



VIRGIN ISLANDS OFFICE OF CANNABIS REGULATION

TESTIMONY

COMMITTEE ON RULES AND JUDICIARY

36TH LEGISLATURE OF
THE VIRGIN ISLANDS

RE: PROPOSED BILL 36-0105

AN ACT AMENDING TITLE 7 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

PRESENTED BY:
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EXECUTIVE DIRECTOR

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1 Good morning, Senator Carla J. Joseph, Chair of the 36th Legislature's Committee on Rules and
2 Judiciary, other members of this Committee, other members of the 36th Legislature present,
3 fellow testifiers, and the listening and viewing audience. I am Joanne Moorehead, Executive
4 Director of the Virgin Islands Office of Cannabis Regulation (OCR). Thank you for the
5 opportunity to provide testimony before this body with respect to Bill No. 36-0105. This
6 legislation seeks to prohibit the manufacture, possession, and sale of hemp-derived intoxicating
7 cannabinoids such as tetrahydrocannabinolic acid (THCa), delta-6 THC, delta-8 THC, and delta-
8 10 THC within the Virgin Islands.

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10 The Office of Cannabis Regulation appreciates the Legislature's recognition of this emerging
11 challenge and supports the intent behind Bill 36-0105. The proliferation of intoxicating hemp
12 derivatives has created significant public health and consumer safety concerns across the United
13 States, not just the US Virgin Islands. Left unaddressed, these substances can undermine the
14 carefully constructed framework established by the Virgin Islands Cannabis Use Act (Act 8680)
15 and the Office's implementing rules and regulations. By seeking to prohibit unregulated
16 intoxicating hemp products, this bill aims to close a loophole that has placed consumers—
17 particularly young people—at risk, while also protecting the integrity of the regulated cannabis
18 program.

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20 The legal context of the Virgin Islands is important to underscore. When the Cannabis Use Act
21 was enacted, its primary focus was the regulation of cannabis cultivation, processing, and retail
22 distribution within a licensed and monitored framework. The Act envisioned a marketplace that
23 is transparent, safe, and accountable, subject to testing, labeling, and oversight by the Office of

24 Cannabis Regulation. The subsequent adoption of OCR's approved rules and regulations in May
25 of 2024 further advanced these protections, establishing standards for quality control and
26 consumer safety.

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28 Yet neither the Act nor the regulations anticipated the rapid emergence of intoxicating hemp
29 derivatives created through chemical conversion or synthesis. This gap is not unique to the
30 Virgin Islands. The 2018 U.S. Farm Bill, which federally legalized hemp containing no more
31 than 0.3 percent delta-9 THC, similarly did not contemplate the proliferation of intoxicating
32 cannabinoids such as delta-8 THC, delta-10 THC, or THCa products marketed as hemp.
33 Likewise, the Virgin Islands Hemp Bill was designed to promote agricultural and economic
34 opportunities but was not drafted with an eye toward these chemically altered cannabinoids that
35 exploit definitional loopholes.

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37 It is also important to note that the calculation of total THC concentration under the federal Farm
38 Bill is based on the sum of delta-9 THC and the potential conversion of THCa to delta-9 THC
39 through decarboxylation, expressed as total THC = (delta-9 THC) + (THCa × 0.877). However,
40 this formula is not applied uniformly across the United States. Some states have adopted the total
41 THC standard as required by the U.S. Department of Agriculture's final rule for hemp testing,
42 while others continue to rely solely on delta-9 THC concentration. This inconsistency has created
43 additional regulatory uncertainty and variation in enforcement from one jurisdiction to another.
44 In some states, hemp products with high THCa content but low delta-9 THC are considered
45 compliant, while in others they are treated as marijuana. This lack of uniformity complicates
46 enforcement and consumer understanding and underscores the importance of clearly defining

47 testing and compliance standards within the Virgin Islands' legislation.

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49 As a result, products containing delta-8 THC, delta-10 THC, and similar compounds are now
50 widely available in mainland markets and have begun to appear in the Virgin Islands and other
51 Caribbean jurisdictions, often sold in forms such as candies, gummies, and vapes that oftentimes
52 are packaged in a way that particularly appeal to youth.

