



**THE UNITED STATES VIRGIN ISLANDS**

OFFICE OF THE GOVERNOR  
GOVERNMENT HOUSE

Charlotte Amalie, V.I. 00802  
340-774-0001

OFFICE OF THE  
SENATE PRESIDENT  
16 FEB -2 PM 7:21  
SENATOR  
NEVILLE A. JAMES

February 1, 2016

**Via Messenger**

Hon. Neville James  
Senate President  
31<sup>st</sup> Legislature of the Virgin Islands  
Legislature of the Virgin Islands  
Capitol Building  
St. Thomas, U.S. Virgin Islands 00802

**Re: Governor's Recommended Bills to Provide for Recycling, Waste Reduction, Source Separation, and Banning of Plastic Bags.**

Dear Mr. President:

Enclosed are three (3) bills I am submitting to the 31<sup>st</sup> Legislature of the Virgin Islands to provide for (1) Regulation of Plastic Bags provided to customers; (2) Establishment of a Comprehensive Waste Reduction, Recycling, and Composting Program; and (3) Establishing Source Separation to protect the environment and to manage the solid waste stream in the Territory.

The enclosed bills are hereby transmitted for legislative review and action. Each bill focuses on a different aspect of solid waste recycling which will allow the Territory to move forward with viable alternatives to our current solid waste management strategy and ultimately encourage waste minimization.

While these bills introduce significant changes to long-standing practices that have been in place for decades, much of what is being proposed has already been implemented on a national level and has proven to be quite successful. It is a matter of raising awareness among businesses and the people of the Virgin Islands in order to effectively implement these changes in the Territory. The end result will be a significant reduction in the amount of waste going into our landfills, an increased effort towards recycling of our natural resources, and the creation of a source of revenue to further promote recycling.

To that end, all 3 pieces of legislation contain a public education component. It is recognized that in order for us to transition from what has been accepted as the standard to something that will be beneficial to the Territory in every respect, we will need to utilize various avenues of communication to raise public awareness as well as to foster a spirit of cooperation.

The Source Separation bill, in particular focuses on a comprehensive overhaul of our solid waste management and disposal practices. It will require a level of effort on everyone's part to segregate our various waste streams and divert recyclables from the landfills so that recycling is fully achieved.

The Plastic Bag Regulation bill essentially requires businesses and organizations to utilize reusable bags or biodegradable plastic bags that meet certain standards. Although the use of plastic bags will still be allowed, for the most part, we will move towards eliminating plastic bags at the point of sale checkouts.

Consistent with the aforementioned bills, the VI Recycling bill imposes requirements on the retailers and distributors of beverage containers that have been perpetually discarded in our landfills. In lieu of disposal, each container will have a redemption value, and retailers will need to allocate funds for the redemption program. A tracking and reporting system will also be developed to ensure that any product entering the Territory will meet the labeling and redemption requirements.

It is time for us, as a community, to seek alternative methods of handling our solid wastes that are both beneficial to the environment as well as to our economy. These bills attempt to achieve this, and also establish sources of revenue to maintain the process.

Accordingly, I respectfully request that the Legislature take immediate action on these bills and give it favorable consideration so that the Territory can move forward in protecting the environment from the hazards caused by lack of efficient, effective, and environmentally sound recycling and waste reduction policies.

Sincerely,



Kenneth E. Mapp  
Governor

*Enclosures*

**BILL NO. 31- \_\_\_\_\_**

**THIRTY-FIRST LEGISLATURE OF THE VIRGIN ISLANDS  
OF THE UNITED STATES OF AMERICA**

**REGULAR SESSION**

**2016**

An Act to create a new Subchapter II within Title 29, Chapter 8 of the Virgin Islands Code to establish a comprehensive waste reduction, recycling, and composting program in the Virgin Islands of the United States.

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**PROPOSED BY THE GOVERNOR**

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**WHEREAS**, litter composed of discarded beverage containers, paper, foam containers, and other solid waste is a growing problem of Territorial concern and a direct threat to the health and safety of the residents of the Territory;

**WHEREAS**, discarded beverage containers, paper, foam containers, and other solid waste create a hazard to vehicular traffic, a source of physical injury to pedestrians and farm animals, a hazard to farm and other machinery, and constitutes an unsightly accumulation which must be disposed of at increasing public expense;

**WHEREAS**, discarded beverage containers, paper, foam containers, and other solid waste finds its way into our sea and other natural resources;

**WHEREAS**, discarded beverage containers, paper, foam containers, and other solid waste create an unnecessary addition to the Territory's already overburdened solid waste and refuse disposal systems;

**WHEREAS**, unsegregated disposal of such beverage containers, paper, foam containers, and other solid waste create an impediment to the efficient operation of resource recovery plants;

**WHEREAS**, the uninhibited discard of beverage containers, paper, foam containers, and other solid waste constitute a waste of both mineral and energy resources;

**WHEREAS**, requiring a deposit on all beverage containers, along with certain other facilitating measures, will provide a necessary incentive for the economically efficient and environmentally beneficial collection and recycling of such containers;

**WHEREAS**, compost has the ability to help regenerate poor soils and has been shown to suppress plant diseases and pests, reduce or eliminate the need for chemical fertilizers, and promote higher yields of agricultural crops;

**WHEREAS**, the composting process has been shown to absorb odors and treat semivolatile and volatile organic compounds (VOCs), including heating fuels;

**WHEREAS**, the composting process has been shown to bind heavy metals and prevent them from migrating to water resources or being absorbed by plants;

**WHEREAS**, composting organic materials that have been diverted from landfills ultimately avoids the production of methane and leachate formulation in landfills;

**WHEREAS**, compost has the ability to prevent pollutants in stormwater runoff from reaching surface water resources;

**WHEREAS**, using compost can reduce the need for water, fertilizers, and pesticides;

**WHEREAS**, compost is a low-cost alternative to standard landfill cover and artificial soil amendments; and it provides a less costly alternative to conventional methods of remediating contaminated soil;

**WHEREAS**, to carry out the purpose of this Act, additional sections to Title 29, Virgin Islands Code, pursuant to the Virgin Islands Waste Management Authority and the rules and regulations of the Virgin Islands Department of Planning and Natural Resources are warranted;

*Now, Therefore, Be It Enacted By The Legislature Of The Virgin Islands:*

**SECTION 1.** Title 29, Virgin Islands Code, Chapter 8 is hereby amended by adding a Subchapter II to read as follows:

**SUBCHAPTER II**

**VIRGIN ISLANDS BOTTLING RECYCLE LAW**

**§ 501. DEFINITIONS.**

Whenever used in this title:

1. “Authority” means the Virgin Islands Waste Management Authority.
2. “Beverage” means carbonated soft drinks, water, beer, other malt beverage, and a wine product. “Malt Beverages” means any beverage obtained by the alcoholic fermentation or infusion or decoction of barley, malt, hops, or other wholesome grain or cereal and water including, but not limited to ale, stout or malt liquor. “Water” means any beverage identified through the use of letters, words or symbols on its product label as a type of water, including any flavored water or nutritionally enhanced water, provided, however, that “water” does not include any beverage identified as a type of water to which sugar has been added.
3. “Beverage Container” means the individual, separate, sealed glass, metal, aluminum, steel or plastic bottle, can or jar for containing less than one gallon or 37.8 liters at the time
4. “Bottler” means a person, firm or corporation who:
  - a. bottles, cans or otherwise packages beverages in beverage containers except that if such packaging is for any other person, firm or corporation having the right to

bottle, can or otherwise package the same brand of beverage, then such other person, firm or corporation shall be the bottler; or

- b. imports filled beverage containers into the United States.
5. "Commissioner" means the Commissioner of the Department of Planning and Natural Resources.
  6. "Dealer" means every person, firm or corporation who engages in the sale of beverages in beverage containers to a consumer for off premises consumption in this Territory.
  7. "Department" means the Department of Planning and Natural Resources.
  8. A "Deposit Initiator" for each beverage container for which a refund value is established under section 502 of this title means:
    - a. The bottler of the beverage in such container;
    - b. The distributor of such container if such distributor's purchase of such container was not, directly or indirectly, from a registered deposit initiator;
    - c. A dealer of such container who sells or offers for sale such container in this Territory, whose purchase of such container was not, directly or indirectly, from a registered deposit initiator; or
    - d. An agent acting on behalf of a registered deposit initiator.
  9. "Distributor" means any person, firm or corporation which engages in the sale or offer for sale of beverages in beverage containers to a dealer.
  10. "Place of Business" means the location at which a dealer sells or offers for sale beverages in beverage containers to consumers.

11. “Redeemer” means every person who demands the refund value provided for herein in exchange for the empty beverage container, but shall not include a dealer as defined in subsection (6) of this section.
12. “Redemption Center” means any person offering to pay the refund value of an empty beverage container to a redeemer, or any person who contracts with one or more dealers or distributors to collect, sort and obtain the refund value and handling fee of empty beverage containers for, or on behalf of, such dealer or distributor under the provisions of paragraph 11 of Section 503 of this subchapter.
13. “Use or Consumption” means the exercise of any right or power incident to the ownership of a beverage, other than the sale or the keeping or retention of a beverage for the purpose of sale.
14. “Ship” or “Ships” means any ocean going vessel used to carry passengers or freight in interstate or foreign commerce.
15. “Reverse Vending Machine” means an automated device that uses a laser scanner, microprocessor, or other technology to accurately recognize the universal product code (“UPC”) on containers to determine if the container is redeemable and accumulates information regarding containers redeemed, including the number of such containers redeemed, thereby enabling the reverse vending machine to accept containers from redeemers and to issue a scrip or receipt for their refund value.
16. “Universal Product Code” or “UPC Code” means a standard for encoding a set of lines and spaces that can be scanned and interpreted into numbers to identify a product. Universal Product Code may also mean any accepted industry barcode which replaces the UPC code including EAN and other codes that may be used to identify a product.

