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A bill to be entitled

An act relating to seaport security; amending s. 311.12, F.S., relating to seaport security standards; authorizing the Department of Law Enforcement to exempt an inactive seaport from certain requirements; revising circumstances under which employment by or access to a seaport may be denied; providing additional offenses that disqualify a person from employment within or regular access to a seaport or restricted access area; prohibiting a seaport from imposing access restrictions that exceed the statewide minimum requirements; creating s. 311.125, F.S.; establishing the Uniform Port Access Credential System, to be administered by the Department of Highway Safety and Motor Vehicles; requiring seaports that are subject to statewide minimum security standards to comply with the system's requirements by a specified date; specifying system requirements; providing requirements for the Uniform Port Access Credential Card; requiring an initial fingerprint-based criminal history check of card applicants; requiring additional criminal history checks; requiring employers to notify a seaport if an employee having access is terminated, resigns, is incapacitated, or dies; providing a procedure for placing a card in an inactive status; providing for reactivation of a card; authorizing revocation of a business entity's access to a seaport upon failure to report a change in the work status of an employee; providing requirements for access to restricted areas within a seaport; providing requirements for a visitor's pass to be issued by seaports; authorizing seaports to charge for the cost of conducting criminal



HB 1801, Engrossed 1

2003

31 history checks and issuing the Uniform Port Access  
32 Credential Card; providing for seizure of a Uniform Port  
33 Access Credential Card by a law enforcement officer under  
34 certain circumstances; providing a timeframe for seaports  
35 to comply with the requirements of the act; requiring the  
36 Department of Law Enforcement to update a seaport security  
37 compliance plan; providing that implementation is  
38 contingent on the receipt of federal grant funds;  
39 providing an effective date.

40

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

42

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

45 311.12 Seaport security standards.--

46 (1)(a) The statewide minimum standards for seaport  
47 security for each seaport identified in s. 311.09 shall be those  
48 based upon the Florida Seaport Security Assessment 2000 and set  
49 forth in the "Port Security Standards--Compliance Plan"  
50 delivered to the Speaker of the House of Representatives and the  
51 President of the Senate on December 11, 2000, pursuant to this  
52 section. The statewide minimum standards are hereby adopted. The  
53 Office of Drug Control within the Executive Office of the  
54 Governor shall maintain a sufficient number of copies of the  
55 standards for use of the public, at its offices, and shall  
56 provide copies to each affected seaport upon request.

57 (b) The Department of Law Enforcement may exempt any  
58 seaport identified in s. 311.09 from all or part of the  
59 requirements of subsections (1) through (5) if the department  
60 determines that the seaport is not active. The department shall



HB 1801, Engrossed 1

2003

61 periodically review exempted seaports to determine if there is  
62 maritime activity at the seaport. A change in status from  
63 inactive to active may warrant removal of all or part of any  
64 exemption provided by the department.

65 (2) Each seaport identified in s. 311.09 shall maintain a  
66 security plan relating to the specific and identifiable needs of  
67 the seaport which assures that the seaport is in substantial  
68 compliance with the statewide minimum standards established  
69 pursuant to subsection (1). Each plan adopted or revised  
70 pursuant to this subsection must be reviewed and approved by the  
71 Office of Drug Control and the Department of Law Enforcement.  
72 All such seaports shall allow unimpeded access by the Department  
73 of Law Enforcement to the affected facilities for purposes of  
74 inspections or other operations authorized by this section. Each  
75 seaport security plan may establish restricted access areas  
76 within the seaport consistent with the requirements of the  
77 statewide minimum standards. In such cases, a Uniform Port  
78 Access Credential Card, authorizing restricted-area access,  
79 ~~Restricted Access Area Permit~~ shall be required for any  
80 individual working within or authorized to regularly enter a  
81 restricted access area and the requirements in subsection (3)  
82 relating to criminal history checks and employment restrictions  
83 shall be applicable only to employees or other persons working  
84 within or authorized to regularly enter a restricted access  
85 area. Every seaport security plan shall set forth the conditions  
86 and restrictions to be imposed upon others visiting the port or  
87 any restricted access area sufficient to provide substantial  
88 compliance with the statewide minimum standards.

