

Amendment No. 2 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Council for Competitive Commerce offered the following:

**Substitute Amendment for Amendment (903487) (with title amendment)**

Remove from the bill: Everything after the enacting clause

and insert in lieu thereof: Section 311.12 Seaport security standards.--

(1) The minimum standards for seaport security and the reasonable expectations for security for each seaport identified in s. 311.09 contained therein, as developed by the  
~~The~~ Office of Drug Control within the Executive Office of the Governor, in consultation with the Florida Seaport Transportation and Economic Development Council, and in conjunction with the Florida Department of Law Enforcement and local law enforcement agencies having primary authority over the affected seaports, are approved. ~~shall develop, by January 1, 2001, a statewide security plan based upon the Florida Seaport Security Assessment 2000 conducted by the Office of Drug Control. Such plan shall establish statewide minimum standards for seaport security including the prevention of~~

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1 ~~criminal activity including money laundering. The statewide~~  
2 ~~seaport security plan shall identify the funding needs for~~  
3 ~~security requirements of all relevant ports and shall~~  
4 ~~recommend mechanisms to fund those needs including an analysis~~  
5 ~~of the ability of seaports to provide funding for necessary~~  
6 ~~improvements. The statewide seaport security plan shall be~~  
7 ~~submitted to the Speaker of the House of Representatives and~~  
8 ~~the President of the Senate and the chairs of the fiscal~~  
9 ~~committees of the House of Representatives and Senate for~~  
10 ~~review on or before January 1, 2001.~~

11       (2) Each ~~All~~ seaports, as identified pursuant to in s.  
12 311.09(1), in conjunction with and pending review and approval  
13 by the Office of Drug Control, within the Executive Office of  
14 the Governor, and the Florida Department of Law Enforcement,  
15 and in consultation with the Florida Seaport Transportation  
16 and Economic Development Council, shall no later than January  
17 31, 2001, develop and draft maintain an individual seaport  
18 security plans particular to the specific and identifiable  
19 needs of their respective seaports that assures the seaport is  
20 in substantial compliance with the statewide minimum standards  
21 as applied to the seaport as provided herein. Any such plan  
22 or revision to a plan must be reviewed and approved by the  
23 Office of Drug Control, within the Executive Office of the  
24 Governor, and the Department of Law Enforcement.

25       ~~(a) Each seaport security plan shall adhere to the~~  
26 ~~statewide minimum standards established pursuant to subsection~~  
27 ~~(1).~~

28       ~~(b)~~ All such seaports shall allow unimpeded access to  
29 the affected ports for purposes of inspections or other  
30 operations by the Department of Law Enforcement as authorized  
31 by this section.

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1           (3)(a) A fingerprint-based criminal history check  
2 shall be performed on any applicant for employment or current  
3 employee, or any other person, as designated by each security  
4 plan required by subsection (2), who will be or is working  
5 within the property of, or have regular access to, any seaport  
6 listed in s. 311.09~~(1)~~. The costs of such checks shall be paid  
7 by the seaport or employing entity or any person so checked.  
8 The applicant or employee shall file a complete set of  
9 fingerprints taken in a manner required by the Department of  
10 Law Enforcement and the security plan. These fingerprints  
11 shall be submitted to the Department of Law Enforcement for  
12 state processing and to the Federal Bureau of Investigation  
13 for federal processing. The results of the checks shall be  
14 reported to the seaports.

15           (b) Renewed criminal history checks for employees and  
16 those having access to the seaports shall be provided for in  
17 each seaport security plan.

18           (c) Consistent with the security and crime-prevention  
19 goals of this section, by January 1, 2002, each seaport  
20 security plan shall identify criminal convictions or other  
21 criminal history factors that shall disqualify a person from  
22 either initial seaport employment or new authorization to  
23 access seaport property in conjunction with employment by any  
24 other entity. The disqualifications shall apply to any person  
25 initially employed by a seaport or seeking new authorization  
26 to access or an expansion of authority to access seaport  
27 property on or after January 1, 2002. Each security plan may  
28 establish a method by which a person who would otherwise be  
29 disqualified from such employment or access may seek a waiver  
30 by the seaport of a criminal history-based disqualification  
31 based upon good cause shown by the person. Any waiver so

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1 granted may include reasonable special conditions and may be  
2 terminated at any time by the seaport.