**§502. Refund Value.**

No person shall sell or offer for sale a beverage container in this Territory unless the deposit on such beverage container is or has been collected by a registered deposit initiator and unless such container has a refund value of not less than five cents which is clearly indicated thereon as provided in section 505 of this title.

**§503. Mandatory Acceptance.**

Except as provided in section (refusal of acceptance) of this title:

1(a) A dealer shall accept at his or her place of business from a redeemer any empty beverage containers of the design, shape, size, color, composition and brand sold or offered for sale by the dealer, and shall pay to the redeemer the refund value of each such beverage container as established in section 505 of this title. Redemptions of refund value must be in legal tender, or a scrip or receipt from a reverse vending machine, provided that the scrip or receipt can be exchanged for legal tender for a period of not less than sixty days without requiring the purchase of other goods. The use or presence of a reverse vending machine shall not relieve a dealer of any obligations imposed pursuant to this section. If a dealer utilizes a reverse vending machine to redeem containers, the dealer shall provide redemption of beverage containers when the reverse vending machine is full, broken, under repair or does not accept a type of beverage container sold or offered for sale by such dealer and may not limit the hours or days of redemption except as provided subsection (3) of this section.

(b) Beginning January 1, 2017, a dealer whose place of business is part of a chain engaged in the same general field of business which operates two or more units in this Territory under common ownership and whose business has at least:



- (i) less than ten thousand square feet devoted to the display of merchandise for sale to the public shall install and maintain at least two reverse vending machines at the dealer's place of business;
- (ii) ten thousand, but less than twenty thousand square feet devoted to the display of merchandise for sale to the public shall install at least three reverse vending machines at the dealer's place of business; or
- (iii) greater than twenty thousand square feet devoted to the display of merchandise for sale to the public shall install and maintain at least four reverse vending machines at the dealer's place of business.

The requirements to this paragraph to install and maintain reverse vending machines shall not apply to a dealer that sells only refrigerated beverage containers of twenty ounces or less where each beverage container is sold as an individual container that is not connected to or packaged with any other beverage container.

(c) a dealer to which paragraph (b) of this subdivision does not apply and whose place of Business is at least forty thousand square feet which does not utilize reverse vending machines to process empty beverage containers for redemption shall:

- (i) Establish and maintain a dedicated area within such business to accept beverage containers for redemption;
- (ii) Adequately staff such area to facilitate efficient acceptance and processing of such containers during business hours; and
- (iii) Post one or more conspicuous signs conforming to the size and color requirements described in subdivision 2 of this section at each public entrance to the business which describes where in the business the redemption area is located. The

Commissioner may establish in rules and regulations additional standards for the efficient processing of beverage containers by such dealers.

(d) For purposes of this subsection on any day that a dealer is open for less than twenty-four hours, the dealer may restrict or refuse the payment of refund value during the first and last hour the dealer is open for business.

2. A dealer shall post a conspicuous sign, at the point of sale, that states:

“U.S. VIRGIN ISLANDS BOTTLE BILL OF RIGHTS  
TERRITORIAL LAW REQUIRES US TO REDEEM EMPTY RETURNABLE BEVERAGE  
CONTAINERS OF THE SAME TYPE AND BRAND THAT WE SEEL OR OFFER FOR  
SALE

YOU HAVE CERTAIN RIGHTS UNDER THE VIRGIN ISLANDS TERRITORIAL  
RETURNABLE CONTAINER ACT:

THE RIGHT to return your empties for refund to any dealer who sells the same brand, type and size, whether you bought the beverage from a dealer or not. It is not illegal to return containers for refund that you did not pay a deposit on in the U.S. Virgin Islands.

THE RIGHT to get your deposit refund in cash, without proof of purchase.

THE RIGHT to return your empties any day, any hour, except for the first and last hour of the dealer’s business day (empty containers may be redeemed at any time in 24-hour stores).

THE RIGHT to return your containers if they are empty and intact. Washing containers is not required by law, but is strongly recommended to maintain sanitary conditions.

The Virgin Islands territorial returnable container act can be enforced by the Virgin Islands Department of Public Works, the Virgin Islands Waste Management Authority, the Virgin Islands Department of Planning and Natural Resources, the Virgin Islands Department of

Agriculture, the Virgin Islands Bureau of Internal Revenue, the Virgin Islands Department of Licensing and Consumer Affairs, and the Virgin Islands Department of Justice.”

Such sign must be no less than eight inches by ten inches in size and have lettering a minimum of one quarter inch high, and of a color which contrasts with the background. The Department of Consumer and Licensing Affairs shall maintain a toll free telephone number for a “bottle bill complaint line” that shall be available each business day to receive reports of violations of this subchapter as determined through rules and regulations issued by the Department of Licensing and Consumer Affairs. The telephone number shall be listed on any sign required by this section.

3. On or after January 1, 2018, a dealer may limit the number of empty beverage containers to be accepted for redemption at the dealer’s place of business to no less than seventy-two containers per visit, per redeemer, per day, provided that:

(a) the dealer has a written agreement with a redemption center, be it either at a fixed physical location within one half mile of the dealer’s place of business, or a mobile redemption center, operated by a redemption center, that is located within one-quarter mile of the dealers place of business. The redemption center must have a written agreement with the dealer to accept containers on behalf of the dealer; and the redemption center hours of operation must cover at least 9:00 a.m. to 7:00 p.m. daily or in the case of a mobile redemption center, the hours of operation must cover at least four consecutive hours between 8:00 a.m. and 8:00 p.m. daily. The dealer must post a conspicuous, permanent sign, meeting the size and color specifications set forth in subdivision two of this section, open to public view, identifying the location and hours of operation of the affiliated redemption center or mobile redemption center; and

(b) The dealer provides, at a minimum, a consecutive two hour period between 7:00 a.m. and 7:00 p.m. daily whereby the dealer will accept up to two hundred forty containers, per redeemer, per day, and posts a conspicuous, permanent sign, meeting the size and color specifications set forth in subdivision two of this section, open to public view, identifying those hours. The dealer may not change the hours of redemption without first posting a thirty-day notice; and

(c) The dealer's primary business is the sale of food or beverages for consumption off-premises, and the dealer's place of business is less than ten thousand square feet in size.

4. A deposit initiator shall accept from a dealer or operator of a redemption center any empty beverage container of the design, shape, size, color, composition and brand sold or offered for sale by the deposit initiator, and shall pay the dealer or operator of a redemption center the refund value of each such beverage container as established by section 502 of this title. A deposit initiator shall accept and redeem all such empty beverage containers from a dealer or redemption center without limitation on quantity.

5. A deposit initiator's or distributor's failure to pick up empty beverage containers, including containers processed in a reverse vending machine, from a redemption center, dealer or the operator of a reverse vending machine, shall be a violation of this title.

6. In addition to the refund value of a beverage container as established by section 503 of this title, a deposit initiator shall pay to any dealer or operator of a redemption center a handling fee of three and one half cents for each beverage container accepted by the deposit initiator from such dealer or operator of a redemption center. Payment of the handling fee shall be as compensation for collecting, sorting, and packaging of empty beverage containers for transport back to the deposit initiator or its designee. Payment of handling fee may not be conditioned on the purchase of any goods or services, nor may such payment be made out of the refund value

account established pursuant to section 506 deposit and disposition of refund values; registration; reports) of this title. A distributor who does not initiate deposits on a type of beverage container is considered a dealer only for the purpose of receiving a handling fee from a deposit initiator.

7. A deposit initiator on a brand shall accept from a distributor who does not initiate deposits on that brand any empty beverage containers of that brand accepted by the distributor from a dealer or operator of a redemption center and shall reimburse the distributor the refund value of each such beverage container, as established in section 502 of this title. In addition, the deposit initiator shall reimburse such distributor for each such beverage container the handling fee established under subdivision (6) of this section. Without limiting the rights of the department or any person, firm or corporation under this subdivision or any other provision of this section, a distributor shall have a right to a civil cause of action to enforce this subdivision, including, upon three days' notice, the right to apply for temporary and preliminary injunctive relief against continuing violations, and until arrangements for collection and return of empty containers or reimbursement of such distributor for such deposits and handling fees are made.

8. It shall be the responsibility of the deposit initiator or distributor to provide to a dealer or redemption center a sufficient number of bags, cartons, or other suitable containers, at no cost, for the packaging, handling, and pickup of empty beverage containers that are not redeemed through a reverse vending machine. The bags, cartons, or containers must be provided by the deposit initiator or distributor on a schedule that allows the dealer or redemption center sufficient time to sort the empty beverage containers prior to pick up by the deposit initiator or distributor:

In addition:

- (a) When picking up empty beverage containers, a deposit initiator or distributor shall require a dealer or redemption center to load their own bags, cartons, or containers onto

or into the deposit initiator's or distributor's vehicle or vehicles or provide the staff or equipment needed to do so.

(b) A deposit initiator or distributor shall not require empty containers to be counted at a location other than the redemption center or dealer's place of business. The dealer or redemption center shall have the right to be present at the count.

(c) A deposit initiator or distributor shall pick up empty beverage containers from the dealer or redemption center at reasonable times and intervals as determined in rules and regulations promulgated by the department.

9. No person shall return or assist another to return to a dealer or redemption center an empty beverage container for its refund value if such container had previously been accepted for redemption by a dealer, redemption center, or deposit initiator who initiates deposits on beverage containers of the same brand.

