

## House Bill No. 7145

An act relating to seaport security; creating s. 311.111, F.S.; requiring each seaport authority or governing board of a seaport that is subject to the statewide minimum seaport security standards to designate and identify security area designations, access requirements, and security enforcement authorizations on seaport premises and in seaport security plans; providing that any part of a port's property may be designated as a restricted access area under certain conditions; amending s. 311.12, F.S.; revising purpose of security plans maintained by seaports; requiring periodic plan revisions; requiring plans to be inspected for compliance by the Office of Drug Control and the Department of Law Enforcement based upon specified standards; providing requirements with respect to protection standards in specified restricted areas; requiring delivery of the plan to specified entities; requiring the Department of Law Enforcement to inspect every seaport within the state to determine if all security measures adopted by the seaport are in compliance with seaport security standards; requiring a report; authorizing seaports to request review by the Domestic Security Oversight Council of the findings in a Department of Law Enforcement inspection report; limiting the findings which the council is authorized to review; requiring the Department of Law Enforcement to establish a waiver process to grant certain individuals unescorted access to seaports or restricted access areas under certain circumstances; providing waiver process requirements; requiring the administrative staff of the Parole Commission to review the waiver application and transmit the findings to the department; requiring the department to make a final disposition of the application and notify the applicant and the seaport; providing that the waiver review process is exempt from the Administrative Procedure Act; providing procedures and requirements with respect to waiver of any physical facility requirement or other requirement contained in the statewide minimum standards for seaport security; providing a penalty for possession of a concealed weapon while on seaport property in a designated restricted area; creating the Seaport Standards Security Advisory Council under the Office of Drug Control within the Executive Office of the Governor; providing membership, terms, organization, and meetings of the council; requiring the Office of Drug Control to convene the Seaport Security Standards Advisory Council to review the statewide minimum standards for seaport security; requiring periodic review of the statewide minimum standards for seaport security to be conducted by the council; creating s. 311.121, F.S.; providing legislative intent with respect to the employment by seaports of certified law enforcement officers and certified private security officers; providing authority of seaports and requirements of the Department of Law Enforcement with respect to such intent; requiring the authority or governing board of each seaport that is subject to statewide minimum seaport security standards to impose specified requirements for certification as a seaport security officer;

creating the Seaport Security Officer Qualification, Training, and Standards Coordinating Council under the Department of Law Enforcement; providing membership and organization of the council; providing terms of members; providing duties and authority of the council; requiring the Department of Education to develop curriculum recommendations and specifications of the council into initial and continuing education and training programs for seaport security officer certification; providing requirements and procedures with respect to such training programs; providing requirements and procedures with respect to certification as a seaport security officer; providing requirements for renewal of inactive or revoked certification; creating s. 311.122, F.S.; authorizing each seaport in the state to create a seaport law enforcement agency for its facility; providing requirements of an agency; requiring certification of an agency; providing requirements with respect to the composition of agency personnel; providing powers of seaport law enforcement agency officers and seaport security officers; creating s. 311.123, F.S.; providing for the creation of a maritime domain security awareness training program; providing purpose of the program; providing program training curriculum requirements; creating s. 311.124, F.S.; providing authority of seaport security officers to detain persons suspected of trespassing in a designated restricted area of a seaport; providing immunity from specified criminal or civil liability; creating s. 817.021, F.S.; providing a criminal penalty for willfully and knowingly providing false information in obtaining or attempting to obtain a seaport security identification card; providing an effective date.

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

Section 1. Section 311.111, Florida Statutes, is created to read:

311.111 Security area designations; access requirements; authority.—Each seaport authority or governing board of a seaport identified in s. 311.09 that is subject to the statewide minimum seaport security standards in s. 311.12 shall clearly designate in seaport security plans and clearly identify with appropriate signs and markers on the premises of a seaport the following security area designations, access requirements, and corresponding security enforcement authorizations, which may include, but not be limited to, clear notice of the prohibition on possession of concealed weapons and other contraband material on the premises of the seaport:

(1) UNRESTRICTED PUBLIC ACCESS AREA.—An unrestricted public access area of a seaport is open to the general public without a seaport identification card other than that required as a condition of employment by a seaport director.

(2) RESTRICTED PUBLIC ACCESS AREA.—A restricted public access area of a seaport is open to the public for a specific purpose via restricted access and open to individuals working on the seaport, seaport employees, or guests who have business with the seaport. Any person found in these areas without the proper level of identification card is subject to the trespass

provisions of ss. 810.08 and 810.09 and this chapter. All persons and objects in these areas are subject to search by a sworn state-certified law enforcement officer, a Class D seaport security officer certified under Maritime Transportation Security Act guidelines and s. 311.121, or an employee of the seaport security force certified under the Maritime Transportation Security Act guidelines and s. 311.121.

