





Testimony of Kye Walker, Esq.
Committee on Economic Development & Agriculture
September 11, 2024

Good Morning, Mr. Chairperson, members of the Committee on Economic Development and Agriculture, other members of the 35th Legislature of the Virgin Islands, and the listening and viewing audience. I am Attorney Kye Walker and appear before you to testify regarding the Virgin Islands Cannabis Use Act and proposed amendments to the Act contained within Bill No. 35-0283.


Currently, I serve as a legal advisor to the Office of the Governor regarding the Virgin Islands Cannabis Use Act. I would like to make clear from the outset of my testimony that the work of my office on this matter was limited to legal issues around the language of the enabling legislation and rules and regulations. Therefore, my testimony will not describe the current status of the Cannabis program in the Territory, and I will refer questions regarding the roll-out of the Cannabis program to members of Cannabis Advisory Board or other representatives from the Executive branch on hand today.

Bill No. 35-0283 is a comprehensive set of amendments that will strengthen, fill in gaps and correct various oversights within the Virgin Islands Cannabis Use Act that passed the 34th Legislature on December 30, 2022 and was signed into law by Governor Bryan on January 18, 2023. As most members in this body recall, the final drafting and negotiation over language of the VI Cannabis Use Act occurred during a very compressed time-period during the final days of the 34th Legislature. As such, there are some typographical errors,

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minor inconsistencies and omissions within the law that this Bill addresses. Examples of these are found in the first page of the Bill wherein the definitions of terms like “Applicant” and “Cardholder” have been amended to include individuals or entities that were mistakenly omitted. Other definitions have been revised for clarity, such as the definition of “Disqualifying Felony Offense and “Sacramental Use”.


In Section 777 of the VI Cannabis Use Act, a proposed change has been made to the description of the composition of the Cannabis Advisory Board that governs and oversees the chief regulatory body of the cannabis industry, the Office of Cannabis Regulation or OCR. This subsection (b) of section 777 has been revised to ensure that Commissioners of Health, Agriculture and Licensing and Consumer Affairs do not needlessly complete the confirmation process before the Legislature, and to include a requirement that the farmer appointed to the Board be “recommended by the Local Food and Farm Council” rather than by the Commissioner of Agriculture. Additionally, this Section 777, subsection(b) includes three additional paragraphs (numbered 6, 7 and 8), that provide Board members with legal indemnification for their official actions and language describing their protected actions and communications. These important changes bring the Cannabis Advisory Board in line with other Boards within the Government of the Virgin Islands.

The proposed change to Section 777(f), described at the top of page 4 of the Bill, would extend the timeline for the OCR to become self-sufficient from taxes and fees generated from two years after enactment, to two years after promulgation of Rules and Regulations. This promulgation occurred on May 4, 2024, giving the OCR until May 4, 2026 to become financially self-sufficient. This is a more reasonable timeframe considering that licenses and permits have not yet begun to be issued. Section 777 (h) directs that the annual report

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from the Director of the OCR be submitted to the Committee on Economic Development and Agriculture, rather than the Committee on Health, which is an appropriate change given the major economic and agricultural components of this legislation.

The proposed change to Section 777(k) removes the mandate that the OCR be responsible for collaborating with the Industrial Hemp Commission on enforcement of the cultivation, manufacture, sale and use of hemp, which is federally defined as cannabis items containing less than 0.3% concentration of the primary psycho-active component within cannabis: delta-9 tetrahydrocannabinol or THC. This collaborative enforcement mandate, while well-intentioned in terms of government efficiency, was not funded by the legislation and could have caused regulatory confusion.


A notable proposed change to section 779(d)(4) of the Act would reduce the distance requirement of any display or transfer of Cannabis from a “cruise ship dock in Charlotte Amalie, Havensight or Crown Bay in St. Thomas from “1,000 feet” to “250” feet. I will note, however, that this Bill language seems to have an inconsistency here by leaving the distance requirement from cruise ship ports in Frederiksted and Cruz Bay at “500 feet”. These should be harmonized, and I recommended making the distance requirement 250 feet for all cruise ship docks in the Territory. This should be corrected by further amendment. Other changes in this Bill seek to harmonize all of the various distance requirements to “250 feet”, thereby creating more consistency.

The proposed changes to section 783 of the Act includes the removal of subsection (c), which, under currently language, implies that only Qualified Patients have the rights

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described, which is not correct. Leaving these provisions in as enumerated “rights” to a specific group gives the impression that the general adult population over the age of 21 does not have these rights, which they do.


A proposed change to section 787(f) of the Act, located at page 5 of the Bill, would correct an oversight in the existing language of the Act that allows the OCR to issue additional licenses beyond the upper limits described in section 787, subsections (b), (c) and (d). The proposed change sensibly requires authorization of the Legislature and approval of the Governor to changes in the allowable number of licenses issued. Similarly, the proposed change to section 793(k) would require legislative authorization for any changes to the Unaffiliated Third-party sourcing requirement and Micro-cultivation sourcing requirement. This change would ensure that substantive changes are not made without the authorization of the Legislature and approval of the Governor.

In Section 794(d), a crucial correction is proposed that codifies that “Adult Users, OCR enforcement personnel, and other law enforcement personnel, and registered visitors” are permitted into the Restricted Access Area of a Cannabis Dispensary, correcting and oversight. In Section 795(h) the proposed change would ensure that any Cannabis Research and Development Licensee that includes a Cannabis Testing Facility not be allowed to sell any cannabis items, thereby removing the potential conflict of interest of a Testing Facility testing its own products. A proposed change to Section 798 on Sacramental Use would require that the OCR maintain a confidential list of registered Sacramental Users so that law enforcement personnel and/or Cannabis Businesses can easily verify that status of individuals authorized to cultivate under Sacramental Use provisions of the Act.

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A proposed change to Section 800 of the Act would wisely enable Cannabis Businesses or other business enterprises involved in Cannabis Research and Development to be eligible for tax benefits provided under the UVI Research and Technology Park Corporation Act and under the Enterprise Zone Program Act, provided that these businesses would otherwise qualify for such benefits. This is an important incentive for interested Cannabis Businesses and investors to increase their economic activity in the Territory by meeting the benefit requirements and job-creation requirements of the Tech Park and/or Enterprise Zone programs. It is important to note, here, that the Act requires that all Cannabis Businesses be majority owned by long-time Virgin Islands residents, thereby eliminating the risk that this tax incentive provision would only benefit off-island entities or recent arrivals. As Cannabis business activities spread throughout the region and the world, it is important that our Territory distinguish itself by attracting the level of financial investment and job creation required by the UVI Tech Park and Enterprise Zone programs.


Finally, in Section 3, this Amendment proposes that the term lengths of the Cannabis Advisory Board members who were appointed under the predecessor “Virgin Islands Medical Cannabis Patient Care Act” begin anew at the date of enactment of the Virgin Islands Cannabis Use Act: January 18, 2023. This proposed change removes any uncertainty about the term length of current Board members.

Thank you and I remain available to answer questions you may have.

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