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**H. Nathalie Hodge
Commissioner**

**Testimony Before the
36th Legislature of the Virgin Islands**

**Hon. Avery L. Lewis, Chair
Committee on Government Operations, Veterans Affairs, and Consumer Protection**

March 23, 2026

"Serving Businesses & Assisting, Educating and Protecting Consumers"

Good day Honorable Senator Avery L. Lewis, Chair of the Committee on Government Operations, Veterans Affairs, and Consumer Protection, esteemed members of the 36th Legislature of the Virgin Islands, Committee members, non-Committee members present, and the listening and viewing audience. I am H. Nathalie Hodge, Commissioner of the Department of Licensing and Consumer Affairs (DLCA). Joining me today are Assistant Commissioner Horace Graham, Geraldine Vaval, General Counsel, and Wilbur Francis, Director of Enforcement.

Thank you for the opportunity to testify on Bill No. 36-0115, which proposes to amend Title 27, Chapter 9, Section 304 of the Virgin Islands Code to authorize the Department to physically close a business when it is determined that the business is causing a nuisance, presents a threat to safety, or is disturbing the peace.

The Department appreciates the Legislature's attention to the growing concern of businesses that repeatedly create disturbances within our communities or operate in a manner that threatens public safety. We support the intent of this bill and believe it provides a necessary tool to allow the Department to respond more quickly when a business poses an immediate risk to the public.

Under Title 3 of the Virgin Islands Code, the DLCA is charged with administering consumer protection laws and regulating private businesses operating within the Territory. Similarly, under Title 27, Chapter 9, the Commissioner is responsible for granting, denying, suspending, and revoking business licenses issued in the Virgin Islands.

Our current enforcement framework, however, relies largely on administrative proceedings that require notice and a hearing before sanctions may be imposed. While these safeguards are essential to protecting the rights of business owners, they can limit the

Department's ability to act quickly when a business is actively creating dangerous conditions or repeatedly disturbing surrounding communities. This bill helps to address that gap. It gives the Department the ability to act in real time when necessary, and that is something we believe is both appropriate and needed.

At the same time, because this authority is significant, it is important that the bill clearly outlines how and when it should be used. Doing so will not only protect the rights of business owners, but also ensure that the Department's actions are consistent, transparent, and legally sound.

Because the bill proposes to amend Section 304, which already governs the denial, suspension, and revocation of business licenses, it is particularly important that the new authority be structured in a way that complements the existing administrative framework established in that section.

To strengthen the bill, the Department recommends the following:

First, the Department recommends clarifying the evidentiary standard under which an emergency closure may be issued. Given that this authority is intended to address immediate threats to public safety, order, and the peaceful enjoyment of property, the statute should specify that such action may be taken when the Commissioner determines, based upon credible evidence or probable cause, that continued operation of the business poses an immediate danger or constitutes a continuing nuisance.

To that end, we recommend including language such as:

“The Commissioner may issue an emergency order temporarily closing a business when the Department determines, based upon credible evidence or probable cause, that the continued operation of the business constitutes a public nuisance, presents an immediate threat to public

safety, or is causing repeated disturbances of the peace.” This language establishes a clear and defensible threshold while preserving the Department’s ability to act quickly.

Additionally, the Department recommends that the bill include a definition of the term “nuisance” to promote consistency in enforcement and avoid ambiguity. As currently written, the term may be subject to varying interpretations. Thus, we recommend *defining ‘nuisance’* as the conduct or conditions arising from the operation of a business that unreasonably interfere with the health, safety, or peaceful enjoyment of property by the public or the surrounding community, *including but not limited to repeated disturbances, excessive noise, illegal activity, or unsafe conditions.* Providing a clear definition will help ensure that this authority is applied consistently and is grounded in objective, observable conditions.

Second, the Department recommends that immediately following the opening clause of the proposed subsection (1), the bill include language substantially similar to the following:

“The Commissioner may issue an emergency order temporarily closing a business when the Department determines, based upon credible evidence or probable cause, that the continued operation of the business constitutes a public nuisance, presents an immediate threat to public safety, or is causing repeated disturbances of the peace.” This language establishes a clear evidentiary threshold while preserving the Department’s ability to respond quickly to urgent circumstances.

