

COMMITTEE ON HOUSING, PUBLIC WORKS AND  
WASTE MANAGEMENT

06/20/2016-HELD IN COMMITTEE  
6/9/2016-REISSUED

**BILL NO. 31-0316**

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

**February 24, 2016**

An Act amending title 29 Virgin Islands Code, chapter 8 adding Subchapter 11 to establish a comprehensive waste reduction and recycling program in the Virgin Islands

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**PROPOSED BY:** Senator Neville James by Request of the Governor

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

**SECTION 1.** Title 29 Virgin Islands Code, chapter 8 is 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.

1           3.       “Malt Beverages” means any beverage obtained by the alcoholic fermentation  
2 or infusion or decoction of barley, malt, hops, or other wholesome grain or cereal and water  
3 including, but not limited to ale, stout or malt liquor.

4           4.       “Water” means any beverage identified through the use of letters, words or  
5 symbols on its product label as a type of water, including any flavored water or nutritionally  
6 enhanced water, provided, however, that “water” does not include any beverage identified as a  
7 type of water to which sugar has been added.

8           5.       “Beverage Container” means the individual, separate, sealed glass, metal  
9 aluminum, steel or plastic bottle, can or jar for containing less than one gallon or 37.8 liters at  
10 the time.

11          6.       “Bottler” means a person, firm or corporation who:

12               (a)     Bottles, cans or otherwise packages beverages in beverage containers  
13 except that if such packaging is for any other person, firm or corporation having the  
14 right to bottle, can or otherwise package the same brand of beverage, then such other  
15 person, firm or corporation shall be the bottler; or

16               (b)     Imports filled beverage containers into the United States.

17          7.       “Commissioner” means the Commissioner of the Department of Planning and  
18 Natural Resources.

19          8.       “Dealer” means every person, firm or corporation who engages in the sale of  
20 beverages containers to a consumer for off premises consumption in this Territory.

21          9.       “Department” means the Department of Planning and Natural Recourses.

22          10.      A “Deposit Initiator” for each beverage container for which a refund value is  
23 established under section 502 of this title means:

24               (a)     The bottler of the beverage in such container;

1           (b)    The distributor of such container if such distributor's purchase of such  
2           container was not, directly or indirectly, from a registered deposit initiator;

3           (c)    A dealer of such container who sells or offers for sale such container in  
4           this Territory, whose purchase of such container was not, directly or indirectly, from a  
5           registered deposit initiator; or

6           (d)    An agent acting on behalf of a registered deposit initiator.

7           11.    "Distributor" means any person, firm or corporation which engages in the sale  
8           or offer for sale of beverages in beverage containers to a dealer.

9           12.    "Place of Business" means the location at which a dealer sells or offers for sale  
10          beverages in beverage containers to consumers.

11          13.    "Redeemer" means every person who demands the refund value provided for  
12          herein exchange for the empty beverage container, but shall not include a dealer defined in  
13          subsection (6) of this section.

14          14.    "Redemption Center" means any person offering to pay the refund value of an  
15          empty beverage container to a redeemer, or any person who contracts with one or more dealers  
16          or distributors to collect, sort and obtain the refund value and handling fee of empty beverage  
17          containers for, or on behalf of, such dealer or distributor under the provisions of paragraph 11  
18          of Section 503 of this subchapter.

19          15.    "Use of Consumption" means the exercise of any right or power incident to the  
20          ownership of a beverage, other than the sale or the keeping or retention of a beverage for the  
21          purpose of sale.

22          16.    "Ship" or "Ships" means any ocean going vessel used to carry passengers or  
23          freight in interstate or foreign commerce.

1           17.     “Reverse Vending Machines” means an automated device that uses a laser  
2 scanner, microprocessor, or other technology to accurately recognize the universal product code  
3 (“UPC”) on containers to determine if the container is redeemable and accumulates information  
4 regarding containers redeemed, including the number of such containers redeemed, thereby  
5 enabling the reverse vending machine to accept containers from redeemers and to issue a scrip  
6 or receipt for their refund value.

7           18.     “Universal Product Code” or “UPC Code” means a standard for encoding a set  
8 of lines and spaces that can be scanned and interpreted into numbers to identify a product.  
9 Universal Product Code may also mean any accepted industry barcode which replaces the UPC  
10 code including EAN and other codes that may be used to identify a product.

