

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

.
.
.
.

Representative Goodlette offered the following:

Substitute Amendment for Amendment (511173) (with title amendment)

Remove everything after the enacting clause and insert:

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

311.12 Seaport security standards.--

(1)(a) The statewide minimum standards for seaport security for each seaport identified in s. 311.09 shall be those based upon the Florida Seaport Security Assessment 2000 and set forth in the "Port Security Standards--Compliance Plan" delivered to the Speaker of the House of Representatives and the President of the Senate on December 11, 2000, pursuant to this section. The statewide minimum standards are hereby adopted. The Office of Drug Control within the Executive Office of the Governor shall maintain a sufficient number of copies of the

Amendment No. (for drafter's use only)

28 standards for use of the public, at its offices, and shall
29 provide copies to each affected seaport upon request.

30 (b) The Department of Law Enforcement may exempt any
31 seaport identified in s. 311.09 from all or part of the
32 requirements of subsections (1) through (5) if the department
33 determines that the seaport is not active. The department shall
34 periodically review exempted seaports to determine if there is
35 maritime activity at the seaport. A change in status from
36 inactive to active may warrant removal of all or part of any
37 exemption provided by the department.

38 (2) Each seaport identified in s. 311.09 shall maintain a
39 security plan relating to the specific and identifiable needs of
40 the seaport which assures that the seaport is in substantial
41 compliance with the statewide minimum standards established
42 pursuant to subsection (1). Each plan adopted or revised
43 pursuant to this subsection must be reviewed and approved by the
44 Office of Drug Control and the Department of Law Enforcement.
45 All such seaports shall allow unimpeded access by the Department
46 of Law Enforcement to the affected facilities for purposes of
47 inspections or other operations authorized by this section. Each
48 seaport security plan may establish restricted access areas
49 within the seaport consistent with the requirements of the
50 statewide minimum standards. In such cases, a Uniform Port
51 Access Credential Card, authorizing restricted-area access,
52 ~~Restricted Access Area Permit~~ shall be required for any
53 individual working within or authorized to regularly enter a
54 restricted access area and the requirements in subsection (3)
55 relating to criminal history checks and employment restrictions
56 shall be applicable only to employees or other persons working

962633

Amendment No. (for drafter's use only)

57 within or authorized to regularly enter a restricted access
58 area. Every seaport security plan shall set forth the conditions
59 and restrictions to be imposed upon others visiting the port or
60 any restricted access area sufficient to provide substantial
61 compliance with the statewide minimum standards.

62 (3)(a) A fingerprint-based criminal history check shall be
63 performed on any applicant for employment, every current
64 employee, and other persons as designated pursuant to the
65 seaport security plan for each seaport. The criminal history
66 check shall be performed in connection with employment within or
67 other authorized regular access to a restricted access area or
68 the entire seaport if the seaport security plan does not
69 designate one or more restricted access areas. With respect to
70 employees or others with regular access, such checks shall be
71 performed at least once every 5 years or at other more frequent
72 intervals as provided by the seaport security plan. Each
73 individual subject to the background criminal history check
74 shall file a complete set of fingerprints taken in a manner
75 required by the Department of Law Enforcement and the seaport
76 security plan. Fingerprints shall be submitted to the Department
77 of Law Enforcement for state processing and to the Federal
78 Bureau of Investigation for federal processing. The results of
79 each fingerprint-based check shall be reported to the requesting
80 seaport. The costs of the checks, consistent with s. 943.053(3),
81 shall be paid by the seaport or other employing entity or by the
82 person checked.

83 (b) By January 1, 2002, each seaport security plan shall
84 identify criminal convictions or other criminal history factors
85 consistent with paragraph (c) which shall disqualify a person

962633

Amendment No. (for drafter's use only)

86 from either initial seaport employment or new authorization for
87 regular access to seaport property or to a restricted access
88 area. Such factors shall be used to disqualify all applicants
89 for employment or others seeking regular access to the seaport
90 or restricted access area on or after January 1, 2002, and may
91 be used to disqualify all those employed or authorized for
92 regular access on that date. Each seaport security plan may
93 establish a procedure to appeal a denial of employment or access
94 based upon procedural inaccuracies or discrepancies regarding
95 criminal history factors established pursuant to this paragraph.
96 ~~The appeal procedure may allow the granting of waivers or~~
97 ~~conditional employment or access. In addition, A seaport may~~
98 allow waivers on a temporary basis to meet special or emergency
99 needs of the seaport or its users. Policies, procedures, and
100 criteria for implementation of this subsection shall be included
101 in the seaport security plan. All waivers granted pursuant to
102 this paragraph must be reported to the Department of Law
103 Enforcement within 30 days of issuance.