10. A redeemer, dealer, distributor, or redemption center shall not knowingly redeem an empty beverage container on which a deposit was never paid in the Territory of the Virgin Islands of the United States.

11. Notwithstanding the provisions of subdivision (2) of section 504 of this title, a deposit initiator or distributor shall accept and redeem beverage containers as provided in this title, if the dealer or operator of a redemption center shall have accepted and paid the refund value of such beverage containers.

12. No person shall intentionally program, tamper with, render inaccurate, or circumvent the proper operation of a reverse vending machine to wrongfully elicit deposit monies when no valid, redeemable beverage container has been placed in and properly processed by the reverse vending machine.

**§504. REFUSAL OF ACCEPTANCE.**

1. A dealer or operator of a redemption center may refuse to accept from a redeemer, and a deposit initiator or distributor may refuse to accept from a dealer or operator of a redemption center any empty beverage container which does not state thereon a refund value as established under section 502 of this title.
2. A dealer or operator of a redemption center may also refuse to accept any broken bottle, corroded, crushed or dismembered container, or any beverage container which contains a significant amount of foreign material, as determined in rules and regulations to be promulgated by the Commissioner.

**§505. BEVERAGE CONTAINER REQUIREMENTS.**

1(a). Every beverage container sold or offered for sale in this Territory shall clearly indicate by permanently making or embossing the container or by printing as part of the product label the refund value of the container and the words "U.S. Virgin Islands" or the letters "USVI".

(b) Such embossing or permanent imprinting on the beverage container shall be the responsibility of the person, firm or corporation which bottles, cans or otherwise fills or packages a beverage container or a brand owner for whose exclusive account private label beverages are bottled, canned or otherwise packaged; provided, however, that the duly authorized agent of any such person, firm or corporation may indicate such refund value by a label securely affixed on any beverage container containing beverages imported into the United States. Private label beverages shall be defined as beverages

purchased from a bottler in beverage containers bearing a brand name or trademark for sale at retail directly by the owner or licensee of such brand name or trademark; or through retail dealers affiliated with such owner or licensee by a cooperative or franchise agreement.

2. No deposit initiator, distributor or dealer shall sell or offer for sale, at wholesale or retail in this territory, any metal beverage container designed and constructed with a ring or tab which is detachable in opening the container unless such detachable part will decompose by photodegradation or biodegradation.

3. No deposit initiator, distributor or dealer shall sell or offer for sale in this territory beverage containers connected to each other by a separate holding device constructed of plastic which does not decompose by photodegradation or biodegradation.

**§ 506. DEPOSIT AND DISPOSITION OF REFUND VALUES; REGISTRATION; REPORTS.**

1. Each deposit initiator shall deposit in a refund value account an amount equal to the refund value initiated under section 502 of this title which is received with respect to each beverage container sold by such deposit initiator. Such deposit initiator shall hold the amounts in the refund value account in trust for the Territory. A refund value account shall be an interest-bearing account established in a banking institution located in this Territory, the deposits in which are insured by an agency of the federal government. Deposits of such amounts into the refund value account shall be made not less frequently than every five business days. All interests, dividends and returns earned on the refund value account shall be paid directly into said account. The monies in such accounts shall be kept separate and apart from all other monies in



possession of the deposit initiator. The Director of the Virgin Islands Bureau of Internal Revenue may specify a system of accounts and records to be maintained with respect to accounts established under this subdivision.

2. Payments of refund values pursuant to section 503 of this title shall be paid from each deposit initiator's refund value account. No other payment or withdrawal from such account may be made except as prescribed by this section.
3. Each deposit initiator shall file quarterly reports with the Director of the Virgin Islands Bureau of Internal Revenue on a form and in a manner prescribed by such Director. The Director of the Virgin Islands Bureau of Internal Revenue may require such reports to be filed electronically. The quarterly reports required by this subdivision shall be filed for the quarterly periods ending on the last day of May, August, November, and February of each year, and each such report shall be filed within twenty days after the end of the quarterly period covered thereby. Each such report shall include all information such Director shall determine appropriate including but not limited to the following information:
  - a. The balance in the refund value account at the beginning of the quarter for which the report is prepared;
  - b. All such deposits credited to the refund value account and all interest, dividends or returns received on such account, during such quarter;
  - c. All withdrawals from the refund value account during such quarter, including all reimbursements paid pursuant to subdivision (2) of this section, all service charges on the account, and all payments made pursuant to subdivision (4) of this section; and

- d. The balance in the refund value account at the close of such quarter.
4. (a) Quarterly Payments. An amount equal to eighty percent of the balance outstanding in the refund value account at the close of each quarter shall be paid by the Director of the Virgin Islands Bureau of Internal Revenue at the time the report provided for in subdivision (3) of this section is required to be filed. The Director of the Virgin Islands Bureau of Internal Revenue may require that the payments be made electronically. The remaining twenty percent of the balance outstanding at the close of each quarter shall be the monies of the deposit initiator and may be withdrawn from such account by the deposit initiator. If the provisions of this section with respect to such account have not been fully complied with, each deposit initiator shall pay to the Director of the Virgin Islands Bureau of Internal Revenue at such time, in lieu of the amount described in the preceding sentence, an amount equal to the balance which would have been outstanding on such date had such provisions been fully complied with. The Director of the Bureau of Internal Revenue may require that payments be made electronically.
- (b) Refund Value Account Shortfall. In the event a deposit initiator pays out more in refund values than it collects in deposits of refund values during the course of a quarterly period as described in subdivision (3) of this section, the deposit initiator may apply to the Director of the Virgin Islands Bureau of Internal Revenue for a refund of the amount of such excess payment of refund values from sources other than the refund value account, in the manner as provided by the Director of the Virgin Islands Bureau of Internal Revenue. A deposit initiator must apply for a refund no later than twelve months after the due date for filing the quarterly report for the

quarterly period for which the refund claim is made. No interest shall be payable for any refund paid pursuant to this paragraph.

(c) Final Report. A deposit initiator who ceases to do business in this territory as a deposit initiator shall file a final report and remit payment of eighty percent of all amounts remaining in the refund value account as of the close of the deposit initiator's last day of business. The Director of the Virgin Islands Bureau of Internal Revenue may require that the payments be made electronically. The deposit initiator shall indicate on the report that it is a "final report". The final report is due to be filed twenty days after the close of the quarterly period in which the deposit initiator ceases to do business. In the event the deposit initiator pays out more in refund values than it collects in such final quarterly period, the deposit initiator may apply to the Director of the Virgin Islands Bureau of Internal Revenue for a refund of the amount of such excess payment of refund values from sources other than the refund value account, in the manner as provided by the Director of the Virgin Islands Bureau of Internal Revenue.

5. All monies collected or received by the Virgin Islands Bureau of Internal Revenue pursuant to this title shall be deposited to the credit of the Commissioner of Finance. Such deposits shall be kept separate and apart from all other monies in the possession of the Commissioner of Finance. The Commissioner of Finance shall require adequate security from all such depositories. Of the total revenue collected, the Commissioner of Finance shall retain the amount determined by the Director of the Virgin Islands Bureau of Internal Revenue to be necessary for refunds out of which the Commissioner of Finance must pay any refunds to which a deposit initiator may

be entitled. After reserving the amount to pay refunds, the Commissioner of Finance must, by the tenth day of each month, pay into the general fund the revenue deposited under this subdivision during the preceding calendar month and remaining to the Commissioner of Finance's credit on the last day of that preceding month; provided, however, that, beginning October 1, 2017, and all fiscal years thereafter, the sum of five thousand dollars (\$5,000.00) plus all funds received from the payments due each fiscal year pursuant to subdivision (4) of this section in excess of the amount received from October 1, 2017, shall be deposited to the credit of the Coastal Protection Fund administered by the Virgin Islands Department of Planning and Natural Resources.

6. The Commissioner and the Director of the Virgin Islands Bureau of Internal Revenue shall promulgate, and shall consult each other in promulgating, such rules and regulations as may be necessary to effectuate the purposes of this title. The Commissioner and the Director of the Virgin Islands Bureau of Internal Revenue shall provide all necessary aid and assistance to each other, including the sharing of any information that is necessary to their respective administration and enforcement responsibilities pursuant to the provisions of this title.

7. (a) any person who is a deposit initiator under this title before October 1, 2016, must apply by March 1, 2017 to the Director of the Virgin Islands Bureau of Internal Revenue for registration as a deposit initiator. Any person who becomes a deposit initiator on or after March 2, 2017 shall apply for registration prior to collecting any deposits as such a deposit initiator. Such application shall be in the form as prescribed by the Director of the Virgin Islands Bureau of Internal Revenue and shall require such information deemed to be necessary for proper administration of this

title. The Director of the Virgin Islands Bureau of Internal Revenue may require that applications for registration must be submitted electronically. The Director of the Virgin Islands Bureau of Internal Revenue shall electronically issue a deposit initiator registration certificate in a form prescribed by him within fifteen (15) days of receipt of such application or may take an additional ten (10) days if he deems it necessary to consult with the Commissioner before issuing such registration certificate. A registration certificate issued pursuant to this subdivision may be issued for a specified term of not less than three (3) years and shall be subject to renewal in accordance with procedures specified by the Director of the Virgin Islands Bureau of Internal Revenue. The Director of the Virgin Islands Bureau of Internal Revenue shall furnish to the Commissioner a complete list of registered deposit initiators and shall continually update such list as warranted. The Commissioner shall share any information with the Director of the Virgin Islands Bureau of Internal Revenue that is necessary for the administration of this subdivision.

