



36TH LEGISLATURE OF THE VIRGIN ISLANDS
COMMITTEE ON HOMELAND SECURITY, JUSTICE AND PUBLIC SAFETY

The Honorable Senator Clifford A. Joseph,
Chair of Committee

Testimony Presented By
The Honorable Justa E. Encarnacion, RN, BSN, MBA/HCM
Commissioner of Health

on

Bill No. 36-0105 - An act amending Title 7 Virgin Islands Code, Chapter 13, Subchapter III by prohibiting the possession, sale, or manufacture of tetrahydrocannabinolic acid, delta-6 THC, delta-8 THC, and delta-10 THC products in the Virgin Islands and for other related purposes

1 Good day, Honorable Senator Clifford A. Joseph, Chair of the Committee on Homeland
2 Security, Justice and Public Safety; Vice Chair Honorable Senator Ray Fonseca; Committee and
3 non-Committee members; and all those viewing and listening. I am Justa “Tita” Encarnacion,
4 Commissioner for the Virgin Islands Department of Health. Joining me are Assistant
5 Commissioner Dr. Nicole Craigwell-Syms; Deputy Commissioner of Behavioral Health and
6 Substance Use, Renan Steele; and Director of Environmental Health Wanson Harris.

7 We are here to provide testimony on amendments to Bill No. 36-0105, which prohibits the
8 possession, sale, or manufacture of tetrahydrocannabinolic acid (THCA), delta-6 THC, delta-8
9 THC, and delta-10 THC products in the U.S. Virgin Islands.

10 We give recognition to the Environmental Health Division for its continued inspections of high-
11 risk businesses and its commitment to U.S. Food & Drug Administration (FDA) policies and
12 Virgin Islands Department of Health objectives. Their work is vital to keeping our community
13 safe. We also recognize the work of the Behavioral Health and Substance Use Team who cares
14 for and provides emergency intervention to those who experience adverse events associated with
15 the consumption of semi-synthetic cannabinoids derived from hemp. Thank you to the entire
16 Department of Health team for your dedication. We also thank Governor Albert Bryan Jr. and
17 Lieutenant Governor Tregenza A. Roach, Esq. for their continued leadership and support of our
18 mission: *“To Reduce Health Risks, Increase Access to Quality Healthcare, and Enforce Health*
19 *Standards.”*

20 Since our last testimony, the urgency surrounding this legislation has only intensified. Congress
21 recently passed a federal provision that bans nearly all hemp-derived consumer products
22 containing more than 0.4 milligrams of total THC per container. When it takes effect within the
23 next year, this measure will affect approximately 95% of the \$28 billion dollar hemp retail
24 market and more than 300,000 jobs nationwide. Importantly, it begins to address one of our core
25 concerns: the unintended consequences of the 2018 Farm Bill. While that bill legalized hemp
26 under a narrow definition, it created a regulatory gap that manufacturers of synthetic and semi-
27 synthetic cannabinoids quickly exploited.

1 The problem is not hemp itself, which has valid and lawful uses, but the unregulated intoxicating
2 derivatives being sold under its umbrella. Compounds such as delta-8, delta-10, THCA, and
3 delta-6 THC are produced through chemical conversions that can introduce contaminants and
4 dangerous byproducts. These substances generate psychoactive effects equal to or stronger than
5 cannabis, yet they routinely enter the market without oversight, testing requirements, age
6 restrictions, or safe packaging.

7 Reports from the CDC and FDA continue to warn of significant health risks tied to these
8 products, including dizziness, confusion, vomiting, hallucinations, contamination, and accidental
9 poisonings among children. These are often the result of packaging designed to mimic familiar
10 snacks. The long-term risks are even more troubling for adolescents, with research connecting
11 THC exposure to cognitive impairment, addiction, mental health disorders, and conditions such
12 as Cannabinoid Hyperemesis Syndrome. Edible products add an additional layer of danger due to
13 delayed onset and conversion into more potent metabolites, increasing the likelihood of
14 overdose. Many of these items are intentionally manufactured to resemble candy or snack foods,
15 making them particularly appealing to youth. A single accidental ingestion can result in
16 hospitalization or worse. Without clear regulatory standards, these substances circumvent
17 established cannabis safeguards and put children and other vulnerable groups, such as older
18 adults, at significant and avoidable risk.

