

By the Committees on Appropriations; Home Defense, Public Security, and Ports; and Senator Dockery

309-2548-03

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 and nonrestricted areas within a seaport;
5 providing requirements for a visitor's pass to
6 be issued by seaports; authorizing seaports to
7 charge for the cost of conducting criminal
8 history checks and issuing the Uniform Port
9 Access Credential Card; providing for seizure
10 of a Uniform Port Access Credential Card by a
11 law enforcement officer under certain
12 circumstances; providing a timeframe for
13 seaports to comply with the requirements of the
14 act; requiring the Department of Law
15 Enforcement to update a seaport security
16 compliance plan; providing that implementation
17 is contingent on the receipt of federal grant
18 funds; providing an 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 Department
13 of Law Enforcement may authorize ~~The appeal procedure may~~
14 ~~allow the granting of waivers or conditional employment or~~
15 ~~access. In addition, a seaport may allow~~ waivers on a
16 temporary basis to meet special or emergency needs of the
17 seaport or its users. Policies, procedures, and criteria for
18 implementation of this subsection shall be included in the
19 seaport security plan.

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

23 1. Any person who has within the past 5 years been
24 convicted, regardless of whether adjudication was withheld,
25 for a forcible felony as defined in s. 776.08; an act of
26 terrorism as defined in s. 775.30; planting of a hoax bomb as
27 provided in s. 790.165; any violation involving the
28 manufacture, possession, sale, delivery, display, use, or
29 attempted or threatened use of a weapon of mass destruction or
30 hoax weapon of mass destruction as provided in s. 790.166;
31 dealing in stolen property; any violation of s. 893.135; any

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

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

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

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

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

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

27 (d) By December 31, 2001, and annually thereafter, the
28 Department of Law Enforcement, in consultation with the Office
29 of Drug Control, shall complete a report indicating the
30 observations and findings of all inspections or operations
31 conducted during the year and any recommendations developed by

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

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

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

23 (6) When funds are appropriated for seaport security,
24 the Office of Drug Control and the Florida Seaport
25 Transportation and Economic Development Council shall mutually
26 determine the allocation of such funds for security project
27 needs identified in the approved seaport security plans
28 required by this section. Any seaport that receives state
29 funds for security projects must enter into a joint
30 participation agreement with the appropriate state entity and
31 must use the seaport security plan developed pursuant to this

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

15 Section 2. Section 311.125, Florida Statutes, is
16 created to read:

17 311.125 Uniform Port Access Credential System.--

18 (1) By July 1, 2004, each seaport identified in s.
19 311.09 and subject to the statewide minimum seaport security
20 standards set forth in s. 311.12 shall be required to use a
21 Uniform Port Access Credential Card that is accepted at all
22 identified seaports. Each seaport shall be responsible for the
23 proper operation and maintenance of the system at its location
24 to control access security within the boundaries of that
25 seaport. The Uniform Port Access Credentialing System shall be
26 administered by the Department of Highway Safety and Motor
27 Vehicles. All Uniform Port Access Credential Cards for the
28 identified seaports shall be issued by the department to the
29 designated port authority, or recognized governing board, of
30 the requesting seaport for distribution to the credential
31 applicant. The Uniform Port Access Credentialing System shall

1 ensure that only authorized workers or those personnel whose
2 duties require unescorted access to restricted, secure
3 transportation areas are permitted entry into such areas.

4 (2) The department, in consultation with the
5 Department of Law Enforcement and the United States
6 Transportation Security Administration, shall develop a
7 uniform system for credentialing all persons working on a
8 seaport, as defined in s. 311.12(2) and set forth in the "Port
9 Security Standards Compliance Plan" delivered to the Speaker
10 of the House of Representatives and the President of the
11 Senate on December 11, 2000, pursuant to s. 311.12. The
12 system shall be designed to conform, as closely as possible,
13 with criteria established by the United States Transportation
14 Security Administration for a Transportation Worker
15 Identification Card, or similar identification, as required by
16 federal law. The system shall, at a minimum, consist of:

17 (a) A centralized, secure database for collecting and
18 maintaining fingerprints and other biometric means of
19 identity, and other information pertaining to personal
20 identification of persons working on, or doing business at, a
21 Florida seaport as set forth in s. 311.12;

22 (b) A methodology for receiving data from each port
23 and transmitting data to each port regarding access
24 permissions;

25 (c) Technology required for each gate and portal at
26 each seaport to be interactive with the access permission
27 system during all hours of operation;

28 (d) The ability to identify persons who have violated
29 the access requirements of s. 311.12 and to deactivate the
30 access permissions of those persons; and

31 (e) A unique and uniform port access credential card.

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2 Such system shall be designed to ensure the seaport workers'
3 privacy to the maximum extent possible consistent with
4 security requirements.

5 (3) The Uniform Port Access Credential Card must
6 include at a minimum a digital full-face photograph, a digital
7 fingerprint, a multilayered security process, a
8 two-dimensional barcode with technology specifications that
9 will allow the unique biometric identifiers to reside in the
10 barcode, a unique identifying code or number, scanning
11 capability to compare required identifiers with information on
12 file in the central database, and background color
13 differentials for visual identification of access permissions.