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

107 1. Any person who has within the past 7 5 years been
108 convicted, regardless of whether adjudication was withheld, for
109 a forcible felony as defined in s. 776.08; an act of terrorism
110 as defined in s. 775.30; planting of a hoax bomb as provided in
111 s. 790.165; any violation involving the manufacture, possession,
112 sale, delivery, display, use, or attempted or threatened use of
113 a weapon of mass destruction or hoax weapon of mass destruction
114 as provided in s. 790.166; dealing in stolen property; any

Amendment No. (for drafter's use only)

115 violation of s. 893.135; any violation involving the sale,
116 manufacturing, delivery, or possession with intent to sell,
117 manufacture, or deliver a controlled substance; burglary;
118 robbery; any felony violation of s. 812.014; any violation of s.
119 790.07; any crime an element of which includes use or possession
120 of a firearm; any conviction for any similar offenses under the
121 laws of another jurisdiction; or conviction for conspiracy to
122 commit any of the listed offenses shall not be qualified for
123 initial employment within or regular access to a seaport or
124 restricted access area; and

125 2. Any person who has at any time been convicted for any
126 of the listed offenses shall not be qualified for initial
127 employment within or authorized regular access to a seaport or
128 restricted access area unless, after release from incarceration
129 and any supervision imposed as a sentence, the person remained
130 free from a subsequent conviction, regardless of whether
131 adjudication was withheld, for any of the listed offenses for a
132 period of at least ~~5~~ 7 years prior to the employment or access
133 date under consideration.

134 (d) By October 1 of each year, each seaport shall report
135 to the Department of Law Enforcement each determination of
136 denial of employment or access, and any determination to
137 authorize employment or access after an appeal of a denial made
138 during the previous 12 months. The report shall include the
139 identity of the individual affected, the factors supporting the
140 determination, ~~any special condition imposed,~~ and any other
141 material factors used in making the determination.

Amendment No. (for drafter's use only)

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

145 (b) The Office of Drug Control and the Department of Law
146 Enforcement may modify or waive any physical facility or other
147 requirement contained in the statewide minimum standards for
148 seaport security upon a finding or other determination that the
149 purposes of the standards have been reasonably met or exceeded
150 by the seaport requesting the modification or waiver. Such
151 modifications or waivers shall be noted in the annual report
152 submitted by the Department of Law Enforcement pursuant to this
153 subsection.

154 (c) Beginning with the 2001-2002 fiscal year, the
155 Department of Law Enforcement, or any entity designated by the
156 department, shall conduct no less than one annual unannounced
157 inspection of each seaport listed in s. 311.09 to determine
158 whether the seaport is meeting the minimum standards established
159 pursuant to this section, and to identify seaport security
160 changes or improvements necessary or otherwise recommended. The
161 Department of Law Enforcement, or any entity designated by the
162 department, may conduct additional announced or unannounced
163 inspections or operations within or affecting any affected
164 seaport to test compliance with, or the effectiveness of,
165 security plans and operations at each seaport, to determine
166 compliance with physical facility requirements and standards, or
167 to assist the department in identifying changes or improvements
168 necessary to bring a seaport into compliance with the statewide
169 minimum security standards.

Amendment No. (for drafter's use only)

170 (d) By December 31, 2001, and annually thereafter, the
171 Department of Law Enforcement, in consultation with the Office
172 of Drug Control, shall complete a report indicating the
173 observations and findings of all inspections or operations
174 conducted during the year and any recommendations developed by
175 reason of such inspections. A copy of the report shall be
176 provided to the Governor, the President of the Senate, the
177 Speaker of the House of Representatives, and the chief
178 administrator of each seaport inspected. The report shall
179 include responses from the chief administrator of any seaport
180 indicating what actions, if any, have been taken or are planned
181 to be taken in response to the recommendations, observations,
182 and findings reported by the department.

