

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

11 The Committee on Economic Development & International Trade
12 offered the following:

14 **Amendment (with title amendment)**

15 Remove from the bill: Everything after the enacting clause

17 and insert in lieu thereof: Section 311.12, Florida Statutes,
18 is amended to read:

19 311.12 Seaport security standards--

20 (1) The minimum standards for seaport security and the
21 expectations for security contained in such standards for each
22 seaport identified in s. 311.09, as developed by the Office of
23 Drug Control within the Executive Office of the Governor, in
24 consultation with the Florida Seaport Transportation and
25 Economic Development Council, and in conjunction with the
26 Florida Department of Law Enforcement and local law
27 enforcement agencies having primary authority over the
28 affected seaports, are adopted by the Legislature as provided
29 in this section. ~~shall develop, by January 1, 2001, a~~
30 ~~statewide security plan based upon the Florida Seaport~~
31 ~~Security Assessment 2000 conducted by the Office of Drug~~

Amendment No. 01 (for drafter's use only)

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

13 (2) ~~All seaports, as identified in s. 311.09 pursuant~~
14 ~~to s. 311.09(1), in conjunction with and pending review and~~
15 ~~approval by the Office of Drug Control, within the Executive~~
16 ~~Office of the Governor, and the Florida Department of Law~~
17 ~~Enforcement, and in consultation with the Florida Seaport~~
18 ~~Transportation and Economic Development Council, shall~~
19 ~~implement no later than January 31, 2001, develop and draft~~
20 ~~individual seaport security plans particular to the specific~~
21 ~~and identifiable needs of their respective seaports which are~~
22 ~~in compliance with the security standards established by rule~~
23 ~~of the Department of Law Enforcement as authorized in this~~
24 ~~section.~~

25 (3) ~~The Department of Law Enforcement, in consultation~~
26 ~~with the Office of Drug Control, shall adopt rules that~~
27 ~~implement specific security standards that shall apply to~~
28 ~~seaports identified in s. 311.09 as the minimum level of~~
29 ~~security allowed at any such seaport. The rules must~~
30 ~~incorporate the statewide minimum security standards adopted~~
31 ~~by the Legislature as referred to in subsection (1) and must~~

Amendment No. 01 (for drafter's use only)

1 include, but are not limited to:

2 (a) Criteria establishing specifications for and the
3 requirements for the issuance, use, display, renewal, and
4 maintenance of picture-identification badges for personnel
5 permanently employed at each seaport and those workers and
6 laborers working at a port any more frequently than 5 days in
7 any given 90-day period and criteria limiting access of such
8 personnel to only authorized areas within the port;

9 (b) Criteria establishing the method by which port
10 management will conduct fingerprint-based criminal history
11 background checks of all prospective and current seaport
12 employees and personnel, including criteria for initial
13 employment and name-based and fingerprint-based criminal
14 history checks at intervals during ongoing employment;

15 (c) A list of convictions occurring within 5 years
16 prior to proposed employment at a seaport or occurring at any
17 time during employment, regardless of whether adjudication was
18 withheld or not, which disqualify a person from initial or
19 continued employment at a seaport, including, but not limited
20 to, any felony conviction under the laws of this state for
21 theft, robbery, burglary, possession, sale or trafficking in
22 narcotics or controlled substances, fraud, perjury, use or
23 possession of a firearm in the commission of a crime, any
24 felony offense involving the actual physical injury of
25 another, or any similar offenses under the laws of another
26 jurisdiction;

27 (d) A requirement that any seaport employee promptly
28 notify the seaport director when the employee is arrested for
29 any felony offense that would disqualify them for employment
30 under subsection (c) and a requirement to promptly notify the
31 seaport director of the disposition of the arrest;

Amendment No. 01 (for drafter's use only)

- 1 (e) Criteria limiting access to a seaport for visitors
2 and vehicles, including parking and access passes or signage
3 for pedestrian and vehicular traffic at the seaport in areas
4 for which limited access is required or appropriate;
- 5 (f) criteria establishing parking or standing zones
6 for employee or other vehicles only in designated areas at a
7 seaport;
- 8 (g) Criteria for the use of gates and gatehouses at
9 each seaport and the staffing of each gate house;
- 10 (h) Criteria for the access and identification of
11 vendors or service and maintenance personnel and vehicles to
12 seaport property, including temporary permits, vehicular
13 signage, and designated parking or standing areas;
- 14 (i) Criteria for fencing at, around, and within the
15 seaports;
- 16 (j) Criteria for lighting at the seaports;
- 17 (k) Criteria for posting of signs at the seaport
18 related to security and restrictions upon access to designated
19 areas;
- 20 (l) Criteria for the use of locks and keys at the
21 seaport and the issuance and maintenance of keys by seaport
22 personnel;
- 23 (m) Criteria for the regularly scheduled maintenance
24 and internal inspection of security-related fences,
25 structures, equipment, and facilities at the seaport;
- 26 (n) Criteria for operational and procedural security
27 within each seaport, which must include as a minimum, the
28 establishment and use of security committees at each seaport,
29 master security plans and standard operating procedures,
30 definitive descriptions of the function and responsibilities
31 of each security-related employee of a seaport, and procedures