14 (4) A fingerprint-based criminal history check shall
15 be performed on an applicant for a Uniform Port Access
16 Credential Card as provided in s. 311.12(3). Based upon review
17 of the criminal history check, each seaport may determine the
18 specific access permissions that will be granted to that
19 applicant. Upon receipt of a port authority "Notification of
20 Access Permission" form and a copy of the criminal history
21 check, the department shall issue a Uniform Port Access
22 Credential Card to the port authority for distribution to the
23 applicant. Upon issuance of the Uniform Port Access
24 Credential Card, the cardholder is eligible to enter any
25 seaport in the system, based on the level of permission
26 allowed.

27 (5) A Uniform Port Access Credential Card is valid for
28 4 years following the date of issuance. Criminal history
29 checks may be performed on a random basis, but at least once a
30 year, during the period that such credential card is active to
31 ensure that the credential holder complies with the

1 requirements for access to restricted areas provided in s.
2 311.12(3). Failure to complete any part of the required
3 credential application process, or failure to comply with the
4 criminal history clearances, shall be grounds for immediate
5 denial of access. Access authority may be restricted or
6 revoked by the Department of Highway Safety and Motor Vehicles
7 or the Department of Law Enforcement if the cardholder is
8 suspected of criminal violations that could affect the
9 security of a port or that otherwise render the cardholder
10 ineligible for port access, upon suspicion that the person in
11 possession of the card is using it, or attempting to use it,
12 fraudulently, or if restriction or revocation is done to
13 assure the security of any port or portion thereof.

14 (6) Corporations, persons, or other business entities
15 that employ persons to work on, or do business at, seaports
16 regulated in s. 311.12 shall notify those seaports for which
17 those employees have access permissions in the event of the
18 employee's termination, resignation, work-related
19 incapacitation, or death. Uniform Port Access Credential Card
20 accesses for persons not currently employed to perform a job
21 on a seaport shall be placed in an inactive status. Upon
22 notification of a work status change, the port authority, or
23 recognized governing board, shall notify the department to
24 have the credential card placed in an inactive status.
25 Inactive status shall continue until the expiration of the
26 credential card or reactivation of the card by petition. The
27 former employee may have the credential card reactivated by
28 petitioning a seaport. The port authority, or recognized
29 governing board, of any seaport may determine that the
30 individual is employed by another appropriate entity or is
31 self-employed for purposes of performing work on the seaport.

1 Upon that determination, the port authority, or recognized
2 governing board, may request reactivation of credentialing
3 permissions. All such cards may be restricted or revoked as
4 provided in subsection (5).

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

9 (8) A Uniform Port Access Credential Card shall
10 provide access to all seaports identified in s. 311.09, as
11 regulated in s. 311.12. Each person working on a seaport, as
12 regulated in s. 311.12(2), shall be issued a Uniform Port
13 Access Credential Card upon completion of the application
14 process. A person working in a restricted access area must
15 meet the requirements of s. 311.12(3). The Uniform Port Access
16 Credential Card shall be clearly marked for visual
17 verification of the cardholder's permission for access to a
18 restricted area, pursuant to the "Port Security Standards -
19 Compliance Plan," referenced in s. 311.12(1). The card must
20 contain biometric verification of the cardholder's identity
21 and proper access permissions. Entrance to a restricted
22 access area, as defined in s. 311.12(2), shall require a
23 machine check and fingerprint verification of each person's
24 Uniform Port Access Credential Card for proper identification.
25 Seaports that have restricted access areas adjacent to
26 nonrestricted areas within the seaport must provide a
27 secondary machine check and fingerprint verification of each
28 person's credentials upon arrival at a gated entrance to all
29 restricted access areas within the seaport. Exit from any
30 gated area of a seaport shall require a machine check of the
31 credential card.

1 (9) Each person arriving at a restricted area of a
2 seaport must, at a minimum, stop at a check point, show valid
3 identification, and receive a visitor's pass in order to
4 proceed. The visitor's pass must be plainly displayed on the
5 person of the visitor or in the windshield of the vehicle and
6 designate what area of the seaport may be accessed by the
7 visitor. Public conveyances carrying multiple passengers onto
8 seaport property, such as buses, must be able to verify that
9 all passengers have legitimate business on the seaport.
10 Failure to display the visitor's pass shall result in
11 revocation of a worker's permission to work on the seaport.
12 Procedures for implementation of this process is the
13 responsibility of each seaport.

14 (10) The price of a Uniform Port Access Credential
15 Card shall be set by the department and shall reflect the cost
16 of the required criminal history checks, including the cost of
17 the initial state and federal fingerprint check and the annual
18 criminal history check and the cost of production and issuance
19 of the card by the department. Seaports may charge an
20 additional administrative fee, not to exceed \$25, to cover the
21 costs of issuing credentials to its employees and persons
22 doing business at the seaport.

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

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

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

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

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

22
23 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
24 COMMITTEE SUBSTITUTE FOR
25 Senate Bill CS/SB 1616

26 The committee substitute makes implementation of the Uniform
27 Port Access Credential System contingent on receipt of federal
28 funds.
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