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Of the United States

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GOOD MORNING THE HONORABLE JANET MILLIN-YOUNG,  
CHAIRMAN OF THE VIRGIN ISLANDS LEGISLATURE'S COMMITTEE ON  
ECONOMIC DEVELOPMENT, AGRICULTURE AND PLANNING AND TO  
THE HONORABLE MEMBERS OF THIS COMMITTEE AS WELL AS ALL  
OTHER DISTINGUISHED MEMBERS OF THE LEGISLATURE PRESENT  
HERE TODAY.

THE DEPARTMENT IS IN RECEIPT OF BILL NO. 31-0022, AN ACT  
AMENDING TITLE 32 VIRGIN ISLANDS CODE PROVIDING FOR THE  
REGULATION OF BUSINESS PROMOTERS. THIS ACT SEEKS TO  
PROHIBIT BARKERING FOR SALE OF GOODS AND PROVISION OF  
SERVICES, IN CONNECTION WITH THE CONDUCTING OF BUSINESS IN  
THE HISTORIC AND ARCHITECTURAL CONTROL DISTRICTS OF  
CHARLOTTE AMALIE AND THE DISTRICT OF ST. CROIX. THE  
AMENDMENT ADDS CHAPTER 2B TO TITLE 32 OF THE VI CODE, AIMED  
AT PROHIBITING OFF-PREMISES BARKERING IN CERTAIN PUBLIC

PLACES, INCLUDING THE HISTORIC AND ARCHITECTURAL CONTROL DISTRICTS.

WHILE THE PROPOSED LEGISLATION SEEKS TO BAN BARKERING IN THE HISTORIC AND ARCHITECTURAL CONTROL DISTRICT OF CHARLOTTE AMALIE AND THE DISTRICT OF ST. CROIX, IT DOES PROVIDE AN EXCEPTION FOR RELIGIOUS ORGANIZATIONS, NOT-FOR PROFIT CHARITABLE ORGANIZATIONS, TRADITIONAL COSTUME PRESENTATIONS, AND TRADITIONAL CULTURAL BUSINESSES. THE PROPOSED LEGISLATION MAKES PROVISION FOR THE DEPARTMENT OF PLANNING AND NATURAL RESOURCES, IN CONSULTATION WITH AN ADVISORY PANEL OF FIVE REPRESENTATIVES OF THE BUSINESS COMMUNITY, TO DESIGNATE AREAS IN THESE HISTORIC DISTRICTS FOR PLACEMENT AND OPERATION OF STAFFED INFORMATION KIOSKS FOR THE BENEFIT OF RESIDENTS AND VISITORS. THE PROPOSED LEGISLATION ALSO TASKS THE DEPARTMENT OF PLANNING AND NATURAL RESOURCES, ALONG WITH AN ADVISORY PANEL FROM THE TAXI AND TOUR OPERATOR INDUSTRY AND THE POLICE DEPARTMENT, WITH THE RESPONSIBILITY OF DESIGNATING

SPECIFIC TAXI AND TOUR OPERATOR STANDS AND DISPATCH AREAS FOR THE PARKING AND OPERATION OF AUTOMOBILES FOR HIRE.

SECTION 43(A) OF THE PROPOSED LEGISLATION TASKS THE DEPARTMENT OF PLANNING AND NATURAL RESOURCES AND THE DEPARTMENT OF LICENSING AND CONSUMER AFFAIRS WITH THE RESPONSIBILITY OF ENFORCING THE PROVISIONS OF THE PROPOSED LAW. IT ALSO MAKES PROVISION FOR BOTH AGENCIES TO ENTER INTO A MEMORANDUM OF UNDERSTANDING REGARDING ENFORCEMENT OF THE LAW. SECTION 3(A) OF THE PROPOSED LEGISLATION, MANDATES THAT THE DEPARTMENT OF LICENSING AND CONSUMER AFFAIRS PROMULGATE RULES AND REGULATIONS FOR THE SUSPENSION OR REVOCATION OF AN ENTITY'S BUSINESS LICENSE IN CASES OF VIOLATIONS.

REGULATION OF SALES PROMOTERS (BARKERS) HAS ALWAYS BEEN A MOST ARDUOUS TASK FOR THE DEPARTMENT, ESPECIALLY IN THE HISTORIC DISTRICTS OF DOWN TOWN CHARLOTTE AMALIE. WHILE

SOME STORE OWNERS DO AN ADMIRABLE JOB OF ENSURING THAT THEIR SALES PROMOTERS OPERATE WITHIN CERTAIN CONFINED AREAS AND WITH A CERTAIN LEVEL OF DECORUM, OTHERS PERMIT THEIR SALES PROMOTERS TO OPERATE IN A LAISSEZ FAIRE MANNER, THEREBY TARNISHING THE GOOD NAME OF THE VIRGIN ISLANDS AND ITS TOURISM PRODUCT.

