

COMMITTEE ON HOMELAND SECURITY, JUSTICE  
AND PUBLIC SAFETY

05/06/2022-AMENDED AND REPORTED OUT TO THE COMMITTEE ON RULES AND JUDICIARY

**BILL NO. 34-0211**

**Thirty-Fourth Legislature of the Virgin Islands**

**March 18, 2022**

An Act amending title 19 Virgin Islands Code, part VI, chapter 62 Code relating to noise pollution to augment its enforcement

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**PROPOSED BY:** Senator Novelle E. Francis, Jr.

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1 *Be it enacted by the Legislature of the Virgin Islands:*

2       **SECTION 1.** Title 19 Virgin Islands Code part VI, chapter 62, sections 2041, 2042,  
3 2042a, 2043, 2044, 2046, and 2047 are amended to read as follows:

4 **“§ 2041. Definitions**

5       The following words, terms and phrases have the following meanings:

6       (a) “Authorized emergency vehicle” means a vehicle equipped with a siren, exhaust  
7 whistle or bell necessary to warn other vehicle operators or pedestrians of the approach of the  
8 emergency vehicle, including an ambulance, police or fire service vehicle and vehicles of the  
9 Water and Power Authority, the Department of Public Works, the Territorial Emergency  
10 Management Agency and such other vehicles that may be so designated by the Police  
11 Commissioner when these vehicles are being used in actual emergencies.

1 (b) "Construction activity" means all activity incidental to the erection, demolition,  
2 assembling, altering, installation or equipping of buildings, structures, roads, or appurtenances  
3 thereof, including land clearing, grading, excavating, and filling.

4 (c) "Day" means the whole or any part of a 24-hour period from midnight to midnight.

5 (d) "Daytime" means the hours 7:00 a.m. to 6:59 p.m.

6 (e) "dBA" refers to sound levels measured on the "A" scale of a standard sound level  
7 meter. "dB" means decibel, a unit used to measure the level of sound.

8 (f) "Emergency" means any occurrence or set of circumstances involving actual or  
9 imminent physical harm or property damage which demands immediate action.

10 (g) "Enforcement Officer" means a police officer; or an employee or agent of any  
11 Department authorized to enforce this statute.

12 (h) "Motor vehicle" means any vehicle that is propelled or drawn on land by a motor,  
13 such as, passenger cars, trucks, truck-trailers, semi-trailers, go-carts, dune buggies or racing  
14 vehicle, but the term does not include motorcycles.

15 (i) "Motorcycle" means any unenclosed motor vehicle having two or three wheels in  
16 contact with the ground, including, but not limited to, motor scooters and minibikes.

17 (j) "Nighttime" means the hours from 7:00 p.m. to 6:59 a.m.

18 (k) "Indoor sound amplification device" means any equipment or machine used for the  
19 magnification of speech, music or other sound within any roofed structure having more than  
20 fifty percent of its floor plan enclosed by walls.

21 (l) "Noise" means sound, created, or controlled by human activity, from one or more  
22 sources, that is heard by an individual. It is sound that an individual does not wish to hear and  
23 that may exceed the noise requirements located in this chapter.

1 (m) “Noise disturbance” means any sound that exceeds the sounds levels at the  
2 distances prescribed in this chapter.

3 (n) “Noise sensitive zone” means existing quiet zones, if any, and those areas  
4 containing noise sensitive activities including, but not limited to, operations of schools, libraries  
5 open to the public, houses of worship, hospitals, and nursing homes.

6 (o) “Outdoor sound amplification device” means any equipment or machine used for  
7 the out-of-doors magnification of speech, music, or other sound.

8 (p) “Person” means any natural person, individual, public, or private corporation, firm,  
9 association, joint venture, partnership, governmental agency, political subdivision, public  
10 officer or any other entity or any combination of entities, jointly or severally.

11 (r) “Residential zone” means all those districts zoned for residential uses.

12 (t) “Sound level” means the A-weighted sound pressure level measured with fast  
13 response using an instrument complying with the specifications for sound level meters of the  
14 American National Standards, Inc.

15 (s) “Sound level meter” means an instrument that includes a microphone, an amplifier,  
16 an output meter, and frequency weighing networks for the measurement of noise and sound  
17 levels.