183 (e) In making security project or other funding decisions
184 applicable to each seaport listed in s. 311.09, the Legislature
185 may consider as authoritative the annual report of the
186 Department of Law Enforcement required by this section,
187 especially regarding each seaport's degree of substantial
188 compliance with the statewide minimum security standards
189 established by this section.

190 (5) Nothing in this section shall be construed as
191 preventing any seaport from implementing security measures that
192 are more stringent, greater than, or supplemental to the
193 statewide minimum standards established by this section except
194 that, for purposes of employment and access, each seaport shall
195 adhere to the requirements provided in paragraph (3)(c) and
196 shall not exceed statewide minimum requirements.

197 (6) When funds are appropriated for seaport security, the
198 Office of Drug Control and the Florida Seaport Transportation

Amendment No. (for drafter's use only)

199 and Economic Development Council shall mutually determine the
200 allocation of such funds for security project needs identified
201 in the approved seaport security plans required by this section.
202 Any seaport that receives state funds for security projects must
203 enter into a joint participation agreement with the appropriate
204 state entity and must use the seaport security plan developed
205 pursuant to this section as the basis for the agreement. If
206 funds are made available over more than one fiscal year, such
207 agreement must reflect the entire scope of the project approved
208 in the security plan and, as practicable, allow for
209 reimbursement for authorized projects over more than 1 year. The
210 joint participation agreement may include specific timeframes
211 for completion of a security project and the applicable funding
212 reimbursement dates. The joint participation agreement may also
213 require a contractual penalty, not to exceed \$1,000 per day, to
214 be imposed for failure to meet project completion dates provided
215 state funding is available. Any such penalty shall be deposited
216 into the State Transportation Trust Fund to be used for seaport
217 security operations and capital improvements.

218 Section 2. Section 311.125, Florida Statutes, is created
219 to read:

220 311.125 Uniform Port Access Credential System.--

221 (1) By July 1, 2004, each seaport identified in s. 311.09
222 and subject to the statewide minimum seaport security standards
223 set forth in s. 311.12 shall be required to use a Uniform Port
224 Access Credential Card that is to be utilized in the operation
225 of the state Uniform Port Access Credential System as required
226 herein. All Uniform Port Access Credential Cards shall be
227 issued by the Department of Highway Safety and Motor Vehicles to

962633

Amendment No. (for drafter's use only)

228 the designated port authority, or recognized governing board, of
229 the requesting seaport for distribution to the credential
230 applicant.

231 (2)(a) The Department of Highway Safety and Motor
232 Vehicles, in consultation with the Department of Law
233 Enforcement, the Florida Seaport Transportation and Economic
234 Development Council, the Florida Trucking Association, and the
235 United States Transportation and Security Administration shall
236 develop a Uniform Port Access Credential System for use in on-
237 site verification of access authority for all persons on a
238 seaport as defined in s. 311.12(2), utilizing the Uniform Port
239 Access Credential Card as authorized herein. Each seaport, in a
240 manner consistent with the "Port Security Standards Compliance
241 Plan" delivered to the Speaker of the House of Representatives
242 and the President of the Senate on December 11, 2000, pursuant
243 to s. 311.12, and this section, is responsible for granting,
244 restricting, or modifying access authority provided to each
245 Uniform Port Access Credential Card holder and promptly
246 communicating the levels of access or changes in the level of
247 access to the department for its use in administering the
248 Uniform Port Access Credential System. Each seaport is
249 responsible for the proper operation and maintenance of the
250 Uniform Port Access Credential Card reader and access
251 verification utilizing the Uniform Port Access Credential System
252 at its location. The Uniform Port Access Credential Card reader
253 and Uniform Port Access Credential System shall be utilized by
254 each seaport to ensure compliance with the access restrictions
255 provided by s. 311.12.

Amendment No. (for drafter's use only)

256 (b) The system shall be designed to conform, as closely as
257 possible, with criteria established by the United States
258 Transportation Security Administration for a Transportation
259 Worker Identification Card, or similar identification, as
260 required by federal law. The system shall, at a minimum,
261 consist of:

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

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

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

272 4. The ability to identify persons who have violated the
273 access requirements of s. 311.12 and to deactivate the access
274 permissions of those persons; and

275 5. The ability to utilize the Uniform Port Access
276 Credential Card in a manner consistent herein. Such system
277 shall be designed to ensure the credentialed cardholders'
278 privacy in a manner consistent with the state's security
279 requirements as provided herein.