(b) The Director of the Virgin Islands Bureau of Internal Revenue shall have the authority to revoke or refuse to renew any registration issued pursuant to this subdivision when he or she has determined or has been informed by the Commissioner that any of the provisions of this title or rules and regulations promulgated thereunder have been violated. Such violations shall include, but is not limited to, the failure to file quarterly reports, the failure to make payments pursuant to this subdivision, the providing of false or fraudulent information to either the Virgin Islands Bureau of Internal Revenue of the Department, or knowingly aiding or abetting another person in violating any of the provisions of this title. A notice of proposed revocation or non-renewal shall be given to the deposit initiator in the manner prescribed for a notice of deficiency

of tax and all the provisions applicable to a notice of deficiency under 33 V.I.C. §§ 941-945 shall apply to a notice issued pursuant to this paragraph, with such modifications as may be necessary in order to adapt to the language of such provisions to the notice authorized by this paragraph. All such notices issued by the Director of the Virgin Islands Bureau of Internal Revenue pursuant to this paragraph shall contain a statement advising the deposit initiator that the revocation or non-renewal of registration may be challenged through a hearing process and the petition for such a challenge shall be filed with the Director of the Virgin Islands Bureau of Internal Revenue within ninety (90) days after such notice is issued. A deposit initiator whose registration has been revoked or not renewed shall cease to do business as a deposit initiator in this Territory, until this title has been complied with and a new registration has been issued. Any deposit initiator whose registration has been so revoked may not apply for registration for two (2) years from the date the revocation takes effect.

8. The Director of the Virgin Islands Bureau of Internal Revenue may require the maintenance of such accounts, records or documents relating to the sale of beverage containers, by any deposit initiator, bottler, distributor, dealer or redemption center as he may deem appropriate for the administration of this section. The Director of the Virgin Islands Bureau of Internal Revenue may make examinations, including the conduct of facility inspections during regular business hours, with respect to the accounts, records and documents required to be maintained under this subdivision. Such accounts, records or documents shall be preserved for a period of three (3) years, except that the Director of the Virgin Islands Bureau of Internal Revenue may consent to their destruction within that period or may require that they be kept longer. Such accounts, records or documents may be kept within the meaning of this subdivision when reproduced by any photographic, photostatic, microfilm, micro-card, miniature

photographic or other process which actually reproduces the original accounts, records or documents.

9. (a) Any person required to be registered under this action who, without being so registered, sells or offers for sale beverage containers in this Territory, in addition to any other penalty imposed by this title, shall be subject to a penalty to be assessed by the Director of the Virgin Islands Bureau of Internal Revenue in an amount not to exceed one thousand dollars for the first day on which such sales or offers for sale are made, plus an amount not to exceed five hundred dollars for each subsequent day on which such sales or offers for sale are made, not to exceed twenty-five thousand dollars in the aggregate.

(b) Any deposit initiator who fails to file reports, make quarterly payments or maintain accounts or records pursuant to this section, unless it is shown that such failure was due to reasonable cause and not due to negligence or willful neglect, in addition to any other penalty imposed by this title, shall be subject to a penalty to be assessed by the Director of the Virgin Islands Bureau of Internal Revenue of not more than one thousand dollars for each quarter during which such failure occurred, and an additional penalty of not more than one thousand dollars for each quarter such failure continues.

10. The provisions of the Virgin Islands Tax Code shall apply to the provisions of this title for which the Director of the Virgin Islands Bureau of Internal Revenue is responsible, including collection of refund value amounts, in the same manner and with the same force and effect as if the language of such the Virgin Islands Tax Code had been incorporated in full into this section except that any provision of such the Virgin Islands Tax Code is either inconsistent with a provision of this section or is not relevant to this section as determined by the Director of the Virgin Islands Bureau of Internal Revenue. Furthermore, for purposes of applying the provisions

of the Virgin Islands Tax Code, where the terms “tax” and “taxes” appear in such section, such terms shall be construed to mean “refund value” or “balance in the refund value account”.

11. If any deposit initiator fails or refuses to file a report or furnish any information requested in writing by the Virgin Islands Bureau of Internal Revenue, the Virgin Islands Department of Internal Revenue, with the assistance of the Department may, from any information in its possession, make an estimate of deficiency and collect such deficiency from such deposit initiator.

12. (a) Each deposit initiator shall provide a report to the Department describing all the types of beverage containers on which it initiates deposits. The report shall include the product name, type of beverage, size, and composition of the beverage container, universal product code, and any other information the Department may require. Upon request, a deposit initiator shall also provide to the Department a copy of the container label or a picture of any beverage container sold or offered for sale in the territory on which it initiates a deposit. Such information shall be provided in a form as prescribed by the Department. The Department may require that such forms be filed electronically.

(b) A bottler may place on a beverage container a universal product code or other distinctive marking that is specific to the territory or used only in the territory and any other state or territories with laws substantially similar to this title as a means of preventing the sale or redemption of beverage containers on which no deposit was initiated.

(c) A bottler or deposit initiator shall notify the Department, in a form prescribed by the Department, whenever a beverage container or beverage container label is revised by altering the universal product code, or whenever the container on which a universal product code appears is changed in size, composition or glass color, or whenever the container or container label on



which a universal product code is changed to include a universal product code that is unique to the territory or used only in the territory and any other state or territory with laws substantially similar to this title.

**§507. REDEMPTION CENTERS.**

1. The Director is hereby empowered to promulgate rules and regulations governing the following:
  - (a) The circumstances in which deposit initiators, dealers and distributors, individually or collectively, are required to accept the return of empty beverage containers, including beverage containers processed through reverse vending machines and make payment therefor;
  - (b) The sorting of the containers which a deposit initiator or distributor may require of dealers and redemption centers;
  - (c) The collection of returned beverage containers by deposit initiators or distributors, including the party to whom such expense is to be charged, the frequency of such pick-ups and the payment for such refunds and handling fees thereon;
  - (d) The right of dealers to restrict or limit the number of containers redeemed, the rules for redemption at the dealers' place of business, and the redemption of containers from a beverage for which sales have been discontinued;
  - (e) To issue registrations to persons, firms or corporations who establish redemption centers, subject to applicable provisions of territorial laws, at which redeemers and dealers may return empty beverage containers and receive payment of the refund value of such beverage containers. Such registrations shall be issued at no cost. The Department may require that

regulations adopted pursuant to this paragraph that redemption centers must obtain a registration as a condition of operation;

- (f) The operation of mobile redemption centers in order to ensure that to the best extent practicable containers are not proffered for redemption to a deposit initiator or distributor outside of the geographic area where such deposit initiator sells containers and initiates deposits.
2. The Department may require a redemption center to obtain a permit, as an alternative to registration if such center is located at the same facility or site as another solid waste management facility otherwise subject to the requirements of Section 7 or the regulations promulgated pursuant thereto.
  3. No dealer or distributor, as defined in section 501 of this title, shall be required to obtain a permit to operate a redemption center at the same location as the dealer's or distributor's place of business. Operators of such redemption centers shall receive payment of the refund value of each beverage container from the appropriate deposit initiator or distributor as provided under section 503 of this title.
  4. Each dealer and redemption center shall require any person tendering for redemption more than two thousand five hundred containers at one time to such dealer or redemption center to provide such person's name and address and the license plate of the vehicle used to transport the containers, or, in the case of an agent or employee of a not-for-profit corporation, a valid tax exemption waiver certificate. The dealer or redemption center redeeming the beverage containers shall keep the information on file for a minimum of twelve months and provide same to the Department upon request.

**§508. Authority to Promulgate Rules and Regulations.**

In addition to the authority of the Director, under sections 504 and 507 of this title, the Director shall have the power to promulgate rules and regulations necessary and appropriate for the administration of this subchapter.

**§509. Violations.**

1. Except as otherwise provided in this section and section 506 of this title, any person who shall violate any provision of this title shall be liable to the Territory of the United States Virgin Islands for a civil penalty of not more than five hundred dollars, and an additional civil penalty of not more than five hundred dollars for each day during which each such violation continues. Any civil penalty may be assessed following a hearing or opportunity to be heard.
2. Any distributor, deposit initiator, redemption center or dealer who violates any provision of this title, except as provided in section 506 of this title shall be liable to the Territory of the United States Virgin Islands for a civil penalty of not more than one thousand dollars, and an additional civil penalty of not more than one thousand dollars for each day during which each such violation continues. Any civil penalty may be assessed following a hearing or opportunity to be heard.
3. It shall be unlawful for a distributor or deposit initiator, acting alone or aided by another, to return any empty beverage container to a dealer or redemption center for its refund value if the distributor or deposit initiator had previously accepted such beverage container from any dealer or operator of a redemption center or if such container was previously accepted by a reverse vending machine. A violation of this subdivision shall be a misdemeanor punishable by a fine of not less than five hundred dollars nor more

than one thousand dollars and an amount equal to two times the amount of money received as a result of such violation.

4. Any person who willfully tenders to a dealer, distributor, redemption center or deposit initiator more than forty-eight empty beverage containers for which such person knows or should reasonably know that no deposit was paid in the Territory may be assessed by the Department a civil penalty of up to one hundred dollars for each container or up to twenty-five thousand dollars for each such tender of containers. At each location where a person tenders containers for redemption, dealers and redemption centers must conspicuously display a sign in letters that are at least one inch in height with the following information: "WARNING: Persons tendering for redemption containers on which a deposit was never paid in this Territory may be subject to a civil penalty of up to one hundred dollars per container or up to twenty-five thousand dollars for each such tender of containers." Any civil penalty may be assessed following a hearing and opportunity to be heard.
5. The Department of Planning and Natural Resources, Virgin Islands Bureau of Internal Revenue, Virgin Islands Waste Management Authority, the Virgin Islands Department of Agriculture, and the Virgin Islands Department of Justice are hereby authorized to enforce the provisions of this title and all monies collected shall be deposited into the Antilitter and Beautification Fund.
6. (a) Any person who willfully violates or directs another to violate the requirements to collect or charge the refund value imposed by section 502 or paragraph (a) subdivision (9) of section 506 of this title on five thousand or more beverage containers in one or more separate transactions within one year shall be guilty of a misdemeanor.

