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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as “Kate’s Law”.

SEC. 2. ILLEGAL REENTRY.
Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended to read as follows:

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

“(b) Reentry of Criminal Offenders.—Not-
withstanding the penalty provided in subsection (a), if an
alien described in that subsection was convicted before
such removal or departure—

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

“(2) for a felony for which the alien was sen-
tenced to a term of imprisonment of not less than
30 months, the alien shall be fined under such title,
imprisoned not more than 15 years, or both;

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

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

“(c) Reentry After Repeated Removal.—Any alien who has been denied admission, excluded, deported, or removed 3 or more times and thereafter enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

“(d) Proof of Prior Convictions.—The prior convictions described in subsection (b) are elements of the crimes described, and the penalties in that subsection shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

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

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

“(e) Affirmative Defenses.—It shall be an affirmative defense to a violation of this section that—

“(1) prior to the alleged violation, the alien had sought and received the express consent of the Sec-
Secretary of Homeland Security to reapply for admission into the United States; or

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

“(A) was not required to obtain such advance consent under the Immigration and Nationality Act or any prior Act; and

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

“(f) Limitation on Collateral Attack on Underlying Removal Order.—In a criminal proceeding under this section, an alien may not challenge the validity of any prior removal order concerning the alien.

“(g) Reentry of Alien Removed Prior to Completion of Term of Imprisonment.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien’s reentry. Such alien shall be subject to such
other penalties relating to the reentry of removed aliens
as may be available under this section or any other provi-
sion of law.

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

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

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

“(3) MISDEMEANOR.—The term ‘misdemeanor’
means any criminal offense punishable by a term of
imprisonment of not more than 1 year under the ap-
licable laws of the United States, any State, or a
foreign government.

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

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