

The Virgin Islands Consortium

Lawmakers Revoke Provisions in Law That Facilitated Construction of Rum Distillery in Frederiksted on Agricultural Land

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Raising Cane equipment cultivating sugarcane. By. RAISING CANE.

Section 2 of Act No.8569 — the provision of a measure sponsored by Senator Kurt Violet that authorized the development of rum distilleries on agricultural land was repealed by the full Senate of legislators Tuesday night.

The actions of legislators have reversed an ambiguity in the law that permitted the construction of rum distilleries on agricultural land. Mr. Violet, who spearheaded the measure, came under heavy criticism from the public, including residents of Frederiksted,

that culminated with [a raucous town hall meeting where the senator was roundly assailed](#)

A decision was also taken to revoke the permit issued by the Department of Planning and Natural Resources (DPNR) to have a rum distillery built near family beaches and homes in Frederiksted by Raising Cane owner, Robert Apfel. If the permit was not revoked, the rum distillery would have moved forward without due process, which includes holding public hearings or issuing notices to request the granting of the permit to the owner of Prosperity Farm. DPNR was also accused of ignoring environmental reports as a result of the planned project.

The change means that rum distillation will revert to being excluded from the list of uses on agricultural land and is no longer included in the definition of agricultural processing plants.

The bill was successfully repealed, backdated to April 11, 2022, following a two-minute round of debate between Senators Kurt Violet and Genevieve Whitaker, who proposed different ideas on how to move forward with the amendment.

While Ms. Whitaker moved a special order to the floor to repeal the original amendment (bill #34-0301) by striking all the 'WHEREAS' clauses that appeared before the enactment clause, Mr. Violet said he had already submitted legislation that sought to define the extent of what facilities could be built on the Estate Prosperity property and would prohibit large-scale distillery development on any farmland. The draft, he said, also addresses environmental concerns.

While Senators Carla Joseph and Dwayne Degraff seconded Ms. Whitakers motion, Mr. Violet's amendment not to support the motion was seconded by Senator Alma Francis Heyliger but objected to by Senator Whitaker who felt that the WHEREAS clauses in the legislation was "very critical."

"The WHEREAS clauses outline the actions leading to today; the actions taken back by this Legislature and assented by the governor in April 2022," she said, adding that, "What this measure seeks to do is to restore the agriculture provision with our law that we will not have rum distillation on agricultural land."

"Ultimately, this is an example of us making sure that we do our due diligence as senators to ensure that we respect people's neighborhoods and their environments. Again, this measure seeks to restore that provision and the WHEREAS clauses simply delineate the action in us removing the provision and requirements that rum distilleries are not erected on agricultural land," she explained.

Mr. Violet accused the bill's sponsor of creating her own narrative for the bill and said that the WHEREAS clause was self-serving to her. "The only part of this bill that is going to go into effect is Section 1 and Section 2. If you read the WHEREAS clauses it is a narrative as prescribed by the sponsor of the bill," he insisted.

In an attempt to paint the full picture of the situation, Mr. Violet noted that prior to the revocation request, permits to construct the distillery had been withdrawn by the owner of Prosperity Farm and an appeal filed with the Land Use Appeal Bureau was squashed last Friday.

“The appeal that was filed with the Bureau of Land Use Appeal was pulled by the appellant. The hearing was on Friday and the appellant and all the petitioners pulled the appeal. The owner of Prosperity Farm, after discussion with myself, with his attorney, who encouraged him to revoke the permit for the distillery until we’re able to provide language since it was such an uproar.”

According to Mr. Violet, “The Bureau of Land Use Appeal didn’t just revoke, the owner of Prosperity Farm said ‘pull the distillery, I will only build the cane crushing facility and I will not distill on the land.’”

During their contributions, both Mr. Violet and Senator Janelle Sarauw strongly encouraged lawmakers to enact alternative laws that facilitate economic productivity on the island in tandem with repealing those laws put forward that are not in line with the territory’s economic development goals.

“We’re having a discussion in this Legislature about rum when we just passed an SPV for the rum that is produced on St. Croix to save the retirement system. We just assed a special purpose vehicle based on the Internal Revenue Matching Fund and then we act in here like we are blind because of a craft distillery when there are two already located on St. Thomas – when there’s Mutiny Vodka in the middle of Sion Farm but we act like we’re doing something so noble,” he argued.

“Come with economic development. I have no issue in voting to revoke the permit but the WHEERAS clauses – garbage!” he pressed further, proposing that the Legislature will eventually revisit the craft distillery option.

Meanwhile, Ms. Sarauw pushed for the large-scale production of molasses on the island, noting that the government saves rum companies \$25 to \$30 million in revenue each year by subsidizing \$0.16 of the cost to import the molasses used to sweeten the rums.

“It’s high time that we have local molasses that will save this government \$25 to \$30 million. We cannot kill economic development over and over again. So, repeal but I challenge the author of the repeal to bring legislation that allows for small craft distilleries within the appropriate confines,” Ms. Sarauw remarked.

She also agreed that the Government Employees’ Retirement System is on the path to solvency because of revenue invested in it, secured by taxes on rum made in the USVI and sold on the US mainland — a testament to the importance of the sector.

The events leading to Tuesday’s repeal came about after Mr. Apfel sought help from lawmakers to remove rum distilleries from the list of prohibited activities on agricultural land. As a result, the measure was brought by Senator Violet and co-sponsored by his colleagues including Novelle Francis, approved by the Legislature and sent to Governor Bryan, who assented on March 24th.

The bill, which became law (Act 8569) in April 2022, amended the territory’s official Zoning Map and allowed for the rezoning of a number of parcels of agricultural land. The legislation changed the designation for more than 25 acres of lands from A1 to A2 - both agricultural designations, and the other from A1 to B2 - which moves it from agricultural to business-secondary or neighborhood designation.

Following the passing of the law, residents petitioned for the building permit and earth change permits for Raising Cane's distillery to be revoked. They want the farm owner to go through the usual regulatory process by either applying for use variance or filing an application for rezoning of the land.

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