

1 H.435

2 Introduced by Representative Durfee of Shaftsbury

3 Referred to Committee on

4 Date:

5 Subject: Common nuisance; keeping or maintaining a place resorted to by

6 persons for using, keeping, or selling regulated drugs; penalties

7 Statement of purpose of bill as introduced: This bill proposes to add the  
8 following penalties for keeping or maintaining a common nuisance with  
9 respect to places resorted to by persons for using, keeping, or selling regulated  
10 drugs: a civil penalty in the Judicial Bureau; a private right of action for any  
11 person harmed by a violation; and civil enforcement by the Attorney General, a  
12 State's Attorney, or the municipality where the nuisance is located.

13 An act relating to establishing penalties for keeping or maintaining a  
14 common nuisance

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. 18 V.S.A. § 4222 is amended to read:

17 § 4222. COMMON NUISANCES

18 (a) Unlawful conduct. Any store, shop, warehouse, dwelling house,  
19 building, vehicle, boat, aircraft, or any place whatever, that is resorted to by  
20 persons for the purpose of using regulated drugs or that is used for the illegal

1 keeping or selling of the same, shall be deemed a common nuisance. No  
2 person shall keep or maintain such a common nuisance.

3 (b) Civil penalty. A person who violates subsection (a) of this section shall  
4 be assessed a civil penalty of not more than \$50.00 for each day that the  
5 property is in violation of subsection (a) of this section.

6 (c) Private right of action. Any person who has been injured by a violation  
7 of subsection (a) of this section may bring an action in the Civil Division of the  
8 Superior Court for damages, injunctive relief, punitive damages in the case of  
9 an intentional violation, and reasonable costs and attorney's fees.

10 (d) Civil enforcement; injunctive relief. If the Attorney General, a State's  
11 Attorney, or the municipality where the nuisance is located has reason to  
12 believe that a person is violating or is about to violate subsection (a) of this  
13 section and that proceedings would be in the public interest, the Attorney  
14 General, State's Attorney, or municipality may bring an action in the name of  
15 the State or the municipality in the Civil Division of the Superior Court to  
16 restrain the violation by temporary or permanent injunction. The courts are  
17 authorized to issue temporary or permanent injunctions to restrain and prevent  
18 violations of subsection (a) of this section.

19 Sec. 2. 4 V.S.A. § 1102 is amended to read:

20 § 1102. JUDICIAL BUREAU; JURISDICTION

21 \* \* \*

1 (b) The Judicial Bureau shall have jurisdiction of the following matters:

2 \* \* \*

3 (37) Violations of 18 V.S.A. § 4222, relating to keeping or maintaining  
4 a common nuisance.

5 \* \* \*

6 Sec. 3. 18 V.S.A. § 4252 is amended to read:

7 § 4252. KNOWINGLY PERMITTING SALE OF REGULATED DRUGS IN  
8 A DWELLING

9 (a) No person shall knowingly permit a dwelling, building, or structure  
10 owned by or under the control of the person to be used for the purpose of  
11 illegally selling a regulated drug.

12 (b) [Repealed.]

13 (c) A person who violates this section shall be imprisoned not more than  
14 two years or fined not more than \$15,000.00, or both.

15 (d) It shall not be a violation of this section if the person who owns or  
16 controls the dwelling, building, or structure takes action to address the  
17 unlawful activity.

18 (e) When a court imposes conditions of release for a violation of this  
19 section pursuant to 13 V.S.A. § 7554, the court shall, in order to reasonably  
20 ensure protection of the public, impose a condition that the defendant not  
21 permit any person to be present on the property other than the tenant and the

1 defendant. If the defendant is charged with violating this condition of release,  
2 the court shall, in order to reasonably ensure protection of the public, impose a  
3 condition of release pursuant to 13 V.S.A. § 7554 that the defendant not be  
4 present on the property.

5 Sec. 4. EFFECTIVE DATE

6 This act shall take effect on passage.