89 (3)(a) A fingerprint-based criminal history check shall be  
90 performed on any applicant for employment, every current



HB 1801, Engrossed 1

2003

91 employee, and other persons as designated pursuant to the  
92 seaport security plan for each seaport. The criminal history  
93 check shall be performed in connection with employment within or  
94 other authorized regular access to a restricted access area or  
95 the entire seaport if the seaport security plan does not  
96 designate one or more restricted access areas. With respect to  
97 employees or others with regular access, such checks shall be  
98 performed at least once every 5 years or at other more frequent  
99 intervals as provided by the seaport security plan. Each  
100 individual subject to the background criminal history check  
101 shall file a complete set of fingerprints taken in a manner  
102 required by the Department of Law Enforcement and the seaport  
103 security plan. Fingerprints shall be submitted to the Department  
104 of Law Enforcement for state processing and to the Federal  
105 Bureau of Investigation for federal processing. The results of  
106 each fingerprint-based check shall be reported to the requesting  
107 seaport. The costs of the checks, consistent with s. 943.053(3),  
108 shall be paid by the seaport or other employing entity or by the  
109 person checked.

110 (b) By January 1, 2002, each seaport security plan shall  
111 identify criminal convictions or other criminal history factors  
112 consistent with paragraph (c) which shall disqualify a person  
113 from either initial seaport employment or new authorization for  
114 regular access to seaport property or to a restricted access  
115 area. Such factors shall be used to disqualify all applicants  
116 for employment or others seeking regular access to the seaport  
117 or restricted access area on or after January 1, 2002, and may  
118 be used to disqualify all those employed or authorized for  
119 regular access on that date. Each seaport security plan may  
120 establish a procedure to appeal a denial of employment or access



HB 1801, Engrossed 1

2003

121 based upon procedural inaccuracies or discrepancies regarding  
122 criminal history factors established pursuant to this paragraph.  
123 ~~The appeal procedure may allow the granting of waivers or~~  
124 ~~conditional employment or access. In addition,~~ A seaport may  
125 allow waivers on a temporary basis to meet special or emergency  
126 needs of the seaport or its users. Policies, procedures, and  
127 criteria for implementation of this subsection shall be included  
128 in the seaport security plan. All waivers granted pursuant to  
129 this paragraph must be reported to the Department of Law  
130 Enforcement within 30 days of issuance.

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

134 1. Any person who has within the past 7 ~~5~~ years been  
135 convicted, regardless of whether adjudication was withheld, for  
136 a forcible felony as defined in s. 776.08; an act of terrorism  
137 as defined in s. 775.30; planting of a hoax bomb as provided in  
138 s. 790.165; any violation involving the manufacture, possession,  
139 sale, delivery, display, use, or attempted or threatened use of  
140 a weapon of mass destruction or hoax weapon of mass destruction  
141 as provided in s. 790.166; dealing in stolen property; any  
142 violation of s. 893.135; any violation involving the sale,  
143 manufacturing, delivery, or possession with intent to sell,  
144 manufacture, or deliver a controlled substance; burglary;  
145 robbery; any felony violation of s. 812.014; any violation of s.  
146 790.07; any crime an element of which includes use or possession  
147 of a firearm; any conviction for any similar offenses under the  
148 laws of another jurisdiction; or conviction for conspiracy to  
149 commit any of the listed offenses shall not be qualified for  
150 initial employment within or regular access to a seaport or



HB 1801, Engrossed 1

2003

151 restricted access area; and

152 2. Any person who has at any time been convicted for any  
153 of the listed offenses shall not be qualified for initial  
154 employment within or authorized regular access to a seaport or  
155 restricted access area unless, after release from incarceration  
156 and any supervision imposed as a sentence, the person remained  
157 free from a subsequent conviction, regardless of whether  
158 adjudication was withheld, for any of the listed offenses for a  
159 period of at least ~~5~~ 7 years prior to the employment or access  
160 date under consideration.

161 (d) By October 1 of each year, each seaport shall report  
162 to the Department of Law Enforcement each determination of  
163 denial of employment or access, and any determination to  
164 authorize employment or access after an appeal of a denial made  
165 during the previous 12 months. The report shall include the  
166 identity of the individual affected, the factors supporting the  
167 determination, ~~any special condition imposed,~~ and any other  
168 material factors used in making the determination.

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

172 (b) The Office of Drug Control and the Department of Law  
173 Enforcement may modify or waive any physical facility or other  
174 requirement contained in the statewide minimum standards for  
175 seaport security upon a finding or other determination that the  
176 purposes of the standards have been reasonably met or exceeded  
177 by the seaport requesting the modification or waiver. Such  
178 modifications or waivers shall be noted in the annual report  
179 submitted by the Department of Law Enforcement pursuant to this  
180 subsection.