11 **§502. Refund Value.**

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

16 **§503. Mandatory Acceptance.**

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

18           1     (a) A dealer shall accept at his or her place of business from a redeemer any  
19 empty beverage containers of the design, shape, size, color, composition and brand sold or  
20 offered for sale by the dealer, and shall pay to the redeemer the refund value of each such  
21 beverage container as established in section 505 of this title. Redemptions of refund value must  
22 be in legal tender, or a scrip or receipt from a reverse vending machine, provided that the scrip  
23 or receipt can be exchanged for legal tender for a period of not less than sixty days without  
24 requiring the purchase of other goods. The use or presence of a reverse vending machine shall

1 not relieve a dealer of any obligations imposed pursuant to this section. If a dealer utilizes a  
2 reverse vending machine to redeem containers, the dealer shall provide redemption of beverage  
3 containers when the reverse vending machine is full, broken, under repair or does not accept a  
4 type of beverage container sold or offered for sale by such dealer and may not limit the hours  
5 or days of redemption except as provided subsection (3) of this section.

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

9 (i) Less than ten thousand square feet devoted to the display of  
10 merchandise for sale to the public shall install and maintain at least two reverse  
11 vending machines at the dealer's place of business;

12 (ii) Ten thousands, but less than twenty thousand square feet devoted  
13 to the display of merchandise for sale to the public shall install at least three  
14 reverse vending machines at the dealer's place of business; or

15 (iii) Greater than twenty thousand square feet devoted to the display  
16 of merchandise for sale to the public shall install and maintain at least four  
17 reverse vending machines at dealer's place of business.

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

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

4 (i) Establish and maintain a dedicated area within such business to  
5 accept beverage containers for redemption;

6 (ii) Adequately staff such area to facilitate efficient acceptance and  
7 processing of such containers during business hours; and

8 (iii) Post one or more conspicuous signs conforming to the size and  
9 color requirements described in subdivision 2 of this section at each public  
10 entrance to the business which describes where in the business the redemption  
11 area is located. The Commissioner may establish in rules and regulations  
12 additional standards for efficient processing of beverage containers by such  
13 dealers.

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

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

18 "U.S. VIRGIN ISLANDS BOTTLE BILL OF RIGHTS TERRITORIAL LAW  
19 REQUIRES US TO REDEEM EMPTY RETURNABLE BEVERAGE CONTAINERS OF  
20 THE SAME TYPE AND BRAND THAT WE SEEL OR OFFER FOR SALE YOU HAVE  
21 CERTAIN RIGHTS UNDER THE VIRGIN ISLANDS TERRITORIAL RETURNABLE  
22 CONTAINER ACT:

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

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

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

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

9           The Virgin Islands territorial returnable container act can be enforced by the Virgin  
10 Islands Department of Public Works, the Virgin Islands Waste Management Authority, the  
11 Virgin Islands Department of Planning and Natural Resources, the Virgin Islands Department  
12 of Agriculture, the Virgin Islands Bureau of Internal Revenue, the Virgin Islands Department  
13 of Licensing and Consumer Affairs, and the Virgin Islands Department of Justice”

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

21           3.       On or after January1, 2018, a dealer may limit number of empty beverage  
22 containers to be accepted for redemption at the dealer's place of business to no less than seventy-  
23 two containers per visit, per redeemer, per day, provided that:

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

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

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

21          4.     A deposit initiator shall accept from a dealer or operator of redemption center  
22          any empty beverage container of the design, shape, size, color, composition and brand sold or  
23          offered for sale by the deposit initiator, and shall pay the dealer or operator of a redemption  
24          center the refund value of each such beverage container as established by section 502 of this



1 title. A deposit initiator shall accept and redeem all such empty beverage containers from a  
2 dealer or redemption center without limitation on quantity.

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

6 6. In addition to the refund value of a beverage container as established by section  
7 503 of this title, a deposit initiator shall pay to any dealer or operator of a redemption center a  
8 handling fee of three and one half cents for each beverage container accepted by the deposit  
9 initiator from such dealer or operator of a redemption center. Payment of the handling fee shall  
10 be as compensation for collecting, sorting, and packaging of empty beverage containers for  
11 transport back to the deposit initiator or its designee.

