shall give great
 484 weight to the council's recommendations.

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

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

491 (9) INSPECTIONS.—It is the intent of the Legislature that
 492 the state's seaports adhere to security practices that are
 493 consistent with the risks assigned to each seaport through the
 494 ongoing risk assessment process established in paragraph (3)(a).

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

501 (b) The Department of Law Enforcement, or any entity
 502 designated by the department, may conduct additional announced
 503 or unannounced inspections or operations within or affecting any
 504 seaport to test compliance with, or the effectiveness of,

PCB CCJP 09-03

ORIGINAL

2009

505 security plans and operations at each seaport, to determine
506 compliance with physical facility requirements and standards, or
507 to assist the department in identifying changes or improvements
508 needed to bring a seaport into compliance with minimum security
509 standards.

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

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

522 (e) All seaports shall allow the Department of Law
523 Enforcement, or entity designated by the department, unimpeded
524 access to affected areas and facilities for the purpose of plan
525 or compliance inspections or other operations authorized by this
526 section.

527 (10) REPORTS.-- The Department of Law Enforcement, in
528 consultation with the Office of Drug Control, shall annually
529 complete a report indicating the observations and findings of
530 all reviews, inspections, or other operations relating to the
531 seaports conducted during the year and any recommendations
532 resulting from such reviews, inspections, and operations. A copy

533 of the report shall be provided to the Governor, the President
 534 of the Senate, the Speaker of the House of Representatives, the
 535 governing body of each seaport or seaport authority, and each
 536 seaport director. The report must include each director's
 537 response indicating what actions, if any, have been taken or are
 538 planned to be taken pursuant to the observations, findings, and
 539 recommendations reported by the department.

540 (11) FUNDING.—

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

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

553 (c) Subject to the provisions of this chapter and
 554 appropriations made for seaport security, state funds may not be
 555 expended for security costs without certification of need for
 556 such expenditures by the Office of Ports Administrator within
 557 the Department of Law Enforcement.

558 (d) If funds are appropriated for seaport security, the
 559 Office of Drug Control, the Department of Law Enforcement, and
 560 the Florida Seaport Transportation and Economic Development

561 Council shall mutually determine the allocation of such funds
 562 for security project needs identified in the approved seaport
 563 security plans. Any seaport that receives state funds for
 564 security projects must enter into a joint participation
 565 agreement with the appropriate state entity and use the seaport
 566 security plan as the basis for the agreement.

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

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

578 Section 3. Section 311.111 and 311.125, Florida Statutes,
 579 are repealed.

580 Section 4. Subsection (3) of section 311.121, Florida
 581 Statutes, is amended to read:

582 311.121 Qualifications, training, and certification of
 583 licensed security officers at Florida seaports.--

584 (3)(a) The Seaport Security Officer Qualification,
 585 Training, and Standards Coordinating Council is created under
 586 the Department of Law Enforcement.

587 (a) ~~(b)1.~~ The executive director of the Department of Law
 588 Enforcement shall appoint 11 members to the council to which
 589 ~~shall~~ include:

590 1.a. The seaport administrator of the Department of Law
 591 Enforcement.

592 2.b. The Commissioner of Education or designee ~~chancellor~~
 593 ~~of the Community College System.~~

594 3.e. The director of the Division of Licensing of the
 595 Department of Agriculture and Consumer Services.

596 4.d. The administrator of the Florida Seaport
 597 Transportation and Economic Development Council.

598 5.e. Two seaport security directors from seaports
 599 designated under s. 311.09.

600 6.f. One director of a state law enforcement academy.

601 7.g. One representative of a local law enforcement agency.

602 8.h. Two representatives of contract security services.

603 9.i. One representative of the Division of Driver Licenses
 604 of the Department of Highway Safety and Motor Vehicles.

605 (b)2. In addition to the members designated in paragraph
 606 (a) subparagraph 1., the executive director may invite a
 607 representative of the United States Coast Guard to attend and
 608 participate in council meetings as an ex officio, nonvoting
 609 member of the council.

