

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO BILL NO. 36-0043
Offered by Senator Angel L. Bolques, Jr.

Bill No. 36-0043 is amended by striking all language after the enacting clause and inserting the following language:

“SECTION 1. Title 19 Virgin Islands Code, part VI, chapter 53 is amended as follows:

(a) Subchapter II:

(1) Section 1433 is amended in the final sentence of the section by adding “along with the inspection grade” after the words “Such health permit”;

(2) In section 1434, strike the existing language and insert the following language:

“(1) A health permit may be suspended by the Commissioner of Health upon violation by the permit holder of any provisions of this chapter or of rules promulgated under this chapter.

(a) A notice letter will be issued to the permit holder from the Environmental Health Division of the Department of Health notifying the permit holder of an imminent health hazard.

(b) A suspension shall remain in effect until conditions cited in the cease-and-desist letter no longer exist and their elimination has

been confirmed by the Environmental Health Division through reinspection or other appropriate means.

(c) A written application for the reinstatement of the permit must be made from the permit holder stating that the conditions cited in the letter no longer exist.

(d) Upon receipt of the written application, the Environmental Health Division shall conduct reinspection within two business days.

(e) The suspended permit shall be reinstated immediately if the Environmental Health Division determines that the public health hazard, or unhealthy conditions, or unsanitary conditions, or nuisance no longer exists. A written notice of reinstatement must be provided to the permit holder.

(2) In the event of an imminent health hazard, a permit suspension, or a cease and desist order for certain operations, may be issued without prior notice. The Environmental Health Division shall designate which operations must cease because of the imminent health hazard.

(3) For serious or repeated violations, the health permit may be permanently revoked by the Commissioner of Health.

(4) Contesting the Suspension or Revocation

(a) The permit holder must notify the Environmental Health Division in writing within ten business days of receiving the notice of violation, stating his intent to contest the suspension or permit revocation.

(b) The permit holder must submit any relevant evidence or arguments supporting his case within ten business days of the notice of intent to contest.

(c) The Commissioner of Health shall schedule a hearing within ten business days of receiving the contestation request.

(d) The Commissioner of Health shall notify the permit holder of the date, time, and location of the hearing at least five business days before the hearing date.

(e) Both parties shall provide the opposing party with a list of proposed witnesses they intend call or subpoena at the hearing.

(f) The Commissioner of Health, or his designee, shall conduct the hearing as the hearing officer.

(g) A full and complete record must be kept of all proceedings, and all testimony shall be reported but need not be transcribed unless the decision is appealed. A copy or copies of the transcript may be obtained by an interested party upon payment of the cost of preparing such copy or copies.

(h) The hearing officer will issue a written decision within ten business days of the hearing detailing the findings of fact, conclusions of law, and any penalties or corrective actions required.

(i) A copy of the written decision will be provided to the permit holder and will include information on the right to appeal the decision, if applicable.”

(b) In section 1435, strike the existing language and insert the following language:

“(a) A permit holder has the right to appeal the decision of the hearing to the Superior Court of the Virgin Islands by an appeal made within 30 days from the issuance of the decision.

(b) The permit holder must file a notice of appeal in writing within ten business days of receiving the decision, stating the grounds for the appeal.”

(c) Strike the existing language in section 1481 and insert the following language:

“(a) Whoever violates any provision of this chapter shall be fined:

(1) not more than \$900 for the first offense.

(2) not more than \$1500 for the second offense.

(3) not more than \$1700 for the third offense.

(4) for the fourth offense, and any subsequent offense, a notice of suspension will be issued to the permit holder in accordance with section 1434, and a fine of not more than \$1700 will be imposed.

(b) In the event of an imminent health hazard, a permit suspension, or a cease-and-desist order for certain operations, may be issued without prior notice. The Environmental Health Division shall designate which operations must cease because of the imminent health hazard.”.”