

COMMITTEE ON ECONOMIC DEVELOPMENT,
AGRICULTURE AND PLANNING

BILL NO. 31-0022

Thirty-first Legislature of the Virgin Islands

February 17, 2015

An Act amending title 32 Virgin Islands Code providing for the regulation of business promoters

PROPOSED BY: Senator Myron D. Jackson

1 **WHEREAS**, the Government of the Virgin Islands finds that St. Thomas' economic
2 well-being depends, in part, upon businesses in the Historic and Architectural Control District of
3 Charlotte Amalie ("the Charlotte Amalie District"); and

4 **WHEREAS**, the Government of the Virgin Islands finds that the Charlotte Amalie
5 District is a valuable tourism asset; and

6 **WHEREAS**, the Government of the Virgin Islands finds that permitting barking of any
7 kind in the Charlotte Amalie District has a detrimental effect on the appearance, attraction and
8 businesses in the Charlotte Amalie District; and

9 **WHEREAS**, it is a provision of law that all businesses in the Territory must comply with
10 the Consumer Protection Act; and

1 **WHEREAS**, the Government of the Virgin Islands finds that barking of any kind in the
2 Charlotte Amalie District constitutes a threat to the health, safety, welfare and economic well-
3 being of the residents, visitors and businesses of the Territory and that a prohibition of
4 commercial barking in the Charlotte Amalie District is necessary to protect the health, safety,
5 welfare and economic well-being of the residents, visitors and businesses of the Territory in
6 preventing fear, intimidation, inconvenience, and damage to business and impediments to
7 pedestrian and vehicular traffic flow that results from such solicitation in the Charlotte Amalie
8 District; and

9 **WHEREAS**, it is the intent of this legislation to achieve the most equal, level playing
10 field for our merchants in our downtown and Historic District; Now, Therefore;

11 ***Be it enacted by the Legislature of the Virgin Islands:***

12 **SECTION 1.** Title 32 of the Virgin Islands Code is amended by adding chapter 2B that
13 reads as follows:

14 "Chapter 2B. Off-Premises Barking Prohibited in Certain Locations.

15 **§41. Definitions.** The following words, terms and phrases when used in this chapter have
16 the meanings ascribed to them in this section:

17 (a) "Barking", "solicit" or "solicitation" means to make appeal or to entice or to
18 approach with a request or plea.

19 (b) "Business" means any commercial activity in which any real property interest,
20 goods or services are sold or offered for sale, transportation service for hire, or performance for
21 lease, or for rent. The term does not include activities related to religious organizations or not-
22 for-profit charitable organizations.

1 (c) "Corner" or "street corner" means the sidewalk where two or more platted or
2 public streets meet, overlap, intersect or bisect, and the adjoining sidewalk area or unpaved right
3 of way area serving as a sidewalk, including the street.

4 (d) "Edibles" means any food or beverage intended for human consumption.

5 (e) "Goods" mean any tangible item, including edibles, except

6 (f) "Off-premises barking or solicitation" means distribution of information or
7 solicitation of customers, in connection with a business, on publicly owned property.

8 (g) "Publicly owned property" means all property located in this Territory which is
9 owned by the Government of the Virgin Islands, including, public walkways, freegangs, step
10 streets, sidewalks and streets used by the public, and all open shorelines as defined by 12 V.I.C.
11 Ch. 10, excluding any property owned by the Government which is leased to a private party.

12 (h) "Right-of-way" includes the street, the sidewalk, the corner and the curb.

13 (i) "Sale" means any trade or offer of trade for currency, credit, services, or goods.

14 (j) "Services" means any work, attraction, amenity or act rendered for sale.

15 (k) "Traditional costumed presentations" means the appearance of performers,
16 dressed in the same traditional costume worn during performances.

17 (l) "Traditional cultural businesses" mean such individual, single proprietors who
18 have traditionally sold locally grown or made products or produce or edibles.

19 **§42. Prohibition in Charlotte Amalie Historic and Architectural Control District**

20 (a) Except as otherwise provided in this chapter, it is unlawful for any person to
21 engage in off-premises barking or solicitation on publicly owned property, including any
22 corner, street corner, street and right-of-way or the Historic and Architectural Control Districts of
23 the Virgin Islands as designated by the Virgin Islands Historic Preservation Commission

1 pursuant to chapter 3 of title 29 of the Virgin Islands Code, which includes the Virgin Islands
2 National Historic Site, as created in chapter 5 of title 32 of the Virgin Islands Code.

3 (b) The restrictions in this section do not apply to religious organizations, not-for-
4 profit charitable organizations, traditional costumed presentations, or traditional cultural
5 businesses.

6 (c) The Department of Planning and Natural Resources and the Historic Preservation
7 Commission shall develop and permit appropriate identifying signage for particular streets,
8 points of historical interest, and shopping areas within the Historic and Architectural Control
9 District referenced herein.