Third, we recommend clarifying how closure orders are served and enforced, particularly when the owner, operator, or person in control of the premises are not present. We suggest language providing that the order may be served on the license holder, manager, or person in control, and if unavailable, by posting the order at the business and sending it via certified mail.

To address this issue, the following language could be added immediately after the written-order requirement:

“The emergency closure order shall be served upon the license holder, manager, or person in control of the premises. If such person cannot be located, the order may be served by posting the order prominently at the place of business and by sending a copy via certified mail to the last known address of the license holder.” This provision ensures that adequate notice is provided, even when the license holder, business principal, manager, or person in control of the premises is not immediately available.

Fourth, it is important to clarify that this authority is temporary and preventative—not a final determination. The purpose is to immediately halt harmful activity while due process proceeds. Accordingly, the Department recommends language stating that the closure remains in effect only until an administrative hearing is conducted and a determination is made regarding whether the business may reopen, reopen with conditions, or remain closed.

To reflect this, the Department recommends including language such as:

“The emergency closure authorized under this subsection shall remain in effect only until the Department conducts the administrative hearing required by this section and issues a determination regarding whether the business may resume operations, resume operations subject to conditions, or remain closed pending further administrative action.” This clarification helps ensure that the authority functions as an emergency protective measure rather than a final sanction.

The Department also recommends setting a clear timeframe for when a hearing must take place after a business is temporarily closed. This is important because it ensures business

owners have a fair opportunity to be heard, while also keeping the process moving quickly toward a resolution.

We suggest that the hearing be held within five business days of the closure. This gives the Department enough time to act, but also provides business owners with a clear and reasonable timeline. Just as importantly, we believe businesses should have the opportunity to reopen even before that hearing if they correct the issue. If the problem is fixed, there should be a path to getting back into compliance and reopening as soon as possible. This approach encourages businesses to take immediate corrective action and helps them return to operating legally—paying their taxes, employing people, and contributing to the economy—without unnecessary delay.

Fifth, the Department also believes it would be helpful for the legislation to clarify how this authority interacts with the Department’s existing powers to suspend or revoke a license under Section 304. Currently, Section 304 governs the denial, suspension, and revocation of business licenses following administrative proceedings. By placing the emergency closure authority within the same section, the Legislature has appropriately tied the new enforcement tool to the existing administrative framework.

To reinforce this connection, the Department recommends adding the following language near the end of the proposed subsection:

“Nothing in this subsection shall limit the authority of the Department to initiate proceedings for the suspension, revocation, or modification of a business license pursuant to this section.” This language ensures that emergency closure orders can serve as an initial step in a broader enforcement process when warranted.

Finally, the Department recommends including language that supports coordination with other agencies, such as the Virgin Islands Police Department, the Fire and Emergency Medical Services, and other relevant entities. In many cases involving threats to safety or public disturbances, effective enforcement depends on coordinated action.

The following language would promote effective interagency cooperation and ensure closure orders can be safely implemented: “*The Commissioner may request the assistance of the Virgin Islands Police Department or other appropriate government agencies in enforcing an emergency closure order issued pursuant to this subsection.*”

In closing, this legislation gives the Department a tool we do not currently have, but one that we increasingly need. There are situations where businesses are not just out of compliance but are actively disrupting communities or creating unsafe conditions. In those moments, the government must be able to act—not after weeks of process, but in real time to protect the public.

At the same time, we recognize that this is a significant authority. That is why it is equally important that the law clearly defines how and when it is used, and ensures that every action taken is fair, transparent, and grounded in due process. With the recommended clarifications, this bill can strike that balance—providing the Department with a strong, effective enforcement tool while safeguarding the rights of business owners.

The Department remains committed to working with the Committee and the Legislature to refine the language of the bill and ensure that it is implemented in a manner that protects both the public interest and the rights of licensed businesses throughout the Territory.

Thank you again for the opportunity to testify. I am happy to answer any questions this body might have.