19 The Virgin Islands Department of Health is prepared to implement Bill 36-0105 through a
20 coordinated, systems-driven approach. Using our existing Food Code authority, we will work in
21 partnership with the Department of Licensing and Consumer Affairs and the Offices of Hemp
22 and Cannabis Regulations to ensure consistent enforcement across the Territory. The
23 Environmental Health Division will incorporate compliance assessments into routine inspections
24 and will embargo prohibited products in accordance with Sections 3-202.12 and 3-201.11. We do
25 not support a grace period of any kind for retailers; immediate enforcement is both aligned with
26 federal requirements and essential to core public health principles. A comprehensive strategy
27 must extend beyond regulation to prevention. Responsible advertising is a critical safeguard, and
28 we urge industry partners and media outlets to refuse marketing practices that glamorize
29 intoxicating products or appeal to youth. Public-facing messaging should reinforce safe, legal,
30 and responsible behavior.

1 Education remains one of our strongest tools for mitigating harm. Through partnerships with
2 schools, community organizations, and healthcare providers, the Department will deliver clear
3 and accessible information on product labeling, safe storage, and early signs of intoxication. This
4 approach ensures that Virgin Islanders, especially young people and families, are informed,
5 protected, and empowered to make safer decisions.

6 According to the U.S. Food and Drug Administration, THCA, delta-6 THC, delta-8 THC, and
7 delta-10 THC are not authorized for use in food of any kind. The FDA has made clear that there
8 is no scientific basis to classify these substances as “generally recognized as safe” (GRAS) or to
9 exempt them from federal food-additive requirements. Apart from three specific hemp-seed
10 ingredients, any food product containing these compounds is considered adulterated and in direct
11 violation of the Federal Food, Drug, and Cosmetic Act. The FDA has already issued multiple
12 warning letters to companies unlawfully marketing food and beverage products with delta-8
13 THC and CBD. Delta-8 THC is explicitly defined as an unapproved food additive, which means
14 any product containing it, or similar derivatives such as delta-10 or THCA, is adulterated under
15 federal law.

16 When these products are identified during routine inspections, the Department of Health has full
17 authority to act. Under Section 8-903.10, inspectors can issue hold orders and immediately
18 coordinate enforcement actions with the Department of Licensing and Consumer Affairs and the
19 Industrial Hemp Commission. No new infrastructure is required. Enforcement simply relies on
20 applying the food-safety tools already in place to protect Virgin Islands families from products
21 linked to more than 2,300 poison control cases nationwide, 41 percent of which involve children.

22 This legislation speaks directly to our responsibility to protect the most vulnerable among us. It
23 prioritizes public health, reduces youth access to intoxicating derivatives, and safeguards healthy
24 brain development during the most critical years. It also acknowledges the broader system-wide
25 strain these products have already created; including rising emergency room visits and
26 hospitalizations that have direct implications for our healthcare resources and our tourism
27 economy. By prohibiting the possession, sale, and manufacture of these substances, this bill
28 offers a decisive, preventive measure, one that strengthens community safety today and reduces
29 long-term dependency risks for future generations.

Beyond enforcement, prevention demands responsible advertising and proactive education. The Department of Health is committed to providing accurate information about the risks of hemp-derived intoxicants and cannabis-related products. We call on industry partners, community organizations, and media to reject marketing that glamorizes these substances or targets youth. Messaging must promote safe, legal, and responsible practices. Education is equally critical. Through school programs, public campaigns, and healthcare partnerships, we will equip Virgin Islanders, especially youth and families, with knowledge on product labeling, safe storage, and recognizing signs of intoxication.

In closing, innovation and economic opportunities cannot outweigh our responsibility to safeguard public health. We respectfully recommend removing the 30-day grace period in its entirety. Even a single day designated as a “grace period” creates unnecessary risk and potential harm for our children and other vulnerable populations. To ensure the strongest protection, implementation, enforcement should take effect immediately upon passage of this legislation.

This legislation provides the balanced approach our Territory needs, supporting economic development while keeping health and safety at the forefront. States such as New York, Colorado, and North Dakota have already moved to restrict or ban synthetic THC derivatives, recognizing the risks these products pose. By moving this bill forward, the Virgin Islands aligns itself with national best practices and reinforces a commitment to evidence-based policymaking. The FDA has not approved delta-8, delta-10, or similar compounds for safe use in any form, which makes timely local action both critical and necessary.

The Virgin Islands Department of Health remains steadfast in its mission to protect residents from preventable harm. By supporting Bill No. 36-0105, the Legislature will meaningfully reduce public-health risks, protect our youth, and strengthen the regulatory safeguards around cannabinoid products. We thank Senator Joseph for his leadership in championing this bill, and we urge the Committee to advance it with an amendment that removes, or significantly shortens, the grace period for retailer compliance. The Department stands ready to collaborate with lawmakers, community partners, and healthcare providers to ensure effective and responsible implementation.

- 1 Members of the Committee, thank you for your time, your diligence, and your commitment to
- 2 the health of the Virgin Islands. We are prepared to answer any questions.