FIRST AND FOREMOST, THE BUSINESS PROMOTERS (BARKERS) ARE NOT LICENSED AND THE ENTITIES THAT EMPLOY THEIR SERVICES NEVER TAKE RESPONSIBILITY FOR THE PROMOTERS' ACTIONS. WITH NO LICENSE TO SUSPEND OR REVOKE, AND NO TAKING OF RESPONSIBILITY BY THEIR HIRERS, THESE SALES PROMOTERS (BARKERS) ARE A CONSTANT SOURCE OF BOTHER AND FRUSTRATION FOR THE ENFORCEMENT ARM OF THE DEPARTMENT. SECONDLY, THE VAST MAJORITY OF BUSINESS PROMOTERS (BARKERS) ARE NOT TRAINED. IT IS NOT UNCOMMON FOR TWO AND THREE BARKERS TO CONVERGE ON A SINGLE GROUP OF TOURISTS IN AN EFFORT TO FORCE THEM INTO A PARTICULAR STORE. SUCH A

SCENARIO USUALLY ENDS IN CHAOS AND EVEN VIOLENCE. MANY VISITORS COMPLAIN ABOUT THIS KIND OF UNPROFESSIONAL BEHAVIOR BY THE SALE PROMOTERS (BARKERS) AND CONSIDER IT HARASSMENT. ON THE DAYS WHEN THERE ARE NUMEROUS CRUISE SHIPS IN PORT, THIS BECOMES A COMMON SCENE AND A MAJOR SOURCE OF ANNOYANCE FOR VISITORS AND LOCALS ALIKE.

THE HISTORY OF BARKERING IN THE HISTORIC AND ARCHITECTURAL DISTRICT OF CHARLOTTE AMALIE IS NOT AN ENCOURAGING ONE EITHER. IN 2004, THE DEPARTMENT WORKING IN CONJUNCTION WITH THE CHAMBER OF COMMERCE PLACED CONDITIONS ON THE BUSINESS LICENSES OF THE ENTITIES THAT EMPLOYED THE SERVICES OF THE BARKERS IN AN EFFORT TO ENSURE THE SMOOTH AND ORDERLY CONDUCTING OF SOLICITATION IN THE DOWN TOWN AREA. THE BARKERS WERE REQUIRED TO WEAR UNIFORMS, CARRY IDENTIFICATION CARDS AND OPERATE FROM CERTAIN FIXED LOCATIONS. IN A VERY SHORT PERIOD OF TIME AFTER THE IMPLEMENTATION OF THIS NEW SYSTEM, THE BUSINESSES THAT EMPLOYED THE BARKERS

REVERTED TO THEIR OLD WAYS OF DOING BUSINESS AND OPENLY CHALLENGED THE DLCA TO SUSPEND OR REVOKE THEIR BUSINESS LICENSES. TWO SUCH BUSINESSES, CARIBBEAN FUN STAY AND K & R PROMOTIONS, LLC WENT AS FAR AS PLACING TEAMS OF PROMOTERS ON MAIN STREET TO PROMOTE THEIR BUSINESSES. THIS, AS YOU CAN IMAGINE, CREATED QUITE A SHAMBOLIC SCENE IN THE DOWN TOWN AREA. THE DEPARTMENT WAS LEFT WITH NO RECOURSE BUT TO CONDUCT HEARINGS AND ISSUE CEASE AND DESIST ORDERS AGAINST THESE ENTITIES.

AT PRESENT, THE ENFORCEMENT OFFICERS OF THE DEPARTMENT SPEND COUNTLESS HOURS EACH WEEK DAY TRYING TO ENSURE THAT THESE SALE PROMOTERS (BARKERS) ARE KEPT IN CHECK. WHEN THE OFFICERS ARE NOT PRESENT, THEY ARE OUT IN FULL FORCE AND SOMETIMES CREATE HAVOC IN THE DOWN TOWN AREA OF CHARLOTTE AMALIE. BASED ON THE HISTORY OF NON-COMPLIANCE BY BUSINESS PROMOTERS AND THEIR EMPLOYERS, AS WELL AS THE DISORDERLY MANNER IN WHICH THESE UNTRAINED

SALES PROMOTERS (BARKERS) OPERATE, THE DEPARTMENT IS OF THE VIEW THAT THE PROPOSED LEGISLATION IS URGENTLY NEEDED.

WHILE THE DEPARTMENT IS IN FULL SUPPORT OF THE PROPOSED LEGISLATION, HOWEVER, WE DO NOT FEEL THAT IT IS NECESSARY FOR IT TO PROMULGATE RULES AND REGULATIONS TO ENFORCE THE PROVISIONS OF THE PROPOSED LEGISLATION. PRESENTLY, THE DEPARTMENT CARRIES OUT SUSPENSION AND/OR REVOCATION OF BUSINESS LICENSES UNDER VI CODE ANN. TIT. 27, § 304. THIS SECTION IS VERY COMPREHENSIVE IN ITS DISPENSING OF AUTHORITY FOR THE REGULATION OF BUSINESSES. ENFORCEMENT FOR VIOLATIONS OF THE PROPOSED LEGISLATION COULD BE EFFECTIVELY CARRIED OUT UNDER THIS STATUTE. THE DEPARTMENT ALSO RESPECTFULLY REQUESTS THAT IN DRAFTING THE RULES AND REGULATIONS TO CARRY OUT THE PROPOSED LEGISLATION, THE DEPARTMENT OF PLANNING AND NATURAL RESOURCES INCLUDE PROVISIONS THAT WILL HOLD THE ENTITIES THAT EMPLOY THE SERVICES OF THE SALES PROMOTERS (BARKERS)

RESPONSIBLE AND LIABLE FOR CERTAIN ACTIONS OF THE SALES PROMOTERS (BARKERS).

AGAIN, THE DEPARTMENT REITERATES ITS FULL SUPPORT FOR THE PROPOSED LEGISLATION. THANKS FOR GIVING US THE OPPORTUNITY TO COMMENT ON BILL NO. 31-0022