Amendment No. 01 (for drafter's use only)

- 1 for dealing with threats to the physical security of a seaport
2 or threats to personnel working or present at a seaport;
3 (o) Criteria for assuring that a routine presence and
4 patrol by sworn law enforcement personnel occurs at each
5 seaport;
6 (p) Criteria for the equipping and minimum training
7 and qualification standards applied to security personnel
8 employed or used by each seaport, which must include as a
9 minimum, that any guard or security personnel used at a
10 seaport who is not a sworn law enforcement officer must
11 possess a valid Class "D" security license as defined in
12 chapter 493;
13 (q) Criteria for establishing and using formal
14 guidelines for computer security at each seaport, including
15 requirements that suspected criminal activity involving
16 computers used at a seaport be reported to a law enforcement
17 agency;
18 (r) Criteria for establishing and using procedures to
19 assure cargo security at each seaport, including, but not
20 limited to, controlled access by commercial carriers to the
21 seaport and methods of verification of the carrier's identity
22 and purpose for accessing a seaport;
23 (s) Criteria for securing cargo in storage at the
24 seaport;
25 (t) Criteria for establishing video surveillance of
26 seaport property;
27 (u) For seaports in which cruise ships dock or
28 otherwise have access, criteria for the security of cruise
29 operations, including the security of passengers and their
30 property while on seaport property; and
31 (v) Enhanced security requirements applicable to the

Amendment No. 01 (for drafter's use only)

1 ports of Jacksonville, Port Everglades, Miami, and Tampa,
2 including, but not limited to, extra video surveillance and
3 enhanced 24-hour security monitoring of activities at the
4 ports.

5 (4) A fingerprint-based criminal history check shall
6 be performed on any applicant for employment or current
7 employee of the seaports identified in s. 311.09, as required
8 by rule established by the Department of Law Enforcement and
9 paragraph (3)(b). The costs of such checks shall be paid by
10 the seaport or employing entity or any person so checked. The
11 applicant or employee shall file a complete set of
12 fingerprints taken in a manner required by the Department of
13 Law Enforcement. These fingerprints shall be submitted to the
14 Department of Law Enforcement for state processing and to the
15 Federal Bureau of Investigation for federal processing. The
16 results of the checks shall be reported to the seaports.

17 (5)(a) By July 1, 2001, each seaport shall implement
18 its own individual security plan that shall be in conformance
19 with the minimum statewide security standards adopted by the
20 Legislature in subsection (1).

21 (b) In developing, implementing, and maintaining its
22 security plan, each seaport shall adhere to the standards
23 established by rule by the Department of Law Enforcement
24 unless the department, in consultation with the Office of Drug
25 Control, in response to a petition for variance or waiver of
26 rule filed by a seaport pursuant to s. 120.542, determines
27 that a waiver or variance of a particular standard is
28 appropriate. In petitioning for any waiver or variance, a
29 seaport may include the recommendations of local law
30 enforcement and the Florida Seaport Transportation and
31 Economic Development Council as support for its request for

Amendment No. 01 (for drafter's use only)

1 variance or waiver. In addition to the existing standards for
2 variance and waiver established by s. 120.542, the department,
3 in consultation with the Office of Drug Control, may grant a
4 waiver or variance of standards if it determines that existing
5 port structures, facilities, processes, requirements, or
6 operations or proposed construction or efforts of a seaport
7 reasonably assure a level of security equal to or exceeding
8 the level of security promoted by the specific rule provision
9 for which variance or waiver is sought.

10 (c) Only a seaport identified pursuant to s. 311.09
11 shall have standing to seek a variance or waiver of a security
12 standard established by rule of the Department of Law
13 Enforcement under this section. An individual or other entity
14 may not petition for variance or waiver of a seaport security
15 standard established by rule of the Department of Law
16 Enforcement under this section.

