

1 A bill to be entitled
2 An act relating to seaport security; amending
3 s. 311.12, F.S., relating to seaport security
4 standards; authorizing the Department of Law
5 Enforcement to exempt an inactive seaport from
6 certain requirements; revising circumstances
7 under which employment by or access to a
8 seaport may be denied; providing additional
9 offenses that disqualify a person from
10 employment within or regular access to a
11 seaport or restricted access area; prohibiting
12 a seaport from imposing access restrictions
13 that exceed the statewide minimum requirements;
14 creating s. 311.125, F.S.; establishing the
15 Uniform Port Access Credential System, to be
16 administered by the Department of Highway
17 Safety and Motor Vehicles; requiring seaports
18 that are subject to statewide minimum security
19 standards to comply with the system's
20 requirements by a specified date; specifying
21 system requirements; providing requirements for
22 the Uniform Port Access Credential Card;
23 requiring an initial fingerprint-based criminal
24 history check of card applicants; requiring
25 additional criminal history checks; requiring
26 employers to notify a seaport if an employee
27 having access is terminated, resigns, is
28 incapacitated, or dies; providing a procedure
29 for placing a card in an inactive status;
30 providing for reactivation of a card;
31 authorizing revocation of a business entity's

1 access to a seaport upon failure to report a
2 change in the work status of an employee;
3 providing requirements for access to restricted
4 areas within a seaport; providing requirements
5 for a visitor's pass to be issued by seaports;
6 authorizing seaports to charge for the cost of
7 conducting criminal history checks and issuing
8 the Uniform Port Access Credential Card;
9 providing for seizure of a Uniform Port Access
10 Credential Card by a law enforcement officer
11 under certain circumstances; providing a
12 timeframe for seaports to comply with the
13 requirements of the act; requiring the
14 Department of Law Enforcement to update a
15 seaport security compliance plan; providing
16 that implementation is contingent on the
17 receipt of federal grant funds; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 311.12, Florida Statutes, is
23 amended to read:

24 311.12 Seaport security standards.--

25 (1)(a) The statewide minimum standards for seaport
26 security for each seaport identified in s. 311.09 shall be
27 those based upon the Florida Seaport Security Assessment 2000
28 and set forth in the "Port Security Standards--Compliance
29 Plan" delivered to the Speaker of the House of Representatives
30 and the President of the Senate on December 11, 2000, pursuant
31 to this section. The statewide minimum standards are hereby

1 adopted. The Office of Drug Control within the Executive
2 Office of the Governor shall maintain a sufficient number of
3 copies of the standards for use of the public, at its offices,
4 and shall provide copies to each affected seaport upon
5 request.

6 (b) The Department of Law Enforcement may exempt any
7 seaport identified in s. 311.09 from all or part of the
8 requirements of subsections (1) through (5) if the department
9 determines that the seaport is not active. The department
10 shall periodically review exempted seaports to determine if
11 there is maritime activity at the seaport. A change in status
12 from inactive to active may warrant removal of all or part of
13 any exemption provided by the department.

14 (2) Each seaport identified in s. 311.09 shall
15 maintain a security plan relating to the specific and
16 identifiable needs of the seaport which assures that the
17 seaport is in substantial compliance with the statewide
18 minimum standards established pursuant to subsection (1). Each
19 plan adopted or revised pursuant to this subsection must be
20 reviewed and approved by the Office of Drug Control and the
21 Department of Law Enforcement. All such seaports shall allow
22 unimpeded access by the Department of Law Enforcement to the
23 affected facilities for purposes of inspections or other
24 operations authorized by this section. Each seaport security
25 plan may establish restricted access areas within the seaport
26 consistent with the requirements of the statewide minimum
27 standards. In such cases, a Uniform Port Access Credential
28 Card, authorizing restricted-area access,~~Restricted Access~~
29 ~~Area Permit~~ shall be required for any individual working
30 within or authorized to regularly enter a restricted access
31 area and the requirements in subsection (3) relating to

1 criminal history checks and employment restrictions shall be
2 applicable only to employees or other persons working within
3 or authorized to regularly enter a restricted access area.
4 Every seaport security plan shall set forth the conditions and
5 restrictions to be imposed upon others visiting the port or
6 any restricted access area sufficient to provide substantial
7 compliance with the statewide minimum standards.

