

109TH CONGRESS
1ST SESSION

H. R. 1758

To amend the Controlled Substances Act to provide penalties for open air drug markets, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 2005

Mr. ANDREWS introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Controlled Substances Act to provide penalties for open air drug markets, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Open Air Drug Market
5 Penalty Act of 2005”.

6 **SEC. 2. PENALTIES FOR OPEN AIR DRUG MARKETS.**

7 (a) IN GENERAL.—Part D of the Controlled Sub-
8 stances Act (21 U.S.C. 841 et seq.) is amended by adding
9 at the end the following:

1 “OPEN AIR DRUG MARKETS

2 “SEC. 423. (a) Whoever commits a specified Federal
3 drug offense, knowing that at least one other has com-
4 mitted a specified Federal drug offense—

5 “(1) within 500 feet of the place the offense
6 under this section takes place; and

7 “(2) within a 48-hour period;
8 shall, in addition to any penalty imposed for the specified
9 Federal drug offense, be imprisoned 5 years.

10 “(b) Notwithstanding any other provision of law, the
11 court shall not place on probation or suspend the sentence
12 of any person convicted for a violation of this section, nor
13 shall the term of imprisonment imposed under this sub-
14 section run concurrently with any other term of imprison-
15 ment, including that imposed for the specified Federal
16 drug offense.

17 “(c) As used in this section, the term ‘specified Fed-
18 eral drug offense’ means a Federal offense—

19 “(1) of which an element is the distribution or
20 attempted distribution of a controlled substance; and

21 “(2) for which the maximum term of imprison-
22 ment that may be imposed equals or exceeds 5
23 years.”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 for title II of the Comprehensive Drug Abuse Prevention

- 1 and Control Act of 1970 is amended by inserting after
- 2 the item relating to section 422 the following new item:

“Sec. 423. Open air drug markets.”.