3 (d) Beginning January 1, 2002, each security plan  
4 shall provide that no person who has been convicted,  
5 regardless of whether adjudication was withheld or not, for  
6 dealing in stolen property, any violation of s. 893.135, any  
7 violation involving the sale, manufacturing, delivery, or  
8 possession with intent to sell, manufacture or deliver a  
9 controlled substance, burglary, robbery, s. 790.07, or any  
10 crime an element of which includes use or possession of a  
11 firearm, any conviction for any similar offenses under the  
12 laws of another jurisdiction or conviction for conspiracy to  
13 commit any of the offenses shall be qualified for initial  
14 employment by a seaport listed in s. 311.09, or for new access  
15 to or an expansion of authority to access seaport property,  
16 unless the person has, after release from incarceration and  
17 any supervision imposed as a sentence, remained free from a  
18 conviction, regardless of whether adjudication was withheld or  
19 not, for any of the listed offenses for 5 years prior to the  
20 date the subject's criminal history becomes known to the  
21 seaport and the person otherwise meets employment or access  
22 criminal history standards established by a seaport's security  
23 plan.

24 (e) Any person who, on the date the person's criminal  
25 history becomes known by a seaport, is currently employed by a  
26 seaport listed in s. 311.09 or who is currently authorized to  
27 have access to or upon seaport property and who, if seeking  
28 initial employment or new or expanded access authority, would  
29 have been disqualified from initial employment or new seaport  
30 access under this subsection (d) or any other requirement of a  
31 seaport security plan, shall not be subject to automatic

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1 disqualification, but shall be subject to the following:

2 (i) The seaport may impose employment or access  
3 disqualification or restrictions upon such individuals as part  
4 of its individual security plan.

5 (ii) The seaport may require the person, as a  
6 condition of the privilege to remain employed or continue to  
7 have access to the seaport, be required to promptly report to  
8 the seaport any conviction (regardless of whether adjudication  
9 is withheld or not) for any felony offense, or any finding  
10 that the person is in violation of probation or other  
11 supervision imposed as a sentence by a criminal court.

12 (iii) Upon any such conviction or finding becoming  
13 known to a seaport, or upon a determination that the person  
14 failed to immediately report a conviction or finding as  
15 required, the person's employment or access to the seaport may  
16 be terminated or restricted by the seaport, and the person  
17 shall be subject to the full conditions imposed by subsection  
18 (d) or the seaport's security plan before employment or access  
19 disqualification or restrictions can be lifted.

20 (f) A copy of all policies, procedures, or criteria  
21 developed or utilized by a seaport to implement the criminal  
22 history-based requirements and options provided in this  
23 section shall be forwarded to the Department of Law  
24 Enforcement.

25 (g) Each seaport shall report by October 1 each year  
26 to the Department of Law Enforcement each determination of  
27 disqualification from employment or access, or criminal  
28 history-based restrictions imposed during the previous 12  
29 months, including the identity of the person affected, the  
30 factors supporting the disqualification from or restriction  
31 upon employment or port access, and any other material factors

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1 utilized in making the seaport's decision.

2 (4)(a) Each ~~The~~ affected seaports shall begin to  
3 implement the security plans developed under this section by  
4 ~~April 30, 2002~~ July 1, 2001, shall implement the employment  
5 and access standards on January 1, 2002, and shall be in  
6 substantial compliance with all security standards and  
7 physical facility requirements applied to the seaport by no  
8 later than June 30, 2004.~~contingent upon legislative approval~~  
9 ~~of the statewide security plan established pursuant to~~  
10 ~~subsection (1).~~

11 (b) Upon a finding of good cause or a determination  
12 that the underlying security expectations of a standard have  
13 been otherwise met or exceeded by a seaport, the Office of  
14 Drug Control within the Executive Office of the Governor and  
15 the Department of Law Enforcement may modify or waive the  
16 applicability of any security standard other than the  
17 employment and access requirement stated herein, and may  
18 modify or waive any physical facility requirement found in the  
19 minimum standards. Any modification or waiver of a security  
20 standard applicable to a seaport shall be noted in the annual  
21 report submitted by the Department of Law Enforcement as  
22 required herein.

