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16 March 2015

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The Honorable Gregory W. Steube, Chair
House Highway & Waterway Safety Subcommittee
The Florida House of Representatives
204 House Office Building
404 South Monroe Street
Tallahassee, FL 32399-1300

Re: HB 7041 Exemption/Email Addresses – DHSMV

Dear Representative Steube:

We are writing to express our concerns regarding HB 7041, creating a public record exemption for email addresses collected by the Department of Highway Safety and Motor Vehicles for the purposes of conducting motor vehicle record and driver license transactions. It is our position that this exemption creates questionable public policy and is an unwarranted infringement on our constitutional right of access. The bill is scheduled for consideration by the House Government Operations Subcommittee on Tuesday, March 17.

Specifically, the constitutionally required statement of public necessity in HB 7041 states the exemption is necessary because email addresses “are unique to the individual and, when combined *with other personal identifying information*” can be used for nefarious purposes, including identity theft and consumer scams. (emphasis added).

Email, rather than traditional postal mail, is increasingly used as a means for communicating and conducting business, including official state business – a fact acknowledged in HB 7041. With such widespread use and availability of email, there is no anecdotal evidence that email addresses are, in fact, a significant factor contributing to the crimes of identity theft or fraud. Additionally, there are existing state and federal laws already in place to protect the public from unwanted emails, including the Can-Spam Act and the Electronic Mail Communications Act. With other protective laws in place, this bill only serves to detract from our constitutional right of access to public records.

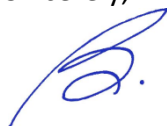
Furthermore, there are serious implications associated with passage of this bill. While this particular legislation protects only those email addresses obtained by DHSMV, it will provoke similarly unnecessary exemptions, effectively reaching all government business conducted electronically. HB 7041 is not just an unwarranted infringement on our constitutionally protected right of access—it sets a dangerous precedent of arbitrarily restricting the public’s statutory and constitutional rights.

When we met with representatives from DHSMV last week, they indicated that the more serious concern was linking an individual’s email address to personal sensitive information such as physical limitations or legally imposed restrictions. Email addresses, which are routinely shared freely and openly and can be obtained from a variety of other publicly available sources, do not fall into the category of personal sensitive information.

We are not opposed to an exemption for personal sensitive information that might be linked to an email address, Representative Steube, but the proposed exemption in HB 7041 is simply unwarranted and unconstitutionally overbroad. We respectfully ask this bill be amended to reflect its true purpose – the protection of personal sensitive information – or that it be withdrawn from further consideration.

We appreciate your attention to our concerns. Should you have any questions, please do not hesitate to contact us.

Sincerely,



Barbara A. Petersen, President

Cc: The Honorable Steve Crisafulli, Speaker, Florida House of Representatives
The Honorable Michael Bileca, Chair, House Government Operations
Subcommittee
Jon Kaney, General Counsel, First Amendment Foundation
Sam Morley, General Counsel, Florida Press Association
Gil Thelen, Executive Director, Florida Society of News Editors