10 **§43. Enforcement**

11 (a) The Department of Planning and Natural Resources and the Department of
12 Licensing and Consumer Affairs and any designated peace officer shall enforce this chapter.
13 The Departments of Planning and Natural Resources, Licensing and Consumer Affairs, Police
14 and other departments and agencies with enforcement authority may enter into a memorandum
15 of understanding regarding procedures and responsibilities for enforcement.

16 (b) Subject to 20 V.I.C. §487a, the Department of Planning and Natural Resources,
17 after consultation with an advisory panel of five persons from the taxi and tour operator industry,
18 and with the Virgin Islands Police Department and Department of Public Works, shall designate
19 specific taxi and tour operator stands and dispatch areas for the parking of automobiles for hire,
20 including automobile tour operators, and solicitation and dispatch of automobiles for hire in
21 multiple areas throughout the Charlotte Amalie Historic and Architectural Control District. The
22 Department of Planning and Natural Resources in conjunction with the Virgin Islands Taxi
23 Commission and the Police Department shall regulate the designated areas. The Commissioner
24 of the Department of Planning and Natural Resources, the Commissioner of the Police

1 Department and the Commissioner of the Department of Public Works shall select the advisory
2 members from persons nominated by one or more taxi and tour operator industry representative
3 organizations.

4 (c) The Department of Planning and Natural Resources, after consultation with an
5 advisory panel of five persons representative of the business community within the Charlotte
6 Amalie Historic and Architectural Control District and a community organization concerned
7 with the preservation or revitalization of the Charlotte Amalie Historic and Architectural Control
8 District, may designate certain areas within the Charlotte Amalie Historic and Architectural
9 Control District for placement and operation of staffed informational kiosks for the benefit of
10 residents and visitors. The Commissioner of the Department of Planning and Natural Resources,
11 the Commissioner of the Police Department and the Commissioner of the Department of Public
12 Works shall select the advisory panel members from persons nominated by one or more business
13 organizations representative of the business community within the Charlotte Amalie Historic and
14 Architectural Control District and a community organization concerned with the preservation or
15 revitalization of the Charlotte Amalie Historic and Architectural Control District. The
16 Department of Planning and Natural Resources shall regulate the designated areas. Printed
17 commercial solicitation material may be distributed only from the informational kiosks.

18 (d) The Commissioner of the Department of Planning and Natural Resources shall
19 promulgate regulations for implementation of this section.

20 **§44. Prohibited Conduct**

21 In furtherance of the prohibited acts set forth in sections 42 and 43, prohibited barking
22 or solicitation includes the following acts:

1 (1) Off-premises barking or soliciting of any kind that obstructs vehicular traffic in
2 violation of the traffic laws of the Territory;

3 (2) Placing advertising materials upon any vehicle not belonging to the person or
4 solicitor placing the materials;

5 (3) Interference with or obstructing the free travel or passage of pedestrians on public
6 sidewalks for purposes of commercial solicitation; and

7 (4) Off-premises distribution of printed, commercial solicitation literature.

8 **§45. Revocation or Suspension of License.**

9 (a) Any business found to be in violation of this chapter may have its business license
10 suspended or revoked pursuant to regulations and procedures promulgated by the Department of
11 Licensing and Consumer Affairs.

12 (b) Any business whose business license is revoked under subsection (a) may reapply
13 for new a business license upon the expiration of a period of not less than one year from the date
14 of revocation.

15 **§46. Criminal Penalty.** Any person found guilty of engaging in off-premises barking
16 or solicitation in violation of this chapter shall be fined not more than \$500 or imprisoned for not
17 more than six months, or both fined and imprisoned, for the first offense; and fined not more
18 than \$1500 or imprisoned for not more than 1 year, or both fined and imprisoned, for each
19 subsequent offense.

20 **SECTION 2.** Title 14 Virgin Islands Code, chapter 111, section 2221(a) (16) is
21 amended by inserting "or private" after "public" and before "building".

1 **SECTION 3.** (a) No later than 90 days after the effective date of this Act, the
2 Commissioner Department of Planning and Natural Resources shall promulgate regulations to
3 carry out its duties under section 1.

4 (b) No later than 90 days after the effective date of this Act, the Department of
5 Licensing and Consumer Affairs shall, pursuant to section 1, internal section 45 (a) of this Act,
6 promulgate regulations governing procedures for the suspension or revocation of business
7 licenses for violation of the chapter.

8 **SECTION 4.** This Act takes effective 14 days after enactment.

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BILL SUMMARY

11 The purpose of this measure is to regulate barkers conducting business within the historic
12 district of Charlotte Amalie and the District of St. Croix. Section 1 amends title 32 of the Virgin
13 Island Code by adding chapter 2B to prohibit off-premises barking Prohibited in certain public
14 places, including the Historic and Architectural Control Districts.

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16 Section 3 requires the Department of Planning and Natural Resources and the Department
17 of Licensing and Consumer Affairs to promulgate regulations for implementation of their
18 respective duties relating to the regulation of barking. Section 4 sets the bill's effective date at
19 14 days after enactment.

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22 **BR15-0231/February 9, 2015/AA**

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REVIEWER'S NOTE

25 The fifth "Whereas clause in the Preamble of the bill is simply not true.

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