23 (c) Beginning with Fiscal Year 2001-02.The Department  
24 of Law Enforcement, or any entity selected by the department,  
25 shall conduct no less than one ~~once~~ ~~annually~~ ~~an~~ unannounced  
26 inspection of each seaport listed in s. 311.09(1) to determine  
27 whether the seaport is meeting the minimum standards  
28 established under the authority of this section, and to  
29 identify any seaport security changes or improvements  
30 necessary. The Department of Law Enforcement, or any entity  
31 selected by the department, may conduct additional announced

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1 or unannounced inspections or operations within or affecting  
2 any seaport listed in s. 311.09 to test compliance with, or  
3 the effectiveness of, security plans and operations at each  
4 seaport, to determine compliance with physical facility  
5 requirements and standards, or to assist the Department in  
6 identifying changes or improvements necessary to bring a  
7 seaport into compliance with minimum security standards or the  
8 security expectations contained therein.

9 (d) By December 31 of each year in which any  
10 inspection or operation is conducted, ~~the~~ Department of Law  
11 Enforcement, in consultation with the Office of Drug Control  
12 within the Executive Office of the Governor, shall complete a  
13 report indicating the ~~results~~ observations and findings of  
14 all such inspections or operations conducted during the year  
15 and any suggestions ~~or concerns~~ developed by reason of such  
16 inspections ~~by no later than December 31 of each year~~. A copy  
17 of the report shall be provided to the Governor, the President  
18 of the Senate, the Speaker of the House of Representatives,  
19 and the chief administrator of each seaport inspected. The  
20 report shall, to the extent possible, include responses from  
21 the chief administrator of any seaport about which  
22 observations, findings or suggestions have been made ~~or~~  
23 ~~security concerns raised~~, indicating what actions, if any,  
24 have been taken or are planned to be taken in response ~~to the~~  
25 ~~suggestions or concerns noted~~ to suggestions, observations,  
26 issues or concerns noted by the Department.

27 (e) The Legislature shall annually consider the annual  
28 report of the Department of Law Enforcement required by this  
29 section, each seaport's degree of substantial compliance with  
30 the minimum security standards authorized herein, and any  
31 other information available to it related to seaport security

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1 or crimes occurring at, or in conjunction with, any seaport,  
2 in making funding decisions applicable to each seaport listed  
3 in s. 311.09.

4 (5) Nothing in this section shall be construed as  
5 preventing any seaport from implementing security measures  
6 that are more stringent, greater than, or supplemental to, the  
7 minimum standards established by this section.

8 (6) When funds are appropriated for seaport security,  
9 the Office of Drug Control within the Executive Office of the  
10 Governor and the Florida Seaport Transportation and Economic  
11 Development Council shall mutually determine the allocation of  
12 such funds for security project needs identified in the  
13 approved seaport security plans required by this section. Any  
14 seaport that receives state funds for security projects must  
15 enter into a joint-participation agreement with the  
16 appropriate state entity and must use the seaport security  
17 plan developed pursuant to this section as the basis for the  
18 agreement. If funds are made available over more than one  
19 fiscal year, any such agreement must reflect the entire scope  
20 of the project approved in the security plan and allow for  
21 reimbursement for projects authorized to receive state funds  
22 by the Office of Drug Control and the council over more than  
23 one fiscal year. The joint-participation agreement shall  
24 include specific time-frames for completion of a security  
25 project, and shall require a contractual penalty, not to  
26 exceed \$1,000 per day, to be imposed for failure to meet such  
27 time-frames. Any such penalty shall be deposited into the  
28 State Transportation Trust Fund to be used for seaport  
29 security operations and capital improvements.

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1 ===== T I T L E A M E N D M E N T =====  
2 And the title is amended as follows:  
3       On page 1, lines 1-10  
4 remove from the title of the bill: all of said lines  
5  
6 and insert in lieu thereof:  
7       An act relating to seaport security; amending  
8       s. 311.12, F.S.; providing for minimum security  
9       standards for seaports; requiring seaports to  
10       implement seaport security plans; requiring the  
11       Department of Law Enforcement to adopt rules  
12       for specific security standards; providing  
13       requirements for such rules; providing  
14       requirements for criminal history checks on  
15       applicants for employment or current employees  
16       of a seaport; providing for modification or  
17       variance from a particular standard; requiring  
18       that security plans and other information be  
19       made available to the Department of Law  
20       Enforcement for review; providing for  
21       inspections of seaports; providing requirements  
22       for compliance by seaports; providing for the  
23       Department of Law Enforcement to impose  
24       penalties if a seaport fails to meet certain  
25       project timelines; requires certain reports;  
26       providing an effective date.  
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