610 (c) Council members designated under subparagraphs (a)1.-
 611 4. in sub-subparagraphs (b)1.a.-d. shall serve for the duration
 612 of their employment or appointment. Council members designated
 613 under subparagraphs (b)5.-9. sub-subparagraphs (b)1.e.-i. shall
 614 be appointed for ~~serve~~ 4-year terms, except that the initial

615 appointment for the representative of a local law enforcement
 616 agency, one representative of a contract security agency, and
 617 one seaport security director from a seaport designated in s.
 618 311.09 shall be appointed for 2-year terms ~~serve for terms of 2~~
 619 ~~years.~~

620 (d) The chancellor of the Community College System shall
 621 serve as chair of the council.

622 (e) The council shall meet upon the call of the chair, and
 623 at least once a year to update or modify curriculum
 624 recommendations.

625 (f) Council members shall serve without pay; however, per
 626 diem and travel allowances may be claimed for attendance of
 627 officially called meetings as provided by s. 112.061.

628 (g) ~~By December 1, 2006,~~ The council shall identify the
 629 qualifications, training, and standards for seaport security
 630 officer certification and recommend a curriculum for the seaport
 631 security officer training program that includes at least ~~shall~~
 632 ~~include no less than~~ 218 hours of initial certification training
 633 and that conforms to or exceeds model courses approved ~~by the~~
 634 ~~Federal Maritime Act~~ under s. 109 of the Federal Maritime
 635 Transportation Security Act of 2002 for facility personnel with
 636 specific security duties.

637 1.(h) The council may recommend training equivalencies
 638 that may be substituted for portions of the required training.

639 2.(i) The council shall recommend a continuing education
 640 curriculum of at least ~~no less than~~ 8 hours of additional
 641 training for each annual licensing period.

642 Section 5. Section 311.123, Florida Statutes, is amended
 643 to read:

644 311.123 Maritime domain security awareness training
 645 program.--

646 (1) The Florida Seaport Transportation and Economic
 647 Development Council, in conjunction with the Department of Law
 648 Enforcement and the Office of Drug Control within the Executive
 649 Office of the Governor, shall create a maritime domain security
 650 awareness training program to instruct all personnel employed
 651 within a seaport's boundaries about the security procedures
 652 required of them for implementation of the seaport security plan
 653 required under s. 311.12(3).

654 (2) The training program curriculum must include security
 655 training required pursuant to 33 C.F.R. part 105 and must be
 656 designed to enable the seaports in this state to meet the
 657 training, drill, and exercise requirements of 33 C.F.R. part 105
 658 and individual seaport security plans and to otherwise comply
 659 with the requirements of s. 311.12 ~~relating to security~~
 660 ~~awareness~~.

661 Section 6. Subsection (1) of section 311.124, Florida
 662 Statutes, is amended to read:

663 311.124 Trespassing; detention by a certified seaport
 664 security officer.--

665 (1) Any Class D or Class G seaport security officer
 666 certified under the Maritime Transportation Security Act
 667 guidelines and s. 311.121 or any employee of the seaport
 668 security force certified under the Maritime Transportation
 669 Security Act guidelines and s. 311.121 who has probable cause to

670 believe that a person is trespassing pursuant to ~~the provisions~~
 671 ~~of~~ s. 810.08 or s. 810.09 or this chapter in a designated secure
 672 or restricted area pursuant to s.311.12(4) ~~s. 311.111~~ is
 673 authorized to detain such person in a reasonable manner for a
 674 reasonable period of time pending the arrival of a law
 675 enforcement officer, and such action does ~~shall~~ not render the
 676 security officer criminally or civilly liable for false arrest,
 677 false imprisonment, or unlawful detention.

