

United States Senate

June 9, 2020

The Honorable Elaine L. Chao
Secretary of Transportation
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Alex M. Azar II
Secretary of Health and Human Services
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Chao and Secretary Azar:

We once again urge the Department of Transportation (DOT), in coordination with the U.S. Department of Health and Human Services (HHS), to immediately issue strong, nationwide rules to protect the health and safety of the flying public, especially during the COVID-19 pandemic. In April, we wrote to you expressing our concern that a patchwork of conflicting policies created by individual airlines and airports would endanger the health of travelers and front-line workers as the coronavirus spread.¹ Unfortunately, recent reports about passengers failing to wear face masks throughout flights, and the difficulty of social distancing with occupied middle seats, confirm our fears, and reinforce the need for urgent federal action to ensure that Americans can fly safely now and when the pandemic subsides.²

As the country adjusts to the ongoing pandemic, and with some states beginning to reopen, travelers are slowly returning to the skies.³ Yet, federal leadership on airline safety has been absent, forcing airlines and airports to develop their own rules for ensuring coronavirus-related passenger and employee health and safety, including policies for facemasks for travelers, social distancing, and cleaning aircraft. Unfortunately, these voluntary protocols have created a patchwork of rules that leave significant safety gaps in our overall aviation system.

Moreover, enforcement of these private policies appears haphazard. According to one report, Delta Air Lines, American Airlines, and United Airlines have issued directives instructing crewmembers to *encourage*, but not *require*, passengers to comply with social distancing and face mask policies on aircraft.⁴ Numerous travelers, meanwhile, have reported their distress at seeing other passengers fail to wear masks despite airline requirements, or their dismay that

¹ Letter from Senators Edward J. Markey and Richard Blumenthal to Secretaries Chao and Azar (Apr. 29, 2020), <https://www.markey.senate.gov/news/press-releases/senators-markey-and-blumenthal-call-on-trump-administration-to-require-face-masks-for-all-air-travel-during-coronavirus-pandemic>.

² See Tariro Mzezewa, *Airlines Say Everybody Onboard Must Wear a Mask. So Why Aren't They?*, N.Y. TIMES (June 4, 2020), <https://www.nytimes.com/2020/06/04/travel/coronavirus-flying-face-masks.html>.

³ See David Schaper, *After Months of Steep Declines, Air Traffic Is Picking Up*, NPR (May 23, 2020), <https://www.npr.org/2020/05/23/861242027/after-months-of-steep-declines-air-traffic-is-picking-up>.

⁴ See Tracy Rucinski, *Exclusive: U.S. airlines tell crews not to force passengers to wear masks*, REUTERS (May 12, 2020), <https://www.reuters.com/article/us-health-coronavirus-airlines-masks-exc/exclusive-u-s-airlines-tell-crews-not-to-force-passengers-to-wear-masks-idUSKBN22O349>.

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airlines are not actually leaving middle seats open as some had promised.⁵ We are alarmed, but not surprised, that these health risks remain in the absence of federal leadership. As we warned in our initial letter on this subject, a patchwork of voluntary rules, issued without the enforcement authority of the federal government, simply cannot address the interconnected and widespread health risks of a global pandemic.

For these reasons, we introduced S. 3681, legislation requiring DOT, HHS, and the Department of Homeland Security to establish a joint task force — advised by aviation, security, and public health experts — to develop recommended requirements, plans, and guidelines to ensure safe and healthy air travel during and after the COVID-19 pandemic.⁶ We were happy to see the bill recently advance out of the Senate Commerce Committee with unanimous support, and we hope to see the Senate take action without delay. The recent reports about a lack of enforcement for airline policies underscore the need for this task force, as well as its recommendations for consistent, nationwide policies to protect the flying public.

However, DOT and HHS need not wait for our bill to become law to begin tackling known health risks in air travel. We specifically urge you to promulgate rules that will immediately:

- require face masks for all individuals engaged in air travel;
- ensure that front-line crewmembers are provided with personal protective equipment on the job;
- establish uniform protocols to support social distancing in airports and on airplanes; and
- mandate strong standards for disinfecting and sanitizing aircraft cabins and cockpits after each flight.

Although airlines and airports are acting with the best of intentions, air travel is an inherently interstate and international issue that demands stronger leadership from the federal government. We believe the safety of the flying public requires consistent and enforceable rules from your agencies, and we urge you to act without further delay.

Thank you for your continued attention to this important matter.

Sincerely,



Edward J. Markey
United States Senator



Richard Blumenthal
United States Senator

⁵ See Mzezewa, *supra* note 2.

⁶ Press Release, *Senators Markey and Blumenthal to Introduce Legislation Convening Aviation, Security, and Public Health Experts to Ensure Safe Air Travel During and After Coronavirus Pandemic* (May 5, 2020), <https://www.markey.senate.gov/news/press-releases/senators-markey-and-blumenthal-to-introduce-legislation-convening-aviation-security-and-public-health-experts-to-ensure-safe-air-travel-during-and-after-coronavirus-pandemic>.