17 (6) If funds are appropriated for seaport security,
18 the Office of Drug Control and the Florida Seaport
19 Transportation and Economic Development Council shall mutually
20 determine the allocation of such funds for security project
21 needs identified pursuant to subsection (1) and this
22 subsection. Any seaport that receives state funds for security
23 projects must enter into a joint-participation agreement with
24 the appropriate state entity and use the seaport security plan
25 developed pursuant to this section as the basis for the
26 agreement. If funds are made available over more than 1 fiscal
27 year, any such agreement must reflect the entire scope of the
28 security plan and allow for reimbursement for projects
29 authorized to receive state funds by the Office of Drug
30 Control and the council over more than 1 fiscal year.

31 (7) All seaports shall make all security plans,

Amendment No. 01 (for drafter's use only)

1 documents, and information available to the Department of Law
2 Enforcement or any entity selected by the department for
3 review and inspection and shall allow unimpeded access to the
4 Department of Law Enforcement or any entity selected by the
5 department for any inspection, announced or unannounced, or
6 any operation designed by the department to determine whether
7 seaport security plans are being implemented effectively. The
8 Department of Law Enforcement, or any entity selected by the
9 department or operating on its behalf, may conduct undercover
10 or otherwise unannounced operations designed to test the
11 effectiveness of a port's security.

12 (8) By December 31, 2001, the Department of Law
13 Enforcement or any entity selected by the department shall
14 conduct an initial inspection of each seaport listed in s.
15 311.09 to determine the preliminary status of security
16 compliance and shall report its observations to each seaport,
17 the Office of Drug Control, and the Florida Seaport
18 Transportation and Economic Development Council. A copy of the
19 report, including the administrator's responses, shall be
20 provided to the Governor, the President of the Senate, the
21 Speaker of the House of Representatives, the chairs of the
22 fiscal committee of the House of Representatives and the
23 Senate, and each seaport chief administrator. The observations
24 contained in the reports shall be used as a factor in making
25 funding decisions as noted in subsection (6) or as otherwise
26 applicable to each seaport listed in s. 311.09.

27 (9)(a) Beginning January 1, 2002, the Department of
28 Law Enforcement or any entity selected by the department shall
29 conduct not less than once annually an unannounced inspection
30 of each seaport listed in s. 311.09 to determine the degree to
31 which the seaport is meeting the minimum standards established

Amendment No. 01 (for drafter's use only)

1 by rule under this section and to determine whether changes or
2 improvements in a seaport's security plan are recommended.

3 (b) By December 31, 2002, and each year thereafter,
4 the Department of Law Enforcement, in consultation with the
5 Office of Drug Control, shall issue a report indicating the
6 results of each seaport inspection and shall within the report
7 indicate deficiencies noted, failures to comply with standards
8 noted, and any concerns or suggestions developed by reason of
9 individual or collective inspections. Failures of a seaport to
10 comply with applicable standards shall be specifically noted.

11 If a report notes deficiencies or failures or identifies
12 concerns related to a seaport, the report must include a
13 response from the chief administrator of the affected seaport
14 or seaports. Each administrator's response shall include what
15 actions, if any, have been taken or are planned to be taken to
16 address the deficiencies, failures, or concerns noted.

17 (c) A copy of the report, including the
18 administrator's responses, shall be provided to the Governor,
19 the President of the Senate, the Speaker of the House of
20 Representatives, the chairs of the fiscal committees of the
21 House of Representatives and the Senate, and each seaport
22 chief administrator.

23 (d) The department, in consultation with the Office of
24 Drug Control and the Florida Seaport Transportation and
25 Economic Development Council, may use its observations and
26 experience from inspections conducted under this section as
27 the basis for modifying security criteria established by rule
28 if the modifications enhance the security of seaports.

29 (10) By June 30, 2004, each seaport listed in s.
30 311.09 must be in compliance with the physical infrastructure
31 improvements and minimum security standards implemented under

Amendment No. 01 (for drafter's use only)

1 this section, unless the standard has been waived or a
2 variance has been granted as provided in this section and s.
3 120.542. The Legislature expresses its intent to annually take
4 into account each seaport's performance in implementing and
5 maintaining compliance with the security standards, as well as
6 other information available to it related to seaport security,
7 criminal activity, and money laundering occurring at, or in
8 conjunction with, seaports in determining allocations of state
9 funds to each seaport in the coming fiscal year. The
10 Legislature expresses its intent that failure by a seaport to
11 assure compliance with minimum seaport security standards will
12 result in a reduction of state-provided funding to the seaport
13 as a sanction for not meeting security expectations.