12 Payment of handling fee may not be conditioned on the purchase of any goods or  
13 services, nor may such payment be made out of the refund value account established pursuant  
14 to section 506 deposit and disposition of refund values, registration; reports) of this title. A  
15 distributor who does not initiate deposits on a type of beverage container is considered a dealer  
16 only for the purpose of receiving a handling fee from a deposit initiator.

17 7. A deposit initiator on a brand shall accept from a distributor who does not initiate  
18 deposits on that brand any empty beverage containers of that brand accepted by the distributor  
19 from a dealer or operator of a redemption center and shall reimburse the distributor the refund  
20 value of each such beverage containers, as established in section 502 of this title. In addition,  
21 the deposit initiator shall reimburse such distributor for each such beverage container the  
22 handling of fee established under subdivision (6) of this section. Without limiting the rights of  
23 the department or any person, firm or corporation under this subdivision or any or any other  
24 provision of this section, a distributor shall have a right to a civil cause of action to enforce this

1 subdivision, including, upon three days' notice, the right to apply for temporary and preliminary  
2 injunctive relief against continuing violations, and until arrangements for collection and return  
3 of empty containers or reimbursement of such distributor for such deposits and handling fees  
4 are made.

5 8. It shall be the responsibility of the deposit initiator or distributor to provide to a  
6 dealer or redemption center a sufficient number of bags, cartons, or other suitable containers, at  
7 no cost, for the packaging, handling, and pickup of empty beverage containers must be provided  
8 by the deposit initiator or distributor on a schedule that allows the dealer or redemption center  
9 sufficient time to sort the empty beverage containers prior to pick up by the deposit initiator or  
10 distributor:

11 In addition:

12 (a) When picking up empty beverage containers, a deposit initiator or  
13 distributor shall require a dealer or redemption center to load their own bags, cartons, or  
14 containers onto the deposit initiator's vehicle or vehicles or provide the staff or  
15 equipment needed to do so.

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

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

22 9. No person shall return or assist another to return to a dealer or redemption center  
23 an empty beverage container for its refund value if such container had previously been accepted

1 for redemption by a dealer, redemption center, or deposit initiator who initiates deposit on  
2 beverage containers of the same brand.

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

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

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

14 **§504. REFUSAL OF ACCEPTANCE.**

15 1. A dealer or operator of a redemption center may refuse to accept from a  
16 redeemer, and a deposit initiator or distributor may refuse to accept from a dealer or operator of  
17 a redemption center any empty beverage container which does not state thereon a refund value  
18 as established under section 502 of this title.

19 2. A dealer or operator of a redemption center may also refuse to accept any broken  
20 bottle, corroded, crushed or dismembered container, or any beverage container which contains  
21 a significant amount of foreign material, as determined in rules and regulations to be  
22 promulgated by the Commissioner.

23 **§505. BEVERAGE CONTAINER REQUIREMENTS.**

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

5           (b) Such embossing or permanent imprinting on beverage container shall be  
6 the responsibility of the person, firm or corporation which bottles, cans or otherwise fills  
7 or packages a beverage container or brand owner for whose exclusive account private  
8 label beverages are bottled, canned or otherwise packaged; provided, however, that the  
9 duly authorized agent of any such person, firm or corporation may indicate such refund  
10 value by a label securely affixed on any beverage container containing beverages  
11 imported into the United States. Private label beverages shall be defined as beverages  
12 purchased from a bottler in beverage containers bearing a brand name or trademark for  
13 sale at retail directly by the owner of license of such brand name or trademark; or  
14 through retail dealers affiliated with such owner or licensee by a cooperative or franchise  
15 agreement.