HB 1801, Engrossed 1

2003

181 (c) Beginning with the 2001-2002 fiscal year, the  
182 Department of Law Enforcement, or any entity designated by the  
183 department, shall conduct no less than one annual unannounced  
184 inspection of each seaport listed in s. 311.09 to determine  
185 whether the seaport is meeting the minimum standards established  
186 pursuant to this section, and to identify seaport security  
187 changes or improvements necessary or otherwise recommended. The  
188 Department of Law Enforcement, or any entity designated by the  
189 department, may conduct additional announced or unannounced  
190 inspections or operations within or affecting any affected  
191 seaport to test compliance with, or the effectiveness of,  
192 security plans and operations at each seaport, to determine  
193 compliance with physical facility requirements and standards, or  
194 to assist the department in identifying changes or improvements  
195 necessary to bring a seaport into compliance with the statewide  
196 minimum security standards.

197 (d) By December 31, 2001, and annually thereafter, the  
198 Department of Law Enforcement, in consultation with the Office  
199 of Drug Control, shall complete a report indicating the  
200 observations and findings of all inspections or operations  
201 conducted during the year and any recommendations developed by  
202 reason of such inspections. A copy of the report shall be  
203 provided to the Governor, the President of the Senate, the  
204 Speaker of the House of Representatives, and the chief  
205 administrator of each seaport inspected. The report shall  
206 include responses from the chief administrator of any seaport  
207 indicating what actions, if any, have been taken or are planned  
208 to be taken in response to the recommendations, observations,  
209 and findings reported by the department.

210 (e) In making security project or other funding decisions



HB 1801, Engrossed 1

2003

211 applicable to each seaport listed in s. 311.09, the Legislature  
212 may consider as authoritative the annual report of the  
213 Department of Law Enforcement required by this section,  
214 especially regarding each seaport's degree of substantial  
215 compliance with the statewide minimum security standards  
216 established by this section.

217 (5) Nothing in this section shall be construed as  
218 preventing any seaport from implementing security measures that  
219 are more stringent, greater than, or supplemental to the  
220 statewide minimum standards established by this section except  
221 that, for purposes of employment and access, each seaport shall  
222 adhere to the requirements provided in paragraph (3)(c) and  
223 shall not exceed statewide minimum requirements.

224 (6) When funds are appropriated for seaport security, the  
225 Office of Drug Control and the Florida Seaport Transportation  
226 and Economic Development Council shall mutually determine the  
227 allocation of such funds for security project needs identified  
228 in the approved seaport security plans required by this section.  
229 Any seaport that receives state funds for security projects must  
230 enter into a joint participation agreement with the appropriate  
231 state entity and must use the seaport security plan developed  
232 pursuant to this section as the basis for the agreement. If  
233 funds are made available over more than one fiscal year, such  
234 agreement must reflect the entire scope of the project approved  
235 in the security plan and, as practicable, allow for  
236 reimbursement for authorized projects over more than 1 year. The  
237 joint participation agreement may include specific timeframes  
238 for completion of a security project and the applicable funding  
239 reimbursement dates. The joint participation agreement may also  
240 require a contractual penalty, not to exceed \$1,000 per day, to





HB 1801, Engrossed 1

2003

241 be imposed for failure to meet project completion dates provided  
242 state funding is available. Any such penalty shall be deposited  
243 into the State Transportation Trust Fund to be used for seaport  
244 security operations and capital improvements.

245 Section 2. Section 311.125, Florida Statutes, is created  
246 to read:

247 311.125 Uniform Port Access Credential System.--

248 (1) By July 1, 2004, each seaport identified in s. 311.09  
249 and subject to the statewide minimum seaport security standards  
250 set forth in s. 311.12 shall be required to use a Uniform Port  
251 Access Credential Card that is to be utilized in the operation  
252 of the state Uniform Port Access Credential System as required  
253 herein. All Uniform Port Access Credential Cards shall be  
254 issued by the Department of Highway Safety and Motor Vehicles to  
255 the designated port authority, or recognized governing board, of  
256 the requesting seaport for distribution to the credential  
257 applicant.