14 (11) The Department of Law Enforcement, in
15 consultation with the Office of Drug Control, may by rule
16 require additional security measures for the ports of
17 Jacksonville, Miami, Tampa, and Port Everglades. The
18 additional measures may include minimum criteria for the use
19 of closed-circuit television cameras and the videotaping of
20 activity at entrances and exits, areas with high risk or crime
21 or endangerment, or areas at which valuable cargo is stored.

22 (12) This section does not prevent any seaport from
23 implementing security measures that are more stringent,
24 greater than, or supplemental to the minimum security
25 standards established pursuant to rule by the Department of
26 Law Enforcement and this section.

27 (13)(a) Upon completion of an inspection by the
28 Department of Law Enforcement or entity selected by the
29 department in which any failure to implement, meet, or
30 maintain a security standard is noted to exist at a particular
31 seaport listed in s. 311.09, the Department of Law Enforcement

Amendment No. 01 (for drafter's use only)

1 shall issue a written notification identifying each such
2 failure to the seaport director or head of seaport management
3 if other than a director. The written notification must
4 indicate a date certain, not less than 30 days nor more than
5 45 days after the date the notification is issued, that a
6 written response from the seaport shall be received by the
7 Department of Law Enforcement at an address stated in the
8 notification.

9 (b) A seaport receiving notification of any failure to
10 implement, meet, or maintain a security standard from the
11 Department of Law Enforcement shall, by the date stated in the
12 notice, assure receipt by the department of a written response
13 to the notification of failure. The response must address each
14 item specified in the department's notification and indicate
15 with specificity the seaport's planned response to address and
16 rectify any noted failure or failures, including a date for
17 completion of each corrective action, the estimated cost of
18 corrective action, the funding identified to cover the costs
19 of the corrective action, and the date the corrective action
20 is to be or has been initiated. If a seaport believes the
21 department's finding on a particular standard is in error, it
22 shall state in the written response the basis of its belief,
23 including why it believes the department's finding may be in
24 error, and may request that the department conduct a followup
25 review of the particular standard and finding.

26 (c) The Department of Law Enforcement shall review the
27 written response provided under paragraph (b) and conduct a
28 followup review to determine whether a particular finding was
29 in error when requested to do so by a seaport in the manner
30 provided for in paragraph (b). The department, or any entity
31 selected by the department, may conduct additional inspections

Amendment No. 01 (for drafter's use only)

1 or make any other inquiry to assist in making this
2 determination. The department shall state its followup review
3 finding in writing to the seaport. If the followup review
4 determines that the seaport continues to fail to implement,
5 meet, or maintain the security standard about which the
6 concern was raised, the seaport shall have 5 working days
7 following the receipt of the written response to provide the
8 department with a written supplemental response providing all
9 information required in paragraph (b) regarding corrective
10 actions to be implemented to meet the standard that was
11 reviewed. If the followup review determines that the seaport
12 has implemented, met, or maintained the standard, the written
13 response must so indicate.

14 (d) The Department of Law Enforcement may impose a
15 civil penalty upon any seaport listed in s. 311.09 for any
16 failure to respond within the time limits or in the manner and
17 specificity required by this section. Any seaport failing to
18 respond as noted in paragraph (b) or paragraph (c) within the
19 time periods provided and in the manner and specificity
20 required shall be assessed by the department a civil penalty
21 of up to \$1,000 for each day the failure continues. The funds
22 collected as civil penalties shall be deposited in the General
23 Revenue Fund.

24 (e) The Department of Law Enforcement, in consultation
25 with the Office of Drug Control, shall review all proposed
26 corrective actions proposed by a seaport as required in
27 paragraph (b) or paragraph (c), and shall determine whether a
28 seaport's proposed timeline for corrective action provides for
29 the reasonably prompt implementation, meeting, or maintenance
30 of a particular security standard. The department shall
31 attempt to mutually resolve with a seaport of any concern that

Amendment No. 01 (for drafter's use only)

1 the timeline for any proposed corrective action does not
2 provide the required reasonably prompt implementation and
3 completion of corrective action. If agreement is met, the
4 seaport shall file an amended response with the Department of
5 Law Enforcement stating a revised corrective-action timeline.
6 If agreement is not met, the department may impose a revised
7 timeline upon a seaport that provides for the reasonably
8 prompt implementation and completion of corrective action, and
9 shall notify the seaport in writing of the revised timeline.