18 (t) “Sound-producing device” means any equipment or machine used for the  
19 production or reproduction of speech, music, or other sound, including radios, television,  
20 phonographs, tape players, musical instruments, compact disc or tape cassette players, walkie-  
21 talkies, CD radios or synthesizers.

22 (u) “Soundproof” means to insulate so as to obstruct the passage of sound.

23 (v) “Source” means any person, installation, device, or animal causing or contributing  
24 to noise.

1 (w) "Watercraft" means any boat or craft, including a vessel, used or capable of being  
2 used as a means of transport on water.

3 **§ 2042. Prohibitions**

4 (a) It is unlawful—

5 (1) to operate a sound-producing device that creates a noise disturbance;

6 (2) to operate or cause to be operated an indoor or outdoor sound  
7 amplification device that creates a noise disturbance;

8 (3) to sell anything by using a sound producing device within a residential  
9 zone or within 500 feet of a residential zone such that it creates a noise disturbance;

10 (4) to cause or permit any motor vehicle, other than a motorcycle, with a  
11 maximum gross weight of 10,000 lbs. or less to operate on a public right-of way  
12 where the muffler or exhaust generates a sound that is plainly audible to another  
13 individual at a distance of 150 feet or more from the motor vehicle.

14 (5) to cause or permit any motorcycle to operate on a public right-of-way  
15 where the muffler or exhaust generates a sound that is plainly audible to another  
16 individual at a distance of 200 feet or more from the motorcycle.

17 (6) to operate a bar or tavern, or any other mobile floating commercial  
18 establishment, within 500 feet of a residential area such that it creates a noise  
19 disturbance.

20 (7) to operate power-driven machinery, including lawn mowers, edgers,  
21 trimmers or shears in a residential zone or within 500 feet of a residential zone  
22 between 8:00 p.m. and 7 a.m. such that it creates a noise disturbance.

1           (8) to load, unload, pack or unpack crates, boxes, or containers on any  
2 vehicle within a residential zone or within 500 feet of a residential zone between  
3 8:00 p.m. and 7 a.m. such that it creates a noise disturbance.

4           (9) to create a noise disturbance by repairing, rebuilding, modifying, or  
5 testing a motor vehicle or watercraft within a residential zone or within 500 feet of  
6 a residential zone between 8:00 p.m. and 7 a.m.

7           (10) to operate or permit to be operated a watercraft in the waters of the  
8 Virgin Islands which emits sound greater than 90 dBA at a distance of 50 feet from  
9 the vessel; or

10          (11) for any person, by himself or by the operation of any instrument,  
11 agency, or vehicle to make any sound that is plainly audible at a distance from 100  
12 feet of any portion of the grounds and premises on which is located a hospital or  
13 other institution reserved for the sick, aged or any school or institution of learning  
14 or house of worship while the facility is in use.

15          (12) for any person owning, occupying, or having charge of any building or  
16 premises or any part thereof, where the noise or music is plainly audible at a  
17 distance of 100 feet from the building, structure, vehicle, or premises in which it is  
18 produced, at any time to cause or suffer or allow:

19               (A) any loud, unnecessary, excessive, or unusual noises in the  
20 operation of any radio, phonograph or other mechanical sound-making device  
21 or instrument or reproducing device; or

22               (B) instrument, or in the playing or amplification of any band,  
23 orchestra, musician, or group of musicians.

1 (b) The fact that the noise or music is exceeding sound standards enumerated in section  
2 2042a measured in 30-second readings using decibel meters at the curb or property line closest  
3 to the sound source, or at a distance of 100 feet from the vehicle from which it originates  
4 constitutes proof of a violation of this chapter.

5 (c) The characteristics and conditions that must be considered in determining  
6 whether a violation of this section has been committed include, but are not limited to, the  
7 following:

- 8 (1) The level of noise;
- 9 (2) Whether the nature of the noise is usual or unusual;
- 10 (3) Whether the origin of the noise is natural or unnatural;
- 11 (4) The ambient noise level;
- 12 (5) The proximity of the noise to a place where someone sleeps;
- 13 (6) The nature and zoning of the area within which the noise emanates and where it is  
14 received;
- 15 (7) The time of day the noise occurs;
- 16 (8) The duration of the noise; and
- 17 (9) Whether the noise is recurrent, intermittent, or constant.

