



June 19, 2013

Oppose H.R. 2278, The SAFE Act

The SAFE Act, passed in the Judiciary Committee yesterday, is a misguided bill with a single-minded focus on immigration enforcement that will increase detentions and deportations and will create an environment of rampant racial profiling without addressing the fundamental flaws of our broken immigration system.

The bill was introduced in June 2013 by the Chair of the House Judiciary Immigration Subcommittee Rep. Trey Gowdy (R-SC), with the support of the Chair of the Judiciary Committee, Rep. Bob Goodlatte (R-VA).

The Arab American Institute applauds the efforts of the Members of Congress who have been working tirelessly to create bipartisan legislation to address the fundamental problems with our broken immigration system and to provide a pathway to citizenship for the nearly 11.5 million undocumented immigrants currently living and working in the United States, but this bill overshadows the work of Members that have offered thoughtful and fair proposals to advance immigration reform.

The SAFE Act is “dead on arrival” and “not fixable,” according to comments made by John Conyers (D-MI), Ranking Member of the Judiciary Committee during the markup of the bill yesterday. Some of the major flaws of this bill include:

- Undercutting efforts to normalize the plight of millions of undocumented immigrants who otherwise would be eligible for legalization under the Senate bill. In fact, this bill would make undocumented immigrants subject to criminal prosecution, a remake of H.R. 4437, the punitive “Sensenbrenner Bill” that passed the House in 2005 but did not receive further consideration.
- Granting states and localities full authority to create, implement, and enforce their own criminal and civil penalties for federal immigration violations. This provision directly contravenes the Supreme Court’s decision in *Arizona v. United States*, 132 S. Ct. 2492 (2012), which reaffirmed that states may not enact their own criminal penalties for violations of federal immigration law even when the state law mirrors the federal provision. Allowing all 50 states and countless localities to implement their own immigration laws is not workable, encourages racial profiling, and will ultimately decrease public safety and adversely impact relationships between law enforcement and immigrant communities and communities of color.

- Expanding the failed 287(g) program. This provision would usurp the federal government’s authority to regulate immigration laws and enforcement by requiring that DHS accede to any state or local jurisdiction’s request to participate in the 287(g) program, except where a “compelling reason” exists to refuse participation. Under current law, either DHS or the state or local party to the 287(g) agreement may terminate the agreement for any reason; however, the SAFE Act restricts the DHS’s ability to terminate agreements. This is particularly problematic given the many documented abuses by deputized state and local officers that have occurred under the program.
- Wrongfully detaining and racial profiling simply because someone “looks undocumented” and would be subject to pretextual stops, arrests, and detention.

The issue of securing our borders is an important one; while purportedly its objective, the SAFE Act does little to advance that goal and undermines bipartisan, thoughtful efforts to reform our immigration system. Should this bill come to the floor for a vote, we urge all Members of the House to oppose it.