(3) RESTRICTED ACCESS AREA.—A restricted access area of a seaport is open only to individuals working on the seaport, seaport employees, or guests who have business with the seaport. Any person found in these areas without the proper level of identification card is subject to the trespass provisions of ss. 810.08 and 810.09 and this chapter. All persons and objects in these areas are subject to search by a sworn state-certified law enforcement officer, a Class D seaport security officer certified under Maritime Transportation Security Act guidelines and s. 311.121, or an employee of the seaport security force certified under the Maritime Transportation Security Act guidelines and s. 311.121.

(4) SECURED RESTRICTED ACCESS AREA.—A secured restricted access area of a seaport is open only to individuals working on the seaport, seaport employees, or guests who have business with the seaport and is secured at each point of access at all times by a Class D seaport security officer certified under the Maritime Transportation Security Act, a sworn state-certified law enforcement officer, or an employee of the port's security force certified under the Maritime Transportation Security Act. Any person found in these areas without the proper level of identification card is subject to the trespass provisions of ss. 810.08 and 810.09 and this chapter. All persons and objects in these areas are subject to search by a Class D seaport security officer certified under Maritime Transportation Security Act guidelines and s. 311.121, a sworn state-certified law enforcement officer, or an employee of the seaport security force certified under the Maritime Transportation Security Act guidelines and s. 311.121.

(5) TEMPORARY DESIGNATION.—During a period of high terrorist threat level designated by the United States Department of Homeland Security or the Florida Department of Law Enforcement or during an emergency declared at a port by the seaport security director due to events applicable to that particular port, the management or controlling authority of the port may temporarily designate any part of the port property as a restricted access area or a secured restricted access area. The duration of such designation is limited to the period in which the high terrorist threat level is in effect or a port emergency exists. Subsections (3) and (4) do not limit the power of the managing or controlling authority of a seaport to designate any port property as a restricted access area or a secured restricted access area as otherwise provided by law.

Section 2. Subsection (2) and paragraph (b) of subsection (4) of section 311.12, Florida Statutes, are amended, paragraph (e) is added to subsection (3), and subsections (7) and (8) are added to that section, to read:

311.12 Seaport security standards; inspections; compliance; appeals.—

(2)(a) Each seaport identified in s. 311.09 shall maintain a security plan to provide for a secure seaport infrastructure specific to that seaport that shall promote the safety and security of the residents and visitors of the state and promote the flow of legitimate trade and travel. Commencing January 1, 2007, and every 5 years thereafter, the seaport director of each seaport, with the assistance of the Regional Domestic Security Task Force and in conjunction with the United States Coast Guard, shall revise the seaport security plan based on the results of continual, quarterly assessments by the seaport director of security risks and possible risks related to terrorist activities and relating to the specific and identifiable needs of the seaport which assures that the seaport is in substantial compliance with the statewide minimum standards established pursuant to subsection (1).

(b) Each plan adopted or revised pursuant to this subsection shall be inspected for compliance and must be reviewed and approved by the Office of Drug Control and the Department of Law Enforcement based solely upon the standards as set forth under the most current Maritime Transportation Security Act, 33 C.F.R. s. 105.305, and the statewide minimum standards established pursuant to subsection (1). All such seaports shall allow unimpeded access by the Department of Law Enforcement to the affected facilities for purposes of plan or compliance inspections or other operations authorized by this section.

(c) Each seaport security plan shall may establish unrestricted and restricted access areas within the seaport consistent with the requirements of the statewide minimum standards and the provisions of s. 311.111. In such cases, a Uniform Port Access Credential Card, authorizing restricted-area access, shall be required for any individual working within or authorized to regularly enter a restricted access area and the requirements in subsection (3) relating to criminal history checks and employment restrictions shall be applicable only to employees or other persons working within or authorized to regularly enter a restricted access area. Every seaport security plan shall set forth the conditions and restrictions to be imposed upon others visiting the port or any restricted access area sufficient to provide substantial compliance with the statewide minimum standards. As determined by the seaport director's most current risk assessment report, any restricted access area with a potential human occupancy of 50 persons or more, any cruise terminal, or any business operation that is adjacent to an unrestricted public access area shall be protected from the most probable and creditable terrorist threat to human life by the use of the methods and principles contained within Federal Emergency Management Agency, Risk Management Series, "Reference Manual to Mitigate Potential Terrorist Attacks Against Buildings" (FEMA 426) and the Federal Emergency Management Agency, Risk Management Series, "Risk Assessment: A How-To Guide to Mitigate Potential Terrorist Attacks Against Buildings" (FEMA 452).