18 **“§ 2042a. Sound Standards**

19 (a) Sound standards for noise or music emanating from a business establishment are as  
20 provided in paragraphs (1) through (3):

- 21 (1) Sunday through Thursday, 7:00 a.m. to 12:00 midnight – 80 decibels;
- 22 (2) Sunday through Thursday, 12:00 midnight to 7:00 a.m. – 65 decibels; and
- 23 (3) Friday and Saturday, 7:00 a.m. to 2:00 a.m. – 90 decibels.

1 (b)(1) Except as otherwise provided in chapter, a person must not cause or permit noise  
 2 levels that exceed the following levels:

Maximum Allowable Noise Levels (dBA) for Receiving Noise Areas		
Property Use	Daytime	Nighttime
Residential	65	60
Agricultural, commercial, or industrial	75	75

3 (2) Sound that crosses between residential and non-residential areas must not  
 4 exceed the levels set in paragraph (1) for residential noise areas.

5 **§ 2043. Taverns and bars; soundproofing**

6 (a) All owners of nightclubs, taverns, or bars within 100 feet of any church, school or  
 7 residential zoning district shall make all practical modifications to reduce sound that constitutes  
 8 a noise disturbance or exceeds the noise limit as provided in section 2042a.

9 (b) Any owner or operator of a nightclub, tavern, or bar not in compliance with this  
 10 section is subject to the penalties enumerated in section 2044.

11 (c) Notwithstanding anything to the contrary in this chapter, after 11:00 p.m. and before  
 12 7:00 a.m., all owners of nightclubs, taverns or bars must not make, cause or permit to be made  
 13 or caused continuous or non-continuous noise or sound from live entertainment that exceeds a  
 14 rating of 90 decibels (90dBA) over a three minute time period on an approved sound meter  
 15 when measured within the establishment at a distance of 100 ft. from the source.”

16 **§ 2044. Enforcement**

17 (a) The Virgin Islands Police Department, the Virgin Islands Department of Licensing  
 18 and Consumer Affairs and the Virgin Islands Department of Health may investigate any  
 19 possible violations of this chapter.

20 (b) To determine whether violation of this chapter has taken place, the Virgin Islands  
 21 Police Officers, the Virgin Islands Department of Licensing and Consumer Affairs Enforcement

1 Officers and the Virgin Islands Department of Health shall use a sound level meter to determine  
2 whether a sound constitutes a noise disturbance or exceeds the sound level permitted for certain  
3 acts as provided in section 2042a of this chapter. The sound level meter must be calibrated  
4 annually according to industry standards. In the absence of calibrated sound level meters, Virgin  
5 Islands police officers and the Virgin Islands Department of Licensing and Consumer Affairs  
6 enforcement officers and the Virgin Islands Department of Health may use an average of two  
7 different mobile telephone applications to determine decibel levels for the purposes of issuing  
8 warnings.

9 (c) Any person who refuses to submit to a sound level test when requested to do so by  
10 a law enforcement officer is guilty of a civil offense punishable by a fine of \$250.

11 (d) Any person found to have violated section 2042 of this chapter is guilty of a civil  
12 offense punishable by a fine of \$500.

13 (e) Any person who owns, has charge of, or, where applicable, occupies a building in  
14 which a sound, or sounds emanate that constitute a noise disturbance or exceed the noise limit  
15 as provided in section 2042a of this chapter is subject to a fine of \$500 for that violation and  
16 each subsequent violation.

17 (f) The owner of any business at which a sound or sounds emanate that constitute a  
18 noise disturbance or exceed the noise limit as provided in section 2042a, is subject to a \$500  
19 fine for the first violation, and a \$1,000 fine for the second and each violation thereafter. The  
20 Department of Licensing and Consumer Affairs, in addition to imposing a fine of \$1,000, shall  
21 call the person before the Department of Licensing and Consumer Affairs to show cause why  
22 the person's business license should not be suspended or revoked.

23 (g) All enforcement officers may issue a warning for a first violation of this chapter by  
24 an individual or business entity.



1 (h) All fines collected under this chapter must be remitted to the Commissioner of  
2 Finance and covered into the Consumer Protection Fund within the Treasury of the Virgin  
3 Islands.

