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03 March 2015

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The Honorable Jeff Brandes, Chair
Senate Transportation Committee
410 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Re: SPB 7040 Exemption/Email Addresses – DHSMV

Dear Senator Brandes:

We are writing to express our concerns regarding SPB 7040, 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 exempt creates questionable public policy and is an unwarranted infringement on our constitutional right of access.

Specifically, the constitutionally required statement of public necessity in SPB 7040 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 SPB 7040. With such a 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. This particular legislation protects only those email addresses obtained by DHSMV. If passed, SPB 7040 would create the proverbial slippery slope of Mt. Everest proportions, provoking similar unnecessary

and unsubstantiated exemptions, affecting all government business conducted electronically, creating major problems with efficiency, and increasing costs associated with obtaining public records. This is an unwarranted infringement on our constitutionally protected right of access.

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, Senator Brandes, but the proposed exemption in SPB 7040 is simply unwarranted and unconstitutionally overbroad. We respectfully ask, then, that 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 don't hesitate to contact us.

Sincerely,

A handwritten signature in blue ink, appearing to be 'B.A. Petersen', with a stylized flourish.

Barbara A. Petersen, President

Cc: The Honorable Andy Gardiner, President of the Florida Senate
Jon Kaney, FAF General Counsel, Kaney & Olivari
Sam Morley, General Counsel, Florida Press Association
Gil Thelen, Executive Director, Florida Society of News Editors