



**Government of the Virgin Islands
of the United States of America
Department of Licensing and Consumer Affairs**

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**H. Nathalie Hodge
Commissioner Designee
Department of Licensing and Consumer Affairs**

**Testimony Before the
35th Legislature of the Virgin Islands**

**Kenneth L. Gittens, Chair
Committee on Homeland Security, Justice & Public Safety**

To update the Committee on the Department's Enforcement Division

February 13, 2024

"Serving Businesses & Assisting, Educating and Protecting Consumers"

Good Day Honorable Senator Kenneth L. Gittens, Committee Chair, 35th Legislature of the Virgin Islands, Committee on Homeland Security, Justice and Public Safety; Committee Senators present, non-Committee Senators present, and the listening and viewing audience.

My name is Nathalie Hodge, Commissioner Designee for the Department of Licensing and Consumer Affairs (hereinafter referred to as "DLCA"). Today, I am accompanied by Horace Graham, Assistant Commissioner, Geraldine P. Vaval, Esquire, General Counsel, and Wilbur Francis, Director of Enforcement.

Thank you for providing the DLCA with an opportunity to testify before the 35th Legislature and provide an update on the Department's Enforcement Division. Specifically, we are prepared to provide information on our recruitment efforts; citation records; current initiatives; officer certification and recertification procedures, to include specific training provided to our enforcement officers; our prevention, investigation, and enforcement strategies, and the Department's prosecutorial approaches and the execution of penalties.

The DLCA provides and administers consumer services and programs pursuant to Title 3, Chapter 16 and the Consumer Protection Law of 1973, as set forth in title 12A of the Virgin Islands Code. DLCA is charged with establishing, administering, coordinating, and supervising the regulation and licensing of private businesses and professions. The Department also ensures that person(s) do not

engage in any deceptive or unconscionable trade practices involving consumer goods or services, or in the collection of consumer debts. DLCA also coordinates with sister agencies, and Boards and Commissions in the licensing of professions and occupations as provided for in the Consumer Protection Law and Title 27 of the Virgin Islands Code. The mission of DLCA is to review applications and issue business licenses in a timely manner, assist and protect consumers, and ensure that all persons comply with the licensing and consumer protection laws of the Virgin Islands.

DLCA Enforcement Officers, who are granted peace officer status pursuant to Title 5 of the Virgin Islands Code, section 3561, enforce consumer laws by inspecting all businesses to ensure compliance with the Virgin Islands licensing laws. This is done from the initial application for licensing through the life of the business; thereby educating when necessary and citing businesses when warranted. The Enforcement Officers also serve documents on behalf of the Legal Division, Consumer Protection Division and Boards and Commissions.

The Division of Enforcement participates in task force operations and joint initiatives with the Virgin Islands Police Department (VIPD), and the Department of Health (DOH) to ensure the safety and well-being of the people of the Virgin Islands. Current and regular initiatives include operations with underage drinking, the unauthorized sale of tobacco products to minors, unauthorized possession and sale of hemp products, and inspections on truckers conducting business. Most

recently, with the assistance of the VIPD, enforcement executed an arrest on the owner of a nightclub had been served a cease and desist order by the department.

For the period 1 October 2022 – September 30, 2023, the Enforcement Division inspected 3,771 new businesses in response to new license applications; conducted random compliance checks on 3,184 existing businesses; and issued 253 citations amounting to \$154,650 in accordance with the territory's licensing laws. Thus far, for the first quarter of the calendar year 2024, the division has conducted 755 inspections on new businesses and 753 random compliance checks. Additionally, there has been a total of 48 citations issued, amounting to \$23, 950 for businesses found in violation of the territory's licensing laws.

Of the citations issued in calendar year 2023, collections staggered at 18% with only \$ 27,675 collected for that calendar year. Thus far, the collection rate has risen to 41% and the department has collected \$9,800 in citations for the first quarter of 2024. More presence, reoccurring visits, and scheduled hearings are showing effective in making violators whole. As a contingency, we are finalizing a Memorandum of Understanding with the Bureau of Motor Vehicles that would prohibit offenders from conducting business with other government agencies, that, after due process, have outstanding obligations with DLCA.