(b) Any person, having previously been convicted of a violation of paragraph (a) of this section within the past three (3) years, who willfully violates or directs another to violate the requirements to collect or charge the refund value imposed by section 502 or paragraph (a) of subdivision (9) of section 506 of this title on five thousand or more beverage containers in one or more separate transactions within one year shall be guilty of a misdemeanor; punishable by a term of imprisonment of no more than six months and fined not more than one thousand dollars or both.

(c) Any person who willfully violates or directs another to violate the requirements to collect or charge the refund value imposed by section 502 or paragraph (a) of subdivision (9) of section 506 of this title on twenty thousand or more beverage containers in one or more transactions within one year shall be guilty of a felony punishable by a term of three (3) years' imprisonment and a fine of not less than twenty five thousand dollars per transaction or both.

Nothing in this subdivision shall apply to common or contract carriers or warehousemen while engaged in lawfully transporting or storing such containers as merchandise, nor to any employee of such carrier or warehouseman acting within the scope of his or her employment.

7. A violation of this title, except as otherwise provided in this section and section 506 of this title shall be a public nuisance.
8. The Territory is entitled to retain twenty-five percent (25%) of all monies collected as fines or penalties pursuant to the enforcement of section 502 of this chapter.

#### **§510. Public Education.**

The Commissioner shall establish a public education program to disseminate information regarding implementation of this title. Such information shall include, but not be limited to, publication of the U.S. Virgin Islands Bottle Bill of Rights as specified in subdivision (2) of section 503 of this title; publication of information specifying the procedures necessary to establish a redemption center as provided in section 507 of this title, including information regarding financial assistance available for the establishment of redemption centers as provided in section 511 of this title; publication of information delineating the relevant rights and responsibilities of deposit initiators, distributors, dealers, redemption centers, and redeemers under the provisions of this title; publication of information regarding the requirement that deposit initiators register with the Virgin Islands Bureau of Internal Revenue; and publication of the general benefits of recycling.

#### **§511. Beverage Container Assistance Program**

Notwithstanding any other provision of law to the contrary, within the limits of appropriations therefor, the Director shall make territorial assistance payments to business and not-for-profit organizations located in the Territory for the cost of reverse vending machines located or to be located in the Territory. Such territorial assistance payments shall not exceed fifty percent (50%) of the cost of the equipment, and/or the acquisition and/or rehabilitation of real property or structures located or to be located in the Territory related to the collecting, sorting, and packaging of empty beverage containers subject to the provisions of this title. Such payments may include costs related to the establishment of redemption centers, including mobile redemption centers. For the purpose of this section not-for-profit organizations shall have the

meaning as currently defined by Virgin Islands law, and business shall mean a dealer, distributor or redemption center as defined in this title that employs less than fifty employees.

### **BILL SUMMARY**

This bill establishes a comprehensive waste reduction, recycling, and composting program in the Territory. The bill's purpose is to reduce environmental hazards caused by the failure to properly manage the Territory's waste. Further, the bill addresses the finding that requiring deposits on all beverage containers, along with certain other facilitating measures, will provide a necessary incentive for economically efficient, environmentally safe collection of containers, and recycling of containers.





**BILL NO. 31- \_\_\_\_\_**

**THIRTY-FIRST LEGISLATURE OF THE VIRGIN ISLANDS  
OF THE UNITED STATES OF AMERICA**

**REGULAR SESSION**

**2016**

An Act to create a new Subchapter IV within Title 29 of the Virgin Islands Code, Chapter 8 to provide for the regulation of plastic bags provided to customers.

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**PROPOSED BY THE GOVERNOR**

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**WHEREAS,** the Territory seeks to be more environmentally responsible; and

**WHEREAS,** improper discarding of plastic bags is of concern as it results to aesthetic and environmental hazards;

*Now, Therefore, Be It Enacted By The Legislature Of The Virgin Islands:*

**§701. Definitions.**

Unless otherwise expressly stated, the following terms shall have the following meanings:

“Authority” means Virgin Islands Waste Management Authority.

“Business” means any commercial enterprise or establishment operating in the Territory of the Virgin Islands of the United States, including an individual proprietorship, joint venture, partnership, corporation, limited liability company, or other legal entity, whether for profit or not for profit, and includes all employees of the business or any independent contractors associated with the business.

“Compostable Plastic Bags” means a checkout bag that is provided to a customer for the purpose of transporting groceries or other retail goods, that meets current ASTM D6400 Standard Specifications for compostability and that is labeled:

- (1) With the Biodegradable Product Institute (“BPI”) logo as meeting the ASTM standard for compostability; and
- (2) With “Compostable” on both sides of the bag in either green color lettering that is at least one inch in height, or as otherwise specified; or within a green color band that is at least one inch in height in order to be readily and easily identifiable.

“Customer” means a person who purchases merchandise from a business.

“Department” means the Virgin Islands Department of Licensing and Consumer Affairs.

“Director” means the Director of the Virgin Islands Waste Management Authority or the Director’s designee.

“Mil” means one thousandth of one inch.

“Non-recyclable paper bag” means a paper bag that is not a recyclable paper bag.

“Plastic Checkout Bag”:

- (1) Means a carryout bag that is provided by a business to a customer for the purpose of transporting groceries or other retail goods, and is made from non-compostable plastic and not specifically designed and manufactured for multiple re-use;
- (2) This term does not include:
  - (a) Bags used by customers inside a business to package loose items, such as fruits, vegetables, nuts, ground coffee, grains, candies, or small hardware items;
  - (b) Bags used to contain or wrap frozen foods, meat or fish, flowers or potted plants, or other items to contain dampness;

- (c) Bags used to protect or transport prepared foods, beverages, or bakery goods;
- (d) Bags provided by pharmacists to contain prescription medications;
- (e) Newspaper bags for home newspaper delivery;
- (f) Door-hanger bags;
- (g) Laundry, dry cleaning, or garment bags, including bags provided by hotels to guests to contain wet or dirty clothing;
- (h) Bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags;
- (i) Bags used to contain live animals, such as fish or insects sold in pet stores;
- (j) Bags used to transport chemical pesticides, drain-cleaning chemicals, or other caustic chemicals sold at the retail level; provided that this exemption shall be limited to one bag per customer; or
- (k) Compostable plastic bags

**“Recyclable Paper Bag” means a paper bag that:**

- (1) Is one hundred percent recyclable;
- (2) Contains a minimum of forty percent post-consumer recycled content; and
- (3) Displays the words “Reusable” and “Recyclable” in a highly visible manner on the outside of the bags.

**“Reusable Bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of:**

- (1) Cloth or other washable fabric; or
- (2) Durable material suitable for reuse, including plastic that is at least 2.25 mils thick.

**§702. Ban on Plastic Checkout Bags and Non-Recyclable Paper Bags.**

Business shall be prohibited from providing plastic checkout bags and non-recyclable paper bags to their customers at the point of sale for the purpose of transporting groceries or other merchandise. Nothing in this section shall preclude a business from making available to customers, with or without charge, at the point of sale:

- (1) Reusable bags, Compostable plastic bags, or Recyclable paper bags for the purpose of transporting groceries or other merchandise; or
- (2) Non-recyclable paper bags to protect or transport prepared foods, beverages, or bakery goods.

**§703. Penalties and Injunctive Relief.**

(a) Any business violating any provision of this subchapter or any rule adopted pursuant to this subchapter shall be:

- (1) Ordered to discontinue the distribution of bags prohibited by this section at the point of sale; and
- (2) Subject to a civil fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for each day of violation.

(b) The Virgin Islands Waste Management Authority or the Virgin Islands Department of Licensing and Consumer Affairs may institute a civil action in any court of competent jurisdiction for injunctive or other relief to correct or abate violations of this subchapter or any rule adopted pursuant to this subchapter, to collect administrative penalties, or to obtain other relief. Provided, however, that nothing in this subchapter shall preclude the Department from enforcing and imposing any law, rules, regulations, and/or fines pursuant to the law, rules and regulations of the Department.

(c) Any monies collected from fines or other civil penalties assessed to any business found to have violated this subchapter shall be allocated as follows:

- (1) 50% to a Virgin Islands Government's Environmental Protection Fund to be administered by the Commissioner of the Virgin Islands Department of Planning and Natural Resources;
- (2) 25% to the Virgin Islands Waste Management Authority; and
- (3) 25% to the General Fund of the Virgin Islands of the United States.

**§704. Rules and Regulations.**

The Virgin Islands Waste Management Authority shall promulgate rules and regulations regarding the implementation, administration, and enforcement of this section.

**§705. Public Education.**

The Director shall establish a public education program to disseminate information regarding implementation of this subchapter. Such information shall include, but not be limited to, publication of the U.S. Virgin Islands Plastic Bag Ban and publication of the general benefits of recycling.

**§ 706. Effective Date of Implementation.**

This Chapter and all provisions therein shall become effective on October 1, 2016.

**BILL SUMMARY**

An act banning plastic checkout bags and non-recyclable paper bags being provided by business to customers. This ban shall take effect on October 1, 2016.



