

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

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Harrell offered the following:

Amendment (with title amendment)

On page 1, line 19 through page 8 line 29 of the bill
Remove from the bill: all of said lines

and insert in lieu thereof:

Section 311.12 is amended and substantially reworded to
read as follows:

(1) The statewide minimum standards for seaport
security for each seaport identified in s. 311.09, shall be
those based upon the Florida Seaport Security Assessment 2000
and set forth in the "Port Security Standards - Compliance
Plan" delivered to the Speaker of the House of Representatives
and the President of the Senate on December 11, 2000, pursuant
to s. 311.12. The statewide minimum standards are hereby
adopted. The Office of Drug Control within the Executive
Office of the Governor shall maintain a sufficient number of
copies of the standards for use of the public, at its offices,
and shall provide copies to each affected seaport upon
request.

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1 (2) Each seaport identified in s. 311.09 shall
2 maintain a security plan relating to the specific and
3 identifiable needs of the seaport that assures the seaport is
4 in substantial compliance with the statewide minimum standards
5 established pursuant to subsection (1). Each plan adopted or
6 revised pursuant to this subsection must be reviewed and
7 approved by the Office of Drug Control and the Department of
8 Law Enforcement. All such seaports shall allow unimpeded
9 access by the Department of Law Enforcement to the affected
10 facilities for purposes of inspections or other operations
11 authorized by this section. Each seaport security plan may
12 establish restricted access areas within the seaport
13 consistent with the requirements of the statewide minimum
14 standards. In such cases, a Restricted Access Area Permit
15 shall be required for any individual working within or
16 authorized to regularly enter a restricted access area and the
17 requirements in subsection (3) relating to criminal history
18 checks and employment restrictions shall be applicable only to
19 employees or other persons working within or authorized to
20 regularly enter a restricted access area. Every seaport
21 security plan shall set forth the conditions and restrictions
22 to be imposed upon others visiting the port or any restricted
23 access area sufficient to provide substantial compliance with
24 the statewide minimum standards.

25 (3)(a) A fingerprint based criminal history check
26 shall be performed on any applicant for employment, every
27 current employee and other persons as designated pursuant to
28 the seaport security plan for each seaport. The criminal
29 history check shall be performed in connection with employment
30 within or other authorized regular access to a restricted
31 access area or the entire seaport if the seaport security plan

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1 does not designate one or more restricted access areas. With
2 respect to employees or others with regular access, such
3 checks shall be performed at least once every five years or at
4 other more frequent intervals as provided by the seaport
5 security plan. Each individual subject to the background
6 criminal history check shall file a complete set of
7 fingerprints taken in a manner required by the Department of
8 Law Enforcement and the seaport security plan. Fingerprints
9 shall be submitted to the Department of Law Enforcement for
10 state processing and to the Federal Bureau of Investigation
11 for federal processing. The results of each fingerprint based
12 check shall be reported to the requesting seaport. The costs
13 of the checks consistent with s. 943.053(3) shall be paid by
14 the seaport or other employing entity or by the person
15 checked.

16 (b) By January 1, 2002, each seaport security plan
17 shall identify criminal convictions or other criminal history
18 factors consistent with paragraph (c) that shall disqualify a
19 person from either initial seaport employment or new
20 authorization for regular access to seaport property or to a
21 restricted access area. Such factors shall be used to
22 disqualify all applicants for employment or others seeking
23 regular access to the seaport or restricted access area on or
24 after January 1, 2002, and may be used to disqualify all those
25 employed or authorized for regular access on that date. Each
26 seaport security plan may establish a procedure to appeal a
27 denial of employment or access based upon criminal history
28 factors established pursuant to this paragraph. The appeal
29 procedure may allow the granting of waivers or conditional
30 employment or access. In addition, a seaport may allow
31 wavers on a temporary basis to meet special or emergency

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1 needs of the seaport or its users. Policies, procedures and
2 criteria for implementation of this subsection shall be
3 included in the seaport security plan.