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

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

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

1           1.       Each deposit initiator shall deposit in a refund value account an amount equal to  
2 the refund value initiated under section 502 of this title which is received with respect to each  
3 beverage container sold by such deposit initiator. Such deposit initiator shall hold the amounts  
4 in the refund value account in trust for the Territory. A refund value account shall be an interest-  
5 bearing account established in a banking institution located in this Territory, the deposits in  
6 which are insured by an agency of the federal government. Deposits of such amounts into the  
7 refund value account shall be made not less frequently than every five business days. All  
8 interests, dividends and returns earned on the refund value account shall be paid directly into  
9 said account. The monies in such accounts shall be kept separate and apart from all other monies  
10 in possession of the deposit initiator. The Director of the Virgin Islands Bureau of Internal  
11 Revenue may specify a system of accounts and records to be maintained with respect to  
12 accounts established under this subdivision.

13           2.       Payments of refund values pursuant to section 503 of this title shall be paid from  
14 each deposit initiator's refund value account. No other payment or withdrawal from such  
15 account may be made except as prescribed by this section.

16           3.       Each deposit initiator shall file quarterly reports with the Director of the Virgin  
17 Islands Bureau of Internal Revenue on a form and in a manner prescribed by such Director. The  
18 Director of the Virgin Islands Bureau of Internal Revenue may require such reports to be filed  
19 electronically. The quarterly reports required by this subdivision shall be filed for the quarterly  
20 periods ending on the last day of May, August, November, and February of each year, and each  
21 such report shall be filed within twenty days after the end of the quarterly period covered  
22 thereby. Each such report shall include all information such Director shall determine  
23 appropriate including but not limited to the following information:

1           (a)     The balance in the refund value account at the beginning of the quarter  
2     for which the report is prepared;

3           (b)     All such deposits credited to the refund value account and interest,  
4     dividends or returns received on such account, during such quarter;

5           (c)     All withdrawals from the refund value account during such quarter,  
6     including all reimbursements paid pursuant to subdivision (2) of this section, all service  
7     charges on the account, and all payments made pursuant to subdivision (4) of this  
8     section; and

9           (d)     The balance in the refund value account at the close of such quarter.

10        4.     (a) Quarterly Payments. An amount equal to eighty percent of the balance  
11     outstanding in the refund value account at the close of each quarter shall be paid by the Director  
12     of the Virgin Islands Bureau of Internal Revenue at the time the report provided for in  
13     subdivision (3) of this section is required to be filed. The Director of the Virgin Islands Bureau  
14     of Internal Revenue may require that the payments be made electronically. The remaining  
15     twenty percent of the balance outstanding at the close of each quarter shall be the monies of the  
16     deposit initiator and may be withdrawn from such account by the deposit initiator. If the  
17     provisions of this section with respect to such account have not been fully complied with, each  
18     deposit initiator shall pay to the Director of the Virgin Islands Bureau of Internal Revenue at  
19     such time, in lieu of the amount described in the preceding sentence, an amount equal to the  
20     balance which would have been outstanding on such date had such provisions been fully  
21     complied with. The Director of the Bureau of Internal Revenue may require that payments be  
22     made electronically.

23           (b)     Refund Value Account Shortfall. In the event a deposit initiator pays out  
24     more in refund values than it collects in deposits of refunds values during the course of

1 a quarterly period as described in subdivision (3) of this section, the deposit initiator  
2 may apply to the Director of the Virgin Islands Bureau of Internal Revenue for a refund  
3 of the amount of such excess payment of refund values from sources other than the  
4 refund value account, in the manner as provided by the Director of the Virgin Islands  
5 Bureau of Internal Revenue. A deposit initiator must apply for a refund no later than  
6 twelve months after the due date for filing the quarterly report for the quarterly period  
7 for which the refund claim is made. No interest shall be payable for any refund paid  
8 pursuant to this paragraph.

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

21 5. All monies collected or received by the Virgin Islands Bureau of Internal  
22 Revenue pursuant to this title shall be deposited to the credit of the Commissioner of Finance.  
23 Such deposits shall be kept separate and apart from all other monies in the possession of the  
24 Commissioner of Finance. The Commissioner of Finance shall require adequate security from

1 all such depositories. Of the total revenues collected, the Commissioner of Finance shall retain  
2 the amount determined by the Director of the Virgin Islands Bureau of Internal Revenue to be  
3 necessary for refunds out of which the Commissioner of Finance must pay any refunds to which  
4 a deposit Initiator may be entitled. After reserving the amount to pay refunds, the Commissioner  
5 of Finance must, by the tenth day of each month, pay into the general fund the revenue deposited  
6 under this subdivision during the preceding calendar month and renaming to the Commissioner  
7 of Finance's credit on the last day of that preceding month; providing, that, beginning October  
8 1, 2017, and all fiscal years thereafter, the sum of five thousand dollars (\$5,000.00) plus all  
9 funds received from the payments due each fiscal year pursuant to subdivision (4) of this section  
10 in excess of the amount received from October 1, 2017, shall be deposited to the credit of the  
11 Coastal Protection Fund administered by the Virgin Islands Department of Planning and Natural  
12 Resources.

