

COMMITTEE ON HOUSING, PUBLIC WORKS AND
WASTE MANAGEMENT

06/27/2016-REASSIGNED TO COMMITTEE ON HOMELAND SECURITY, PUBLIC SAFETY AND JUSTICE

BILL NO. 31-0381

Thirty-first Legislature of the Virgin Islands

May 31, 2016

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

PROPOSED BY: Senator Novelle E. Francis, Jr.

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 19 Virgin Islands Code, part VI, chapter 62 is amended in the following instances:

(a) Section 2041 is amended as follows:

(1) Subsection (h) is amended by striking “is or may be”, by striking paragraphs (1), (2), (3), (4) and (5), and by adding “exceeds the sound levels at the distances prescribed in this chapter.”;

(2) Subsection (t) is stricken;

(3) A new subsection (c) is added and reads as follows:

“(c) “Day” means the whole or any part of a 24-hour period from midnight to midnight”; and

(4) The affected subsections are re-designated appropriately.

(b) Section 2042 is amended as follows:

(1) subsection (d) is amended by striking the existing language and inserting new language that reads as follows: “to operate a motorcycle that produces a sound level:

(A) in excess 92 dBA for all motorcycles, while the engine is operating at idle speed;

(B) at 96 dBA for motorcycles with fewer than 3 or more than 4 cylinders while the engine is operating at 2,000 RPM or 75 percent of maximum engine speed, whichever is less; or

(C) at 100dBA for motorcycles with 3 or 4 cylinders while the engine is operating at 5,000 RPM or 75 percent of the maximum engine speed, whichever is less, when measured in accordance with the provisions of SAE International Recommended Practice J2825, Measurement of Exhaust Sound Pressure Levels of Stationary On-Highway Motorcycles.”;

(2) Subsection (e) is amended by striking all the language after “vehicle” and inserting “that produces a sound level, whether attributable to mechanical power or a sound-producing device, in excess of 90 dBA when measured from a stationary point 50 feet from the center of the roadway for all noncommercial motor vehicles, other than motorcycles and sound levels for commercial motor vehicles, as defined in 20 V.I.C. § 392 (5), are as follows:

(A) **MAXIMUM PERMISSIBLE SOUND LEVEL READINGS (DECIBEL)**

	Highway operation test				Stationary tests	
	Soft site		Hard Site		Soft site	Hard site
	35 mi/h or less	Above 35 mi/h	35 mi/h or less	Above 35 mi/h		

If the distance between the microphone location point and the microphone target point is—						
31 ft. (9.5m) or more but less than 35 ft. (10.7m)	87	91	89	93	89	91
35 ft. (10.7m) or more but less than 39 ft. (11.9m)	86	90	88	92	88	90
39 ft. (11.9m) or more but less than 43 ft. (13.1m)	85	89	87	91	87	89
43 ft. (13.1m) or more but less than 48 ft. (14.6m)	84	88	86	90	86	88
48 ft. (14.6m) or more but less than 58 ft. (17.1m)	83	87	85	89	85	87
58 ft. (17.1m) or more but less than 70 ft. (21.3m)	82	86	84	88	84	86
70 ft. (21.3m) or more but less than 83 ft. (25.3m)	81	85	83	87	83	85

(B) For purposes of subparagraph (A) relating to the Highway Operations

Test (i) “hard site” means any test site having the ground surface covered with concrete, asphalt, packed dirt, gravel, or similar reflective material for more than ½ the distance between the microphone target point and the microphone locations and (ii) “soft site” means any test site having the ground covered with grass, other ground cover, or similar absorptive material for ½ or more of the distance between the microphone target point and the microphone location point.”

(3) Subsections (g) and (h) are amended by striking “at a sound level exceeding 75 dBA” and inserting “such that it creates a noise disturbance”;

(4) Subsection (i) is amended by striking “at a sound level exceeding 75 dBA”;

(5) Subsection (m) is amended by inserting “noise” before “exceeding” and by striking “.079” and inserting “79”;

(6) Subsection (o) is amended by striking all of the language and inserting new language that reads as follows:

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

(7) Subsections (k) and (l) are stricken and the affected subsections re-designated accordingly.

(b) Section 2042a is added and reads as follows:

“§2042a. Sound Standards. Sound standards for noise or music emanating from a vehicle or business establishment are as provided in paragraph (1) through (3):

(1) Sunday through Thursday, 7:00 a.m. to 12:00 midnight- 75 decibels;

(2) Sunday through Thursday, 12:00 midnight to 7:00 a.m. - 55 decibels; and

(3) Friday and Saturday, 7:00 a.m. to 2:00 a.m.-75 decibels.”