53 These products pose several risks. First, they are largely manufactured outside of regulated
54 systems, meaning that quality control, accurate labeling, and laboratory testing are inconsistent
55 or absent. Studies in other states have shown that many delta-8 products contain contaminants,
56 residual solvents, or higher-than-advertised levels of THC. Second, because they are often
57 marketed under the guise of "hemp" or "CBD," consumers may mistakenly assume they are
58 benign, while in reality they are intoxicating. Third, their unregulated sale undercuts the
59 legitimate, licensed cannabis industry, creating an uneven playing field and reducing potential
60 revenue to the territory. Finally, and perhaps most importantly, they have proven accessible to
61 minors in ways that would be strictly prohibited under OCR's rules for cannabis dispensaries.

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63 It is also necessary to address specifically the bill's reference to tetrahydrocannabinolic acid
64 (THCa). THCa is not a synthetic or artificially converted cannabinoid. Rather, it is the naturally
65 occurring acidic precursor to delta-9 THC found in raw cannabis plants. In its natural state,
66 THCa is non-intoxicating because it does not readily bind to cannabinoid receptors in the brain.
67 Only when exposed to heat—through smoking, vaping, or baking into edibles—does THCa
68 undergo decarboxylation, the chemical reaction that removes a carboxyl group and converts it
69 into delta-9 THC, the compound responsible for intoxication.

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71 This distinction is particularly important given the emergence of “THCa flower” now being sold
72 in hemp retail outlets both in the mainland United States and, increasingly, within the Virgin
73 Islands. These products are marketed and labeled as legal hemp because their measured delta-9
74 THC concentration remains below the 0.3 percent threshold prior to combustion. However, this
75 classification is misleading. When such products are consumed through smoking, vaping, or
76 other methods of heating, the THCa contained in the flower decarboxylates into delta-9 THC,
77 producing the same psychoactive and intoxicating effects as cannabis flower sold under the
78 regulated market. In practical terms, the consumer is not ingesting THCa in its inert, non-
79 psychoactive form, but rather consuming THC that results directly from the heating process.

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81 Because THCa flower can be sold under the guise of hemp while delivering the same
82 pharmacological effect as regulated cannabis, it has become a primary vehicle for circumventing
83 cannabis regulations across the United States. Compounding this issue is a broader analytical
84 loophole in current hemp testing protocols, which often measure only delta-9 THC content when
85 determining compliance. In practice, these testing methods frequently exclude other
86 psychoactive THC variants and precursors—such as THCa, delta-8 THC, delta-10 THC, and
87 THC-O—that may be present in significant concentrations. As a result, products marketed as
88 compliant hemp can still contain substantial total THC potential once all cannabinoid forms are
89 considered, undermining the intent of both the federal Farm Bill and state or territorial cannabis
90 regulations. Retailers exploit the definitional gap in federal and state hemp statutes—relying on
91 pre-decarboxylation testing methods that measure only delta-9 THC—to market psychoactive
92 cannabis products outside of licensed systems. The same loophole has begun to appear locally,

93 posing a challenge to both consumer safety and fair market oversight. A prohibition on THCa
94 that fails to distinguish between naturally occurring THCa within licensed cannabis and hemp-
95 labeled products intentionally sold for intoxication could inadvertently penalize legitimate
96 operators and undermine the regulated cannabis framework established under Act 8680.
97 Accordingly, the regulation of THCa should be approached with nuance, ensuring that
98 enforcement targets unregulated intoxicating products while preserving the lawful, controlled
99 handling of THCa within the licensed cannabis supply chain.

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101 The Virgin Islands is not alone in confronting this problem. Numerous U.S. states have acted
102 decisively in recent years. States such as Alaska, Arizona, Arkansas, Delaware, Hawaii, Idaho,
103 and both North and South Dakota have moved to prohibit intoxicating hemp derivatives entirely,
104 classifying them as controlled substances. Others, such as Colorado, Minnesota, and Iowa, have
105 chosen instead to regulate these products by imposing strict potency caps, limiting per-serving
106 THC content, or banning chemical conversion processes altogether. In states like California and
107 Colorado, intoxicating hemp cannabinoids may only be sold within the licensed cannabis system,
108 thereby subjecting them to the same rigorous oversight as cannabis products. Some jurisdictions,
109 such as Minnesota, have also implemented a sales tax on hemp-derived intoxicating cannabinoid
110 products, directing revenue toward regulation and public health education, illustrating a further
111 policy tool available to governments beyond prohibition or potency limits. These examples
112 demonstrate that there is no single approach but rather a spectrum of regulatory responses, all
113 motivated by the need to protect public health and close regulatory gaps.