258 (2)(a) The Department of Highway Safety and Motor  
259 Vehicles, in consultation with the Department of Law  
260 Enforcement, the Florida Seaport Transportation and Economic  
261 Development Council, the Florida Trucking Association, and the  
262 United States Transportation and Security Administration shall  
263 develop a Uniform Port Access Credential System for use in on-  
264 site verification of access authority for all persons on a  
265 seaport as defined in s. 311.12(2), utilizing the Uniform Port  
266 Access Credential Card as authorized herein. Each seaport, in a  
267 manner consistent with the "Port Security Standards Compliance  
268 Plan" delivered to the Speaker of the House of Representatives  
269 and the President of the Senate on December 11, 2000, pursuant  
270 to s. 311.12, and this section, is responsible for granting,



HB 1801, Engrossed 1

2003

271 restricting, or modifying access authority provided to each  
272 Uniform Port Access Credential Card holder and promptly  
273 communicating the levels of access or changes in the level of  
274 access to the department for its use in administering the  
275 Uniform Port Access Credential System. Each seaport is  
276 responsible for the proper operation and maintenance of the  
277 Uniform Port Access Credential Card reader and access  
278 verification utilizing the Uniform Port Access Credential System  
279 at its location. The Uniform Port Access Credential Card reader  
280 and Uniform Port Access Credential System shall be utilized by  
281 each seaport to ensure compliance with the access restrictions  
282 provided by s. 311.12.

283 (b) The system shall be designed to conform, as closely as  
284 possible, with criteria established by the United States  
285 Transportation Security Administration for a Transportation  
286 Worker Identification Card, or similar identification, as  
287 required by federal law. The system shall, at a minimum,  
288 consist of:

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

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

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

299 4. The ability to identify persons who have violated the  
300 access requirements of s. 311.12 and to deactivate the access



HB 1801, Engrossed 1

2003

301 permissions of those persons; and

302 5. The ability to utilize the Uniform Port Access  
303 Credential Card in a manner consistent herein. Such system  
304 shall be designed to ensure the credentialed cardholders'  
305 privacy in a manner consistent with the state's security  
306 requirements as provided herein.

307 (3) The Uniform Port Access Credential Card must include  
308 at a minimum a digital full-face photograph, a digital  
309 fingerprint, a multilayered security process, a two-dimensional  
310 barcode with technology specifications that will allow the  
311 unique biometric identifiers to reside in the barcode, a unique  
312 identifying code or number, scanning capability to compare  
313 required identifiers with information on file in the central  
314 database, and background color differentials for visual  
315 identification of access permissions.

316 (4) A fingerprint-based criminal history check shall be  
317 performed on an applicant for a Uniform Port Access Credential  
318 Card as provided in s. 311.12(3). Based upon review of the  
319 criminal history check, each seaport may determine the specific  
320 access permissions that will be granted to that applicant. Upon  
321 receipt of a port authority "Notification of Access Permission"  
322 form and a verification of the criminal history check, the  
323 department shall issue a Uniform Port Access Credential Card to  
324 the port authority for distribution to the applicant. Upon  
325 issuance of the Uniform Port Access Credential Card, the  
326 cardholder is eligible to enter a seaport in the system, based  
327 on the level of permission allowed by each respective seaport.

328 (5) A Uniform Port Access Credential Card is valid for 4  
329 years following the date of issuance. Criminal history checks  
330 may be performed on a random basis, but at least once a year,



HB 1801, Engrossed 1

2003

331 during the period that such credential card is active to ensure  
332 that the credential holder complies with the requirements for  
333 access to restricted areas provided in s. 311.12(3). Failure to  
334 complete any part of the required credential application  
335 process, or failure to comply with the criminal history  
336 clearances, shall be grounds for immediate denial of access. In  
337 addition to access authority granted to seaports, access  
338 authority may be restricted or revoked by the Department of  
339 Highway Safety and Motor Vehicles or the Department of Law  
340 Enforcement if the cardholder is suspected of criminal  
341 violations that could affect the security of a port or that  
342 otherwise render the cardholder ineligible for port access, upon  
343 suspicion that the person in possession of the card is using it,  
344 or attempting to use it, fraudulently, or if restriction or  
345 revocation is done to assure the security of any port or portion  
346 thereof.

