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**HOUSE BILL NO. 244****AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee for Courts of Justice  
on February 4, 2002)

(Patron Prior to Substitute—Delegate Drake )

*A BILL to amend the Code of Virginia by adding sections numbered 18.2-354 and 18.2-354.1, relating to declaration of places of prostitution as premises deemed common nuisance; penalty.*

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding sections numbered 18.2-354 and 18.2-354.1 as follows:**

*§ 18.2-354. Certain premises deemed common nuisance; penalty.*

*A. Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse, dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with the knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant thereof, is frequented by persons engaged in prostitution or soliciting for prostitution as described in § 18.2-346, or which constitutes a bawdy place as defined in § 18.2-347, shall be deemed a common nuisance. Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant who knowingly permits, establishes, keeps or maintains such a common nuisance and fails to take reasonable action to remedy the problem is guilty of a Class 1 misdemeanor and, for a second or subsequent offense, a Class 6 felony. In addition, after due notice and opportunity to be heard on the part of any owner, lessor, or a lienholder not involved in the original offense, by a proceeding similar to that in Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2 and upon proof of guilty knowledge, a court may order that such house, motor vehicle, aircraft, boat, vessel, or other premises, or any room or part thereof, be closed, but the court may, upon the owner or lessor giving bond in the penalty of not less than \$500 and with security to be approved by the court, conditioned that the premises shall not be used for unlawful purposes, turn the same over to its owner or lessor; or proceeding may be had in equity as provided in § 18.2-354.1.*

*B. The penalties provided in this section shall be in addition to any other provisions of law, including termination of a tenancy as provided in Chapter 13 of Title 55, or Chapter 13.2 of Title 55, as may be applicable.*

*C. In no civil or in rem proceeding under the provisions of this section shall judgment be entered against the owner or lessor of property unless it is proved (i) that he had actual knowledge of the unlawful use of the property and (ii) that he failed to take reasonable action to enter and repossess the property.*

*§ 18.2-354.1. Enjoining nuisances involving prostitution.*

*The attorney for the Commonwealth, or any citizen of the county, city or town where such a nuisance as is described in § 18.2-354 exists, may, in addition to the remedies given in and punishment imposed by this chapter, maintain a suit in equity in the name of the Commonwealth to enjoin the same; provided, however, the attorney for the Commonwealth shall not be required to prosecute any suit brought by a citizen under this section. In every case where the bill charges, on the knowledge or belief of complainant, and is sworn to by two witnesses, that a nuisance exists as described in § 18.2-354, a temporary injunction may be granted as soon as the bill is presented to the court provided reasonable notice has been given. The injunction shall enjoin and restrain any owners, tenants, their agents, employees, and any other person from contributing to or maintaining the nuisance and may impose such other requirements as the court deems appropriate. If, after hearing, the court finds that the material allegations of the bill are true, although the premises complained of may not then be unlawfully used, it shall continue the injunction against such persons or premises for such period of time as it deems appropriate, with the right to dissolve the injunction upon a proper showing by the owner of the premises.*

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \_\_\_\_\_ for periods of imprisonment in state adult correctional facilities and \_\_\_\_\_ for periods of commitment to the custody of the Department of Juvenile Justice.**