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1 A bill to be entitled

2 An act relating to seaport security standards; amending s.  
3 311.12, F.S.; authorizing the Department of Law  
4 Enforcement to exempt from security requirements any  
5 seaport that meets certain conditions; requiring periodic  
6 review of exemptions; providing an effective date.

7  
8 Be It Enacted by the Legislature of the State of Florida:

9  
10 Section 1. Section 311.12, Florida Statutes, is amended to  
11 read:

12 311.12 Seaport security standards.--

13 (1)(a) The statewide minimum standards for seaport  
14 security for each seaport identified in s. 311.09 shall be those  
15 based upon the Florida Seaport Security Assessment 2000 and set  
16 forth in the "Port Security Standards--Compliance Plan"  
17 delivered to the Speaker of the House of Representatives and the  
18 President of the Senate on December 11, 2000, pursuant to this  
19 section. The statewide minimum standards are hereby adopted. The  
20 Office of Drug Control within the Executive Office of the  
21 Governor shall maintain a sufficient number of copies of the  
22 standards for use of the public, at its offices, and shall  
23 provide copies to each affected seaport upon request.

24 (b) The Department of Law Enforcement may exempt any  
25 seaport identified in s. 311.09 from all or part of the  
26 requirements of subsections (1)-(5) if that department  
27 determines that the level of maritime activity at the seaport  
28 does not require compliance with all or part of the minimum  
29 statewide standards. The Department of Law Enforcement shall  
30 periodically review the level of activity at each exempted



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31 seaport to determine if activities at the seaport warrant  
32 removal of all or part of any exemption provided by that  
33 department.

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

57 (3)(a) A fingerprint-based criminal history check shall be  
58 performed on any applicant for employment, every current  
59 employee, and other persons as designated pursuant to the  
60 seaport security plan for each seaport. The criminal history



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

78 (b) By January 1, 2002, each seaport security plan shall  
79 identify criminal convictions or other criminal history factors  
80 consistent with paragraph (c) which shall disqualify a person  
81 from either initial seaport employment or new authorization for  
82 regular access to seaport property or to a restricted access  
83 area. Such factors shall be used to disqualify all applicants  
84 for employment or others seeking regular access to the seaport  
85 or restricted access area on or after January 1, 2002, and may  
86 be used to disqualify all those employed or authorized for  
87 regular access on that date. Each seaport security plan may  
88 establish a procedure to appeal a denial of employment or access  
89 based upon criminal history factors established pursuant to this  
90 paragraph. The appeal procedure may allow the granting of



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91 waivers or conditional employment or access. In addition, a  
92 seaport may allow waivers on a temporary basis to meet special  
93 or emergency needs of the seaport or its users. Policies,  
94 procedures, and criteria for implementation of this subsection  
95 shall be included in the seaport security plan.

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

99 1. Any person who has within the past 5 years been  
100 convicted, regardless of whether adjudication was withheld, for  
101 dealing in stolen property; any violation of s. 893.135; any  
102 violation involving the sale, manufacturing, delivery, or  
103 possession with intent to sell, manufacture, or deliver a  
104 controlled substance; burglary; robbery; any violation of s.  
105 790.07; any crime an element of which includes use or possession  
106 of a firearm; any conviction for any similar offenses under the  
107 laws of another jurisdiction; or conviction for conspiracy to  
108 commit any of the listed offenses shall not be qualified for  
109 initial employment within or regular access to a seaport or  
110 restricted access area; and

111 2. Any person who has at any time been convicted for any  
112 of the listed offenses shall not be qualified for initial  
113 employment within or authorized regular access to a seaport or  
114 restricted access area unless, after release from incarceration  
115 and any supervision imposed as a sentence, the person remained  
116 free from a subsequent conviction, regardless of whether  
117 adjudication was withheld, for any of the listed offenses for a  
118 period of at least 5 years prior to the employment or access  
119 date under consideration.



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120 (d) By October 1 of each year, each seaport shall report  
121 to the Department of Law Enforcement each determination of  
122 denial of employment or access, and any determination to  
123 authorize employment or access after an appeal of a denial made  
124 during the previous 12 months. The report shall include the  
125 identity of the individual affected, the factors supporting the  
126 determination, any special condition imposed, and any other  
127 material factors used in making the determination.

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

131 (b) The Office of Drug Control and the Department of Law  
132 Enforcement may modify or waive any physical facility or other  
133 requirement contained in the statewide minimum standards for  
134 seaport security upon a finding or other determination that the  
135 purposes of the standards have been reasonably met or exceeded  
136 by the seaport requesting the modification or waiver. Such  
137 modifications or waivers shall be noted in the annual report  
138 submitted by the Department of Law Enforcement pursuant to this  
139 subsection.

140 (c) Beginning with the 2001-2002 fiscal year, the  
141 Department of Law Enforcement, or any entity designated by the  
142 department, shall conduct no less than one annual unannounced  
143 inspection of each seaport listed in s. 311.09 to determine  
144 whether the seaport is meeting the minimum standards established  
145 pursuant to this section, and to identify seaport security  
146 changes or improvements necessary or otherwise recommended. The  
147 Department of Law Enforcement, or any entity designated by the  
148 department, may conduct additional announced or unannounced  
149 inspections or operations within or affecting any affected



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150 seaport to test compliance with, or the effectiveness of,  
151 security plans and operations at each seaport, to determine  
152 compliance with physical facility requirements and standards, or  
153 to assist the department in identifying changes or improvements  
154 necessary to bring a seaport into compliance with the statewide  
155 minimum security standards.

156 (d) By December 31, 2001, and annually thereafter, the  
157 Department of Law Enforcement, in consultation with the Office  
158 of Drug Control, shall complete a report indicating the  
159 observations and findings of all inspections or operations  
160 conducted during the year and any recommendations developed by  
161 reason of such inspections. A copy of the report shall be  
162 provided to the Governor, the President of the Senate, the  
163 Speaker of the House of Representatives, and the chief  
164 administrator of each seaport inspected. The report shall  
165 include responses from the chief administrator of any seaport  
166 indicating what actions, if any, have been taken or are planned  
167 to be taken in response to the recommendations, observations,  
168 and findings reported by the department.

169 (e) In making security project or other funding decisions  
170 applicable to each seaport listed in s. 311.09, the Legislature  
171 may consider as authoritative the annual report of the  
172 Department of Law Enforcement required by this section,  
173 especially regarding each seaport's degree of substantial  
174 compliance with the statewide minimum security standards  
175 established by this section.

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



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180 (6) When funds are appropriated for seaport security, the  
181 Office of Drug Control and the Florida Seaport Transportation  
182 and Economic Development Council shall mutually determine the  
183 allocation of such funds for security project needs identified  
184 in the approved seaport security plans required by this section.  
185 Any seaport that receives state funds for security projects must  
186 enter into a joint participation agreement with the appropriate  
187 state entity and must use the seaport security plan developed  
188 pursuant to this section as the basis for the agreement. If  
189 funds are made available over more than one fiscal year, such  
190 agreement must reflect the entire scope of the project approved  
191 in the security plan and, as practicable, allow for  
192 reimbursement for authorized projects over more than 1 year. The  
193 joint participation agreement may include specific timeframes  
194 for completion of a security project and the applicable funding  
195 reimbursement dates. The joint participation agreement may also  
196 require a contractual penalty, not to exceed \$1,000 per day, to  
197 be imposed for failure to meet project completion dates provided  
198 state funding is available. Any such penalty shall be deposited  
199 into the State Transportation Trust Fund to be used for seaport  
200 security operations and capital improvements.

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