



NEW YORK STATE SENATOR

Patricia Fahy

Sen. Fahy, AM Solages Call for Passage of SAFE AIR Act as ICE-Contracted Airlines Begin Deportation Flights

PATRICIA FAHY May 27, 2025

| ISSUE: **IMMIGRATION, CONSTITUTIONAL FREEDOMS**



Senator Fahy speaks at a press conference for the SAFE AIR Act in the NYS Capitol

Legislation would prohibit future contracts & tax benefits for commercial airlines that participate in deportation proceedings without due process

ALBANY, N.Y. – New York State Senator Patricia Fahy (D—Albany) and Assemblymember Michaelle C. Solages (D—Valley Stream) were joined by advocates and legislators in urging the State Legislature to pass their State Airport Facilities Enforcing Accountability in

Immigration Removals (SAFE AIR) Act (S.7960 Fahy/A.8188 Solages) before the end of session as ICE-contracted airlines begin deportation flights.

The SAFE AIR Act is aimed at ensuring that New York State does not directly or indirectly aid in immigration enforcement actions that lack the fundamental due process protections required by the U.S. Constitution. The SAFE AIR Act leverages the State's proprietary authority over public contracts and tax benefits to uphold Constitutional rights.

Specifically, it prohibits New York State agencies, authorities, departments, local governments, and public benefit corporations from prospectively contracting with commercial airlines, like Avelo Airlines, that participate in removals initiated by U.S. Immigration and Customs Enforcement (ICE) without a valid judicial warrant and without guaranteeing access to legal counsel and an immigration hearing. Additionally, this legislation revokes current sales tax exemptions on jet fuel purchases for non-compliant airlines, ensuring that taxpayer funds do not subsidize activities that undermine civil liberties.

As deportation flights begin under contracts with U.S. Immigration and Customs Enforcement (ICE), New York must take action to ensure the state does not support immigration enforcement actions that lack basic constitutional protections. Despite a Supreme Court ruling on May 16th, "the justices declined the additional request to leapfrog the lower courts to immediately take up the issue of whether President Trump can invoke the Alien Enemies Act outside of wartime".

"For generations, New York State has been the gateway to a better life in the United States for immigrants from across the globe," said bill sponsor Senator Patricia Fahy. "The Trump administration's attacks on due process, the Constitution, and the courts should trouble every American. That's why it's imperative we pass the SAFE AIR Act this session; to ensure

that New York State facilities and resources are not used to facilitate removals that violate an individual's right to due process under the U.S. Constitution. The federal government's respect for due process should not be optional; it is the bedrock of our democracy. This legislation sends a clear message: if you want to do business with New York State, you must respect the rule of law, and the Constitutional rights afforded to every person on American soil."

"As New Yorkers, we must make it clear that no entity doing business with our state should profit from deportations that take place without a judge or access to legal counsel. I am proud to stand with Senator Pat Fahy to introduce the SAFE AIR Act and affirm our commitment to justice and due process for all. Due process is not a matter that is up for debate, it is a fundamental right guaranteed by the constitution. As Chair of the Black Puerto Rican Hispanic and Asian Legislative Caucus, I want every New Yorker to know, your dignity matters, your rights matter, and we will not let them be stripped away in silence," **said bill sponsor and Caucus Chair Assemblymember Michaelle C. Solages.**

Under this legislation, airlines that wish to contract with New York State entities may not transport detainees for ICE without a valid judicial warrant and due process assurances. Airlines that fail to meet these requirements will be ineligible for future state contracts and will lose eligibility for tax benefits, including the existing sales tax exemption on jet fuel purchases. This is a powerful financial incentive for compliance, with the jet fuel exemption saving airlines approximately \$170 million annually in New York State.

Underscoring the urgency of this legislation is increasingly troubling actions taken by the Trump administration, ICE, the Department of Homeland Security (DHS), and corresponding data. It's been **widely reported** that many deportations are being initiated based on administrative ICE detainers under the Alien Enemies Act of 1798 without judicial warrants or due process protections. Reports by the American Civil Liberties Union (ACLU) and

Human Rights Watch have documented numerous instances where individuals subject to ICE detainers were denied basic procedural rights, leading to wrongful removals, which more recently **include 3 children who were U.S. citizens**, including one who had stage IV metastatic cancer.

