

December 5, 2011

United States House of Representatives
Washington, DC 20515

Re: Oppose The Drug Trafficking Safe Harbor Elimination Act of 2011 (H.R. 313)

Dear Representative,

The Drug Trafficking Safe Harbor Elimination Act of 2011 (H.R. 313) is scheduled for consideration on the Floor of the House of Representatives tomorrow, December 6, 2011. On behalf of the undersigned organizations, we urge you to vote no on this legislation. This bill would expand problematic conspiracy laws, apply mandatory minimum drug sentences to more people, increase racial disparities, and subject Americans to incarceration for drug offenses and public health interventions that are legal in the foreign country in which they're committed. At a time when the Bureau of Prisons is operating at 36 percent over capacity we should not further burden it with more nonviolent drug offenders. Implementation of this legislation will also increase law enforcement and criminal justice costs at a time when Congress is focused on lowering government spending.

This bill seeks to authorize federal criminal prosecution of anyone in the U.S. suspected of conspiring with one or more persons, or aiding or abetting one or more persons, to commit at any place outside the United States an act that would constitute a violation of U.S. Controlled Substances drug laws if committed within the United States. If convicted, the defendant would be subject to the penalties, including mandatory minimum penalties, provided for those domestic offenses. These penalties would apply even if the controlled substance is legal under some circumstances in the other country. An American treatment provider working with doctors in England, Denmark, Germany, or Switzerland to provide heroin assisted treatment and sterile syringes to heroin users in those countries could face arrest.

Even when applied against drug traffickers, The Drug Trafficking Safe Harbor Elimination Act would likely perpetuate injustice. Under U.S. drug conspiracy laws, a person can be found guilty even where no drugs or other physical evidence is introduced. The uncorroborated word of someone pointing fingers to get a reduced sentence can be sufficient to establish guilt. Moreover those convicted of being part of a drug conspiracy can be subject to punishment based on the crimes of co-conspirators, whether or not they were personally involved in those offenses. This has led to very low-level, first-time offenders receiving mandatory minimum sentences that are decades long.

The United States has less than five percent of the world's population but nearly 25 percent of its incarcerated population. Trends in the U.S. are shifting toward alternative sentencing and away from policies that have proven costly and ineffectual in the forty years since the War on Drugs was declared. H.R. 313 would be a detrimental step in the wrong direction. We strongly urge you to oppose this bill.

Most sincerely,

AIDS Action Council
American Civil Liberties Union
Drug Policy Alliance
Families Against Mandatory Minimums
Justice Policy Institute
National Association for the Advancement of Colored People
National Association of Criminal Defense Lawyers
National Association of Social Workers
The Sentencing Project
StoptheDrugWar.org
Students for Sensible Drug Policy
The United Methodist Church- General Board of Church and Society