

115TH CONGRESS  
1ST SESSION

# H. R. 3004

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## AN ACT

To amend section 276 of the Immigration and Nationality  
Act relating to reentry of removed aliens.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as “Kate’s Law”.

3 **SEC. 2. ILLEGAL REENTRY.**

4 Section 276 of the Immigration and Nationality Act  
5 (8 U.S.C. 1326) is amended to read as follows:

6 “REENTRY OF REMOVED ALIEN

7 “SEC. 276. (a) REENTRY AFTER REMOVAL.—Any  
8 alien who has been denied admission, excluded, deported,  
9 or removed, or who has departed the United States while  
10 an order of exclusion, deportation, or removal is out-  
11 standing, and subsequently enters, attempts to enter,  
12 crosses the border to, attempts to cross the border to, or  
13 is at any time found in the United States, shall be fined  
14 under title 18, United States Code, imprisoned not more  
15 than 2 years, or both.

16 “(b) REENTRY OF CRIMINAL OFFENDERS.—Not-  
17 withstanding the penalty provided in subsection (a), if an  
18 alien described in that subsection was convicted before  
19 such removal or departure—

20 “(1) for 3 or more misdemeanors or for a fel-  
21 ony, the alien shall be fined under title 18, United  
22 States Code, imprisoned not more than 10 years, or  
23 both;

24 “(2) for a felony for which the alien was sen-  
25 tenced to a term of imprisonment of not less than

1       30 months, the alien shall be fined under such title,  
2       imprisoned not more than 15 years, or both;

3           “(3) for a felony for which the alien was sen-  
4       tenced to a term of imprisonment of not less than  
5       60 months, the alien shall be fined under such title,  
6       imprisoned not more than 20 years, or both; or

7           “(4) for murder, rape, kidnapping, or a felony  
8       offense described in chapter 77 (relating to peonage  
9       and slavery) or 113B (relating to terrorism) of such  
10      title, or for 3 or more felonies of any kind, the alien  
11      shall be fined under such title, imprisoned not more  
12      than 25 years, or both.

13       “(c) REENTRY AFTER REPEATED REMOVAL.—Any  
14      alien who has been denied admission, excluded, deported,  
15      or removed 3 or more times and thereafter enters, at-  
16      tempts to enter, crosses the border to, attempts to cross  
17      the border to, or is at any time found in the United States,  
18      shall be fined under title 18, United States Code, impris-  
19      oned not more than 10 years, or both.

20       “(d) PROOF OF PRIOR CONVICTIONS.—The prior  
21      convictions described in subsection (b) are elements of the  
22      crimes described, and the penalties in that subsection shall  
23      apply only in cases in which the conviction or convictions  
24      that form the basis for the additional penalty are—

1           “(1) alleged in the indictment or information;  
2           and

3           “(2) proven beyond a reasonable doubt at trial  
4           or admitted by the defendant.

5           “(e) AFFIRMATIVE DEFENSES.—It shall be an af-  
6           firmative defense to a violation of this section that—

7           “(1) prior to the alleged violation, the alien had  
8           sought and received the express consent of the Sec-  
9           retary of Homeland Security to reapply for admis-  
10          sion into the United States; or

11          “(2) with respect to an alien previously denied  
12          admission and removed, the alien—

13               “(A) was not required to obtain such ad-  
14               vance consent under the Immigration and Na-  
15               tionality Act or any prior Act; and

16               “(B) had complied with all other laws and  
17               regulations governing the alien’s admission into  
18               the United States.

19          “(f) LIMITATION ON COLLATERAL ATTACK ON UN-  
20          DERLYING REMOVAL ORDER.—In a criminal proceeding  
21          under this section, an alien may not challenge the validity  
22          of any prior removal order concerning the alien.

23          “(g) REENTRY OF ALIEN REMOVED PRIOR TO COM-  
24          PLETION OF TERM OF IMPRISONMENT.—Any alien re-  
25          moved pursuant to section 241(a)(4) who enters, attempts

1 to enter, crosses the border to, attempts to cross the bor-  
2 der to, or is at any time found in, the United States shall  
3 be incarcerated for the remainder of the sentence of im-  
4 prisonment which was pending at the time of deportation  
5 without any reduction for parole or supervised release un-  
6 less the alien affirmatively demonstrates that the Sec-  
7 retary of Homeland Security has expressly consented to  
8 the alien's reentry. Such alien shall be subject to such  
9 other penalties relating to the reentry of removed aliens  
10 as may be available under this section or any other provi-  
11 sion of law.

12 “(h) DEFINITIONS.—For purposes of this section and  
13 section 275, the following definitions shall apply:

14 “(1) CROSSES THE BORDER TO THE UNITED  
15 STATES.—The term ‘crosses the border’ refers to the  
16 physical act of crossing the border, regardless of  
17 whether the alien is free from official restraint.

18 “(2) FELONY.—The term ‘felony’ means any  
19 criminal offense punishable by a term of imprison-  
20 ment of more than 1 year under the laws of the  
21 United States, any State, or a foreign government.

22 “(3) MISDEMEANOR.—The term ‘misdemeanor’  
23 means any criminal offense punishable by a term of  
24 imprisonment of not more than 1 year under the ap-

1 plicable laws of the United States, any State, or a  
2 foreign government.

3 “(4) REMOVAL.—The term ‘removal’ includes  
4 any denial of admission, exclusion, deportation, or  
5 removal, or any agreement by which an alien stipu-  
6 lates or agrees to exclusion, deportation, or removal.

7 “(5) STATE.—The term ‘State’ means a State  
8 of the United States, the District of Columbia, and  
9 any commonwealth, territory, or possession of the  
10 United States.”.

Passed the House of Representatives June 29, 2017.

Attest:

*Clerk.*



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