

Bill No. CS for SB 978

Amendment No. Barcode 140968

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Burt moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 Delete everything after the enacting clause

16 and insert:

17 Section 1. Section 311.12, Florida Statutes, is

18 amended to read:

19 (Substantial rewording of section. See

20 s. 311.12, F.S., for present text.)

21 311.12 Seaport security standards.--

22 (1) The statewide minimum standards for seaport

23 security for each seaport identified in s. 311.09, shall be

24 those based upon the Florida Seaport Security Assessment 2000

25 and set forth in the "Port Security Standards - Compliance

26 Plan" delivered to the Speaker of the House of Representatives

27 and the President of the Senate on December 11, 2000, pursuant

28 to s. 311.12. The statewide minimum standards are hereby

29 adopted. The Office of Drug Control within the Executive

30 Office of the Governor shall maintain a sufficient number of

31 copies of the standards for use of the public, at its offices,

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1 and shall provide copies to each affected seaport upon
2 request.

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

27 (3)(a) A fingerprint-based criminal history check
28 shall be performed on any applicant for employment, every
29 current employee, and other persons as designated pursuant to
30 the seaport security plan for each seaport. The criminal
31 history check shall be performed in connection with employment

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

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

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1 employment or access. In addition, a seaport may allow waivers
2 on a temporary basis to meet special or emergency needs of the
3 seaport or its users. Policies, procedures, and criteria for
4 implementation of this subsection shall be included in the
5 seaport security plan.

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

9 1. Any person who has within the past 5 years been
10 convicted, regardless of whether adjudication was withheld,
11 for dealing in stolen property; any violation of s. 893.135;
12 any violation involving the sale, manufacturing, delivery, or
13 possession with intent to sell, manufacture, or deliver a
14 controlled substance; burglary; robbery; any violation of s.
15 790.07; any crime an element of which includes use or
16 possession of a firearm; any conviction for any similar
17 offenses under the laws of another jurisdiction; or conviction
18 for conspiracy to commit any of the listed offenses shall not
19 be qualified for initial employment within or regular access
20 to a seaport or restricted access area; and

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

30 (d) By October 1 of each year, each seaport shall
31 report to the Department of Law Enforcement each determination

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1 of denial of employment or access, and any determination to
2 authorize employment or access after an appeal of a denial
3 made during the previous 12 months. The report shall include
4 the identity of the individual affected, the factors
5 supporting the determination, any special condition imposed,
6 and any other material factors used in making the
7 determination.

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

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

25 (c) Beginning with the 2001-2002 fiscal year, the
26 Department of Law Enforcement, or any entity designated by the
27 department, shall conduct no less than one annual unannounced
28 inspection of each seaport listed in s. 311.09 to determine
29 whether the seaport is meeting the minimum standards
30 established pursuant to this section, and to identify seaport
31 security changes or improvements necessary or otherwise

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1 recommended. The Department of Law Enforcement, or any entity
2 designated by the department, may conduct additional announced
3 or unannounced inspections or operations within or affecting
4 any affected seaport to test compliance with, or the
5 effectiveness of, security plans and operations at each
6 seaport, to determine compliance with physical facility
7 requirements and standards, or to assist the department in
8 identifying changes or improvements necessary to bring a
9 seaport into compliance with the statewide minimum security
10 standards.

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

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

31 (5) Nothing in this section shall be construed as

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1 preventing any seaport from implementing security measures
2 that are more stringent, greater than, or supplemental to the
3 statewide minimum standards established by this section.

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

27 Section 2. This act shall take effect upon becoming a
28 law.

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2 And the title is amended as follows:

3 Delete everything before the enacting clause

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5 and insert:

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A bill to be entitled

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An act relating to seaport security; amending

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s. 311.12, F.S.; providing for minimum security

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standards for seaports; requiring seaports to

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implement seaport security plans; requiring the

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approval of seaport security plans by the

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Office of Drug Control and the Department of

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Law Enforcement; providing requirements for

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criminal history checks on applicants for

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employment or current employees of a seaport;

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providing an appeal procedure; providing for

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modification or variance from a particular

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standard; providing for inspections of

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seaports; providing requirements for compliance

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by seaports; providing for the Department of

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Law Enforcement to impose penalties if a

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seaport fails to meet certain project

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timelines; requiring certain reports; providing

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funding criteria; providing an effective date.

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