**BILL NO. 31- \_\_\_\_\_**

**THIRTY-FIRST LEGISLATURE OF THE VIRGIN ISLANDS  
OF THE UNITED STATES OF AMERICA**

**REGULAR SESSION**

**2016**

An Act to create a new Subchapter III within Title 29, Chapter 8 of the Virgin Islands Code, establishing a Source Separation Law in the Virgin Islands of the United States to promote the general health, welfare and safety of the residents of the Virgin Islands of the United States and to protect the environment and to manage the solid waste stream in the Virgin Islands of the United States.

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**PROPOSED BY THE GOVERNOR**

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*Now, Therefore, Be It Enacted By The Legislature Of The Virgin Islands:*

**§600. Purpose.**

The purpose of this subchapter is to promote the general health, welfare and safety of the residents of the Virgin Islands of the United States, to protect the environment and to manage the solid waste stream in the Virgin Islands of the United States. Additionally, this subchapter is for the purpose of reducing the need to dispose of solid waste generated in the Virgin Islands of the United States through incineration or landfilling by maximization of recycling. This subchapter shall be known as the “Virgin Islands Source Separation Law.”

**§601. Applicability**

This chapter shall apply to every waste generator, hauler, and recyclables broker within the Territory of the Virgin Islands of the United States.

**§602. Definitions.**

“Authority” means the Virgin Islands Waste Management Authority.

“Commissioner” means Commissioner of the Virgin Islands Department of Planning and Natural Resources or his or her duly authorized representative.

“Construction and Demolition Debris or (“C&D”)” means uncontaminated solid waste resulting from construction, remodeling, repair, and demolition of structures and roads, and uncontaminated solid waste consisting of vegetation resulting from land clearing and grubbing, utility line maintenance and seasonal and storm-related clean-up. Such waste includes, but is not limited to, bricks, concrete, and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, non-asbestos insulation, roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, electrical wiring and components containing no hazardous liquids, and metals that are incidental to any of the above.

“Department” means the Virgin Islands Department of Planning and Natural Resources.

“Director” means the Executive Director of the Virgin Islands Waste Management Authority.

“Hauler” means any person, excluding the departments and agencies of the Government of the Virgin Islands of the United States, who, for a fee or other consideration, collects, stores, transfers, transports or disposes of solid waste, recyclables or construction and demolition debris that is generated or originated within the Territory and brought within the Territory for disposal, storage, transfer or processing.

“Hazardous Waste” means a solid waste, or combination of solid wastes which, because of its quantity, concentration, or physical, chemical, or infectious characteristic may: (1) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or



incapacitating reversible illness or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, sorted, transported, disposed of, or managed. “Person” shall mean any individual, firm, company, association, society, corporation, partnership, co-partnership, joint stock company, trust, estate, governmental entity or legal representatives, agents or assigns. The masculine gender shall include the feminine; the singular shall include the plural, where indicated by context.

“Recycle” means any method, technique or process utilized to separate, process, modify, convert, treat or otherwise prepare solid waste so that its component materials or substances may be beneficially used or reused.

“Recyclables” means the following materials:

- a. Bulk Metals: Large metal fixtures and appliances, including white goods such as washing machines, refrigerators, etc. This term excludes metal containers utilized to store flammable or volatile chemical materials, such fuel tanks.
- b. Cardboard including corrugated cardboard containers, which must be cleaned of excessive amounts of contaminants such as adhesives, metals and plastics, cereal boxes, tissue boxes, paper towel rolls or any other non-corrugated materials made from cardboard.
- c. Glass: Glass, jars, bottles, and containers of clear, green or amber (brown) color, used to store food or beverages only, which must be empty and rinsed clean. This term excludes ceramics, window or automobile glass, mirrors and light bulbs.
- d. High-grade paper: Includes high quality paper such as letterhead, copier paper, typing paper, tablet sheets, computer printout paper, and all paper of similar quality. This term shall not include carbon paper, self-carbonizing paper, coated or glossy paper, envelopes

with windows or adhesive labels. Residential waste generators are permitted to comingle high-grade paper with newsprint; however, non-residential waste generators are required to separate high grade paper from newsprint.

- e. **Metals:** All ferrous and nonferrous food and beverage containers including steel, aluminum and bimetal, which shall be empty and rinsed clean.
- f. **Newsprint Newspapers** as purchased including any glossy inserts;
- g. **Plastics:** All Plastics with resin identification codes 1 through 7, including food, beverage, detergent and shampoo containers and caps, which shall be empty and rinsed clean. This term excludes all plastic film (e.g., dry cleaning bags and packaging materials), plastic bags, vinyl, all large rigid plastics (e.g., toys, pools, furniture), non-coded small rigid plastics (e.g., toys, clothing hangers, tableware, and utensils), plastic foam materials (e.g., hot beverage cups, trays, and packaging materials), containers that held potentially hazardous materials (e.g., motor oil, solvents, and pesticides), and building materials (e.g., piping, and bathroom and kitchen fixtures);
- h. **Universal Wastes:** Any of the following hazardous wastes that are subject to the universal waste requirements of 40 Code of Federal Regulations Part 273:
  - a. **Battery:** A device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

- b. **Lamp**, also referred to as “universal waste lamp”: The bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.
  - c. **Pesticide**: Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:
    - (a) Is a new animal drug under FFDCA section 201(w), or
    - (b) Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or
    - (c) Is an animal feed under FFDCA section 201(x) that bears or contains any substances described by paragraph (a) or (b) of this section.
  - i. **Used Motor Oil**: The type used in gasoline and diesel vehicle and equipment engines, delivered in an uncontaminated container;
  - j. **Yard Waste**: Collected leaves; trimmings; grass; cuttings; tree branches; and landscaping waste;
9. “Recyclables Broker” means any person, excluding any entity of the Government of the Virgin Islands of the United States, who for a fee or other consideration collects, picks up, separates, processes, markets, transports, stores or otherwise handles recyclables exclusively, if those recyclables were generated or originated within the territory or brought within the

boundaries of the territory for disposal, storage, transfer or processing, excluding those person who are required to accept beverage containers pursuant to the Virgin Islands Bottling Bill section 503 or persons who redeem containers under said law, and those persons who are required to accept used motor oil and vehicular batteries free of charge for recycling under applicable territorial law, provided that this exclusion shall only apply to the aforementioned activities which are governed by territorial law. A recyclables broker may collect, separate, process, store, transport or otherwise handle solid waste contaminants that are collected with recyclables, provided that the recyclables broker has taken precautions to prevent the introduction of such contaminants, pursuant to local and/or federal law, rules or regulations.

“Separate Collection” means that any Government, hauler or recyclables broker who collects, transports or stores solid waste or recyclables shall keep source-separated recyclables separate from solid waste during collection, transportation and storage, except for recyclables that are mixed with solid waste in construction and demolition debris and identifiable bagged recyclables mixed with bagged solid waste, provided that recyclables are later separated for recycling.

“Solid Waste” means any garbage, refuse, sludge from wastewater treatment plant or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water and Pollution Control Act, as amended, or source, special nuclear, or by product material as

defined by the Atomic Energy Act of 1954, as amended. "Solid Waste" shall not be understood to include recyclables as defined in this chapter.

"Recyclable Materials" means hazardous materials that are recycled;

"Residential Waste Generator" means a waste generator who resides in a single or multifamily dwelling, whose waste is generated from household functions such as cooking, cleaning, etc.

"Source Separation" means the segregation of recyclables from solid waste at the point of generation for separate collection, sale or other disposition.

"Territory" means territory of the Virgin Islands of the United States.

"Waste Generator" means any person who produces or is responsible for solid waste recyclables in the territory requiring disposal.

"Nonresidential Waste Generator" shall mean all waste generators other than residential waste generators.

**§603. Provisions applicable to waste generators.**

1. Every waste generator in the territory shall be responsible for the source separation of solid waste and recyclables at the point of generation. Waste generators shall source-separate additional materials designated as recyclables by local law, if the Territory provides or causes to be provided collection of such materials for the waste generator or a location within the territory for delivery of such materials by the waste generator. Waste generators shall not be required to source-separate recyclables contained in construction and demolition debris, provided that such debris is brought to a facility where recyclables can be separated from the nonrecyclable solid waste. All waste generators shall commence source separation on January 1, 2017. However, the Virgin Islands Waste

Management Authority is authorized to mandate source separation trial period without application of Section 608 of this subchapter beginning July 1, 2016 to aid residents and visitors in the preparation for mandatory source separation.

2. Each waste generator shall provide for the removal of those separated recyclables which the waste generator is required to source-separate pursuant to subsection 1 above from the property on which they are generated either through service provided by the territory, by a hauler or a recyclables broker, or by taking these materials directly to a recyclables transfer, storage or processing location. Used motor oil shall be delivered by private individuals to service stations required to accept this material free of charge in accordance with local law. Used vehicular batteries shall be delivered by private individuals to retailers who sell such batteries and who are required to accept such batteries for recycling free of charge in accordance with local law or to scrap recycling facilities which accept this type of used battery for recycling.
3. Each waste generator shall be required to prepare those recyclables which the waste generator is required to source-separate pursuant to subsection 1 above in the manner prescribed in the definition of recyclables in section 3 of this chapter, or if no particular manner of preparation is specified for a specific recyclable material in said definition of recyclables, then according to any law, regulation or rule of this territory that provides recyclables collection services to that waste generator, or if such collection services are provided by a hauler or recyclables broker, then according to the directions of the hauler or recyclables broker. If a waste generator utilizes direct haul, recyclables shall be prepared in the manner prescribed by the recyclables transfer, storage or processing facility to which the waste generator delivers such materials.

