

**Mr. SCOTT of Virginia:** Mr. Speaker, I rise in opposition to H.R. 313, a bill that does not make us any safer. In our zealousness to make drug laws as tough as possible, we are now considering an expansion of Federal criminal law to conspiracies to engage in drug activity that occur completely out of the United States.

The reason this bill has been introduced, as the gentleman from Texas has pointed out, is at least partly due to the Eleventh Circuit Court of Appeals decision in 2007 in the Lopez-Vanegas case. The court overturned the conviction of two people who formed an agreement in the United States to transport cocaine from Venezuela to France. The court ruled that current law only applies to conspiracies to distribute drugs in which some of the activity occurs in the United States. Under this bill, some of the conspiracies could be prosecuted even if the drug activity that is the subject of the conspiracy is not illegal where the transaction is going to take place.

For example, the use and the production and the distribution of marijuana for medicinal purposes are all legal in a number of countries, including Canada. Canadians and other citizens involved in legal medical marijuana programs in their countries could face Federal prosecution if they visit the United States and engage in agreements here in the United States or advance or finance their businesses in Canada. They could be discussing legal transactions in Canada, but the activity is illegal in the United States.

So the agreement in the United States under this bill would constitute an illegal conspiracy, and it would be subject to all of the criminal penalties for drug transactions. In fact, someone would be better off just going to Canada and engaging in the legal drug activity rather than simply making arrangements for the activity by discussing it in the United States.

Unfortunately, the committee failed to adopt an amendment to exclude discussions of activity that may be illegal in the United States but would be legal everywhere that the transaction is to take place.

Now, if one believes that we do have an interest in covering some of these conspiracies under United States law, we should at least confine the law to cover large-scale trafficking. Unfortunately, the committee failed to adopt an amendment to do that, so even small transactions get caught up by this bill, transactions that are legal where they are occurring. And when they get caught up in discussing transactions that are legal where they take place, they're subject to draconian mandatory minimum sentences.

I would note that it is an unfortunate fact that, under our criminal law, we rely too much on mandatory minimums. This bill would subject even more people to them.

Mandatory minimum sentences have been extensively studied, and the conclusions on all of those studies show that the mandatory minimums are unjust; they cause prison overcrowding and are a waste of taxpayers' money. The Federal prison population is currently over 210,000

inmates, nearly a fivefold increase in just a few decades; and that explosion in population is due, to a large extent, to mandatory minimums.

Mandatory minimums do not account for the individual circumstances of the crime or the defendant. The judicial counsel has warned us that, if a mandatory minimum sentence is appropriate, it can be imposed without a mandatory minimum. But with the mandatory minimum, if it violates common sense, it has to be imposed anyway.

In the past few years, numerous high-profile conservative leaders have expressed opposition to mandatory minimum sentencing laws. Some of those conservative expressions came from the Americans for Tax Reform president, Grover Norquist; the American Civil Rights Institute president, Ward Connerly; National Rifle Association president, David Keene; and Justice Fellowship president, Pat Nolan, all of whom have called mandatory sentences into question.

This bill is seemingly an effort to leave no stone unturned in prohibiting any drug transaction from occurring anywhere, even if it doesn't impact the United States. There may be some parts of the bill that are worthwhile. It covers, of course, multimillion-dollar international drug conspiracies, but it also covers small transactions. And to the extent that people will be subject to long mandatory minimums for doing something that is legal, for talking about something that is legal where it is to take place, this bill makes no sense and should be defeated.