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115 Bill 36-0105, as drafted, aligns most closely with those jurisdictions that have opted for outright

116 prohibition. This approach has several merits. It sends a clear message that intoxicating hemp
117 products have no place in the Virgin Islands' unregulated marketplace. It also protects the
118 integrity of Act 8680 by preventing the emergence of a shadow industry that circumvents OCR
119 oversight. Moreover, it positions the Virgin Islands alongside a growing number of states that
120 have acted to protect consumers from unsafe and misleadingly marketed products.

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122 At the same time, outright prohibition carries risks that merit the Committee's attention. Because
123 federal law defines hemp by its delta-9 THC content, manufacturers have often argued that
124 products containing delta-8 or delta-10 remain federally lawful so long as delta-9 content
125 remains below 0.3 percent. Courts in some jurisdictions have entertained these arguments,
126 raising the possibility of legal challenges. Enforcement also poses practical difficulties:
127 identifying prohibited cannabinoids requires laboratory testing, which entails costs and technical
128 capacity that the territory must be prepared to support. A total ban may also drive demand into
129 the underground market, where risks are even higher. And without careful drafting, broad
130 prohibitions risk sweeping in benign non-intoxicating hemp products, such as CBD, hemp seed
131 oil, or industrial fiber applications, which are not the target of this legislation. In particular, the
132 inclusion of naturally occurring THCa in the prohibition would create a direct conflict with the
133 cannabis program, given that THCa is integral to all cannabis cultivation and sale regulated
134 under OCR. Moreover, because THCa is naturally present in virtually all cannabis flower,
135 prohibiting it outright would not only create contradictions in enforcement but also potentially
136 undermine the regulated cannabis market itself. This makes outright prohibition an imprudent
137 approach unless carefully carved to distinguish between regulated cannabis products and
138 unregulated intoxicating hemp products.

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140 For these reasons, the Office respectfully recommends that the Legislature consider refinements
141 to the bill. The statutory definitions of prohibited substances should be clear and precise,
142 distinguishing between intoxicating cannabinoids produced through chemical conversion and
143 naturally occurring, non-intoxicating hemp derivatives. Safe harbors for CBD and other non-
144 psychoactive hemp uses should be explicitly included. The bill might also provide for a
145 regulatory pathway—should the Legislature wish to allow it—for intoxicating hemp products to
146 be sold only under OCR’s licensed cannabis framework, subject to the same safeguards of
147 testing, labeling, age restrictions, and taxation that govern cannabis. Such an approach would
148 give the territory flexibility while ensuring that consumer protection remains paramount.

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150 To further strengthen enforcement and clarity, OCR also recommends the adoption of
151 standardized total THC testing protocols within the Virgin Islands. These protocols should
152 calculate total THC by combining the measured delta-9 THC concentration with the potential
153 conversion of THCa and other psychoactive variants, consistent with the USDA’s total THC
154 formula ($\text{Total THC} = \Delta 9\text{-THC} + (\text{THCa} \times 0.877)$). Establishing a consistent, science-based
155 testing methodology would align the territory with best practices adopted in several U.S.
156 jurisdictions and ensure that all intoxicating potential is measured uniformly. This approach
157 would close the analytical loophole that allows products rich in THCa or other cannabinoid
158 isomers to be misclassified as legal hemp, thereby improving enforcement integrity, consumer
159 transparency, and market stability.

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161 Finally, OCR recommends that the Legislature provide for adequate enforcement resources,

162 including access to laboratory testing and coordination among OCR, law enforcement, and the
163 Department of Health. The inclusion of legislative findings describing the public health rationale
164 and the necessity of the prohibition would also strengthen the bill's defensibility against legal
165 challenge. Consideration might also be given to a sunset clause or mandatory review period,
166 ensuring that the policy is re-examined as science, market conditions, and federal law evolve.

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168 In closing, the Office of Cannabis Regulation affirms the importance of Bill 36-0105 as a
169 proactive step to protect the health and safety of Virgin Islanders, particularly young people, and
170 to preserve the integrity of the regulated cannabis program. With the refinements suggested, the
171 legislation will provide the territory with a clear, enforceable, and balanced framework for
172 addressing intoxicating hemp products. The Office thanks the bill sponsors for this legislation
173 and stands ready to continue working closely with them to support the Legislature with technical
174 drafting assistance, stakeholder engagement, and regulatory implementation.

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176 Thank you for your attention, and for the opportunity to again share testimony on behalf of the
177 OCR regarding Bill 36-0105. I welcome any questions the Committee may have.