

115TH CONGRESS
1ST SESSION

H. R. 3004

IN THE SENATE OF THE UNITED STATES

JULY 10, 2017

Received

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:

KAREN L. HAAS,

Clerk.