

The Virgin Islands Consortium

Noise Reduction Bill Affecting Nightclubs, Cars, Music At Public Facilities Overcomes First Hurdle

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ST. CROIX -- Senator Novelle Francis, after introducing a measure aimed at controlling noise in the territory [in July 2016](#), on Wednesday brought the measure before the Committee on Government Affairs, Veterans, Energy and Environmental Protection, where the legislation, Bill No. 32-0011, was approved and forwarded to the Committee on Rules and Judiciary for further consideration.

The measure amends Title 19 of Virgin Islands Code, part 6, chapter 62, and attempts to clarify the definition of noise disturbance and permissible sound levels for commercial, non-commercial vehicles and motorcycles, and sound levels for music emanating from cars and business establishments.

It eliminates the requirement for special permits for weekend activities and as amended, mandates that "After 11:00 p.m. and before 7:00 a.m., all owners of nightclubs, taverns or bars must not make, cause or permit to be made or caused continuous or noncontinuous noise or sound from live entertainment that exceeds an interior rating of 90 decibels (90 dBA) over a three minute time period on an approved sound meter when measured within the establishment at a distance of 100 ft. from the source."

While the measure passed with Senators Sammuel Sanes, Jean Forde, Nereida Rivera-O'Reilly and Marvin Blyden voting in favor (Tregenza Roach was not present and Janette Millin Young abstained), the bill was rebuked by Senator Alicia Hansen, who relegated the measure as an attempt to quell music culturally accepted in the islands.

"We are not to play like we don't know what's going on here in these islands. When there's rock 'n' roll -- nobody is going to say it but that's what's going on here -- when it's rock 'n' roll, it's not noise. When it's calypso, soca, reggae, then it becomes noise to some people. We hear that everyday. So you all my colleagues can pretend because it's convenient to pretend like you don't know that, [but] I will say it," Mrs. Hansen said. The senator also took issue with a portion of the bill that included barking dogs as noise. "For some people, many people, dogs and the barking is their protection, their warning. For others, they have the money to install all kinds of systems to protect themselves and their properties. We utilize dogs and that's what they do: they bark."

Mrs. Hansen then focused her gaze on Chris Richardson, president of RonCan, Inc. and co-owner of Sand Castle on the Beach and Beach Side Cafe in Frederiksted, who complained that music emanating from the Dorsch Beach on the weekend, which is close to Sand Castle, has adversely affected hotel guests. Mrs. Hansen pitched whether the option would be to block part of the beach to locals, who regularly visit the beach and utilize it during the camping season. Mr. Richardson said that that was a possibility; his response eliciting the angst of Mrs. Hansen.

"I ain't supporting that," she fired. "I know that's what you all will want to see, but this one here ain't going for that. I am telling you that that is part of our culture. On weekends people do utilize Dorsch Beach; I'm not going to be part of stopping it and the way they do it. And I'm not going to stop, for any reason, camping down there, and part of the camping is to have an awesome time -- and that's required to have music."

One supporter of the measure who moved to St. Croix two years ago, spoke of tenants of his rental properties in Frederiksted who have expressed frustration with the loud music.

"I love a good party, I love a good concert, I'm not opposed to music during normal business hours. But when it starts happening after ten o'clock at night, eleven o'clock at night and on the weekends until all hours of the morning, that affects my residents ability to get a good night sleep, and that affects their ability to go to work, and then they start looking for other places to live outside of Frederiksted and that starts affecting all of us," said Christopher Swanson, who owns a property development company named Evolve, which he says specializes in the restoration or adaptive reuse of historic properties.

Following a Consortium story in July of last year making known that hearings were set to begin on the measure, then Bill No. 31-0381, in the Committee on Homeland Security, Public Safety and Justice, Virgin Islands residents [responded](#) with [concern](#), with some

expressing fear that the measure could have a chilling effect on entertainment and social life. Mr. Francis on Wednesday said he has taken the community's feedback into consideration.

"Because of numerous calls of concern from the community, I sought input from residents during the drafting process of this bill and chiseled out a document that gives balance for all involved. We heard from some of those residents today as they expressed concerns that they have not been able to enjoy the comfort of their homes or businesses because of the excessive noise from cars, business establishments and other elements," Mr. Francis said. "This legislation defines several things including what would constitute a noise disturbance, who will take the lead on enforcement and enacts penalties for non-compliance so that churches, schools, residents, and businesses can coexist."

Penalties for failure to comply with the Noise Pollution Act include:

- Any person who refuses to submit to a sound level test when requested to do so by a law enforcement officer is guilty of a civil offense punishable by a fine of \$250.
- Any person convicted of violating section 2042 of this chapter is guilty of a civil offense punishable by a fine of \$500.
- Any person is subject to a fine of \$1,000 for that violation and each subsequent violation.

The owner of any business where a sound or sounds emanate that constitute a noise disturbance or exceed the noise limit is subject to a fine of \$250 for the first violation, a \$500 fine for the second, a \$1,000 fine for the third and each violation thereafter. Upon a third violation, the Department of Licensing and Consumer Affairs (D.L.C.A.), in addition to imposing a fine of \$1,000, shall contact the business owner to appear at D.L.C.A. to show cause why the business license should not be suspended or revoked.

The measure authorizes D.L.C.A. and the Department of Health in conjunction with the Virgin Islands Police Department, to determine whether violations have taken place and to enforce the act.

Yet, though the measure overcame its first hurdle, some testifiers had concerns about enforcement, with D.O.H. calling for tools and manpower if it were to participate.

"The context of sound is subjective," said Dr. Winess Gentius, clinical doctor of audiology who represented D.O.H. "Although the specifics of Bill No. 32-0011 are timely, the Department of Health is unable to support these enforcement efforts. It is imperative that the framework of this legislation include enforcement tools equipment and staffing in order to for this bill to have a real impact in the lives of our residents."

Howard A. Forbes, Sr., acting director of the Division of Environmental Enforcement of the Department of Planning and Natural Resources, informed senators that the division has no jurisdiction on noise pollution, nor the equipment and specialized training required to handle noise complaints. However, Mr. Forbes said the division would assist by providing the V.I.P.D. with the source of the complaint.

The V.I.P.D., one if the most important departments in the enforcement effort, expressed support for the measure, with Mark A. Corneiro, a St. Croix deputy chief of police, telling the committee that the force would solicit the attorney general's office for input.