4 (c) In addition to other requirements for employment
5 or access established by each seaport pursuant to its seaport
6 security plan, each seaport security plan shall provide that:

7 (i) any person who has within the past five years been
8 convicted, regardless of whether adjudication was withheld or
9 not, for dealing in stolen property, any violation of s.
10 893.135, any violation involving the sale, manufacturing,
11 delivery, or possession with intent to sell, manufacture or
12 deliver a controlled substance, burglary, robbery, any
13 violation of s. 790.07, or any crime an element of which
14 includes use or possession of a firearm, any conviction for
15 any similar offenses under the laws of another jurisdiction or
16 conviction for conspiracy to commit any of the listed offenses
17 shall not be qualified for initial employment within or
18 regular access to a seaport or restricted access area, and

19 (ii) any person who has at any time been convicted for
20 any of the listed offenses shall not be qualified for initial
21 employment within or authorized regular access to a seaport or
22 restricted access area unless, after release from
23 incarceration and any supervision imposed as a sentence, the
24 person remained free from a subsequent conviction, regardless
25 of whether adjudication was withheld or not, for any of the
26 listed offenses for a period of at least 5 years prior to the
27 employment or access date under consideration.

28 (d) By October 1 of each year, each seaport shall
29 report to the Department of Law Enforcement each determination
30 of denial of employment or access, and any determination to
31 authorize employment or access after an appeal of a denial

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1 made during the previous 12 months. The report shall include
2 the identity of the individual affected, the factors
3 supporting the determination, any special condition imposed,
4 and any other material factors utilized in making the
5 determination.

6 (4)(a) Subject to the provisions of subsection (6),
7 each affected seaport shall begin to implement its security
8 plan developed under this section by July 1, 2001, shall
9 implement restrictions on employment and access including the
10 enforcement of any restricted access area by January 1, 2002,
11 and shall be in substantial compliance with all security
12 standards and physical facility requirements imposed by this
13 section no later than June 30, 2004.

14 (b) The Office of Drug Control and the Department of
15 Law Enforcement may modify or waive any physical facility or
16 other requirement contained in the statewide minimum standards
17 for seaport security upon a finding or other determination
18 that the purposes of the standards have been reasonably met or
19 exceeded by the seaport requesting the modification or waiver.
20 Such modifications or waivers shall be noted in the annual
21 report submitted by the Department of Law Enforcement pursuant
22 to this subsection.

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

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1 or unannounced inspections or operations within or affecting
2 any affected seaport to test compliance with, or the
3 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 the statewide minimum security
8 standards.

9 (d) By December 31, 2001, and annually thereafter, the
10 Department of Law Enforcement, in consultation with the Office
11 of Drug Control, shall complete a report indicating the
12 observations and findings of all inspections or operations
13 conducted during the year and any recommendations developed by
14 reason of such inspections. A copy of the report shall be
15 provided to the Governor, the President of the Senate, the
16 Speaker of the House of Representatives, and the chief
17 administrator of each seaport inspected. The report shall
18 include responses from the chief administrator of any seaport
19 indicating what actions, if any, have been taken or are
20 planned to be taken in response to the recommendations,
21 observations, and findings reported by the Department.

22 (e) In making security project or other funding
23 decisions applicable to each seaport listed in s. 311.09, the
24 Legislature may consider as authoritative the annual report of
25 the Department of Law Enforcement required by this section,
26 especially regarding each seaport's degree of substantial
27 compliance with the statewide minimum security standards
28 established by this section.

29 (5) Nothing in this section shall be construed as
30 preventing any seaport from implementing security measures
31 that are more stringent, greater than, or supplemental to, the

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

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27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 On page 9, lines 7-26
30 remove from the title of the substitute amendment: all said
31 lines

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1 and insert in lieu thereof:
2 An act relating to seaport security; amending
3 s. 311.12, F.S.; providing for minimum security
4 standards for seaports; requiring seaports to
5 implement seaport security plans; requiring the
6 approval of seaport security plans by the
7 Office of Drug Control and the Department of
8 Law Enforcement; providing requirements for
9 criminal history checks on applicants for
10 employment or current employees of a seaport;
11 providing an appeal procedure; providing for
12 modification or variance from a particular
13 standard; providing for inspections of
14 seaports; providing requirements for compliance
15 by seaports; providing for the Department of
16 Law Enforcement to impose penalties if a
17 seaport fails to meet certain project
18 timelines; requires certain reports; provides
19 funding criteria; providing an effective date.

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