

# DRUG POLICY ALLIANCE

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## Federal Legislation Threatens Bar Owners, Concert Promoters, and Other Businessmen and Women

### The Facts on

### The RAVE Act (H.R. 718) and Illicit Drugs Anti-Proliferation Act (S. 226)

#### Overview:

The RAVE Act (H.R. 718) and the Illicit Drugs Anti-Proliferation Act (S. 226) would make it easier for the federal government to punish business owners for the drug offenses of their customers – even if they take steps to stop such offenses. The bills would also make it easier to punish homeowners for the actions of their guests. If enacted, they would not only harm innocent people they would undermine public safety measures and stifle free speech. The bills are exactly the same piece of legislation, except for the names. Similar provisions are also in S. 22, a domestic security bill introduced by Senate Minority Leader Tom Daschle (D-SD).

Essentially, the legislation expands a federal law that is already being abused (the so-called “crack house law”) in four ways:

- 1) It expands the “crack house law” to apply to more places and individuals (without curbing current abuses of the law).
- 2) It fundamentally changes the very purpose of the “crack house law” from targeting owners of property used primarily for drug offenses to making property owners liable for isolated incidents – even if they’re not involved in them.
- 3) It makes it a crime - punishable by up to 20 years in prison - to temporarily use a place (hotel room, home, etc) to use drugs. The owner of the home or business could also be imprisoned or fined up to \$500,000 – even if they were not involved in drugs.
- 4) It would enact new civil penalties that would allow the federal government to punish business owners at a standard of proof too low to protect innocent business owners.

#### **Why Should Business Owners Be Concerned About this Legislation?**

- **It unfairly punishes businessmen and women for the actions of their customers.** 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. 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. In recent cases under existing law nightclub owners were prosecuted despite the fact that they had a history of working with the police to stop drug offenses on their property, including holding suspected drug offenders until the police arrived. The RAVE Act and the Illicit Drugs Anti-Proliferation Act could put many innocent business owners out of business.

- **It does not offer enough protection for innocent business owners.** The legislation's addition of the word "temporarily" undermines the very purpose of the "crack house statute" which was targeting owners of property that was being used primarily for drug offenses, not making property owners liable for isolated actions that occur on their property, whether they are there or not. The legislation even goes so far as to allow the federal government to charge property owners civilly, thus allowing prosecutors to fine property owners \$250,000 (and put them out of business) without having to meet the high standard of proof in criminal cases that is needed to protect innocent people.
- **It allows business owners to be fined and imprisoned for legal activities.** In recent cases, prosecutors have used legal activities like selling bottled water, opening their premises to certain non-profit advocacy groups, having paramedics on call at large events, and allowing customers to dance with glow sticks as "proof" that business owners were encouraging drug use. Because the "crack house law" and this new legislation are not well defined, it will be impossible for business owners to know what legal activities they can and can not allow on their property and there will be no way to know what will reduce their criminal or civil liability. One must essentially stand trial on federal drug charges in order to be instructed as to whether or not one's behavior expresses complicity in the drug activity of others.
- **It will be one more weapon in the arsenal of prosecutors and community activists that want to close down certain bars, nightclubs, motels, or other businesses they don't like.** Business owners may find themselves stuck between a rock and a hard place. If they report a drug offense that occurs on their property, they could lose their liquor licenses or lose their business under local nuisance abatement laws. If they don't report it, they could be fined or sent to federal prison for up to 20 years. (They could also be fined or sent to prison for up to 20 years even if they report it, as they can be prosecuted even if they take good security measures, as recent cases have shown).