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CHAPTER 17.

 SOUTH CAROLINA MARITIME SECURITY ACT

**SECTION 54‑17‑10.** Short title.

This chapter may be cited as the “South Carolina Maritime Security Act”.

**SECTION 54‑17‑20.** Definitions.

As used in this chapter:

(1) “Commission” means the group of individuals comprising the Maritime Security Commission.

(2) “Captain of the Port” means the United States Coast Guard officer designated by the Commandant of the Coast Guard to perform that function pursuant to Section 1.01‑30 of Title 33, Code of Federal Regulations, whose role is further defined in Section 6.01‑4 of that same title.

(3) “District Commander” means the Coast Guard officer designated by the Commandant of the Coast Guard to command a Coast Guard district. District Commander refers to that district commander that incorporates South Carolina.

(4) “Port” means a developed area of maritime commerce.

(5) “Maritime area” means any area of water, land, or water and land bordering on the sea or any estuary, river, creek, or lake in or contiguous to the State of South Carolina, that is capable of approach by a vessel, excluding the land‑side facilities of the South Carolina State Ports Authority.

(6) “Safety zone” means a water area, shore area, or water and shore area to which, for safety or environmental purposes, access is limited to authorized persons, vehicles, or vessels. It may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion.

(7) “Security zone” means an area of land, water, or land and water which is so designated by the Captain of the Port or District Commander for such time as may be necessary to prevent damage or injury to any vessel or waterfront facility, to safeguard ports, harbors, territories, or waters of the United States, or to secure the observance of the rights and obligations of the United States. The purpose of a security zone is to safeguard from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature (a) vessels, (b) harbors, (c) ports, and (d) waterfront facilities that are in the United States and its territories and waters, continental or insular, that are subject to the jurisdiction of the United States.

(8) “Volunteer Port Security Force” means the volunteer organization composed of licensed mariners and private assets who: (a) facilitate discovery and proper reporting of suspicious activities and events observed on and about the waters of Charleston bar and harbor, and (b) provide assistance to those government authorities during Maritime Security Levels 2 and 3, as may be required.

(9) “Memorandum of Agreement” means a document that must be executed by the Chairman of the Maritime Security Commission and the Attorney General of South Carolina on behalf of the State and the United States Navy, detailing fiduciary duties, potential liability, and federal support issues for a South Carolina Naval Militia and must be renewed every five years.

(10) “Privileges” means that based upon title or membership, an individual is entitled to accommodations of the naval service and such recognition by other services of this State. However, privilege shall not be determined to be a monetary or fiscal “benefit”, or information access regardless of other requirements.

**SECTION 54‑17‑30.** Maritime Security Commission created; membership; terms; vacancies.

There is created a Maritime Security Commission composed of nine members:

(1) one member shall be the Chairman of the State Ports Authority, ex‑officio, or a member of the State Ports Authority Board, designated by the chairman;

(2) one member shall be a chief of police or equivalent, ex‑officio;

(3) one member shall be a fire chief or equivalent, ex‑officio;

(4) one member shall be a representative of the South Carolina Department of Natural Resources Law Enforcement Division, ex‑officio;

(5) one member shall represent the commercial maritime community;

(6) one member shall be a retired United States Coast Guard officer, grade 0‑5 or higher, who supervised federal port security duties as a Captain of the Port;

(7) one member shall be a retired United States Navy or Navy Reserve officer, grade 0‑6 or higher;

(8) one member shall be a retired United States Marines Corps or Marine Corps Reserve officer, grade 0‑6 or higher; and

(9) one member shall be a retired United States Coast Guard or Coast Guard Reserve officer, grade 0‑6 or higher.

The five members who are not ex‑officio shall be appointed by the Governor with the advice and consent of the Senate. These non‑ex‑officio members shall be selected from respective lists of retired Navy and Navy Reserve, Marine Corps and Marine Corps Reserve, Coast Guard and Coast Guard Reserve officers residing in South Carolina and commercial maritime community members maintained by the Captains of the Port. The chiefs of police and fire chiefs shall be from the port communities and shall rotate annually into the position on the commission. The order of rotation shall be determined by the respective chiefs. The Coast Guard member and the commercial maritime community member shall serve initial terms of two years, the Navy and Marine Corps members shall serve initial terms of four years, and the Coast Guard member who supervised federal port security duties as Captain of the Port shall serve an initial term of six years. Thereafter, the four members who are not ex‑officio shall serve terms of six years. In the event of a vacancy, however caused, a successor must be appointed in the manner of the original appointment for the unexpired term. These appointments must be made as each term of the present commissioners expires. The appointees, however, shall serve until their successors have been appointed and qualified. There shall be a chairman and a secretary elected by the members of the commission pursuant to rules adopted by the commission. Each member shall have the appropriate background as to authorize access to sensitive law enforcement and port security information.