678 Section 7. Section 311.13, Florida Statutes, is amended to
 679 read:

680 311.13 Certain information exempt from disclosure.--
 681 Seaport security plans ~~of a seaport authority~~ created pursuant
 682 to s. 311.12 ~~by act of the Legislature or of a seaport~~
 683 ~~department of a county or municipality that operates an~~
 684 ~~international seaport~~ are exempt from s. 119.07(1) and s. 24(a),
 685 Art. I of the State Constitution. In addition, photographs,
 686 maps, blueprints, drawings, and similar materials that depict
 687 critical seaport operating facilities are exempt from s.
 688 119.07(1) and s. 24(a), Art. I of the State Constitution, to the
 689 extent that a seaport ~~authority created by act of the~~
 690 ~~Legislature or a seaport department of a county or municipality~~
 691 ~~that operates a seaport~~ reasonably determines that such items
 692 contain information that is not generally known and that could
 693 jeopardize the security of the seaport; however, information
 694 relating to real estate leases, layout plans, blueprints, or
 695 information relevant thereto, is not ~~to be~~ included in this
 696 exemption. ~~The exemptions in this section are applicable only to~~
 697 ~~records held by a seaport authority created by act of the~~

698 ~~Legislature or to records of a county or municipal seaport~~
 699 ~~department that operates a seaport.~~

700 Section 8. Paragraph (a) of subsection (4) of section
 701 943.0585, Florida Statutes, is amended to read:

702 943.0585 Court-ordered expunction of criminal history
 703 records.--The courts of this state have jurisdiction over their
 704 own procedures, including the maintenance, expunction, and
 705 correction of judicial records containing criminal history
 706 information to the extent such procedures are not inconsistent
 707 with the conditions, responsibilities, and duties established by
 708 this section. Any court of competent jurisdiction may order a
 709 criminal justice agency to expunge the criminal history record
 710 of a minor or an adult who complies with the requirements of
 711 this section. The court shall not order a criminal justice
 712 agency to expunge a criminal history record until the person
 713 seeking to expunge a criminal history record has applied for and
 714 received a certificate of eligibility for expunction pursuant to
 715 subsection (2). A criminal history record that relates to a
 716 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
 717 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
 718 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
 719 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
 720 any violation specified as a predicate offense for registration
 721 as a sexual predator pursuant to s. 775.21, without regard to
 722 whether that offense alone is sufficient to require such
 723 registration, or for registration as a sexual offender pursuant
 724 to s. 943.0435, may not be expunged, without regard to whether
 725 adjudication was withheld, if the defendant was found guilty of

726 | or pled guilty or nolo contendere to the offense, or if the
 727 | defendant, as a minor, was found to have committed, or pled
 728 | guilty or nolo contendere to committing, the offense as a
 729 | delinquent act. The court may only order expunction of a
 730 | criminal history record pertaining to one arrest or one incident
 731 | of alleged criminal activity, except as provided in this
 732 | section. The court may, at its sole discretion, order the
 733 | expunction of a criminal history record pertaining to more than
 734 | one arrest if the additional arrests directly relate to the
 735 | original arrest. If the court intends to order the expunction of
 736 | records pertaining to such additional arrests, such intent must
 737 | be specified in the order. A criminal justice agency may not
 738 | expunge any record pertaining to such additional arrests if the
 739 | order to expunge does not articulate the intention of the court
 740 | to expunge a record pertaining to more than one arrest. This
 741 | section does not prevent the court from ordering the expunction
 742 | of only a portion of a criminal history record pertaining to one
 743 | arrest or one incident of alleged criminal activity.
 744 | Notwithstanding any law to the contrary, a criminal justice
 745 | agency may comply with laws, court orders, and official requests
 746 | of other jurisdictions relating to expunction, correction, or
 747 | confidential handling of criminal history records or information
 748 | derived therefrom. This section does not confer any right to the
 749 | expunction of any criminal history record, and any request for
 750 | expunction of a criminal history record may be denied at the
 751 | sole discretion of the court.