10 (f) Any seaport failing to initiate or complete the
11 corrective action within the original or revised
12 corrective-action timeline, whether agreed upon or imposed by
13 the department, shall be assessed by the department a civil
14 penalty of up to \$1,000 for each day the corrective-action
15 implementation is delayed and for each day the corrective
16 action is not completed as provided by the timeline. The funds
17 collected as civil penalties shall be deposited in the General
18 Revenue Fund.

19 (g) The Department of Law Enforcement, in consultation
20 with the Office of Drug Control, may suspend the imposition of
21 any civil penalty authorized in this subsection conditioned
22 upon terms the department, in its discretion, deems
23 appropriate and consistent with the purpose of this section
24 and the statewide seaport security plan.

25 (h) The Department of Law Enforcement may adopt rules
26 necessary to administer the civil penalties and authority
27 provided in this section.

28 ~~(a) Each seaport security plan shall adhere to the~~
29 ~~statewide minimum standards established pursuant to subsection~~
30 ~~(1).~~

31 ~~(b) All such seaports shall allow unimpeded access to~~

Amendment No. 01 (for drafter's use only)

1 ~~the affected ports for purposes of inspections by the~~
2 ~~Department of Law Enforcement as authorized by this section.~~
3 ~~(3) A fingerprint-based criminal history check shall~~
4 ~~be performed on any applicant for employment or current~~
5 ~~employee, as designated by each security plan required by~~
6 ~~subsection (2), who will be working within the property of or~~
7 ~~have regular access to any seaport listed in s. 311.09(1). The~~
8 ~~costs of such checks shall be paid by the seaport or employing~~
9 ~~entity or any person so checked. The applicant or employee~~
10 ~~shall file a complete set of fingerprints taken in a manner~~
11 ~~required by the Department of Law Enforcement and the security~~
12 ~~plan. These fingerprints shall be submitted to the Department~~
13 ~~of Law Enforcement for state processing and to the Federal~~
14 ~~Bureau of Investigation for federal processing. The results of~~
15 ~~the checks shall be reported to the seaports.~~
16 ~~(4) The affected seaports shall implement the security~~
17 ~~plans developed under this section by April 30, 2002,~~
18 ~~contingent upon legislative approval of the statewide security~~
19 ~~plan established pursuant to subsection (1). The Department of~~
20 ~~Law Enforcement, or any entity selected by the department,~~
21 ~~shall conduct no less than once annually an unannounced~~
22 ~~inspection of each seaport listed in s. 311.09(1) to determine~~
23 ~~whether the seaport is meeting the minimum standards~~
24 ~~established under the authority of this section. The~~
25 ~~Department of Law Enforcement, in consultation with the Office~~
26 ~~of Drug Control within the Executive Office of the Governor,~~
27 ~~shall complete a report indicating the results of all such~~
28 ~~inspections conducted during the year and any suggestions or~~
29 ~~concerns developed by reason of such inspections by no later~~
30 ~~than December 31 of each year. A copy of the report shall be~~
31 ~~provided to the Governor, the President of the Senate, the~~

Amendment No. 01 (for drafter's use only)

1 ~~Speaker of the House of Representatives, and the chief~~
2 ~~administrator of each seaport inspected. The report shall, to~~
3 ~~the extent possible, include responses from the chief~~
4 ~~administrator of any seaport about which suggestions have been~~
5 ~~made or security concerns raised, indicating what actions, if~~
6 ~~any, have been taken or are planned to be taken in response to~~
7 ~~the suggestions or concerns noted.~~

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

12 Section 1. This act shall take effect upon becoming a
13 law.

14
15

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

17 And the title is amended as follows:

18 On page 1, lines 1-10
19 remove from the title of the bill: all of said lines

20

21 and insert in lieu thereof:

22 A bill to be entitled

23 An act relating to seaport security; amending s.
24 311.12, F.S.; providing for minimum security standards for
25 seaports; requiring seaports to implement seaport security
26 plans; requiring the Department of Law Enforcement to adopt
27 rules for specific security standards; providing requirements
28 for such rules; providing requirements for criminal history
29 checks on applicants for employment or current employees of a
30 seaport; providing for a seaport to request a waiver or
31 variance from a particular standard; requiring that security

Amendment No. 01 (for drafter's use only)

1 plans and other information be made available to the
2 Department of Law Enforcement for review; providing for
3 inspections of seaports; providing requirements for compliance
4 by seaports; providing for additional security measures at
5 specified seaports; providing for the Department of Law
6 Enforcement to impose civil penalties if a seaport fails to
7 initiate or take corrective action; providing rulemaking
8 authority; providing an effective date.
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31