

TESTIMONY OF ATTORNEY GENERAL

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THIRTY-SIXTH LEGISLATURE OF THE VIRGIN ISLANDS

**COMMITTEE ON HOMELAND SECURITY, JUSTICE AND PUBLIC
SAFETY**

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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. 36-0105, as amended. The Department of Justice has reviewed Bill No. 36-0105 and offers the following remarks.

The stated purpose of Bill No. 36-0105 is to amend title 7 of the Virgin Islands Code, chapter 13, subchapter III, to prohibit the possession, sale, or manufacture of tetrahydrocannabinolic acid, delta-6 THC, delta-8 THC and delta-10 THC products in the Virgin Islands.

Although the Department of Justice, Office of the Attorney General, does not have a strong position regarding the implementation of Bill No. 36-0105, as the attorney for the People of the Virgin Islands and the prosecutor of offenses against

the laws of the Virgin Islands, the Department is tasked with enforcing the laws of the United States Virgin Islands as enacted by this legislative body.¹ That includes any laws pertaining to marijuana, hemp, cannabis or other chemical compounds.

The Department of Justice believes it is important to develop and enforce stronger regulations governing cannabis and hemp-derived products, particularly those that pose health risks or harm to minors. As noted in Bill 36-0105, delta-8 and other similar THC products are not currently regulated by the Food and Drug Administration (“FDA”). Without approval from the FDA, it is impossible to know whether products labeled as delta-8 THC are safe for use. Without FDA oversight, complications can occur as a result of inaccurate labeling, contamination or inconsistent potencies. Additionally, because these products are relatively new and research is limited, the long-term health risks associated with these cannabinoids are unknown.

Previously, the Department of Justice testified to its concerns regarding the overlap of certain hemp laws, as codified in title 7 of the Virgin Islands Code, chapter 13, subchapter III, and cannabis laws, which can be found in the Virgin Islands Cannabis Use Act, in title 19 of the Virgin Islands Code, chapter 34, contained in Bill No. 36-0105. Because hemp and cannabis are regulated by differing Code

¹ 3 V.I.C. § 114

sections and two different regulatory bodies, there was confusion about how Bill No. 36-0105 would be implemented, regulated and enforced.

As amended, Bill No. 36-0105 clears up some of that confusion by expanding the number of defined terms and establishing roles for both the Office of Cannabis Regulation (“OCR”) and the Virgin Islands Industrial Hemp Commission, with OCR regulating artificially derived cannabinoid and intoxicating hemp products. The Department of Justice continues to defer to the Office of Cannabis Regulation and the Virgin Islands Industrial Hemp Commission for their guidance on any remaining conflicts.

It should be noted, however, that the federal government funding package signed into law in November included significant revisions to federal hemp policy.² While these changes do not go into effect until November 2026, once they do, they will tighten federal hemp regulations by redefining legal hemp and imposing limits on total THC content per container, effectively banning most hemp-derived consumable products currently on the market. Additionally, the new law requires the FDA to issue specific guidance and provide lists of covered cannabinoids by February 10, 2026. Thus this bill may, at least once the federal provisions become effective, be redundant.

² See H.R. 5371, <https://www.congress.gov/bills/119th-congress/house-bill/5371/text> (last viewed 12/3/25)

Although the one-year implementation window allows time for further legislative modification and possible alternate regulatory frameworks, it may be prudent to monitor the new law and consider legislation that mirrors the federal regulations. While there is some overlap between the new federal law and the language in Bill No. 36-0105, the two are not identical.

For example, the federal law considers total THC content and does not automatically outlaw cannabinoids because they are psychoactive or intoxicating. Instead, only cannabinoids that exceed THC limits or are synthetically altered would be banned. It focuses on THC quantity and bans synthetic or converted cannabinoids federally, while Bill No. 36-0105 would create a local law prohibiting intoxicating hemp products and non-naturally occurring cannabinoids. Bill No. 36-0105 also includes local licensing, permitting and enforcement provisions.

Although federal laws generally override conflicting state and territorial laws through federal supremacy, states and territories also have the freedom to enforce their own laws.^{3 4} Enacting laws that align with federal regulations may assist the

³ “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.

⁴ “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. amend. X.

territory in avoiding conflicts with federal laws, ensuring fairness in application of laws and promoting unified legal standards.

If passed, the proposed legislation would make any cannabinoid that is reasonably likely to cause intoxication, has psychoactive effects, or is marketed as euphoric or intoxicating illegal within the territory. This could include cannabinoids marketed as “relaxing” or “mildly euphoric” and CBD products that are perceived as mood-altering. This appears to conflict with the Territory’s recently position with respect to the sale, use and distribution of cannabis in general.

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The Department of Justice thanks this Legislature for continuing to provide law enforcement with the tools necessary to prevent the possession, sale or manufacture of potentially dangerous cannabinoid products in the territory. Such safeguards are important to protect consumers in the Virgin Islands, and to ensure that any cannabis or hemp-related products sold in the territory are done so in compliance with our legal and public health requirements.

I thank the Committee for allowing the Department of Justice to testify on Bill No. 36-0105, as amended. This concludes my formal remarks. I welcome any questions you may have.