(d) Within 30 days after the completion of the seaport's security plan inspection by the Department of Law Enforcement, it shall be delivered to the United States Coast Guard, the Regional Domestic Security Task Force, and the Domestic Security Oversight Council.

(e) It is the intent of the Legislature that Florida's seaports adhere to security practices that are consistent with risks assigned to each seaport

through the risk assessment process established in this subsection. Therefore, the Department of Law Enforcement shall inspect every seaport within the state to determine if all security measures adopted by the seaport are in compliance with the standards set forth in this chapter and shall submit the department's findings within 30 days after the inspection in a report to the Domestic Security Oversight Council and the United States Coast Guard for review, with requests to the Coast Guard for any necessary corrective action.

(f) A seaport may request review by the Domestic Security Oversight Council of the findings in any Department of Law Enforcement inspection report as they relate to the requirements of this section. The Domestic Security Oversight Council may review only those findings under this section that are in specific dispute by the seaport. In reviewing the disputed findings, the council may concur in the findings of the department or the seaport or may recommend corrective action to the seaport. The department and the seaport shall give great weight to any findings and recommendations of the council.

(3)

(e) The Department of Law Enforcement shall establish a waiver process to allow unescorted access to an individual who is found to be unqualified under paragraph (c) and denied employment by a seaport. The waiver consideration shall be based on the circumstances of any disqualifying act or offense, restitution made by the individual, and other factors from which it may be determined that the individual does not pose a risk of engaging in theft, drug trafficking, or terrorism within the public seaports regulated under this chapter or of harming any person. The waiver process shall begin when an individual who has been denied initial employment within or regular unescorted access to restricted areas of a public seaport as described in paragraph (c) submits an application for a waiver and notarized letter or affidavit from the individual's employer or union representative which states the mitigating reasons for initiating the waiver process. No later than 90 days after receipt of the application, the administrative staff of the Parole Commission shall conduct a factual review of the waiver application. Findings of fact shall be transmitted to the Department of Law Enforcement for review. The department shall make a copy of those findings available to the applicant before final disposition of the waiver request. The department shall make a final disposition of the waiver request based on the factual findings of the investigation by the Parole Commission. The department shall notify the waiver applicant and the port authority that originally denied employment to the applicant of the final disposition of the waiver. The review process under this paragraph is exempt from chapter 120.

(4)

(b) The Office of Drug Control and the executive director of the Department of Law Enforcement may modify or waive any physical facility requirement or other requirement contained in the statewide minimum standards for seaport security upon a finding or other determination that the purposes of the standards have been reasonably met or exceeded by the seaport

requesting the modification or waiver. Alternate means of compliance may not in any way diminish the safety or security of the seaport and shall be verified through an extensive risk analysis conducted by the port director. Waivers shall be submitted in writing with supporting documentation to the Office of Drug Control and the Department of Law Enforcement. The Office of Drug Control and the Department of Law Enforcement shall have 90 days to jointly grant the waiver or reject the waiver in whole or in part. Waivers not granted within 90 days or jointly rejected shall be submitted by the seaport to the Domestic Security Oversight Council for review. The Domestic Security Oversight Council shall recommend that the Office of Drug Control and the Department of Law Enforcement grant the waiver or reject the waiver in whole or in part. The Office of Drug Control and the Department of Law Enforcement shall give great weight to any recommendations of the Domestic Security Oversight Council. Waivers submitted for standards established under s. 311.122(3) shall not be granted for percentages below 10 percent. Such modifications or waivers shall be noted in the annual report submitted by the Department of Law Enforcement pursuant to this subsection.

(7) Any person who has in his or her possession a concealed weapon, or who operates or has possession or control of a vehicle in or upon which a concealed weapon is placed or stored, while in a designated restricted area on seaport property commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. This subsection does not apply to active-duty certified federal or state law enforcement personnel, or persons so designated by the seaport director in writing.

(8)(a) The Seaport Security Standards Advisory Council is created under the Office of Drug Control. The council shall serve as an advisory council under s. 20.03(7).

(b)1. The members of the Seaport Security Standards Advisory Council shall be appointed by the Governor and consist of the following:

- a. Two seaport directors.
- b. Two seaport security directors.
- c. One designee from the Department of Law Enforcement.
- d. One designee from the Office of Motor Carrier Compliance of the Department of Transportation.
- e. One designee from the Attorney General's Office.
- f. One designee from the Department of Agriculture and Consumer Services.
- g. One designee from the Office of Tourism, Trade, and Economic Development.
- h. One designee from the Office of Drug Control.

