

118TH CONGRESS
1ST SESSION

S. 3007

To allow States to authorize State and local law enforcement officers to enforce the provisions of Federal immigration law relating to unlawful entry into the United States and to authorize States along the southern land border to construct barriers on Federal lands to prevent unlawful entry into the United States.

IN THE SENATE OF THE UNITED STATES

OCTOBER 3, 2023

Mr. HAWLEY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To allow States to authorize State and local law enforcement officers to enforce the provisions of Federal immigration law relating to unlawful entry into the United States and to authorize States along the southern land border to construct barriers on Federal lands to prevent unlawful entry into the United States.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “State Border Defense
5 Act”.

1 **SEC. 2. AUTHORIZATION OF STATE AND LOCAL LAW EN-**
2 **FORCEMENT OFFICERS TO ENFORCE CER-**
3 **TAIN FEDERAL IMMIGRATION LAWS.**

4 (a) IN GENERAL.—States may authorize State and
5 local law enforcement officers to enforce provisions of Fed-
6 eral immigration law that prohibit unlawful entry into the
7 United States, including sections 271 through 280 of the
8 Immigration and Nationality Act (8 U.S.C. 1321 through
9 1330).

10 (b) EFFECT OF AUTHORIZATION ON SUPREME
11 COURT RULING.—Subsection (a) effectively abrogates the
12 2012 decision of the United States Supreme Court in Ari-
13 zona v. United States (567 U.S. 387).

14 (c) PROSECUTION AUTHORITY.—Notwithstanding
15 any other provision of law, State prosecutors are author-
16 ized to initiate prosecutions for violations of Federal immi-
17 gration law referred to in subsection (a) in a United States
18 District Court that has jurisdiction over—

19 (1) the place at which any such violation oc-
20 curred; or

21 (2) the place at which the person charged for
22 any such violation is apprehended.

23 (d) CONFORMING AMENDMENT.—Section 279 of the
24 Immigration and Nationality Act (8 U.S.C. 1329) is
25 amended—

1 (1) by inserting “, or by a State prosecutor
2 pursuant to section 2(c) of the State Border Defense
3 Act,” before “that arise”; and

4 (2) by inserting “It shall be the duty of the
5 State prosecutor of the appropriate State to pros-
6 ecute every such suit when brought by a State.”
7 after “United States.”.

8 **SEC. 3. AUTHORIZATION OF STATES TO PLACE CERTAIN**
9 **BARRIERS ON FEDERAL LAND.**

10 (a) IN GENERAL.—Notwithstanding any other provi-
11 sion of law, it shall not be a violation of Federal law for
12 the States of California, Arizona, New Mexico, and Texas,
13 or their designees, to construct barriers on Federal lands
14 or waters for the purpose of preventing unlawful entry into
15 the United States if—

16 (1) the barriers do not decrease the ability of
17 U.S. Customs and Border Patrol to patrol the bor-
18 der between the United States and Mexico, intercept
19 unlawful migrants, or deport unlawful migrants; and

20 (2) the barriers do not actually and substan-
21 tially impede lawful movement along any navigable
22 water, roadway, or other avenue of interstate com-
23 merce.

24 (b) RULE OF CONSTRUCTION.—Subsection (a) may
25 not be construed as a defense to any claim of unlawful

1 conduct unless the allegedly unlawful conduct consists of
2 constructing or maintaining barriers on Federal lands or
3 waters for the purpose of preventing unlawful entry into
4 the United States.

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