



AILA's Take on the SAFE Act (H.R. 2278)

This analysis offers AILA's take on the "Strengthen and Fortify Enforcement Act" (the SAFE Act), which was marked up in the House Judiciary Committee on June 18, 2013. AILA strongly opposes the SAFE Act because it would criminalize undocumented immigrants, give states and cities authority to enact their own immigration laws, inflate an already costly detention and enforcement apparatus, and perpetuate the failures of the existing system. As bipartisan reform moves forward in both chambers, AILA urges Congress to enact the best possible law that meets our nation's needs, protects civil and human rights, and ensures due process.

The SAFE Act is an extremist bill.

- ♦ **The SAFE Act criminalizes immigrants** by authorizing the criminal prosecution and incarceration of any individual who is "unlawfully present." The law would radically change our country's immigration policy overnight, causing the arrest of mothers and fathers, tearing apart the families of the 4.5 million U.S. citizen children who have at least one undocumented parent. This was the very approach chosen by Congressman Sensenbrenner's controversial 2005 H.R. 4437 that sparked massive nationwide protests.
- ♦ **The SAFE Act would create chaos** by authorizing 50 different states and thousands of individual localities to create and enforce their own local versions of federal immigration laws, choosing whom to arrest, whom to detain and whom to prosecute – even for the SAFE Act's proposed new federal crime of simply being in the U.S. without status.
- ♦ **The SAFE Act erodes the Constitution and fundamental American values.** The SAFE Act expands mandatory detention, mandatory deportation, and deportation without due process. It also substantially increases the scope of policies that have engendered racial profiling and discrimination, such as 287(g) and civil immigration "detainers." The SAFE Act would push people further into the shadows, creating fear and eroding trust in those who work to keep us safe.
- ♦ **The SAFE Act is radical.** The SAFE Act overturns a century of U.S. Supreme Court precedent on the Constitutional separation of state and federal authority over immigration law, including the 2012 *Arizona v. U.S.* decision. The SAFE Act directly contradicts *Arizona* by permitting states to arrest and detain people based on a suspicion that they are deportable and to enact their own penalties for federal immigration violations. Even H.R. 4437 did not go this far.
- ♦ **The SAFE Act is expensive.** At a time when the federal government and American families are tightening their purse strings, the SAFE Act authorizes dramatic increases in spending on what is already our most expensive enforcement and detention apparatus. It would add millions more to the nearly \$18 billion Americans spend annually on a failed strategy.

The SAFE Act offers no solutions for immigration reform.

- ♦ Immigration reform is moving forward; the SAFE Act takes America backward. True bipartisan efforts are underway in both the House and the Senate to achieve common-sense reform that will meet our nation's needs in the 21st century. It does not reflect the bipartisan spirit that has been the hallmark of this legislative process.
- ♦ The SAFE Act intends to enforce its way out of the problem created by an immigration system that has been broken for decades. The SAFE Act does not propose new solutions, just more of the same. Instead of looking to the future, the SAFE Act borrows from an old, draconian 2005 enforcement-only bill sponsored by Congressman Sensenbrenner, H.R. 4437.
- ♦ Republican and Democratic leaders, including Senator Grassley, have stated that America cannot deport 11 million people. It is impractical and would devastate our economy. But the proponents of the SAFE Act continue to call for unworkable enforcement-only deportation approaches.
- ♦ We need smart enforcement, not more enforcement. Criminalizing undocumented immigrants will not make us safer. What will make us safer is to bring as many of the 11 million undocumented individuals out of the shadows to register and legalize on our terms, and to focus enforcement efforts on apprehending and deporting those who pose a danger to public safety or national security. The Senate's bipartisan measure, S. 744, takes this approach. It establishes tough standards that will exclude those who pose a public safety risk but provides a path out of the shadows for others.
- ♦ The punitive measures proposed in the SAFE Act are fundamentally inconsistent with legalization. These measures will drive undocumented immigrants further into the shadows and criminalize those who pose no safety risk and whose continued participation in our communities we wish to encourage.