

**American Association of Law Libraries * American Library Association * Californians
Aware * Clean Water Action * Electronic Frontier Foundation * Electronic Privacy
Information Center * Environmental Defense * Federation of American Scientists *
Friends of the Earth * Greenpeace * National Security Archive * Natural Resources
Defense Council * Nuclear Information and Resource Service * OMB Watch * Project on
Government Oversight * Public Citizen * Reporters Committee for Freedom of the Press *
Sierra Club * Society of Professional Journalists * University of Missouri School of
Journalism Freedom of Information Center * U.S. Public Interest Research Group *
Working Group on Community Right-to-Know**

July 26, 2004

Re: Transportation Secrecy provision in HR 3550

Dear Member of Congress:

On behalf of our millions of members, we are writing to express our serious concerns with language in the Senate-passed version of HR 3550, the 2004 transportation bill, which grants the Department of Transportation additional authority to withhold information that is deemed “sensitive security information.” This language was added at the behest of the Bush administration without hearings or careful consideration of the public’s interest in effective public oversight of transportation security. The vague, overbroad language has serious implications for public health and safety.

We are concerned that this provision could cover almost anything potentially related to transportation security. The provision would make it difficult for the public, including labor unions, news media, citizen groups and others, to determine if public officials are effectively overseeing transportation assets and expenditures. It is unclear from the language in this provision if the public would be able to determine, for example, the fitness of motor carrier companies to transport hazardous cargoes, the shipment routes that may bring nuclear waste through our communities, or how air pollution from highway trucks might affect children living nearby.

Because of the potential for information to be withheld it is likely that problems could go uncorrected indefinitely. People could be injured, only for the public to learn that known problems had been concealed, but not fixed. Finally, we are concerned that the provision further extends the preemption of state and local governments on issues related to monitoring transportation security.

Recent developments suggest that the Transportation Security Administration (TSA) is already inappropriately withholding information from the public. In June, federal judge Charles R. Breyer of the northern district of California criticized the FBI and TSA for making “frivolous claims” that certain agency-held information is exempt from disclosure. The judge ruled that the agencies had improperly categorized “innocuous” information that is “common sense and widely known” as “sensitive security information” (SSI). Similar SSI claims shrouded in secrecy TSA’s development of the CAPPS II aviation security system. The resulting lack of public trust recently prompted Secretary Ridge to scuttle the program after TSA had spent more than \$100

million on its development. Such actions suggest the need for more, not fewer, constraints on the government's ability to withhold transportation information.

We respectfully urge you to drop the secrecy language from the transportation bill, and to hold full hearings on the implications of these provisions.

Sincerely,

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