2. In addition to the members designated in subparagraph 1., the council may invite a representative of the United States Coast Guard to attend and participate in council meetings as an ex officio, nonvoting member of the council.

(c) Members of the council shall serve for terms of 4 years. A vacancy shall be filled by the original appointing authority for the balance of the unexpired term.

(d) The Seaport Security Standards Advisory Council shall be chaired by a designee from the Office of Drug Control. The council shall meet upon the call of the chair and at least once every 5 years.

(e) Commencing on January 15, 2007, and at least every 4 years thereafter, the Office of Drug Control shall convene the Seaport Security Standards Advisory Council to review the statewide minimum standards. The Seaport Security Standards Advisory Council shall review the statewide minimum standards for seaport security for applicability to and effectiveness in combating current narcotics and terrorism threats to Florida's seaports. All sources of information allowed by law shall be utilized in assessing the applicability and effectiveness of the standards.

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

(g) The Seaport Security Standards Advisory Council shall consult with the appropriate area maritime security committees to assess possible impacts to commerce and trade contained in the council's non-classified recommendations and findings.

(h) Recommendations and findings of the council shall be transmitted to the Governor, the Speaker of the House of Representatives, and the President of the Senate.

Section 3. Section 311.121, Florida Statutes, is created to read:

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

(1) It is the intent of the Legislature that seaports in the state be able to mitigate operational security costs without reducing security levels by employing a combination of certified law enforcement officers and certified private security service officers. In order to accomplish this intent, seaports shall have the option to recruit and employ seaport security officers who are trained and certified pursuant to the provisions of this section. The Department of Law Enforcement shall adhere to this intent in the approval and certification process for seaport security required under s. 311.12.

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

- (a) Has received a Class D license as a security officer under chapter 493.
- (b) Has successfully completed the certified training curriculum for a Class D license or has been determined by the Department of Agriculture and Consumer Services to have equivalent experience as established by rule of the department.
- (c) Has completed the training or training equivalency and testing process established by this section for becoming a certified seaport security officer.
- (3)(a) The Seaport Security Officer Qualification, Training, and Standards Coordinating Council is created under the Department of Law Enforcement.
- (b)1. The executive director of the Department of Law Enforcement shall appoint 11 members to the council which shall include:
- a. The seaport administrator of the Department of Law Enforcement.
  - b. The chancellor of the Community College System.
  - c. The director of the Division of Licensing of the Department of Agriculture and Consumer Services.
  - d. The administrator of the Florida Seaport Transportation and Economic Development Council.
  - e. Two seaport security directors from seaports designated under s. 311.09.
  - f. One director of a state law enforcement academy.
  - g. One representative of a local law enforcement agency.
  - h. Two representatives of contract security services.
  - i. One representative of the Division of Driver Licenses of the Department of Highway Safety and Motor Vehicles.
2. In addition to the members designated in subparagraph 1., the executive director may invite a representative of the United States Coast Guard to attend and participate in council meetings as an ex officio, nonvoting member of the council.
- (c) Council members designated in sub-subparagraphs (b)1.a.-d. shall serve for the duration of their employment or appointment. Council members designated under sub-subparagraphs (b)1.e.-i. shall serve 4-year terms, except that the initial appointment for the representative of a local law enforcement agency, one representative of a contract security agency, and one seaport security director from a seaport designated in s. 311.09 shall serve for terms of 2 years.
- (d) The chancellor of the Community College System shall serve as chair of the council.



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

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

(g) By December 1, 2006, the council shall identify the qualifications, training, and standards for seaport security officer certification and recommend a curriculum for the seaport security officer training program that shall include no less than 218 hours of initial certification training and that conforms to or exceeds model courses approved by the Federal Maritime Act under Section 109 of the Federal Maritime Transportation Security Act of 2002 for facility personnel with specific security duties.

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

(i) The council shall recommend a continuing education curriculum of no less than 8 hours of additional training for each annual licensing period.

(4)(a) The Department of Education shall develop the curriculum recommendations and classroom-hour specifications of the Seaport Security Officer Qualifications, Training, and Standards Coordinating Council into initial and continuing education and training programs for seaport security officer certification.

(b) Such training programs shall be used by schools licensed under s. 493.6304, and each instructor providing training must hold a Class D license pursuant to s. 493.6301.

(c) A seaport authority or other organization involved in seaport-related activities may apply to become a school licensed under s. 493.6304.