4. Every waste generator shall be obligated to insure that those recyclables which the waste generator is required to source-separate pursuant to subsection 1 above are placed in the location designated for recyclables collection by this territory in which the waste generator is located.
5. In the case of multi-tenant buildings, the owner of such building is responsible to provide the following appropriate container(s) to hold source-separated materials for the entire building separate from the container(s) where the building's solid waste is stored, a mechanism for disposal of source-separated recyclables, unless the territory provides for such collection, and an educational program for tenants on the manner in which source-separated materials are to be prepared for collection.
6. Nothing in this chapter shall be construed to prohibit private composting of garden and yard waste by a waste generator on the waste generator's own property.
7. Exempt waste generators who are unable to comply with the requirements of this section for good cause shown (e.g. old age, mental or physical infirmity, etc.). Exemptions shall be granted solely at the discretion of the Director. A person who applies for an exemption may be required by the Commissioner to supply documentation of the reason(s) supporting the application. Said person shall be required to simultaneously file a copy of the request for exemption, along with all supporting documentation submitted to the Commissioner regarding a request for exemption by a person within the territory within 20 days of receipt of its copy of an exemption request. The Commissioner shall consider any objections to the request for exemption prior to making his determination. The Commissioner shall notify all parties of his decision and shall maintain and regularly

update a list of such exempt waste generators, which shall be made available to the officials charged with enforcing the terms of this chapter.

**§604. Unauthorized Confiscation of Certain Recyclables.**

Except for authorized employees or agents of the Government of the Virgin Islands of the United States, or authorized employees or agents of haulers or recyclables brokers licensed by the territory utilized by a waste generator to collect recyclables pursuant to a written service contract, it shall be unlawful for any person to remove and transport by motor vehicle any amount of recyclable paper, cardboard, and/or commingled plastic/glass/metals that have been placed in the location designated for recyclables collection for collection or removal by the territory or licensed hauler or recyclables broker. This section shall not apply to the removal or transport of (1) cardboard for personal use and (2) bulk metals or other types of used household consumer goods.

**§605. Provisions applicable to Haulers and Recyclables Brokers.**

1. Haulers and Recyclables Brokers shall provide regular, reliable, and separate collection of recyclables to any customer to whom they provide recyclables collection services.
2. Haulers and Recyclables Brokers shall deliver any recyclables that they have collected or picked up to a recyclables transfer, storage or processing facility. In the event that a market for a particular recyclable or class of recyclables collapses or that delivery to a transfer, storage or processing facility would create a severe economic hardship to a hauler or recyclables broker, the Commissioner may, in his sole discretion, grant a temporary waiver to the requirements of this subsection, only upon written application for waiver from the hauler or recyclables broker setting forth with specificity the facts and reasons in support of such application. Waivers shall be for a specific period of time



and shall be rescinded earlier, if the Commissioner, in his sole discretion, determines that the reasons for granting the waiver no longer exists.

**§606. Assessment, Reporting, Duties of the Territory on Recycling Efforts.**

1. The Executive Director of the Virgin Islands Waste Management Authority shall prepare an annual report on the recycling programs in the territory based on information obtained under the reporting requirements of this section and any other relevant information available to him, assess the effectiveness of the recycling programs in the territory to determine if they meet the territory-approved solid waste management plan recycling goals, and suggest any measures that may need to be taken, if the plan's recycling goals are not being met. The Executive Director of the Virgin Islands Waste Management shall forward such report to the Commissioner of the Virgin Islands Department of Public Works and the Commissioner of the Virgin Islands Department of Planning and Natural Resources.
2. The Territory shall provide, or cause to be provided, the regular, reliable, and separate collection of recyclables from those waste generators to which the territory provides, or causes to be provided, solid waste collection services. The Executive Director of the Virgin Islands Waste Management Authority shall furnish the Commissioner of the Virgin Islands Department of Public Works and the Commissioner of the Virgin Islands Department of Planning and Natural Resources a plan to provide, or cause to be provided, such separate collection and recycling of recyclables. Such plan shall include, but not be limited to:

- a. A written schedule for the collection and delivery of recyclables, including frequency of collection, and the identification of the marketplace for collected recyclables;
- b. A separate and distinct section setting forth a plan for the collection and disposition of recyclable yard waste; and
- c. A report on reduction and reuse techniques to be implemented by the Virgin Islands Waste Management Authority, including public education efforts.

The Commissioners of the Virgin Islands Department of Public Works and the Virgin Islands Department of Planning and Natural Resources may require additional information to be submitted with the plan required.

3. The Executive Director of the Virgin Islands Waste Management Authority shall furnish annual recycling reports to the Commissioner of the Virgin Islands Department of Public Works and the Commissioner of the Virgin Islands Department of Planning and Natural Resources documenting the types and quantities of recyclables which were collected and recycled by the Authority either through the territory or contract collection in the previous year and identifying the tonnages of each recyclable material delivered to each particular recyclables broker or other market for recyclables. There shall be a separate section in the report for yard waste that was collected and recycled in the prior year. Additionally, after the territory's recycling goals are set pursuant to subsection 5(a) of this section, subsequent annual recycling reports shall contain the Authority's recycling plan update that addresses the Authority's progress or lack of progress in meeting its annual recycling goals and revisions to its territorial recycling plan necessary to achieve its annual recycling goals that the Authority intends to make and the proposed timetable

for implementing any such revisions. The annual recycling report must be submitted on or before March 1 of each year beginning in 2017, and continuing thereafter.

4. For purposes of this section, the Authority shall not be required to plan for or report on the recycling of used motor oil or vehicular batteries.
5. With respect to the plans and reports filed pursuant to subsections 2 and 3 above, the role of the Commissioner of the Virgin Islands Department of Public Works and the Commissioner of the Virgin Islands Department of Planning and Natural Resources shall be as follows:
  - a. The Commissioners shall review, evaluate, and comment upon the Authority's plans and annual reports received during the applicable period and together shall establish annual recycling goals for the territory that shall be substantially in accordance with the recycling goals set forth in the approved solid waste management plan. The Commissioners shall confer with and accept comment from the Virgin Islands Waste Management Authority prior to setting the territory's annual recycling goals. The territory's recycling plan goals may only be revised if necessitated by an approved amendment to the territory's solid waste management plan. Enforcement of such revised goals pursuant to subsection 5(c) below shall not occur until the Authority has been given a reasonable time to amend and implement its recycling plan to meet such revised goals.
  - b. In the event that the annual recycling reports filed by the Authority in 2018, pursuant to subsection 3 above indicate that the territory has not reached its past recycling goals set pursuant to subsection 5(a) above, then by June 1,

2018, the Commissioners shall review, evaluate, and comment upon the Authority's annual recycling report for the purpose of assisting the Authority in reaching the territory's annual recycling goals. By August 1, 2018, the Authority shall advise the Commissioners in writing of the revisions to its recycling plan which it has implemented or intends to implement to achieve compliance with its annual recycling goals and a proposed timetable for implementation, unless the Authority can present evidence to the Commissioners demonstrating current compliance with its recycling goals and that it can reasonably be expected to meet its future recycling goals. Revisions to the Authority's recycling plan shall be reasonably designed to bring the territory into compliance with its past annual recycling goals and shall also be reasonably designed to meet its future annual recycling goals. If the Authority either fails to submit such a revised plan to the Commissioners or fails to demonstrate to the Commissioners that it is now in compliance with the territory's recycling goals and can reasonably be expected to meet its future recycling goals, then, by September 1 of that year, the Commissioner of the Virgin Islands Department of Planning and Natural Resources may find the Authority in violation of this subsection 5(b), subject to the procedures of Section 608 of this subchapter. However, nothing in this subchapter is to be interpreted as precluding any other powers the Commissioner of the Virgin Islands Department of Planning and Natural Resources may have to regulate and/or fine for conduct which may also violate the laws, rules and regulations of the Virgin Islands Department of Planning and Natural Resources.

c. In the event that the annual recycling reports filed by the Authority in or after the year 2018, pursuant to subsection 3 above, indicate that the territory is not meeting its annual recycling goals and has not implemented measures reasonable designed to reach its recycling goals, the by June 1 of that year, the Commissioners shall review, evaluate, and comment upon said annual recycling report and any recycling plan revisions contained in the report. By August 1 of that year, the Authority shall submit a plan to the Commissioners reasonably designed to reach its recycling goals, unless the Authority presents evidence to the Commissioners demonstrating current compliance with its recycling goals and that it can reasonably be expected to meet its future recycling goals. By October 1 of that year, the Commissioners and the Authority must concur upon the Authority's plan to achieve compliance, unless the Commissioner of the Virgin Islands Department of Planning and Natural Resources has determined that the evidence submitted by the Authority demonstrates current compliance with the territory's recycling goals and the reasonable expectation that the territory will meet its future annual recycling goals on or before September 1 of that year. However, in the event that the Commissioner of the Virgin Islands Department of Planning and Natural Resources does not issue such a determination of compliance and the Commissioner of the Virgin Islands Department of Planning and Natural Resources and the Authority fail to agree upon such a revised recycling plan by October 1 of that year, then the Commissioner of the Virgin Islands Department of Planning and Natural Resources may find the Authority to be

in violation of this subsection, subject to the procedures set forth in Section 608 of this subchapter, if the Commissioner of the Virgin Islands Department of Planning and Natural Resources either demonstrates that the territory's recycling plan is not reasonably designed to achieve compliance with the territory's current and future recycling goals established pursuant to subsection 5(a) of this section or that the Authority has not taken the necessary steps to implement the territory's recycling plan and if the Commissioner of the Virgin Islands Department of Planning and Natural Resources also demonstrates that one or both of these factors is the primary cause for the territory's failure to meet its recycling goals.