The Department's prosecutorial approaches and execution of administrative penalties are conducted pursuant to authority derived from 3 VIC §272; and 27 VIC §304 & 307, in conjunction with informal conferences and mediations, prior to the initiation of administrative hearing procedures. As a

preventative measure, the department is consistently notifying the public of the requirement for all individuals and/or businesses operating a business in the Virgin Islands without a valid business to comply with the law. Other preventative, investigative, and enforcement strategies include systematic renewal reminders to businesses 30 and 60 days before their license expiration, regular monitoring of social media and other advertising platforms, conducting random compliance checks on brick-and-mortar businesses, addressing complaints, disseminating more public service announcements, and generating more frequent system delinquent reports.

Currently, the DLCA has seven (7) Enforcement Officers, including the Director of Enforcement and the Chief, who are all sworn peace officers. As such, they are required by law to remain in good standing with the Peace Officer Standard Training (P.O.S.T.) certification and recertification requirements. Initial POST certification requires all enforcement officers to complete 831 hours of basic peace officers' training. To be successful in this endeavor, each officer must pass five different categories, comprised of the following: Academics; Physical Fitness; Firearms; VI Code; and First Responder Training. Recertification requires each officer to undergo, annually, 40 hours of continual training which includes the following: Use of Force; Constitutional Laws updates; Ethics, Domestic Violence/ Sexual Assault; OC Spray; Baton; and Firearms proficiency. Additionally, DLCA utilizes an online training platform to foster professionalism, ethics, and accountability, and to keep officers updated with evolving laws, technologies, and

best practices. Additional trainings that were provided to officers included but not limited to the following: Leadership Fundamentals; Career Professionals; Performance Management; Ethics in Law Enforcement; Enhancing Work Relationships; Time Management Skills; and Anti Workplace Harassment in the Workplace to name a few.

Expanding the enforcement division is pivotal for advancing the department's overall success and revenue generation. Due to the unit's size, the absence of an officer due to sickness or vacation significantly impacts departmental functions and the daily operations of the remaining staff. Our analysis indicates that the hiring of additional enforcement officers would optimize the division's performance.

The Division is currently grappling with a substantial workload, encompassing a range of critical tasks. Foremost among these is the processing of new business applications, a task that demands meticulous attention to detail and adherence to established protocols. Equally pressing is the need for rigorous compliance reviews. These reviews are essential in ensuring that businesses adhere to regulatory standards and operate within the legal framework.

A particularly challenging aspect of the Division's work is delinquency enforcement, which has emerged as a top priority. To effectively manage this issue, the Division of Enforcement has been collaborating closely with both the Licensing and Legal divisions in preparing and serving notices to delinquent

applicants. This step is crucial in the enforcement process, as it formally notifies the concerned parties of their non-compliance and the impending consequences.

An optimistic outcome of this concerted effort is the potential recovery of approximately \$1 million in outstanding fees and penalties stemming from pandemic era delinquencies. This significant sum underscores the importance of the Division's enforcement activities and the impact they can have on revenue recovery.

Workforce augmentation will improve our ability to promptly and decisively address cases of delinquency leading to improved compliance. This proactive approach is vital in maintaining the integrity of the regulatory system and ensuring that all businesses operate on a level playing field.

In summary, the Division's comprehensive approach, combining diligent application processing, rigorous compliance reviews, and robust delinquency enforcement, is integral to its mission of maintaining a fair and legally compliant business environment. This strategic augmentation aligns with our commitment to operational excellence and positions the department to handle increased responsibilities seamlessly, contributing positively to our overall efficiency and effectiveness.

Thank you for the opportunity to provide these updates and participate in discussions about optimizing our capacity to meet the rising demands of our responsibilities. Your assistance in ensuring we have the necessary resources, including personnel, will undoubtedly contribute to our effectiveness in handling

the challenges associated with our growing responsibilities. We stand ready to answer any questions this Body may have.