

Mr. Speaker, as an Ob-GYN who has delivered over 4,000 babies, I certainly abhor abortion. And I certainly share my colleagues' revulsion at the idea that someone would take an innocent unborn life because they prefer to have a child of a different sex.

However, I cannot support HR 3541, the Prenatal Nondiscrimination Act, because this bill is unconstitutional. Congress's jurisdiction is limited to those areas specified in the Constitution. Nowhere in that document is Congress given any authority to address abortion in any manner. Until 1973, when the Supreme Court usurped the authority of the states in the Roe V. Wade decision, no one believed or argued abortion was a federal issue.

I also cannot support HR 3541 because it creates yet another set of federal criminal laws, even though the Constitution lists only three federal crimes: piracy, treason, and counterfeiting. All other criminal matters are expressly left to states under the Ninth and Tenth Amendments, and criminal laws relating to abortion certainly should be legislated by states rather than Congress.

I have long believed that abortion opponents make a mistake by spending their energies on a futile quest to make abortion a federal crime. Instead, pro-life Americans should work to undo Roe V. Wade and give the power to restrict abortion back to the states and the people. It is particularly disappointing to see members supporting this bill who rightfully oppose ludicrous interpretations of the Commerce Clause when it comes to the national health care law, which also abuses the Commerce Clause to create new federal crimes.

Pro-life Americans believe all unborn life is precious and should be protected. Therefore we should be troubled by legislation that singles out abortions motivated by a "politically incorrect" reason for special federal punishment. To my conservative colleagues who support this bill: what is the difference in principle between a federal law prohibiting "sex selection" abortions and federal hate crimes laws? After all, hate crime laws also criminalize thoughts by imposing additional stronger penalties when a crime is motivated by the perpetrator's animus toward a particular race or sex.

I also question whether this bill would reduce the number of abortions. I fear instead that every abortion provider in the nation would simply place a sign in their waiting room saying "It is a violation of federal law to perform an abortion because of the fetus' sex. Here is a list of reasons for which abortion is permissible under federal law."

Mr. Speaker, instead of spending time on this unconstitutionally, ineffective, and philosophically flawed bill, Congress should use its valid authority to limit the jurisdiction of activist federal courts and (thereby) protect state laws restoring abortion. This is the constitutional approach to effectively repealing Roe V. Wade. Instead of focusing on gimmicks and piecemeal approaches, true conservatives should address the horror of abortion via the most immediate, practical, and effective manner possible: returning jurisdiction over abortion to the states.