4 (i) All fines authorized under this chapter may be assessed by any of the three  
5 enforcement agencies. Violators are entitled to an administrative hearing pursuant to  
6 regulations applicable to administrative hearings conducted by the Department of Licensing  
7 and Consumer Affairs.

8 (j) The Attorney General may seek civil remedies, including an injunction to prevent  
9 or abate violations of this chapter.

10 (k) The Virgin Islands Police Department shall coordinate the noise complaint response  
11 by all agencies charged with regulating noise under this chapter. All departments and agencies  
12 charged with responsibility for responding to noise complaints shall cooperate and share  
13 information with the Virgin Islands Police Department in tracking and monitoring complaint  
14 responses.

15 (l) The Virgin Islands Police Department shall designate a Noise Prevention and  
16 Control Officer to coordinate the responsibilities of the Department of Health, Department of  
17 Licensing and Consumer Affairs and the Department of Planning and Natural Resources under  
18 this chapter with respect to noise.

19 **§ 2046. Exemptions and special permits**

20 (a) This chapter does not apply to sounds emanating from the following sources or  
21 causes:

22 (1) aircraft and airport activity conducted in accordance with federal laws and  
23 regulations;

24 (2) authorized emergency vehicles;

- 1 (3) maintenance of public service facilities;
- 2 (4) law enforcement and public safety activities, including training;
- 3 (5) operation of a regulated utility;
- 4 (6) construction activities conducted pursuant to a building permit;
- 5 (7) collection of solid waste;
- 6 (8) projects conducted or supervised by the Department of Public works; and
- 7 (9) activities sponsored by or related to the operation of educational institutions
- 8 on property owned or controlled by the institution.

9 (10) Carnival activities held on St. Thomas, festival activities held on St. Croix,  
10 and Celebration activities held on St. John, subject to a 3:00 a.m. ending time and the  
11 imposition by the Commissioner or the Commissioner's designee of appropriate  
12 safeguards as necessary to mitigate the effects of the activity permitted.

13 (11) Outdoor live music events that have been duly permitted by the Virgin Islands  
14 Police Department, subject to a 4:00 a.m. ending time.

15 (c) The Commissioner of Police or the Commissioner's designee may grant a  
16 temporary permit to a person desiring to engage in any activity that would violate this chapter.

17 (d) A special permit must be in writing and signed by the Commissioner or the  
18 Commissioner's designee and must set forth the name of the person to whom the permit is  
19 granted, the location of the activity, and the date and time for which the permit is effective. The  
20 Commissioner or his designee may impose appropriate conditions and safeguards as necessary  
21 to mitigate the effects of the activity permitted.

22 (e) This chapter does not apply to sounds emanating on the weekend, which includes  
23 Friday, Saturday, and Sunday, subject to a 3:00 a.m. ending on Friday and Saturday, and a 12:00

1 a.m. ending time on Sunday. If, however, the day after Sunday is a holiday, then sounds  
2 emanating on that Sunday are subject to a 3:00 a.m. ending time.

3 **§ 2047. Severability**

4 If any provision of this chapter or the application thereof to any person or circumstance  
5 is held invalid, the invalidity does not affect other provisions or applications of the chapter  
6 which can be given effect without the invalid provision or application, and to this end the  
7 provisions of this chapter are severable.”

8 **SECTION 2.** Title 19 Virgin Islands Code part VI, chapter 62 is amended by adding  
9 section 2048 to read as follows;

10 “§ 2048. The Commissioner of the Virgin Islands Police Department shall promulgate noise  
11 control regulations and standards as necessary to accomplish the purposes and intent of this  
12 chapter.”

13 **SECTION 3.** The Commissioner of the Virgin Islands Police Department shall  
14 promulgate regulations to carry out the purposes of this act no later than 180 days after the  
15 effective date of this act.

16 **BILL SUMMARY**

17 This bill seeks to overhaul the current noise pollution statute by updating the definitions,  
18 prohibitions, and enforcement procedures. Additionally the regulation of taverns and bars is  
19 given more clarity with regards to noise control and soundproofing requirements.

20 Section 2042a. is amended to address “sound standards” and operating times and a new  
21 Section 2048 is added to mandate the Commissioner of the Virgin Islands Police Department  
22 to promulgate regulations, and section 3 requires the regulations to be promulgated within 180  
23 days after enactment of this act.

24 **BR21-0216/September 10, 2021/YLT**