752 | (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
 753 | criminal history record of a minor or an adult which is ordered

754 expunged by a court of competent jurisdiction pursuant to this
 755 section must be physically destroyed or obliterated by any
 756 criminal justice agency having custody of such record; except
 757 that any criminal history record in the custody of the
 758 department must be retained in all cases. A criminal history
 759 record ordered expunged that is retained by the department is
 760 confidential and exempt from the provisions of s. 119.07(1) and
 761 s. 24(a), Art. I of the State Constitution and not available to
 762 any person or entity except upon order of a court of competent
 763 jurisdiction. A criminal justice agency may retain a notation
 764 indicating compliance with an order to expunge.

765 (a) The person who is the subject of a criminal history
 766 record that is expunged under this section or under other
 767 provisions of law, including former s. 893.14, former s. 901.33,
 768 and former s. 943.058, may lawfully deny or fail to acknowledge
 769 the arrests covered by the expunged record, except when the
 770 subject of the record:

- 771 1. Is a candidate for employment with a criminal justice
 772 agency;
- 773 2. Is a defendant in a criminal prosecution;
- 774 3. Concurrently or subsequently petitions for relief under
 775 this section or s. 943.059;
- 776 4. Is a candidate for admission to The Florida Bar;
- 777 5. Is seeking to be employed or licensed by or to contract
 778 with the Department of Children and Family Services, the Agency
 779 for Health Care Administration, the Agency for Persons with
 780 Disabilities, or the Department of Juvenile Justice or to be
 781 employed or used by such contractor or licensee in a sensitive

782 position having direct contact with children, the
 783 developmentally disabled, the aged, or the elderly as provided
 784 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
 785 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4),
 786 chapter 916, s. 985.644, chapter 400, or chapter 429;

787 6. Is seeking to be employed or licensed by the Department
 788 of Education, any district school board, any university
 789 laboratory school, any charter school, any private or parochial
 790 school, or any local governmental entity that licenses child
 791 care facilities; or

792 7. Is seeking authorization from a ~~Florida~~ seaport listed
 793 ~~identified~~ in s. 311.09 for employment within or access to one
 794 or more of such seaports pursuant to s. 311.12 ~~or s. 311.125~~.

795 Section 9. Paragraph (a) of subsection (4) of section
 796 943.059, Florida Statutes, is amended to read:

797 943.059 Court-ordered sealing of criminal history
 798 records.--The courts of this state shall continue to have
 799 jurisdiction over their own procedures, including the
 800 maintenance, sealing, and correction of judicial records
 801 containing criminal history information to the extent such
 802 procedures are not inconsistent with the conditions,
 803 responsibilities, and duties established by this section. Any
 804 court of competent jurisdiction may order a criminal justice
 805 agency to seal the criminal history record of a minor or an
 806 adult who complies with the requirements of this section. The
 807 court shall not order a criminal justice agency to seal a
 808 criminal history record until the person seeking to seal a
 809 criminal history record has applied for and received a

810 certificate of eligibility for sealing pursuant to subsection
 811 (2). A criminal history record that relates to a violation of s.
 812 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
 813 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
 814 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
 815 916.1075, a violation enumerated in s. 907.041, or any violation
 816 specified as a predicate offense for registration as a sexual
 817 predator pursuant to s. 775.21, without regard to whether that
 818 offense alone is sufficient to require such registration, or for
 819 registration as a sexual offender pursuant to s. 943.0435, may
 820 not be sealed, without regard to whether adjudication was
 821 withheld, if the defendant was found guilty of or pled guilty or
 822 nolo contendere to the offense, or if the defendant, as a minor,
 823 was found to have committed or pled guilty or nolo contendere to
 824 committing the offense as a delinquent act. The court may only
 825 order sealing of a criminal history record pertaining to one
 826 arrest or one incident of alleged criminal activity, except as
 827 provided in this section. The court may, at its sole discretion,
 828 order the sealing of a criminal history record pertaining to
 829 more than one arrest if the additional arrests directly relate
 830 to the original arrest. If the court intends to order the
 831 sealing of records pertaining to such additional arrests, such
 832 intent must be specified in the order. A criminal justice agency
 833 may not seal any record pertaining to such additional arrests if
 834 the order to seal does not articulate the intention of the court
 835 to seal records pertaining to more than one arrest. This section
 836 does not prevent the court from ordering the sealing of only a
 837 portion of a criminal history record pertaining to one arrest or

838 one incident of alleged criminal activity. Notwithstanding any
 839 law to the contrary, a criminal justice agency may comply with
 840 laws, court orders, and official requests of other jurisdictions
 841 relating to sealing, correction, or confidential handling of
 842 criminal history records or information derived therefrom. This
 843 section does not confer any right to the sealing of any criminal
 844 history record, and any request for sealing a criminal history
 845 record may be denied at the sole discretion of the court.