(d) The training programs shall include proficiency examinations that must be passed by each candidate for certification who successfully completes the required hours of training or provides proof of authorized training equivalencies.

(e) A candidate for certification must be provided with a list of authorized training equivalencies in advance of training; however, each candidate for certification must successfully complete 20 hours of study specific to Florida Maritime Security and pass the related portion of the proficiency examination.

(5) Seaport security officer certificates shall be provided by the Department of Agriculture and Consumer Services for issuance by a school licensed under s. 493.6304 and such school may issue the certificate to an applicant who has successfully completed the training program. A school shall notify the Division of Licensing within the department upon the issuance of each certificate. The notification must include the name and Class D license number of the certificate holder and a copy of the certificate. The department shall place the notification with the licensee's file. Notification may be

provided by electronic or paper format pursuant to instruction of the Department of Agriculture and Consumer Services.

(6)(a) Upon completion of the certification process, a person holding a Class D license must apply for a revised license pursuant to s. 493.6107(2), which license shall state that the licensee is certified as a seaport security officer.

(b) A person who has been issued a seaport security officer certificate is authorized to perform duties specifically required of a seaport security officer.

(c) The certificate is valid for the duration of the seaport security officer's Class D license and shall be renewed upon renewal of the license.

(d) The certificate shall become void if the seaport security officer's Class D license is revoked or allowed to lapse for more than 1 year or if the licensee fails to complete the annual continuing education requirement prior to expiration of the Class D license.

(e) Renewal of certification following licensure revocation or a lapse of longer than 1 year requires, at a minimum, 20 hours of recertification training and reexamination of the applicant.

Section 4. Section 311.122, Florida Statutes, is created to read:

311.122 Seaport law enforcement agency; authorization; requirements; powers; training.—

(1) Each seaport in the state is authorized to create a seaport law enforcement agency for its facility, which authority in no way precludes the seaport from contracting with local governments or law enforcement agencies to comply with the security standards required by this chapter.

(2) Each seaport law enforcement agency shall meet all of the standards set by the state under certified law enforcement guidelines and requirements and shall be certified as provided under chapter 943.

(3) If a seaport creates a seaport law enforcement agency for its facility, a minimum of 30 percent of the aggregate personnel of each seaport law enforcement agency shall be sworn state-certified law enforcement officers with additional Maritime Transportation Security Act seaport training; a minimum of 30 percent of on-duty personnel of each seaport law enforcement agency shall be sworn state-certified law enforcement officers with additional Maritime Transportation Security Act seaport training; and at least one on-duty supervisor must be a sworn state-certified law enforcement officer with additional Maritime Transportation Security Act seaport training.

(4) For the purposes of this chapter, where applicable, seaport law enforcement agency officers shall have the same powers as university police officers as provided in s. 1012.97; however, such powers do not extend beyond the property of the seaport except in connection with an investigation

initiated on seaport property or in connection with an immediate, imminent threat to the seaport.

(5) For the purposes of this chapter, sworn state-certified seaport security officers shall have the same law enforcement powers with respect to the enforcement of traffic laws on seaport property as university police officers under s. 1012.97, community college police officers under s. 1012.88, and airport police officers under the provisions of s. 316.640(1)(a)1.d.(I)-(II).

(6) Certified seaport security officers shall have the authority to immediately tow any vehicle parked illegally as indicated by an existing sign or during an emergency as deemed necessary to maintain seaport security.

Section 5. Section 311.123, Florida Statutes, is created to read:

311.123 Maritime domain security awareness training program.—

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

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

Section 6. Section 311.124, Florida Statutes, is created to read:

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

(1) Any Class D or Class G seaport security officer certified under the Maritime Transportation Security Act guidelines and s. 311.121 or any employee of the seaport security force certified under the Maritime Transportation Security Act guidelines and s. 311.121 who has probable cause to believe that a person is trespassing pursuant to the provisions of s. 810.08 or s. 810.09 or this chapter in a designated restricted area pursuant to s. 311.111 is authorized to detain such person in a reasonable manner for a reasonable period of time pending the arrival of a law enforcement officer, and such action shall not render the security officer criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

(2) Upon detaining a person for trespass, the seaport security officer shall immediately call a certified law enforcement officer to the scene.

Section 7. Section 817.021, Florida Statutes, is created to read:

817.021 False information to obtain a seaport security identification card.—A person who willfully and knowingly provides false information in obtaining or attempting to obtain a seaport security identification card com-

mits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

Section 8. This act shall take effect July 1, 2006.

Approved by the Governor June 12, 2006.

Filed in Office Secretary of State June 12, 2006.