The Trump administration has **routinely stated** that “a judicial or administrative arrest warrant is not necessary to apprehend a validated Alien Enemy” under the Alien Enemies Act of 1798, which only applies during wartime. U.S. Attorney General Pam Bondi has said that “[immigrants detained under the AEA] are not entitled to a hearing before an immigration judge, to an appeal of the removal order to the Board of Immigration Appeals, or to a judicial review of the removal in any court of the United States.” However, the U.S. Supreme Court **unanimously ruled** this year that AEA detainees *are* subject to due process and can challenge their detainment through habeas corpus petitions.

The SAFE AIR Act does not conflict with federal immigration authority as it does not prohibit airlines from complying with legitimate federal immigration orders; instead, it regulates the state’s proprietary authority and tax benefits, which is traditionally and constitutionally reserved to the states. The “market participant doctrine,” which has been upheld by the U.S. Supreme Court in numerous cases, allows states to regulate interstate commerce when acting as a market participant, and this legislation utilizes New York’s financial leverage as a market participant, contracting party, and taxing authority without directly regulating interstate commerce or immigration enforcement itself.

Finally, participation by commercial airlines in removals based on mere administrative detainers—without judicial oversight—raises significant constitutional concerns under the Fourth and Fifth Amendments, which afford these rights to every person on United States soil. The SAFE AIR Act ensures New York State does not become complicit in these due process violations and reaffirms its commitment to protecting due process and the

Constitution.

"This bill requires airlines to do the most basic thing: respect constitutional rights," **said Senator Andrew Gounardes**. "New York State should not be giving tax breaks to airlines that help deport people without judicial warrants or basic due process protections. This bill doesn't stop federal immigration enforcement nor prohibit airlines from complying with valid judicial orders. This is the bare minimum for a nation governed by the rule of law. New York will continue to protect our communities' basic rights, even if the federal government will not."

"The SAFE AIR Act is rooted in a simple principle: no one should be removed from their community without due process and the chance to be heard," **said Senator Nathalia Fernandez**. "We cannot claim to uphold justice while turning a blind eye to deportations carried out without legal protections. This bill ensures New York's public dollars aren't used to support actions that violate constitutional rights. It's a clear stand for accountability, dignity, and the values that define us as a state."

"New York's public dollars should never bankroll private complicity in injustice," **said Senator Robert Jackson**. "The SAFE AIR Act is not just a bill—it's a moral line in the sky. If an airline chooses to profit off deportations without due process, they should not profit off our tax breaks. No warrant, no justice, no subsidy. We cannot let our airports become silent accomplices in tearing families apart. This is about defending the Constitution, protecting immigrant communities, and saying once and for all: New York will not be used to carry out cruelty. Not on our watch."

"Immigrants are and have always been the backbone of this country," **said Senator Luis R. Sepúlveda**. "They build our cities, fuel our economy, and enrich our communities. It is disgraceful that in 2025, we are still witnessing secretive deportations carried out without

due process, using our state's resources and infrastructure. The SAFE AIR Act is about drawing a moral line: New York will not be complicit in this inhumanity. I call on my colleagues in the minority and on the presidential administration to stop turning a blind eye. If we are to call ourselves a nation of laws and values, then we must act like it, starting now."

"I proudly join my colleagues in the fight against the unconstitutional deportations of United States residents without due process," **said Senator Shelley B. Mayer**. "Americans know that due process is a touchstone of our democracy, and they demand that due process must be protected before residents are forcibly detained and deported. I'm proud that New York State has always been a home to immigrants and our communities are better, more vibrant places because of it. This legislation makes it clear that New York State will not participate in, or benefit from, the unacceptable process of forced deportations without due process."

"I applaud Senator Fahy and Assemblymember Solages for their work to ensure that New York State is doing its part to push back against unconstitutional federal efforts to infringe on the due process rights of immigrants and to hold to account those corporate actors enabling illegal deportations," **said Daniel Butterworth, Executive Director of RISSE in Albany**. "As a cornerstone of our judicial system, due process rights are essential and we as New Yorkers, as Americans, will not stand for this abuse of power by the federal government. We New Yorkers are proud of our immigrant heritage and the innumerable contributions immigrants have made to our communities. We are richer and stronger for the diversity and multiculturalism of our State and we will continue to fight for the rights of our newcomer neighbors who have come here seeking safety and opportunity."

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2025-S7960

- Introduced
- - In Committee Assembly
 - In Committee Senate
- - On Floor Calendar Assembly
 - On Floor Calendar Senate
- - Passed Assembly
 - Passed Senate
- Delivered to Governor
- Signed By Governor
-

Enacts the state airport facilities enforcing accountability in immigration removals (SAFE AIR) act

May 15, 2025

In Senate Committee [Procurement and Contracts](#)

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