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

19 7. (a) Any person who is a depositor initiator under this title before October 1,  
20 2016, must apply by March 1, 2017 to the Director of the Virgin Islands Bureau of Internal  
21 Revenue for registration as a deposit initiator. Any person who becomes a deposit initiator on  
22 or before March 2, 2017 shall apply for registration prior to collecting any deposit as such a  
23 deposit initiator. Such application shall be in the form as prescribed by the Director of the  
24 Virgin Islands Bureau of Internal Revenue and shall require such information deemed necessary



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

14 (b) The Director of the Virgin Islands Bureau of Internal Revenue shall have  
15 the authority to revoke or refuse to renew any registration issued pursuant to this  
16 subdivision when he or she has determined or has been informed by the Commissioner  
17 that any of the provisions of this title or rules and regulations promulgated thereunder  
18 have been violated. Such violations shall include, but not limited to, the failure to file  
19 quarterly reports, the failure to make payments pursuant to this subdivision, the  
20 providing of false or fraudulent information to either the Virgin Islands Bureau of  
21 Internal Revenue of the Department, or knowingly aiding or abetting another person in  
22 violating any of this provisions of this title. A notice of proposed revocation or non-  
23 renewal shall be given to the deposit initiator in the manner prescribed for a notice of  
24 deficiency of tax and all the provisions applicable to a notice of deficiency under 33

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

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

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

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

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

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

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

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

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

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

22 (c) A bottler or deposit initiator shall notify the Department, in form  
23 prescribed by the Department, whenever a beverage container or beverage container  
24 label is revised by altering the universal product code, or whenever the container on

1        which a universal product code appears is changed in size, composition or glass color,  
2        or whenever the container or container label on which a universal product code is  
3        changed to include a universal product code that is unique to the territory or used only  
4        in the territory and any other state or territory with laws substantially similar to this title.

5        **§507. REDEMPTION CENTERS.**

6        1.        The Director is hereby empowered to promulgate rules a regulations governing  
7        the following:

8                (a)        The circumstances in which deposit initiators, dealers and distributors,  
9        individually or collectively, are required to accept the return of empty beverage  
10       containers, including beverage containers processed through reverse vending machines  
11       and make payment therefor;

12                (b)        The sorting of the containers which a deposit initiator or distributor may  
13       require of dealers and redemption centers;

14                (c)        The collection of returned beverage containers by deposit initiators or  
15       distributors, including the party to whom such expenses is to be charged, the frequency  
16       of such pick-ups and the payment for such refunds and handling fees thereon;

17                (d)        The right of dealers to restrict or limit the number of containers  
18       redeemed, the rules for redemption at the dealers' place of business, and the redemption  
19       of containers from a beverage for which sales have been discounted;

20                (e)        To issue registrations to persons, firms or corporations who establish  
21       redemption centers, subject to applicable provisions of territorial laws, at which  
22       redeemers and dealers may return empty beverage containers and receive payment of  
23       the refund value of such beverage containers. Such registrations shall be issued at no

1 cost. The Department may require that regulations adopted pursuant to this paragraph  
2 that redemption center must obtain registration as a condition of operation;

3 (f) The operation of mobile redemption center in order to ensure that to the  
4 best extent practicable containers are not proffered for redemption to a deposit initiator  
5 or distributor outside of the geographic area where such deposit initiator sells containers  
6 and initiates deposits.