347 (6) Corporations, persons, or other business entities that  
348 employ persons to work on, or do business at, seaports regulated  
349 in s. 311.12 shall notify those seaports for which those  
350 employees have access permissions in the event of the employee's  
351 termination, resignation, work-related incapacitation, or death.  
352 Uniform Port Access Credential Card accesses for persons not  
353 currently employed to perform a job on a seaport shall be placed  
354 in an inactive status. Upon notification of a work status  
355 change, the port authority, or recognized governing board, shall  
356 notify the department to have the credential card placed in an  
357 inactive status. Inactive status shall continue until the  
358 expiration of the credential card or reactivation of the card by  
359 petition. The former employee may have the credential card  
360 reactivated by petitioning a seaport. The port authority, or



HB 1801, Engrossed 1

2003

361 recognized governing board, of any seaport may determine that  
362 the individual is employed by another appropriate entity or is  
363 self-employed for purposes of performing work on the seaport.  
364 Upon that determination, the port authority, or recognized  
365 governing board, may request reactivation of credentialing  
366 permissions. All such cards may be restricted or revoked as  
367 provided in subsection (5).

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

371 (8) A Uniform Port Access Credential Card shall provide  
372 access to all seaports identified in s. 311.09, as regulated in  
373 s. 311.12. Each person working on a seaport, as regulated in s.  
374 311.12(2), shall be issued a Uniform Port Access Credential Card  
375 upon completion of the application process. A person working in  
376 a restricted access area must meet the requirements of s.  
377 311.12(3). The Uniform Port Access Credential Card shall be  
378 clearly marked for visual verification of the cardholder's  
379 permission for access to a restricted area, pursuant to  
380 subsection (3). The card must contain biometric verification of  
381 the cardholder's identity and proper access permissions.  
382 Entrance to a restricted access area, as defined in s.  
383 311.12(2), shall require a machine check and fingerprint  
384 verification of each person's Uniform Port Access Credential  
385 Card for proper identification. Exit from any restricted access  
386 area of a seaport shall require a machine check of the  
387 credential card.

388 (9) Each person not producing a Uniform Port Access  
389 Credential Card upon arrival at a restricted area of a seaport  
390 must, at a minimum, stop at a check point, show valid



HB 1801, Engrossed 1

2003

391 identification, and receive a visitor's pass in order to  
392 proceed. The visitor's pass must be plainly displayed on the  
393 person of the visitor or in the windshield of the vehicle and  
394 designate what area of the seaport may be accessed by the  
395 visitor. Public conveyances such as buses carrying passengers  
396 into restricted access areas must be able to verify that all  
397 passengers have legitimate business on the seaport. Failure to  
398 display the visitor's pass shall result in revocation of a  
399 worker's permission to work on the seaport. Procedures for  
400 implementation of this process is the responsibility of each  
401 seaport.

402 (10) The price of a Uniform Port Access Credential Card  
403 shall be set by the department and shall reflect the cost of the  
404 required criminal history checks, including the cost of the  
405 initial state and federal fingerprint check and the annual  
406 criminal history check and the cost of production and issuance  
407 of the card by the department. Seaports may charge an  
408 additional administrative fee to cover the costs of issuing  
409 credentials to its employees and persons doing business at the  
410 seaport.

411 (11) Each Uniform Port Access Credential Card remains the  
412 property of the State of Florida. Any person possessing such a  
413 card shall provide it to any law enforcement officer upon  
414 request. A law enforcement officer having reasonable suspicion  
415 to believe that a card is possessed or is being used in  
416 violation of law or the standards provided by this section, or  
417 in any other manner that raises a concern about the safety and  
418 security of a seaport, may seize the card. A cardholder has no  
419 cause of action against any law enforcement officer who seizes a  
420 Uniform Port Access Credential Card.



HB 1801, Engrossed 1

2003

421       (12) Each seaport defined in s. 311.09 and required to  
422 meet the minimum security standards set forth in s. 311.12 shall  
423 comply with technology improvement requirements for the  
424 activation of the Uniform Port Access Credential System no later  
425 than July 1, 2004. Equipment and technology requirements shall  
426 be specified by the department no later than July 1, 2003. The  
427 system shall be implemented at the earliest possible time that  
428 all seaports have active technology in place, but no later than  
429 July 1, 2004.

430       (13) The "Port Security Standards Compliance Plan"  
431 delivered to the Speaker of the House of Representatives and the  
432 President of the Senate on December 11, 2000, pursuant to s.  
433 311.12, shall be updated by the Department of Law Enforcement to  
434 reflect the changes made by this act.

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

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