

# DRUG POLICY ALLIANCE

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## The Music Industry and 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 the Music Industry 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 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 twenty 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 all-night dance parties, rock or Hip-Hop concerts, protest rallies or any other event rightly or wrongly perceived as attracting drug users (essentially any event that attracts a young crowd.) Federal prosecutors are already punishing business owners that allow certain non-profit groups on their property or allow their customers to dance with glow sticks or other legal items. This legislation will make it easier for the federal government to coerce business owners with threats of \$250,000 fines into not playing certain kinds of music, allowing certain types of guests onto their property, and not allowing certain kind of clothes or other legal items.
- **Given the history of drug law enforcement over the last 30 years we should expect the legislation to have a disparate impact on communities of color.** Venues that host Hip-Hop performances could be unfairly targeted. While African-Americans constitute 13% of the nation's monthly drug users, they represent 35% of those persons arrested for drug possession, 55% of drug possession convictions, and 74% of those sentenced to prison for drug possession.
- **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, concert promoters, and organizers liable for isolated actions that occur, whether they are involved 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.
- **Businesses will not know what is legal or illegal until a court or jury decides.** While supporters of the legislation claim that innocent business owners don't need to worry because it only applies to people that knowingly open, lease, rent, use or maintain a place for the purpose of manufacturing, distributing, or using a controlled substance, "knowingly" and "for the purpose of" are not defined in the proposed law. In recent cases, prosecutors have used legal activities like selling bottled water, opening their premises to certain non-profit advocacy groups, and allowing customers to dance with glow sticks as "proof" that business owners were encouraging drug use.
- **It will endanger our nation's youth.** If enacted, licensed and law-abiding business owners may stop hosting raves and other musical events out of fear of massive fines and prison sentences - driving raves and other musical events further underground and away from public health and safety regulations. It would also discourage business owners from enacting important safety measures to protect their customers. 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.