

Fact Sheet: the Leahy-Murray Border Zone Reasonableness Restoration Act of 2018

For more than six decades, the executive branch has – through regulatory fiat – established a “border zone” that extends as much as 100 miles inside the United States.¹ This zone encompasses nearly two-thirds of the population of the United States, including major cities such as New York, Seattle, Houston, Chicago, New Orleans, and Los Angeles, and entire states such as Maine, Florida, and Delaware.

Within this 100 mile “border zone,” officers of the Department of Homeland Security (DHS) exercise warrantless power to board any vehicle to search for aliens, and to operate immigration checkpoints. Within 25 miles of the border, under current statute DHS can *also* enter private property (except houses) without a warrant for the same purpose.



The 100-Mile “Border Zone”, Covering Nearly Two-Thirds of the U.S. Population

Recently, DHS has used this authority to board Greyhound buses and ask passengers about their citizenship, set up immigration checkpoints on interstate highways, and even stop an American citizen simply for speaking Spanish.² Both the ACLU and the Cato Institute have sharply criticized these practices.³

The *Border Zone Reasonableness Restoration Act of 2018* would strengthen privacy protections in the United States by amending Title 8 of the United States Code to:

1. Provide that the “border zone” in which DHS officers may, without a warrant, board and search vehicles for aliens shall extend 25 air miles from the border (instead of the current 100). In limited cases and with notice to Congress, the DHS Secretary may determine that a greater distance is required (*e.g.* due to land topography) but in no cases more than 100 air miles.
2. Provide that DHS officers may enter private property (except houses) without a warrant within 10 air miles from the border (instead of the current 25). As in point 1 above, the DHS Secretary may determine that a greater distance is required, but in no cases more than 25 air miles.
3. Provide that DHS officers may not stop vehicles at a fixed checkpoint more than 10 air miles from the border, unless they have reasonable suspicion that an occupant is in the U.S. illegally.
4. Clarify that any of the above warrantless activity shall remain subject to the Fourth Amendment.

¹ 8 C.F.R. § 287(a)(3); the underlying statute is at 8 U.S.C. § 1357(a)(3), which only provides that this border zone shall be a “reasonable distance from any external boundary of the United States” (emphasis added). See also https://help.cbp.gov/app/answers/detail/a_id/1084/~/legal-authority-for-the-border-patrol.

² See <http://digital.vpr.net/post/aclu-pushes-greyhound-stop-border-patrol-boarding-their-buses#stream/0>; <https://www.nytimes.com/2018/06/22/us/border-checkpoints.html>; and <https://www.cnn.com/2018/05/22/us/montana-border-patrol-spanish-trnd/index.html>.

³ See https://www.aclu.org/sites/default/files/assets/14_9_15_cbp_100-mile_rule_final.pdf and <https://www.cato.org/blog/introducing-checkpoint-america>.