7 2. The Department may require a redemption center to obtain a permit, as an  
8 alternative to registration if such center is located at the same facility or site as another solid  
9 waste management facility otherwise subject to the requirements of Section 7 or the regulations  
10 promulgated pursuant thereto;

11 3. No dealer or distributor, as defined in section 501 of this title, shall be required  
12 to obtain a permit to operate a redemption center at the same location as the dealer's or  
13 distributor's place of business. Operators of such redemption centers shall receive payment of  
14 the refund value of each beverage container from the appropriate deposit initiator or distributor  
15 as provided under section 503 of this title.

16 4. Each dealer and redemption center shall require any person tendering for  
17 redemption more than two thousand five hundred containers at one time to such dealer or  
18 redemption center to provide such person's name and address and the licensed plate of the  
19 vehicle used to transport the containers, or, in the case of an agent or employee of a not-for-  
20 profit corporation, a valid tax exemption waiver certificate. The dealer or redemption center  
21 redeeming the beverage containers shall keep the information on file for a minimum of twelve  
22 months and provide the same to the Department upon request.

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

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

4 **§509. Violations.**

5           1.       Except as otherwise provided in this section 506 of this title, any person who  
6 shall violate the provision of this title shall be liable to the Territory of United States Virgin  
7 Islands for a civil penalty of not more than five hundred dollars, and additional of nor more than  
8 five hundred dollars for each day during which day during which each such violation continues.  
9 Any civil penalty may be assessed following a hearing or opportunity to be heard.

10          2.       Any distributor, deposit initiator, redemption center or dealer who violates any  
11 provision of this title, except as provided in section 506 of this title shall be liable to the Territory  
12 of the United States Virgin Islands for a civil penalty of not more than one thousand dollars,  
13 and an additional civil penalty of not more than one thousand dollars for each day during which  
14 each such violation continues. Any civil penalty may be assessed following a hearing or  
15 opportunity to be heard.

16          3.       It shall be unlawful for a distributor or deposit initiator, acting alone or aided by  
17 another, to return any empty beverage container to a dealer or redemption center for its refund  
18 value if the distributor or deposit initiator had previously accepted such beverage container from  
19 any dealer or operator of a redemption center or if such container was previously accepted by a  
20 reversed vending machine. A violation of this subdivision shall be a misdemeanor punishable  
21 by a fine of not less than five hundred dollars nor more than one thousand dollars and an amount  
22 equal to two times the amount of money received as a result of such violation.

23          4.       Any person who willfully tenders to a dealer, distributor, redemption center or  
24 deposit initiator more than forty-eight empty beverage containers for which such person knows

1 or should reasonably know that no deposit was paid in the Territory may be assessed by the  
2 Department a civil penalty of up to one hundred dollars for each container or up to twenty-five  
3 thousand dollars for each such tender of containers. At each location where a person tenders  
4 containers for redemption, dealers and redemption centers must conspicuously display a sign in  
5 letters that are at least one inch in height with the following information: "WARNING: Persons  
6 tendering for redemption containers on which a deposit was never paid in this Territory may be  
7 subject to a civil penalty of up to one hundred dollars per container or up to twenty-five thousand  
8 dollars for each such tender containers." Any civil penalty may be assessed following a hearing  
9 and opportunity to be heard.

10 5. The Department of Planning and Natural Resources, Virgin Islands Bureau of  
11 Internal Revenue, Virgin Islands Waste Management Authority, the Virgin Islands Department  
12 of Agriculture, and the Virgin Islands Department of Justice are hereby authorized to enforce  
13 the provisions of this title and all monies collected shall be deposited into the Antilitter and  
14 Beautification Fund.

15 6. (a) Any person who willfully violates or directs another to violate the  
16 requirements to collect or charge the refund value imposed by section 502 or paragraph (a)  
17 subdivision (9) of section 506 of this title on five thousand or more beverage containers in one  
18 or more separate transactions within one year shall be guilty of a misdemeanor.

19 (b) Any person, having previously been convicted of a violation of  
20 paragraph (a) of this section within the past three (3) years, who willfully violates or  
21 directs another to violates the requirements to collect or charge the refund value imposed  
22 by section 503 or paragraph (a) of subdivision (9) of section 506 of this title on five  
23 thousand or more beverage containers in one or more separate transactions within one



1 year shall be guilty of a misdemeanor, punishable by a term of imprisonment of no more  
2 than six months and fined not more than one thousand dollars or both.

