

Committee on Culture, Historic Preservation, Youth and Recreation
31st Legislature of the Virgins Islands
Remarks by Catherine Hendry, Esq., Commissioner
May 5, 2016

Good Morning...Honorable Senator Myron D. Jackson, Honorable Members of the Culture, Historic Preservation, Youth and Recreation, Distinguished Senators, ladies and gentlemen, and listening and viewing audiences. I am Catherine Hendry, Esq., Commissioner of the Virgin Islands Department of Labor.

I am pleased to be here today to discuss **Bill No. 31-0346** an Act amending Title 1 Virgin Islands Code, Chapter 11 commemorating the week of July 1st to July 7th as Freedom Week and amending Title 24, Chapter 1, Sec 4- Minimum Wages to require employers to pay time and one half for work done on July 3rd and July 4th.

Pursuant to Bill No. 31-0346, Freedom Week in the Territory of the Virgin Islands containing July 3rd and 4th symbolizes the end of slavery and declare slaves in the territory of the Danish West Indies, now the Virgin Islands forever free. The 4th of July has been a federal holiday since 1941. From 1776 July 4th has been celebrated as the birth of American independence from Great Britain known as Independence Day.

The Virgin Islands Department of Labor provides guidance under the Fair Labor Standards Act (FLSA) that FLSA does not require payment for time not worked, such as vacation, sick, leave, or holidays (federal or otherwise). These benefits are a matter of agreement between an employer and an employee. However, some employers can require that employees work on a holiday. In fact, the operational needs of some businesses/government will require that some employees work on holidays ie: hospitals, fire, police, power plant, corrections, senior homes, and youth rehabilitation centers, hotels, retail/hospitality businesses/events, and transportation.

Federal law does not require you to pay your employees extra, or above normal pay, for working on a holiday. The holidays are typically considered regular workdays and employees receive their normal pay or above normal pay for time worked.

Both federal and local laws do require employers to pay overtime. Some employees are exempt from overtime. Under federal law, overtime is calculated weekly. This means if your employee works over 40 hours during the week of a holiday, they are entitled to time and a half, which is the employee's hourly wage plus 50 percent- for the hours worked over 40 hours.

In the Territory of the Virgin Islands, there is a daily overtime standard. Pursuant to Title 24 V.I.C. Sec 20, overtime is calculated based on the day. If your employee works over eight hours on any given day, they are entitled to time and a half for every hour worked over eight hours.

Bill No. 31-0346 would affect the 3rd and 4th of July and would apply to workers at businesses and government entities large and small. It may create a competitive disadvantage by increasing the cost of doing business for local employers, as opposed to online retailers/businesses, who would not have to comply. In addition hospital and elderly homes may cut back to a bare minimum of staff and hours. Government agencies are closed on those days with employees receiving pay and those employees who work get paid double. Still there are those employees who will receive the days off but not receive wages for them.

There are no laws in the Territory that prevent employers in the Virgin Islands from requiring employees to work on local/federal holidays for regular pay or higher. Some employers may already pay their employees time and a half or double time, others may close their place of business for the 3rd and 4th of July to accommodate their employees with or without pay, and others do not realistically have that option for their business and need their employees to work. Commemorating Freedom Week and America's Independence Day is essential in keeping our Territory and Nation's struggles for freedom alive and not overlooked. However, requiring the employers to pay time and a half for hours worked on said holidays is best left to negotiated agreements and employer/employee relationships.

In conclusion, I hope that the information I just shared is helpful in considering Bill No. 31-0346. I would like to thank you for this opportunity to offer this testimony. I will now answer any questions you may have regarding my testimony.