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

30 (b) By January 1, 2002, each seaport security plan
31 shall identify criminal convictions or other criminal history

1 factors consistent with paragraph (c) which shall disqualify a
2 person from either initial seaport employment or new
3 authorization for regular access to seaport property or to a
4 restricted access area. Such factors shall be used to
5 disqualify all applicants for employment or others seeking
6 regular access to the seaport or restricted access area on or
7 after January 1, 2002, and may be used to disqualify all those
8 employed or authorized for regular access on that date. Each
9 seaport security plan may establish a procedure to appeal a
10 denial of employment or access based upon procedural
11 inaccuracies or discrepancies regarding criminal history
12 factors established pursuant to this paragraph. ~~The appeal~~
13 ~~procedure may allow the granting of waivers or conditional~~
14 ~~employment or access. In addition,~~A seaport may allow waivers
15 on a temporary basis to meet special or emergency needs of the
16 seaport or its users. Policies, procedures, and criteria for
17 implementation of this subsection shall be included in the
18 seaport security plan. All waivers granted pursuant to this
19 paragraph must be reported to the Department of Law
20 Enforcement within 30 days of issuance.

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

24 1. Any person who has within the past 7 5 years been
25 convicted, regardless of whether adjudication was withheld,
26 for a forcible felony as defined in s. 776.08; an act of
27 terrorism as defined in s. 775.30; planting of a hoax bomb as
28 provided in s. 790.165; any violation involving the
29 manufacture, possession, sale, delivery, display, use, or
30 attempted or threatened use of a weapon of mass destruction or
31 hoax weapon of mass destruction as provided in s. 790.166;

1 dealing in stolen property; any violation of s. 893.135; any
2 violation involving the sale, manufacturing, delivery, or
3 possession with intent to sell, manufacture, or deliver a
4 controlled substance; burglary; robbery; any felony violation
5 of s. 812.014; any violation of s. 790.07; any crime an
6 element of which includes use or possession of a firearm; any
7 conviction for any similar offenses under the laws of another
8 jurisdiction; or conviction for conspiracy to commit any of
9 the listed offenses shall not be qualified for initial
10 employment within or regular access to a seaport or restricted
11 access area; and

12 2. Any person who has at any time been convicted for
13 any of the listed offenses shall not be qualified for initial
14 employment within or authorized regular access to a seaport or
15 restricted access area unless, after release from
16 incarceration and any supervision imposed as a sentence, the
17 person remained free from a subsequent conviction, regardless
18 of whether adjudication was withheld, for any of the listed
19 offenses for a period of at least 7 5 years prior to the
20 employment or access date under consideration.

21 (d) By October 1 of each year, each seaport shall
22 report to the Department of Law Enforcement each determination
23 of denial of employment or access, and any determination to
24 authorize employment or access after an appeal of a denial
25 made during the previous 12 months. The report shall include
26 the identity of the individual affected, the factors
27 supporting the determination, ~~any special condition imposed,~~
28 and any other material factors used in making the
29 determination.

30
31

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

4 (b) The Office of Drug Control and the Department of
5 Law Enforcement may modify or waive any physical facility or
6 other requirement contained in the statewide minimum standards
7 for seaport security upon a finding or other determination
8 that the purposes of the standards have been reasonably met or
9 exceeded by the seaport requesting the modification or waiver.
10 Such modifications or waivers shall be noted in the annual
11 report submitted by the Department of Law Enforcement pursuant
12 to this subsection.

13 (c) Beginning with the 2001-2002 fiscal year, the
14 Department of Law Enforcement, or any entity designated by the
15 department, shall conduct no less than one annual unannounced
16 inspection of each seaport listed in s. 311.09 to determine
17 whether the seaport is meeting the minimum standards
18 established pursuant to this section, and to identify seaport
19 security changes or improvements necessary or otherwise
20 recommended. The Department of Law Enforcement, or any entity
21 designated by the department, may conduct additional announced
22 or unannounced inspections or operations within or affecting
23 any affected seaport to test compliance with, or the
24 effectiveness of, security plans and operations at each
25 seaport, to determine compliance with physical facility
26 requirements and standards, or to assist the department in
27 identifying changes or improvements necessary to bring a
28 seaport into compliance with the statewide minimum security
29 standards.

