

**PRESENTATION OF ATTORNEY GENERAL
GORDON C. RHEA
DEPARTMENT OF JUSTICE'S TESTIMONY
THIRTY-SIXTH LEGISLATURE OF THE VIRGIN ISLANDS
IN RE: BILL NO. 36-0123
COMMITTEE ON HOMELAND SECURITY,
JUSTICE AND PUBLIC SAFETY
SEPTEMBER 4, 2025**

Good morning, Chairman Clifford Joseph, Committee on Homeland Security, Justice and Public Safety members, other Senators, Legislative staff, and the listening and viewing audiences. I am Attorney General Gordon Rhea. It is an honor and privilege to appear before you this morning.

The Department of Justice appreciates the opportunity to comment on Bill No. 36-0123. The Department of Justice has completed a preliminary review of Bill No. 36-0123 and offers the following comments.

Bill No. 36-0123 seeks to amend Title 20 of the Virgin Islands Code, Part II, Chapter 43, Subchapter I, Section 493 to make it unlawful for a person who has 0.04 percent or more, by weight, of alcohol in their blood to operate a commercial motor vehicle, and making it unlawful for a person under the age of 21 years, who has any detectable amount of alcohol in their blood, to operate a motor vehicle.

While states work in tandem with the federal government to regulate the transportation of goods across the United States, the standards for commercial transportation are governed by federal law. The Commercial Motor Vehicle Act of 1986 was designed to enhance road safety by creating nationwide guidelines for the testing and licensing of commercial drivers. Additionally, the Act provided the legal framework for later regulations covering alcohol and controlled substance testing for employers and drivers, as well as federal laws limiting the Blood Alcohol Concentration, or BAC, to 0.04 percent for commercial drivers.

Although the testing – and the disqualification – requirements created as a result of the Commercial Motor Vehicle Act of 1986, and enforced by the Federal Motor Carrier Safety Administration, do not specifically apply to U.S. territories, federal laws generally override conflicting state and territorial laws through federal supremacy, a legal principle established through the Supremacy Clause of the U.S. Constitution.¹

Instead of engaging in a debate about which federal statutes are applicable to the Virgin Islands through section 3 of the Revised Organic Act of 1954, let us instead focus on what happens when local laws are compatible with federal

¹ “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” See U.S. Const. art. VI.

legislation.² Although states and territories often have the right to self-govern and make policies independent of external influence, particularly the federal government, jurisdictions often enact laws that align with federal regulations for a number of reasons.³ These reasons include avoiding conflict, ensuring fairness and promoting unity. Because federal law is considered the supreme law of the United States, there is a legitimate interest in making sure territorial laws are not created in conflict with federal statutes, which prevail due to their supremacy. Additionally, by mirroring federal laws, states and territories can help guarantee citizens are treated consistently and fairly, regardless of their location, and reduce confusion by creating unified legal standards.

Although there may be drawbacks to states and territories adopting laws that match federal laws, including the loss of autonomy and the fear of federal overreach, there are no real hinderances to amending the Code to make it unlawful for a person with a BAC of 0.04 percent or higher to operate a commercial motor vehicle within the territory. In fact, there are a number of reasons – other than matching federal law – to enforce a stricter BAC for drivers of commercial vehicles, with enhanced public safety chief among them. Often times, commercial vehicles are significantly larger

² See Revised Organic Act of 1954, § 3, 48 U.S.C. § 1614, reprinted in V.I. CODE ANN., Historical Documents, Organic Acts, and U.S. Constitution at 159-60 (1995)(preceding V.I. CODE ANN. tit. 1).

³ "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." See U.S. Const. art. X.

and heavier than standard passenger cars. As a result, the potential to cause catastrophic damage, including severe injuries and death, with a commercial vehicle is greater.

It is commonly understood that alcohol is a central nervous system depressant, which can slow down brain activity and impair a person's speech, vision, coordination, judgment and reaction time, all of which are vital when operating a commercial vehicle. By reducing the BAC limit for commercial drivers, the territory can help protect the lives and property of its citizens.

Similarly, all states have zero-tolerance laws for underage drivers, reducing the legal BAC for drivers under 21 to 0.02 percent or lower.⁴ The National Minimum Drinking Age Act of 1984 incentivized states to adopt a minimum drinking age of 21 and enforce these zero-tolerance laws by 1988 or risk losing federal highway funds. States had the autonomy to set the reduced BAC limits for drivers under 21 within their boundaries, leading to varying limits between 0.00 and 0.02 percent. The most common BAC limit for drivers under 21 is 0.02 percent, with more than 30 states selecting it as their limit.⁵ The second most preferred BAC for drivers under 21 is 0.00 percent.

⁴ See <https://www.nhtsa.gov/book/countermeasures-that-work/alcohol-impaired-driving/countermeasures/legislation-and-licensing/lower-bac-limits>, last viewed 8/30/2025

⁵ See <https://www.findlaw.com/dui/laws-resources/dui-under-21-laws-by-state.html>, last viewed 8/30/2025

There are no legal concerns with the Legislature making it unlawful for anyone under the age of 21 to drive, operate or be in physical control of a motor vehicle with a detectable amount of alcohol in their system. In fact, doing so makes the territory compliant with the federal standard.

Should this Legislature decide to approve Bill No. 36-0123, the Virgin Islands Department of Justice stands ready to enforce these amendments to the law and prosecute violations.

I thank the Committee for allowing the Department of Justice to testify on Bill No. 36-0123. This concludes my formal remarks, and I welcome any questions you may have.