

1
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.
20

21 Be It Enacted by the Legislature of the State of Florida:
22

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
31

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
31

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.