30 (d) By December 31, 2001, and annually thereafter, the
31 Department of Law Enforcement, in consultation with the Office

1 of Drug Control, shall complete a report indicating the
2 observations and findings of all inspections or operations
3 conducted during the year and any recommendations developed by
4 reason of such inspections. A copy of the report shall be
5 provided to the Governor, the President of the Senate, the
6 Speaker of the House of Representatives, and the chief
7 administrator of each seaport inspected. The report shall
8 include responses from the chief administrator of any seaport
9 indicating what actions, if any, have been taken or are
10 planned to be taken in response to the recommendations,
11 observations, and findings reported by the department.

12 (e) In making security project or other funding
13 decisions applicable to each seaport listed in s. 311.09, the
14 Legislature may consider as authoritative the annual report of
15 the Department of Law Enforcement required by this section,
16 especially regarding each seaport's degree of substantial
17 compliance with the statewide minimum security standards
18 established by this section.

19 (5) Nothing in this section shall be construed as
20 preventing any seaport from implementing security measures
21 that are more stringent, greater than, or supplemental to the
22 statewide minimum standards established by this section except
23 that, for purposes of employment and access, each seaport
24 shall adhere to the requirements provided in paragraph (3)(c)
25 and shall not exceed statewide minimum requirements.

26 (6) When funds are appropriated for seaport security,
27 the Office of Drug Control and the Florida Seaport
28 Transportation and Economic Development Council shall mutually
29 determine the allocation of such funds for security project
30 needs identified in the approved seaport security plans
31 required by this section. Any seaport that receives state

1 funds for security projects must enter into a joint
2 participation agreement with the appropriate state entity and
3 must use the seaport security plan developed pursuant to this
4 section as the basis for the agreement. If funds are made
5 available over more than one fiscal year, such agreement must
6 reflect the entire scope of the project approved in the
7 security plan and, as practicable, allow for reimbursement for
8 authorized projects over more than 1 year. The joint
9 participation agreement may include specific timeframes for
10 completion of a security project and the applicable funding
11 reimbursement dates. The joint participation agreement may
12 also require a contractual penalty, not to exceed \$1,000 per
13 day, to be imposed for failure to meet project completion
14 dates provided state funding is available. Any such penalty
15 shall be deposited into the State Transportation Trust Fund to
16 be used for seaport security operations and capital
17 improvements.

18 Section 2. Section 311.125, Florida Statutes, is
19 created to read:

20 311.125 Uniform Port Access Credential System.--
21 (1) By July 1, 2004, each seaport identified in s.
22 311.09 and subject to the statewide minimum seaport security
23 standards set forth in s. 311.12 shall be required to use a
24 Uniform Port Access Credential Card that is to be utilized in
25 the operation of the state Uniform Port Access Credential
26 System as required herein. All Uniform Port Access Credential
27 Cards shall be issued by the Department of Highway Safety and
28 Motor Vehicles to the designated port authority, or recognized
29 governing board, of the requesting seaport for distribution to
30 the credential applicant.

