

107 North Bear Swamp Road
North Middlesex, VT 05682
April 8, 2026

Rep. Martin LaLonde
Chairman, House Judiciary Committee
Vermont State House
Montpelier, VT 05633

Re: S.208 and S.209

Dear Representative LaLonde:

I am writing on behalf of Good Neighbors, a group of Central Vermonters concerned about the current federal immigration crackdown and how it is impacting Vermont.

Among other things, our group has been following the course of S.208 and 209. We are heartened by the Legislature's focus on ICE masking/identification and arrest-free sensitive locations, but we are also concerned about certain weaknesses in the two bills.

With respect to S.208, our concerns are the following:

- The bill includes an exception to the ban on masking when the mask is “related to protection against exposure to biological or chemical agents during an incident where these agents may be present.” 20 V.S.A. § 2373(c)(3)(D), page 2, lines 13-14 (all references are to the S.208 Unofficial Draft). Given that ICE officers themselves have been routinely seen to carry and use such chemical agents in connection with their actions on the street, this language would seem to permit masking anytime ICE comes to Vermont to arrest, detain or search for someone. In order to protect ICE officers from harm but avoid a situation where they are masked from the time they arrive on the scene until they leave, qualifying language could be added to the exception to say that it only applies for the purpose of protecting against chemical agents *while those agents are actually being used*.
- The penalties for violating the law are miniscule: a civil penalty of not more than \$1,000 for a first violation, and not more than \$2,500 for any subsequent violation. 20 V.S.A. § 2373(e), page 3, lines 15-20. These penalties do not seem likely to deter federal agencies from masking their agents, and they should be substantially increased. One approach might be to borrow an existing monetary standard, from the Vermont Consumer Protection Act, which provides for civil penalties of up to \$10,000 per violation, 9 V.S.A. § 2461(a).

As for S.209, that bill also has major limitations:

- In the event that an ICE agent arrests someone at a statutorily-listed sensitive location (a court, polling place, school, etc.), the only monetary penalty available under the bill is in a civil action for damages (albeit including punitive damages and attorney's fees) for false imprisonment brought by the person arrested. 12 V.S.A. § 3577(c)(3)(A) and (B), page 3, lines 3-13 (all references are to the S.209 Unofficial Draft). We have some doubt that most people arrested in these circumstances will have the resources, financial and otherwise, to personally retain an attorney to represent them in such an action. This is particularly true given that many of them may be in a vulnerable position (for example, undocumented and at risk of being deported), and that the damages provision contains no minimum. We recommend at least including a significant minimum amount of damages.
- For liability to exist, the violation must be knowing and willful. 12 V.S.A. § 3577(c)(3)(A), page 3, lines 4-6. These elements could be very difficult to prove, particularly where the arrestee is "traveling to ... or returning from" (12 V.S.A. § 3577(c)(1)), page 1, lines 20-21) a sensitive location. A better alternative would be to eliminate those requirements altogether and create strict liability for this civil wrong.
- The bill also, and appropriately, empowers the Vermont Attorney General to sue the violator, but the only relief available to the State is injunctive, equitable and declaratory, with no civil penalties. 12 V.S.A. § 3577(c)(3)(C), page 3, lines 14-17. By way of contrast, the Vermont Consumer Protection Act provides for civil penalties of up to \$10,000 per violation, 9 V.S.A. § 2461(a)—a sanction that would be appropriate here.

In sum, S.208 and 209 address very important issues, and we applaud the Legislature for taking them up; but in order to be effective, they should contain tighter standards of liability and more substantial sanctions.

We would appreciate your sharing this letter with all of the members of the Judiciary Committee.

Thank you for your consideration.

Respectfully,

Elliot Burg

cc: Nate Biscotti, Committee Assistant