**§607. Nonresidential Waste Generator Plans.**

1. Except for the Government of the Virgin Islands of the United States, all nonresidential waste generators who own a building or buildings commonly containing more than 25 employees, patients or students during a 24-hour period, including but not limited to commercial establishments, institutions and school districts ("reporting nonresidential waste generators"), shall be required to provide the following plan to the Commissioner of the Virgin Islands Department of Planning and Natural Resources and the Virgin Islands Waste Management Authority:
  - a. A plan to provide for source separation of nonresidential recyclables;
  - b. A written schedule for the collection by or delivery of source-separated nonresidential recyclables to a recyclables broker or other market for recyclables, which shall include identification of the recyclables broker or market, collection mechanism and anticipated volumes of materials.

2. The Virgin Islands Waste Management Authority shall provide the required form for such plan to all reporting nonresidential waste generators.
3. Reporting nonresidential waste generators shall submit their source separation plan to the Commissioner of the Virgin Islands Department of Planning and Natural Resources and the Virgin Islands Waste Management Authority within six (6) months of the commencement of operations in the territory. All reporting residential waste generators have a continuing obligation to update such plan every three (3) years. The Commissioner of the Virgin Islands Department of Planning and Natural Resources also has the authority to require an update of the plan as he or she deems necessary.
4. In the event that a commercial establishment, institution or school district utilizes more than one location, only one plan need be submitted in accordance with subsection (3) above, provided that such plan identifies activities at each location, unless such location's plan is prepared by a building owner pursuant to subsection 5 below, in which case only the owner's name need be identified.
5. In the event that a commercial establishment, institution or school district is located within a multi-tenant building and there are over 25 employees in such building, it shall be the responsibility of the owner of such building to comply with this section.

**§608. Penalties and Enforcement.**

1. Any person found guilty in a court of competent jurisdiction of failure to comply with any applicable provisions of this chapter or with any emergency regulation of the Commissioner of the Virgin Islands Department of Planning and Natural Resources or the Virgin Islands Waste Management Authority duly issued under this chapter shall be guilty of an offense punishable as follows:

- a. For the first violation, a warning or a fine up to \$100.00;
  - b. For the second violation, a fine of up to \$500.00;
  - c. For the third violation, a fine of up to \$1,000.00;
  - d. For the fourth and succeeding violations, a fine of up to \$2,000.00.
2. In lieu of, or in addition to, the criminal enforcement provisions and penalties of subsection 1 above, each compliance violation shall be subject to a civil penalty as follows:
  - a. For the first violation, a warning or a fine up to \$100.00;
  - b. For the second violation, a fine of up to \$500.00;
  - c. For the third violation, a fine of up to \$1,000.00;
  - d. For the fourth and succeeding violations, a fine of up to \$2,000.00.

Each day of a continuing violation shall constitute a separate violation and shall be subject to a separate fine and/or civil penalty.

3. In addition to any other penalties prescribed in this section, the Attorney General for the Virgin Islands Department of Justice may maintain an action in a court of competent jurisdiction to compel compliance with or restrain by injunction any violation of the provisions of this chapter or of the regulations of the Commissioner of the Virgin Islands Department of Planning and Natural Resources or the Virgin Islands Waste Management Authority duly issued pursuant to this chapter.
4. Except for warnings, which may be issued by any police officer or peace officer, the civil penalties recited in subsection 2 of this section shall only be imposed wither by a court of competent jurisdiction or by the Commissioner of the Virgin Islands Department of



Planning and Natural Resources, without first resorting to the courts, pursuant to the following administrative hearing procedure:

- a. Upon the issuance of a notice of violation and hearing, the Executive Director of the Virgin Islands Waste Management Authority shall cause to be held a hearing before a hearing officer selected by the Executive Director, unless a person charged with such violation admits liability by returning the notice of violation with payment of the proposed penalty and by signing the admission of liability on said notice.
- b. A formal hearing shall be on due and adequate notice to the party concerned and shall set down for a date certain. A notice of violation and hearing shall be served by the Executive Director upon the alleged violator by certified mail, return receipt requested or by personal service. "Personal Service" shall be defined as set forth by local law and rules.
- c. A notice of violation and hearing shall include notification of the following:
  - i. The time and place of the hearing;
  - ii. A list of all alleged violations complained of, with specific reference to the provisions and sections of the law, rule or regulation involved, and a summary of the alleged facts supporting each violation;
  - iii. The respondent's right to present evidence;
  - iv. The respondent's right to examine and cross-examine witnesses;
  - v. The respondent's right to be represented by counsel;
  - vi. That respondent's failure to appear shall constitute a default by the respondent, and that the hearing may proceed in the respondent's absence

and a determination made based solely upon evidence submitted by the Executive Director of the Virgin Islands Waste Management Authority; and

- vii. That respondent may waive his or her right to such hearing by signing an admission of liability on the notice of violation and hearing and by remitting payment of the assessed penalty.
- d. The hearing officer may grant an adjournment upon request of any party to the proceeding, provided that an adjournment shall not be for an indefinite period of time, but shall be set down for a date certain.
- i. If an adjournment is requested in advance of the hearing date, such request shall be presented to the hearing officer, in writing, and shall specify the reason for such request.
  - ii. In considering an application for adjournment of a hearing, the hearing officer shall consider whether the purpose of the hearing will be affected or defeated by the granting of such adjournment.
- e. To aid in the administration of this chapter, the Executive Director of the Virgin Islands Waste Management Authority, or any hearing officer designated by him or her in a particular proceeding, may issue subpoenas in the Authority's name requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other evidence for any hearing or proceeding conducted under this section. Service of subpoena(s), enforcement of obedience thereto, and punishment for disobedience thereof, shall be had as and in the manner provided

- by local law and rules of the courts relating to the enforcement of any subpoena issued by a board, committee or court.
- i. It shall be the responsibility of the party requesting the issuance of a subpoena to effect service thereof.
  - ii. The hearing officer may add a party to the proceeding upon due and adequate notice to both the party to be added and the parties to be named in the proceedings.
- f. On the return date of a hearing, the hearing officer shall note the appearances of the persons attending the hearing. Witnesses shall be sworn and testimony shall be recorded either by a certified stenographer or by use of an electronic recording device.
- g. All hearings shall be open to the public. Testimony shall be transcribed upon request of any interested party. The party requesting the transcript shall pay the costs and expenses in connection therewith.
- h. The hearing officer shall not be bound by the strict applicable rules of evidence in the conduct of a hearing, but his or her findings shall be founded upon a fair preponderance of the evidence presented at the hearing. The hearing officer shall admit and consider any evidence of mitigation offered by the alleged violator.
- i. After the conclusion of a formal hearing, the hearing officer shall prepare and issue a report containing a summary of the evidence, findings of fact, conclusions of law, and recommendation(s) to the Executive Director of the Virgin Islands Waste Management Authority.

- j. The recommendations of the hearing officer may include but shall not be limited to the appropriate penalty in the event the Executive Director of the Authority finds a violation has occurred, or the submission of a recommendation that a stipulation of settlement be incorporated in an Executive Director's decision and order.
- k. Upon the conclusion of a formal hearing and after consideration of the hearing officer's report and recommendations and any rules of evidence of mitigation, the Executive Director shall make a decision based on a fair preponderance of the evidence and shall execute an order carrying such decision into effect.
- l. The order of the Executive Director may include, but shall not be limited to, the assessment of civil penalties, as provided by this chapter, the approval of a stipulation of settlement which shall include, but not be limited to, a plan and schedule to remedy the condition which caused the violation, if such measures are necessary and appropriate to correct the violation, and suspended penalties.
- m. If the Executive Director of the Authority determines that the hearing record is not sufficient to make a final determination, the Executive Director may direct a rehearing or require the taking of additional evidence and may rescind or affirm, in whole or in part, a prior determination after such hearing.
- n. The Executive Director of the Authority shall cause to be served upon the respondent, copies of the hearing officer's report and the Executive Director's final determination and order service shall be made in the manner prescribed for the service of a notice of hearing.



comes first. An emergency regulation may only be extended beyond 45 days with the approval of the Governor of the Virgin Islands.

2. A compilation of all emergency regulations promulgated pursuant to the this section shall be maintained in the office of the Commissioner of the Virgin Islands Department of Planning and Natural Resources and the Executive Director of the Virgin Islands Waste Management Authority and shall be available for inspection by any interested party during regular business hours.

#### **§610. Public Education**

The Director shall establish a public education program to disseminate information regarding implementation of this title. Such information shall include, but not be limited to, publication of the U.S. Virgin Islands Source Separation Law.

#### **§611. Administration of this Chapter.**

The Virgin Islands Source Separation Law shall be administered and enforced by the Virgin Islands Waste Management Authority and the Commissioner of the Virgin Islands Department of Planning and Natural Resources.

#### **§611. Severability.**

If any provisions of this chapter or application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without regard to the invalid provision or application and to this end the provisions are declared to be severable.

## **BILL SUMMARY**

This bill is to promote the general health, welfare and safety of the residents of the Virgin Islands of the United States, to protect the environment and to manage the solid waste stream in the Virgin Islands of the United States. Additionally, this subchapter is added for the purpose of reducing the need to dispose of solid waste generated in the Virgin Islands of the United States through incineration or landfilling by maximization of recycling. This subchapter shall be known as the “Virgin Islands Source Separation Law.”