31

1 (2)(a) The Department of Highway Safety and Motor
2 Vehicles, in consultation with the Department of Law
3 Enforcement, the Florida Seaport Transportation and Economic
4 Development Council, the Florida Trucking Association, and the
5 United States Transportation and Security Administration shall
6 develop a Uniform Port Access Credential System for use in
7 on-site verification of access authority for all persons on a
8 seaport as defined in s. 311.12(2), utilizing the Uniform Port
9 Access Credential Card as authorized herein. Each seaport, in
10 a manner consistent with the "Port Security Standards
11 Compliance Plan" delivered to the Speaker of the House of
12 Representatives and the President of the Senate on December
13 11, 2000, pursuant to s. 311.12, and this section, is
14 responsible for granting, restricting, or modifying access
15 authority provided to each Uniform Port Access Credential Card
16 holder and promptly communicating the levels of access or
17 changes in the level of access to the department for its use
18 in administering the Uniform Port Access Credential
19 System. Each seaport is responsible for the proper operation
20 and maintenance of the Uniform Port Access Credential Card
21 reader and access verification utilizing the Uniform Port
22 Access Credential System at its location. The Uniform Port
23 Access Credential Card reader and Uniform Port Access
24 Credential System shall be utilized by each seaport to ensure
25 compliance with the access restrictions provided by s. 311.12.
26 (b) The system shall be designed to conform, as
27 closely as possible, with criteria established by the United
28 States Transportation Security Administration for a
29 Transportation Worker Identification Card, or similar
30 identification, as required by federal law. The system shall,
31 at a minimum, consist of:

1 1. A centralized, secure database for collecting and
2 maintaining fingerprints and other biometric means of
3 identity, and other information pertaining to personal
4 identification of persons working on, or doing business at, a
5 Florida seaport as set forth in s. 311.12;

6 2. A methodology for receiving data from each port and
7 transmitting data to each port regarding access permissions;

8 3. Technology required for each gate and portal at
9 each seaport to be interactive with the Uniform Port Access
10 Credential System during all hours of operation;

11 4. The ability to identify persons who have violated
12 the access requirements of s. 311.12 and to deactivate the
13 access permissions of those persons; and

14 5. The ability to utilize the Uniform Port Access
15 Credential Card in a manner consistent herein.

16
17 Such system shall be designed to ensure the credentialed
18 cardholders' privacy in a manner consistent with the state's
19 security requirements as provided herein.

20 (3) The Uniform Port Access Credential Card must
21 include at a minimum a digital full-face photograph, a digital
22 fingerprint, a multilayered security process, a
23 two-dimensional barcode with technology specifications that
24 will allow the unique biometric identifiers to reside in the
25 barcode, a unique identifying code or number, scanning
26 capability to compare required identifiers with information on
27 file in the central database, and background color
28 differentials for visual identification of access permissions.

29 (4) A fingerprint-based criminal history check shall
30 be performed on an applicant for a Uniform Port Access
31 Credential Card as provided in s. 311.12(3). Based upon review

1 of the criminal history check, each seaport may determine the
2 specific access permissions that will be granted to that
3 applicant. Upon receipt of a port authority "Notification of
4 Access Permission" form and a verification of the criminal
5 history check, the department shall issue a Uniform Port
6 Access Credential Card to the port authority for distribution
7 to the applicant.

8 (5) A Uniform Port Access Credential Card is valid for
9 4 years following the date of issuance. Criminal history
10 checks may be performed on a random basis, but at least once a
11 year, during the period that such credential card is active to
12 ensure that the credential holder complies with the
13 requirements for access to restricted areas provided in s.
14 311.12(3). Failure to complete any part of the required
15 credential application process, or failure to comply with the
16 criminal history clearances, shall be grounds for immediate
17 denial of access. In addition to access authority granted to
18 seaports, access authority may be restricted or revoked by the
19 Department of Highway Safety and Motor Vehicles or the
20 Department of Law Enforcement if the cardholder is suspected
21 of criminal violations that could affect the security of a
22 port or that otherwise render the cardholder ineligible for
23 port access, upon suspicion that the person in possession of
24 the card is using it, or attempting to use it, fraudulently,
25 or if restriction or revocation is done to assure the security
26 of any port or portion thereof.

27 (6) Corporations, persons, or other business entities
28 that employ persons to work on, or do business at, seaports
29 regulated in s. 311.12 shall notify those seaports for which
30 those employees have access permissions in the event of the
31 employee's termination, resignation, work-related

1 incapacitation, or death. Uniform Port Access Credential Card
2 accesses for persons not currently employed to perform a job
3 on a seaport shall be placed in an inactive status. Upon
4 notification of a work status change, the port authority, or
5 recognized governing board, shall notify the department to
6 have the credential card placed in an inactive status.
7 Inactive status shall continue until the expiration of the
8 credential card or reactivation of the card by petition. The
9 former employee may have the credential card reactivated by
10 petitioning a seaport. The port authority, or recognized
11 governing board, of any seaport may determine that the
12 individual is employed by another appropriate entity or is
13 self-employed for purposes of performing work on the seaport.
14 Upon that determination, the port authority, or recognized
15 governing board, may request reactivation of credentialing
16 permissions. All such cards may be restricted or revoked as
17 provided in subsection (5).