280 (3) The Uniform Port Access Credential Card must include
281 at a minimum a digital full-face photograph, a digital
282 fingerprint, a multilayered security process, a two-dimensional
283 barcode with technology specifications that will allow the
284 unique biometric identifiers to reside in the barcode, a unique

Amendment No. (for drafter's use only)

285 identifying code or number, scanning capability to compare
286 required identifiers with information on file in the central
287 database, and background color differentials for visual
288 identification of access permissions.

289 (4) A fingerprint-based criminal history check shall be
290 performed on an applicant for a Uniform Port Access Credential
291 Card as provided in s. 311.12(3). Based upon review of the
292 criminal history check, each seaport may determine the specific
293 access permissions that will be granted to that applicant. Upon
294 receipt of a port authority "Notification of Access Permission"
295 form and a verification of the criminal history check, the
296 department shall issue a Uniform Port Access Credential Card to
297 the port authority for distribution to the applicant. Upon
298 issuance of the Uniform Port Access Credential Card, the
299 cardholder is eligible to enter a seaport in the system, based
300 on the level of permission allowed by each respective seaport.

301 (5) A Uniform Port Access Credential Card is valid for 4
302 years following the date of issuance. Criminal history checks
303 may be performed on a random basis, but at least once a year,
304 during the period that such credential card is active to ensure
305 that the credential holder complies with the requirements for
306 access to restricted areas provided in s. 311.12(3). Failure to
307 complete any part of the required credential application
308 process, or failure to comply with the criminal history
309 clearances, shall be grounds for immediate denial of access. In
310 addition to access authority granted to seaports, access
311 authority may be restricted or revoked by the Department of
312 Highway Safety and Motor Vehicles or the Department of Law
313 Enforcement if the cardholder is suspected of criminal

962633

Amendment No. (for drafter's use only)

314 violations that could affect the security of a port or that
315 otherwise render the cardholder ineligible for port access, upon
316 suspicion that the person in possession of the card is using it,
317 or attempting to use it, fraudulently, or if restriction or
318 revocation is done to assure the security of any port or portion
319 thereof.

320 (6) Corporations, persons, or other business entities that
321 employ persons to work on, or do business at, seaports regulated
322 in s. 311.12 shall notify those seaports for which those
323 employees have access permissions in the event of the employee's
324 termination, resignation, work-related incapacitation, or death.
325 Uniform Port Access Credential Card accesses for persons not
326 currently employed to perform a job on a seaport shall be placed
327 in an inactive status. Upon notification of a work status
328 change, the port authority, or recognized governing board, shall
329 notify the department to have the credential card placed in an
330 inactive status. Inactive status shall continue until the
331 expiration of the credential card or reactivation of the card by
332 petition. The former employee may have the credential card
333 reactivated by petitioning a seaport. The port authority, or
334 recognized governing board, of any seaport may determine that
335 the individual is employed by another appropriate entity or is
336 self-employed for purposes of performing work on the seaport.
337 Upon that determination, the port authority, or recognized
338 governing board, may request reactivation of credentialing
339 permissions. All such cards may be restricted or revoked as
340 provided in subsection (5).

Amendment No. (for drafter's use only)

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

344 (8) A Uniform Port Access Credential Card shall provide
345 access to all seaports identified in s. 311.09, as regulated in
346 s. 311.12. Each person working on a seaport, as regulated in s.
347 311.12(2), shall be issued a Uniform Port Access Credential Card
348 upon completion of the application process. A person working in
349 a restricted access area must meet the requirements of s.
350 311.12(3). The Uniform Port Access Credential Card shall be
351 clearly marked for visual verification of the cardholder's
352 permission for access to a restricted area, pursuant to
353 subsection (3). The card must contain biometric verification of
354 the cardholder's identity and proper access permissions.
355 Entrance to a restricted access area, as defined in s.
356 311.12(2), shall require a machine check and fingerprint
357 verification of each person's Uniform Port Access Credential
358 Card for proper identification. Exit from any restricted access
359 area of a seaport shall require a machine check of the
360 credential card.