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

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

13 7. A violation of this title, except as otherwise provided in this section and section  
14 506 of this title shall be a public nuisance.

15 8. The Territory is entitled to retain twenty-five percent (25%) of all monies  
16 collected as fines or penalties pursuant to the enforcement of section 502 of this chapter.

17 **§510. Public Education.**

18 The Commissioner shall establish a public education program to disseminate  
19 information regarding implementation of this title. Such information shall include, but not  
20 limited to, publication of the U.S. Virgin Islands Bottle Bill of Rights as specified in subdivision  
21 (2) of section 503 of this title; publication of information specifying the procedures necessary  
22 to establish a redemption center as provided in section 507 of this title, including information  
23 regarding financial assistance available for the establishment of redemption centers as provided  
24 in section 511 of this title; publication of information delineating the relevant rights and

1 responsibilities of deposit initiators, distributors, dealers, redemption centers, and redeemers  
2 under the provisions of this title; publication of information regarding the requirement that  
3 deposit initiators register with the Virgin islands Bureau of Internal Revenue; and publication  
4 of the general benefits of recycling.

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

6 Notwithstanding any other provision of law to the contrary, within the limits of  
7 appropriations therefor, the Director shall make territorial assistance payments to business and  
8 not-for-profit organizations located in the Territory for cost of reverse vending machines located  
9 or to be located in the Territory. Such territorial assistance payments shall not exceed fifty  
10 percent (50%) of the cost of the equipment, and/or the acquisition and/or rehabilitation of real  
11 property or structures located or to be located in the Territory related to the collecting, sorting,  
12 and packaging of empty beverage containers subject to the provisions of this title. Such  
13 payments may include costs related to the establishment of redemption centers, including  
14 mobile redemption centers. For the purpose of this section not-for-profit organizations shall  
15 have the meaning as currently defined by the Virgin Islands law, and business shall mean a  
16 dealer, distributor or redemption center as defined in this title that employs less than fifty  
17 employees.

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**BILL SUMMARY**

20 This bill establishes a comprehensive waste reduction, recycling, and composing  
21 program in the Territory. The bill's purpose is to reduce environmental hazards caused by the  
22 failure to properly manage the Territory's waste. Further the bill address the finding that  
23 requiring deposits on all beverage containers, along with certain other facilitating measures, will

1 provide a necessary incentive for economically efficient, environmentally safe collection of  
2 containers, and recycling of containers.

3 **REVIEWER'S NOTE**

4 **THIS GOVERNOR'S BILL, IN EFFECT REPEALS CHAPTER 9 OF TITLE 29m, THE**  
5 **REGULATION OF BILLBORADS, BY USING THE SAME SECTIONS NUMBERS**  
6 **BEGINNING WITH §501. THERE ARE TERMS IN THE DEFINITION SECTION OF**  
7 **THE BILL WHICH ARE DEFINED, BUT NOT USED IN THE PURVIEW OF THE**  
8 **BILL. SECTION 507 REQUIRES THE DIRECTOR TO ADOPT EXPANSIVE**  
9 **REGULATIONS, AND OTHER PROVISIONS MAKE REFERENCE TO THE**  
10 **DIRECTOR, BUT FAIL TO IDENTIFY THE DIRECTOR OR THE DIRECTOR'S**  
11 **AGENCY. THROUGHOUT THE BILL, THERE ARE INCORRECT CITATIONS TO**  
12 **INTERNAL DIVISIONS WITHIN THE BILL AND INCORRECT REFERENCES TO**  
13 **PARTS OF THE VIRGIN ISLANDS CODE. THERE ARE ALSO INCONSISTENCIES**  
14 **WITH EXISTING LAW WHICH MUST BE RECONCILED BEFORE THE BILL IS**  
15 **ENACTED. AN APPROPRIATION FOR THE GOVERNMENT TO IMPLEMENT**  
16 **THE PROGRAM IS LACKING. THE BILL ALSO LACKS A CLEAR DEFERRED**  
17 **EFFECTIVE DATE PROVISION OR OTHER TRANSITIONAL PROVISIONS.**

18

19 **BR16-1204/February 10, 2016/**

20 **G31-0013**

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