846 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal
 847 history record of a minor or an adult which is ordered sealed by
 848 a court of competent jurisdiction pursuant to this section is
 849 confidential and exempt from the provisions of s. 119.07(1) and
 850 s. 24(a), Art. I of the State Constitution and is available only
 851 to the person who is the subject of the record, to the subject's
 852 attorney, to criminal justice agencies for their respective
 853 criminal justice purposes, which include conducting a criminal
 854 history background check for approval of firearms purchases or
 855 transfers as authorized by state or federal law, to judges in
 856 the state courts system for the purpose of assisting them in
 857 their case-related decisionmaking responsibilities, as set forth
 858 in s. 943.053(5), or to those entities set forth in
 859 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
 860 licensing, access authorization, and employment purposes.

861 (a) The subject of a criminal history record sealed under
 862 this section or under other provisions of law, including former
 863 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
 864 deny or fail to acknowledge the arrests covered by the sealed
 865 record, except when the subject of the record:

- 866 1. Is a candidate for employment with a criminal justice
867 agency;
- 868 2. Is a defendant in a criminal prosecution;
- 869 3. Concurrently or subsequently petitions for relief under
870 this section or s. 943.0585;
- 871 4. Is a candidate for admission to The Florida Bar;
- 872 5. Is seeking to be employed or licensed by or to contract
873 with the Department of Children and Family Services, the Agency
874 for Health Care Administration, the Agency for Persons with
875 Disabilities, or the Department of Juvenile Justice or to be
876 employed or used by such contractor or licensee in a sensitive
877 position having direct contact with children, the
878 developmentally disabled, the aged, or the elderly as provided
879 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
880 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
881 415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;
- 882 6. Is seeking to be employed or licensed by the Department
883 of Education, any district school board, any university
884 laboratory school, any charter school, any private or parochial
885 school, or any local governmental entity that licenses child
886 care facilities;
- 887 7. Is attempting to purchase a firearm from a licensed
888 importer, licensed manufacturer, or licensed dealer and is
889 subject to a criminal history ~~background~~ check under state or
890 federal law; or
- 891 8. Is seeking authorization from a Florida seaport
892 identified in s. 311.09 for employment within or access to one
893 or more of such seaports pursuant to s. 311.12 ~~or s. 311.125.~~

PCB CCJP 09-03

ORIGINAL

2009

894 Section 10. The Office of Drug Control shall commission an
895 update of the Florida Seaport Security Assessment 2000
896 referenced in s. 311.12(1)(a), Florida Statutes. The office
897 shall consult with the Seaport Security Standards Advisory
898 Council in forming the parameters of the update. The updated
899 assessment shall be presented to the Legislature for review by
900 January 1, 2010. Pursuant to s. 311.13, Florida Statutes, any
901 records included in the assessment which are exempt from s.
902 119.07(1), Florida Statutes, are exempt from disclosure.

903 Section 11. The Department of Law Enforcement may create a
904 pilot project of at least three seaports to perform the tasks
905 required in subsections (6) and (7) of s. 311.12, Florida
906 Statutes, as amended by this act. Equipment purchased by the
907 state to implement the Florida Uniform Port Access Control
908 system is transferred from the Department of Highway Safety and
909 Motor Vehicles to the Department of Law Enforcement for use in
910 the pilot project and to assist other seaports with compliance.

911 Section 12. Except as otherwise expressly provided in this
912 act, shall take effect July 1, 2009.