



## The Facts on

### Section 305 of the CLEAN-UP Act (H.R 834)

#### Overview

For the most part, the CLEAN-UP Act (H.R. 834) is a good bill. It largely provides funding for the safe clean up of illegal methamphetamine laboratories. Buried inside it, however, is a provision that is a threat to free speech, due process, and innocent business owners. Section 305 of the CLEAN-UP Act would make it a crime – punishable by fines and up to nine years in federal prison – to “knowingly promote any rave, dance, music, or other entertainment event, that takes place under circumstances where the promoter knows or reasonably ought to know that a controlled substance will be used or distributed.”

Section 305 is opposed by the ACLU, American Beverage Licensees (which represents thousands of bars and nightclubs), and the International Association of Assembly Managers (which represent managers and senior executives from auditoriums, arenas, convention centers, exhibit halls, stadiums, performing arts theaters, and amphitheaters).

#### What is Wrong with Section 305

- **It unfairly punishes businessmen and women for the actions of their customers.** The government can't even keep drugs out of its own prisons, yet it is seeking to punish business owners that can't stop their customers from using drugs.
- **It is too broadly written and could subject innocent business owners to enormous fines and prison sentences,** especially restaurant and nightclub owners, concert promoters, landlords, and real estate managers. Under the provision, any event promoter, nightclub owner and arena or stadium owner could be fined and jailed, since a reasonable person would know some people use marijuana and other drugs at musical events.
- **Business owners could be prosecuted even if they were not involved in drugs – and even if they took steps to stop drug use on their property.** Nor does it matter if the vast majority of people attending the event are law-abiding citizens that do not use drugs. Section 305 criminalizes entire events and anyone who promotes such events based on the actions of a few.
- **It is a threat to free speech and the right to dance.** Property owners, promoters, and event coordinators could be fined hundreds of thousands of dollars and face up to nine years in federal prison if they hold concerts or other events on their property and police make drug arrests. If the legislation becomes law, property owners may become too afraid to rent or lease their property to groups holding rock or Hip-Hop concerts, hemp festivals, protest rallies or any other event rightly or wrongly perceived as attracting drug users (essentially any event that attracts a young crowd.)
- **Because the law is so broadly written, it gives prosecutors and law-enforcement officers too much discretion.** Racist or homophobic prosecutors will likely target Hip Hop and R&B concerts and gay and lesbian nightclubs.
- **It will endanger our nation's youth.** Federal prosecutors are already insinuating that selling bottled water, having paramedics on call, and offering air-conditioned rooms is proof that owners and promoters are encouraging drug use at their events. This legislation may make business owners too afraid to implement such commonsense public safety measures, and the safety of our nation's youth will suffer.