361 (9) Each person not producing a Uniform Port Access
362 Credential Card upon arrival at a restricted area of a seaport
363 must, at a minimum, stop at a check point, show valid
364 identification, and receive a visitor's pass in order to
365 proceed. The visitor's pass must be plainly displayed on the
366 person of the visitor or in the windshield of the vehicle and
367 designate what area of the seaport may be accessed by the
368 visitor. Public conveyances such as buses carrying passengers
369 into restricted access areas must be able to verify that all

962633

Amendment No. (for drafter's use only)

370 passengers have legitimate business on the seaport. Failure to
371 display the visitor's pass shall result in revocation of a
372 worker's permission to work on the seaport. Procedures for
373 implementation of this process is the responsibility of each
374 seaport.

375 (10) The price of a Uniform Port Access Credential Card
376 shall be set by the department and shall reflect the cost of the
377 required criminal history checks, including the cost of the
378 initial state and federal fingerprint check and the annual
379 criminal history check and the cost of production and issuance
380 of the card by the department. Seaports may charge an
381 additional administrative fee to cover the costs of issuing
382 credentials to its employees and persons doing business at the
383 seaport.

384 (11) Each Uniform Port Access Credential Card remains the
385 property of the State of Florida. Any person possessing such a
386 card shall provide it to any law enforcement officer upon
387 request. A law enforcement officer having reasonable suspicion
388 to believe that a card is possessed or is being used in
389 violation of law or the standards provided by this section, or
390 in any other manner that raises a concern about the safety and
391 security of a seaport, may seize the card. A cardholder has no
392 cause of action against any law enforcement officer who seizes a
393 Uniform Port Access Credential Card.

394 (12) Each seaport defined in s. 311.09 and required to
395 meet the minimum security standards set forth in s. 311.12 shall
396 comply with technology improvement requirements for the
397 activation of the Uniform Port Access Credential System no later
398 than July 1, 2004. Equipment and technology requirements shall

962633

Amendment No. (for drafter's use only)

399 be specified by the department no later than July 1, 2003. The
400 system shall be implemented at the earliest possible time that
401 all seaports have active technology in place, but no later than
402 July 1, 2004.

403 (13) The "Port Security Standards Compliance Plan"
404 delivered to the Speaker of the House of Representatives and the
405 President of the Senate on December 11, 2000, pursuant to s.
406 311.12, shall be updated by the Department of Law Enforcement to
407 reflect the changes made by this act.

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

411 Section 3. This act shall take effect upon becoming a law.

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

415 Remove the entire title and insert:

416 A bill to be entitled

417 An act relating to seaport security; amending s. 311.12,
418 F.S., relating to seaport security standards; authorizing
419 the Department of Law Enforcement to exempt an inactive
420 seaport from certain requirements; revising circumstances
421 under which employment by or access to a seaport may be
422 denied; providing additional offenses that disqualify a
423 person from employment within or regular access to a
424 seaport or restricted access area; prohibiting a seaport
425 from imposing access restrictions that exceed the
426 statewide minimum requirements; creating s. 311.125, F.S. ;
427 establishing the Uniform Port Access Credential System, to

Amendment No. (for drafter's use only)

428 be administered by the Department of Highway Safety and
429 Motor Vehicles; requiring seaports that are subject to
430 statewide minimum security standards to comply with the
431 system's requirements by a specified date; specifying
432 system requirements; providing requirements for the
433 Uniform Port Access Credential Card; requiring an initial
434 fingerprint-based criminal history check of card
435 applicants; requiring additional criminal history checks;
436 requiring employers to notify a seaport if an employee
437 having access is terminated, resigns, is incapacitated, or
438 dies; providing a procedure for placing a card in an
439 inactive status; providing for reactivation of a card;
440 authorizing revocation of a business entity's access to a
441 seaport upon failure to report a change in the work status
442 of an employee; providing requirements for access to
443 restricted areas within a seaport; providing requirements
444 for a visitor's pass to be issued by seaports; authorizing
445 seaports to charge for the cost of conducting criminal
446 history checks and issuing the Uniform Port Access
447 Credential Card; providing for seizure of a Uniform Port
448 Access Credential Card by a law enforcement officer under
449 certain circumstances; providing a timeframe for seaports
450 to comply with the requirements of the act; requiring the
451 Department of Law Enforcement to update a seaport security
452 compliance plan; providing that implementation is
453 contingent on the receipt of federal grant funds;
454 providing an effective date.

455