(c) Section 2043 is amended” by:

(1) inserting “owners of nightclubs” after “All”;

(2) striking “and” and inserting “or”;

(3) striking “500” and inserting “100”; and

(4) striking all of the provisions after “residential” and inserting “zoning district shall make all practical modifications to reduce sound that constitutes a noise disturbance or exceeds the noise limit as provided in section 2042a”;

(5) designating the existing provisions as subsection (a); and

(6) adding a subsection (b) to read as follows:

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

3 (d). Section 2044 is amended as follows:

4 (1) Subsection (a) is amended by inserting “the Virgin Islands Department of
5 Licensing and Consumer Affairs and the Virgin Islands Department of Health” after “Police”;
6 by striking “shall” and by inserting “may”;

7 (2) Subsection (b) is amended by striking “Police officers from the Virgin Islands
8 Police Department” and inserting “To determine whether violations of this chapter have taken
9 place, the Virgin Islands Police Officers, the Virgin Islands Department of Licensing and
10 Consumer Affairs Enforcement Officers and the Virgin Islands Department of Health”; by
11 striking “2042” and inserting “2042a” and in the last sentence, by inserting “according to
12 industry standards” after “annually.”

13 (3) Subsection (c) is amended by striking all of the language after the first
14 occurrence of “by” and by inserting “a law enforcement officer is guilty of a civil offense
15 punishable by a fine of \$250.”

16 (4) Subsection (d) is amended by striking “convicted of violating” and by inserting
17 “found to have violated”; by striking all the language after the first occurrence of “a” and by
18 inserting “civil offense punishable by a fine of \$500.”

19 (5) Subsection (e) is amended in the first sentence by striking “2042” and inserting
20 “2042a”; and in the second sentence by striking all of the language after the “person” and
21 inserting “is subject to a fine of \$1,000 for that violation and each subsequent violation.”

22 (6) Subsection (f) is redesignated as subsection (i), and a new subsection (f) is
23 inserted that reads as follows:

“(f) The owner of any business at which a sound or sounds emanate that constitute a noise disturbance or exceed the noise limit as provided in section 2042a, is subject to a fine of \$250 for the first violation, a \$500 fine for the second, and a \$1,000 fine for the third and each violation thereafter. Upon a third violation, the Department of Licensing and Consumer Affairs, in addition to imposing a fine of \$1,000, shall call the person before the Department of Licensing and Consumer Affairs to show cause why the person’s business license should not be suspended or revoked”; and

(7) Subsections (g), and (h) are added and read as follows:

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

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

(e) Section 2045 is stricken.

(f) Section 2046 is amended as follows:

(1) Subsection (a) is amended in paragraph (10) by:

(A) striking “in the Fort Christian parking lot”;

(B) inserting a comma (,) after “St. Thomas”;

(C) striking “in the Festival Village at the lot adjacent to the Paul E. Joseph Stadium”; and

(D) striking “in the Cruz Bay Parking lot”.

(2) Subsection (c) is amended by inserting “or the Commissioner’s designee” after “Police”; and by striking all of the language after the first occurrence of “chapter”.

(3) Subsections (b) and (e) are stricken and the affected subsections are re-designated appropriately.

BILL SUMMARY

The bill amends the Noise Pollution Act, title 19 Virgin Islands Code, chapter 62, in significance as follows:

(1) in section 2041 by, among other amendments, by changing the definition of noise disturbance;

(2) in section 2042 by including the permissible sound levels for commercial vehicles, motorcycles and other all non-commercial vehicles;

(3) by adding a new subsection 2042a by providing the sound level for music emanating from cars and business establishments;

(4) by amending 2043 to addresses sound levels for taverns, nightclubs, and bars;

(5) by striking section 2045 relating to actions for actual damages;

(6) amending section 2044 authorizing the Department of Licensing and Consumer Affairs and the Department of Health as entities that can enforce the provision of the Noise Pollution Control Act, and by adding new penalties for failure to comply with the provision of the Act; and

(7) amending section 2046 by eliminating subsections (b) and (e), relating to the need to apply for a permit to engage in conduct in contravention of the chapter and the application of the provisions of the chapter on Fridays, Saturdays and Sunday, respectively.