To provide oversight of the border zone in which Federal agents may conduct vehicle checkpoints and stops and enter private land without a warrant, and to make technical corrections.

IN THE SENATE OF THE UNITED STATES

Mr. LEAHY (for himself and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To provide oversight of the border zone in which Federal agents may conduct vehicle checkpoints and stops and enter private land without a warrant, and to make technical corrections.

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 “Border Zone Reason-
5 ableness Restoration Act of 2018”.

SEC. 2. OVERSIGHT OF POWER TO ENTER PRIVATE LAND
AND STOP VEHICLES WITHOUT A WARRANT.

(a) In General.—Section 287(a) of the Immigration and Nationality Act (8 U.S.C. 1357(a)) is amended—

(1) in paragraph (5), by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by redesignating paragraphs (4) and (5) as subparagraphs (E) and (F), respectively;

(4) in the matter preceding subparagraph (A), as redesignated—

(A) by inserting ``(1)'' before ``Any officer'';

(B) by striking ``Service'' and inserting ``Department of Homeland Security'';

(C) by striking ``Attorney General'' and inserting ``Secretary of Homeland Security''; and

(D) by inserting ``(1) to the extent permitted by the Fourth Amendment to the Constitution of the United States'' after ``warrant'';

(5) in paragraph (1), by striking subparagraph (C), as redesignated, and inserting the following:

``(C) within a distance of 25 air miles from any external boundary of the United States, or such dis-
tance as may be prescribed by the Secretary pursu-
ant to paragraph (2), to board and search for aliens
any vessel within the territorial waters of the United
States and any railway car, aircraft, conveyance, or
vehicle for the purpose of patrolling the border to
prevent the illegal entry of aliens into the United
States; provided that no vehicle may be stopped at
a fixed checkpoint under this subparagraph beyond
a distance of 10 air miles from any such external
boundary without reasonable suspicion that an indi-
vidual in such vehicle is inadmissible or otherwise
not entitled to enter or remain in the United States;

“(D) within a distance of 10 air miles from any
such external boundary, or such distance as may be
prescribed by the Secretary pursuant to paragraph
(2), to have access to private lands, but not dwell-
ings, for the purpose of patrolling the border to pre-
vent the illegal entry of aliens into the United
States;”;

(6) by inserting after the flush text following
subparagraph (F), as redesignated, the following:

“(2)(A)(i) The Secretary of Homeland Security may
establish for a sector or district a distance less than or
greater than 25 air miles, but in no case greater than 100
air miles, as the maximum distance from an external
boundary of the United States in which the authority de-
scribed in paragraph (1)(C) may be exercised, if the Sec-
etary certifies that such a distance is necessary for the
purpose of patrolling the border to prevent the illegal
entry of aliens into the United States, and justified by the
considerations listed in subparagraph (B).

“(ii) The Secretary of Homeland Security may estab-
lish for a sector or district a distance less than or greater
than 10 air miles, but in no case greater than 25 air miles,
as the maximum distance from an external boundary of
the United States in which the authority described in
paragraph (1)(D) may be exercised, if the Secretary cer-
tifies that such a distance is necessary for the purpose
of patrolling the border to prevent the illegal entry of
aliens into the United States, and justified by the consid-
erations listed in subparagraph (B).

“(B) In making the certifications described in sub-
paragraph (A), the Secretary shall consider, as appro-
priate, land topography, confluence of arteries of transpor-
tation leading from external boundaries, density of popu-
lation, possible inconvenience to the traveling public, types
of conveyances used, reliable information as to movements
of persons effecting illegal entry into the United States,
effects on private property and quality of life for relevant
communities and residents, consultations with affected
State, local, and tribal governments, including the governor of any relevant State, and other factors that the Secretary considers appropriate.

“(C) A certification made under subparagraph (A) shall be valid for a period of 5 years and may be renewed for additional 5-year periods. If the Secretary finds at any time that circumstances no longer justify a certification, the Secretary shall terminate the certification.

“(D) The Secretary shall submit an annual report to the Committee on the Judiciary of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the House of Representatives, and the Committee on Homeland Security of the House of Representatives that identifies—

“(i) the number of certifications made under subparagraph (A); and

“(ii) for each such certification, the sector or district and reasonable distance prescribed, the period of time the certification has been in effect, and the factors justifying the certification.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AUTHORITIES WITHOUT A WARRANT.—Section 287(a) of the Immigration and Nationality Act (8 U.S.C. 1357(a)), the undesignated matter fol-
lowing paragraph (2), as added by subsection (a)(5), is amended—

(A) by inserting “(3)” before “Under regulations”;

(B) by striking “paragraph (5)(B)” both places that term appears and inserting “subparagraph (F)(ii)”;

(C) by striking “(i)” and inserting “(A)”;

(D) by striking “(ii) establish” and inserting “(B) establish”;

(E) by striking “(iii) require” and inserting “(C) require”; and

(F) by striking “(ii), and (iv)” and inserting “subparagraph (B), and (D)”.

(2) CONFORMING AMENDMENT.—Section 287(e) of such Act (8 U.S.C. 1357(e)) is amended by striking “paragraph (3) of subsection (a),” and inserting “subsection (a)(1)(D),”.