**SECTION 54‑17‑40.** South Carolina Naval Militia reestablished.

The South Carolina Naval Militia is reestablished. The Maritime Security Commission must organize, administer, coordinate, and facilitate the activities of the Naval Militia in order to provide to federal, state, county, and local agencies adequate numbers of trained and qualified personnel with proper accountability and adequate indemnification provisions to enhance maritime homeland security operations.

**SECTION 54‑17‑50.** Purpose of Naval Militia; command; divisions; rights of personnel; joint service task force.

(A) The Naval Militia is an organized, structured, trained, and certified volunteer state maritime force that is regionally aligned to enable appropriate augmentation of federal, state, county, and municipal forces and may be engaged in any federal response to the threat of terrorism and to the needs of maritime homeland security. This militia is naval in nature and functions as a federally‑recognized state force pursuant to Title 10 of the United States Code and a Memorandum of Agreement that must be in effect between the United States Navy and the State prior to the Naval Militia becoming operational.

(B) The Commander of the South Carolina Naval Militia must be appointed by the commission, commissioned by the Governor, and shall serve at the pleasure of the commission. The Maritime Security Commission shall promulgate regulations to be approved by the General Assembly pursuant to the Administrative Procedures Act that set forth the command structure of the Naval Militia and establish the rank of the commander. The commander will propose to the commission other commissions and appointments in accordance with commission regulations.

(C) Divisions of the Naval Militia will include a division that consists of members of the United States Navy, Marine Corps, and Coast Guard Reserve (federal service takes priority). In addition, the Naval Militia must include a division that consists of the Merchant Marine. The Merchant Marine division shall consist of Coast Guard‑licensed or certificated merchant mariners whose regular occupation is service on board Coast Guard‑regulated commercial vessels that normally operate in or from the maritime areas of South Carolina and which are enrolled as units of the Volunteer Port Security Force. The Merchant Marine division also shall include other professional mariners who have volunteered for service in this militia and who are licensed or certificated by the Coast Guard as merchant mariners. The Naval Militia also shall include a staff element and a support division.

(D) Naval Militia personnel are entitled to all appropriate honors, courtesies, and privileges provided under state law to state military organizations. Authority shall be exercised pursuant to mission requirement and in accordance with rules adopted by the commission.

(E) Within the South Carolina Naval Militia, a joint service task force is authorized whose purpose is to determine and coordinate regional security missions relating to those waterways shared with contiguous states and to provide federal and regional interoperability advice and assistance to the commission. This task force shall be appointed and assigned pursuant to rules adopted by the commission.

**SECTION 54‑17‑60.** Commission and Naval Militia activities coordinated with federal, state, and local agencies.

The Maritime Security Commission and the Naval Militia must coordinate their activities with federal, state, and local agencies responsible for maritime homeland security and Naval Militia functions as they relate to this title. These agencies shall include, but are not limited to, the State Law Enforcement Division, the Departments of Natural Resources, Public Safety, and Transportation and the Military Department, and their several state agencies; state, county, and municipal police departments including marine police components; and the South Carolina Army and Air National Guard.

**SECTION 54‑17‑70.** Promulgation of regulations to enforce homeland security measures for maritime protection.

The South Carolina Law Enforcement Division is authorized to promulgate regulations not specifically authorized by the federal government or by another agency, department, or division of state government, which are necessary for the proper administration and enforcement of homeland security measures for maritime protection including, but not limited to, safety zones and security zones. These regulations, including any emergency authority, must be promulgated within the guidelines of the Administrative Procedures Act and after consultation with the Ports Security Committee established by the United States Coast Guard. This regulatory authority ceases upon implementation of the federal Maritime Transportation Security Act regulations, currently scheduled for July 2004.