18 (7) Failure to report a change in work status, as
19 defined in this section, within 7 days after the action may
20 result in revocation of the business entity's access to the
21 seaport.

22 (8) Each person working on a seaport, as regulated in
23 s. 311.12(2), shall be issued a Uniform Port Access Credential
24 Card upon completion of the application process. Upon issuance
25 of the Uniform Port Access Credential Card, the cardholder is
26 eligible to enter a seaport in the system based on the level
27 of permission allowed by each respective seaport. A person
28 working in a restricted access area must meet the requirements
29 of s. 311.12(3). The Uniform Port Access Credential Card shall
30 be clearly marked for visual verification of the cardholder's
31 permission for access to a restricted area, pursuant to

1 subsection (3). The card must contain biometric verification
2 of the cardholder's identity and proper access
3 permissions. Entrance to a restricted access area, as defined
4 in s. 311.12(2), shall require a machine check and fingerprint
5 verification of each person's Uniform Port Access Credential
6 Card for proper identification. Exit from any restricted
7 access area of a seaport shall require a machine check of the
8 credential card.

9 (9) Each person not producing a Uniform Port Access
10 Credential Card upon arrival at a restricted area of a seaport
11 must, at a minimum, stop at a check point, show valid
12 identification, and receive a visitor's pass in order to
13 proceed. The visitor's pass must be plainly displayed on the
14 person of the visitor or in the windshield of the vehicle and
15 designate what area of the seaport may be accessed by the
16 visitor. Failure to display the visitor's pass shall result in
17 revocation of a worker's permission to work on the
18 seaport. Public conveyances such as buses carrying passengers
19 into restricted access areas must be able to verify that all
20 passengers have legitimate business on the seaport. Procedures
21 for implementation of this process is the responsibility of
22 each seaport.

23 (10) The price of a Uniform Port Access Credential
24 Card shall be set by the department and shall reflect the cost
25 of the required criminal history checks, including the cost of
26 the initial state and federal fingerprint check and the annual
27 criminal history check and the cost of production and issuance
28 of the card by the department. Seaports may charge an
29 additional administrative fee to cover the costs of issuing
30 credentials to its employees and persons doing business at the
31 seaport.

1 (11) Each Uniform Port Access Credential Card remains
2 the property of the State of Florida. Any person possessing
3 such a card shall provide it to any law enforcement officer
4 upon request. A law enforcement officer having reasonable
5 suspicion to believe that a card is possessed or is being used
6 in violation of law or the standards provided by this section,
7 or in any other manner that raises a concern about the safety
8 and security of a seaport, may seize the card. A cardholder
9 has no cause of action against any law enforcement officer who
10 seizes a Uniform Port Access Credential Card.

11 (12) Each seaport defined in s. 311.09 and required to
12 meet the minimum security standards set forth in s. 311.12
13 shall comply with technology improvement requirements for the
14 activation of the Uniform Port Access Credential System no
15 later than July 1, 2004. Equipment and technology requirements
16 for the system shall be specified by the department no later
17 than July 1, 2003. The system shall be implemented at the
18 earliest possible time that all seaports have active
19 technology in place, but no later than July 1, 2004.

20 (13) The "Port Security Standards Compliance Plan"
21 delivered to the Speaker of the House of Representatives and
22 the President of the Senate on December 11, 2000, pursuant to
23 s. 311.12, shall be updated by the Department of Law
24 Enforcement to reflect the changes made by this act.

25 (14) This section shall be contingent on the receipt
26 of the federal grant funds necessary to implement the Uniform
27 Port Access Credential System.

28 Section 3. This act shall take effect upon becoming a
29 law.
30
31