

1                                   A bill to be entitled  
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; requiring certain reports; providing  
19          funding criteria; providing an effective date.

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21 Be It Enacted by the Legislature of the State of Florida:

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23           Section 1. Section 311.12, Florida Statutes, is  
24 amended to read:

25           (Substantial rewording of section. See

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

27           311.12 Seaport security standards.--

28           (1) The statewide minimum standards for seaport  
29 security for each seaport identified in s. 311.09, shall be  
30 those based upon the Florida Seaport Security Assessment 2000  
31 and set forth in the "Port Security Standards - Compliance

1 Plan" delivered to the Speaker of the House of Representatives  
2 and the President of the Senate on December 11, 2000, pursuant  
3 to s. 311.12. The statewide minimum standards are hereby  
4 adopted. The Office of Drug Control within the Executive  
5 Office of the Governor shall maintain a sufficient number of  
6 copies of the standards for use of the public, at its offices,  
7 and shall provide copies to each affected seaport upon  
8 request.

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

3 (3)(a) A fingerprint-based criminal history check  
4 shall be performed on any applicant for employment, every  
5 current employee, and other persons as designated pursuant to  
6 the seaport security plan for each seaport. The criminal  
7 history check shall be performed in connection with employment  
8 within or other authorized regular access to a restricted  
9 access area or the entire seaport if the seaport security plan  
10 does not designate one or more restricted access areas. With  
11 respect to employees or others with regular access, such  
12 checks shall be performed at least once every 5 years or at  
13 other more frequent intervals as provided by the seaport  
14 security plan. Each individual subject to the background  
15 criminal history check shall file a complete set of  
16 fingerprints taken in a manner required by the Department of  
17 Law Enforcement and the seaport security plan. Fingerprints  
18 shall be submitted to the Department of Law Enforcement for  
19 state processing and to the Federal Bureau of Investigation  
20 for federal processing. The results of each fingerprint-based  
21 check shall be reported to the requesting seaport. The costs  
22 of the checks, consistent with s. 943.053(3), shall be paid by  
23 the seaport or other employing entity or by the person  
24 checked.

25 (b) By January 1, 2002, each seaport security plan  
26 shall identify criminal convictions or other criminal history  
27 factors consistent with paragraph (c) which shall disqualify a  
28 person from either initial seaport employment or new  
29 authorization for regular access to seaport property or to a  
30 restricted access area. Such factors shall be used to  
31 disqualify all applicants for employment or others seeking

1 regular access to the seaport or restricted access area on or  
2 after January 1, 2002, and may be used to disqualify all those  
3 employed or authorized for regular access on that date. Each  
4 seaport security plan may establish a procedure to appeal a  
5 denial of employment or access based upon criminal history  
6 factors established pursuant to this paragraph. The appeal  
7 procedure may allow the granting of waivers or conditional  
8 employment or access. In addition, a seaport may allow waivers  
9 on a temporary basis to meet special or emergency needs of the  
10 seaport or its users. Policies, procedures, and criteria for  
11 implementation of this subsection shall be included in the  
12 seaport security plan.

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

16 1. Any person who has within the past 5 years been  
17 convicted, regardless of whether adjudication was withheld,  
18 for dealing in stolen property; any violation of s. 893.135;  
19 any violation involving the sale, manufacturing, delivery, or  
20 possession with intent to sell, manufacture, or deliver a  
21 controlled substance; burglary; robbery; any violation of s.  
22 790.07; any crime an element of which includes use or  
23 possession of a firearm; any conviction for any similar  
24 offenses under the laws of another jurisdiction; or conviction  
25 for conspiracy to commit any of the listed offenses shall not  
26 be qualified for initial employment within or regular access  
27 to a seaport or restricted access area; and

28 2. Any person who has at any time been convicted for  
29 any of the listed offenses shall not be qualified for initial  
30 employment within or authorized regular access to a seaport or  
31 restricted access area unless, after release from

1 incarceration and any supervision imposed as a sentence, the  
2 person remained free from a subsequent conviction, regardless  
3 of whether adjudication was withheld, for any of the listed  
4 offenses for a period of at least 5 years prior to the  
5 employment or access date under consideration.

6 (d) By October 1 of each year, each seaport shall  
7 report to the Department of Law Enforcement each determination  
8 of denial of employment or access, and any determination to  
9 authorize employment or access after an appeal of a denial  
10 made during the previous 12 months. The report shall include  
11 the identity of the individual affected, the factors  
12 supporting the determination, any special condition imposed,  
13 and any other material factors used in making the  
14 determination.

15 (4)(a) Subject to the provisions of subsection (6),  
16 each affected seaport shall begin to implement its security  
17 plan developed under this section by July 1, 2001.

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

27 (c) Beginning with the 2001-2002 fiscal year, the  
28 Department of Law Enforcement, or any entity designated by the  
29 department, shall conduct no less than one annual unannounced  
30 inspection of each seaport listed in s. 311.09 to determine  
31 whether the seaport is meeting the minimum standards

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

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

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

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

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

30 Section 2. This act shall take effect upon becoming a  
31 law.