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ACT NO. 8205

BILL NO. 33-0098

THIRTY-THIRD LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2019

An Act amending title 12A of the Virgin Islands Code by adding a new chapter 8 requiring that businesses offer at least two payment options to their customers, and matters related thereto

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WHEREAS, resident and visiting consumers in the Virgin Islands are limited and inconvenienced by the lack of payment options offered by businesses;

WHEREAS, one of the biggest challenges facing the Government of the Virgin Islands is the fight against tax fraud;

WHEREAS, the prevention of tax fraud is a battle that requires technological tools and a clear legal framework that promotes and encourages the transparency of commercial transactions;

WHEREAS, the objectives of transparency and security in commercial transactions with electronic money tend to improve economic relations;

WHEREAS, a more consistent and predictable payment system contributes to greater efficiency and less litigation, which in turn, allows the consumer to achieve greater control over possible losses due to fraud;

WHEREAS, confidence in commercial transactions with cash is subject to the transparency and good faith of the parties involved;

WHEREAS, some businesses receive cash without issuing a receipt, therefore there is no record of a transaction which aids in the underreporting of sales;

WHEREAS, the Bureau of Internal Revenue's control over tax evasion caused by underreported sales will result in the generation of more income to the Treasury of the Virgin Islands;

WHEREAS, it is the duty of the Legislature of the Virgin Islands to establish the necessary regulation so that each commercial transaction is carried out with the greatest possible confidence; and

WHEREAS, this legislation combines the protection of consumers and the management of commercial transactions in a legal framework of transparency that seeks to reduce tax fraud; Now, Therefore,

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 12A of the Virgin Islands Code is amended by inserting a new chapter 8 to read as follows:

“Chapter 8. Payment Options

§ 451. Definitions

For the purposes of this chapter:

- (a) “Business” means any individual, sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services or both are sold, as well as professional corporations, and any other business entity where legal, medical, dental or other professional services are provided.
- (b) “Cash” means a monetary unit of currency of the United States in the form of paper or coins.
- (c) “Check or money order” means a document, draft, or order issued against a financial institution, requiring payment upon its presentation against deposited funds.
- (d) “Credit card” means the card issued by a financial institution or creditor that allows the holder to obtain borrowed money and acquire goods, services, or cash advances, according to a previously established credit agreement.
- (e) “Customer” means a person or organization that buys goods or services from a business.
- (f) “Debit card” means the plastic card issued by a financial institution that allows its holder to obtain money from their bank account, through an electronic transaction, cash, or the money that they wish to pay for the licensed services.
- (g) “Electronic transfer” means any transfer of money, including those made through electronic means, cable, telephone, computer, or through any other means, through which a financial institution is instructed or authorized to debit or credit an account, such as through Paypal, Zelle, Movil, Cash App, etc.

(h) "Government of the Virgin Islands" means the three co-equal branches of the Government of the Virgin Islands which includes the executive, legislative, and judicial branches.

(i) "Itinerant vendor" means a vendor who travels from one place to another selling goods seasonally at different events (e.g., Carnival/Festival Village, Agriculture and Food Fair, Mango Melee, Jump Up, etc.).

(j) "Legal name" means the name of a person recorded on the person's birth certificate or as declared by a court, or the name of a business entity as reported to the government in the entity's establishment documents (e.g., articles of incorporation).

(k) "Payment method" means payment by cash, credit or debit card, check or money order, or electronic funds transfer.

(l) "Person" means an individual or a business.

§ 452. Payment Options

(a) (1) Any business and any branch, department, division or agency of the Government of the Virgin Islands shall offer at least two (2) payment options to a customer. Payment options include cash, credit or debit card, check or money order, and electronic transfer. One of the payment options must be cash and one of the payment options must be credit or debit card.

(2) The option to use one of the payment methods made available to a customer in paragraph (1) of this subsection remains with the customer, and no business shall induce or coerce a customer to use a particular payment method.

(3) (A) If a payment method made available to a customer in paragraph (1) of this subsection becomes unavailable, the business shall offer an additional alternative payment method.

(B) If a payment method becomes unavailable under subparagraph (A) of this subsection for more than five (5) business days, the business shall notify the Department of Licensing and Consumer Affairs in writing of the unavailability of the payment method and the steps taken by the business to remedy the unavailability of the payment method.

(b) A business may impose a minimum purchase amount of up to \$10 for credit card charges, however, the customer must be given written notice of the minimum purchase amount at the point of sale.

(c) This section shall not be applicable to: itinerant vendors, farmers certified by the Department of Agriculture, fishermen certified by the Department of Licensing and Consumer Affairs, and commercial establishments with an annual volume of business of less than \$50,000 per year.

§ 453. Receipts

(a) A business shall offer a customer a receipt for any transaction of \$5 or more. For transactions under \$5, the business shall provide the customer with a receipt upon request.

(b) A receipt must contain the following information:

- (1) the items purchased;
- (2) the amount of money paid for each item;
- (3) the date of the purchase; and
- (4) the legal name and address of the business.

§ 454. Posting Requirements

(a) A business shall prominently display at the point of sale a clearly identifiable sign specifying the payment options available.

(b) A business that does not offer goods or services from a physical location is required to inform a customer verbally or in writing about the available payment options.

§ 455. Recordkeeping

A business shall maintain a record of daily transactions that includes the items sold to customers, the amount received, and the payment method. The records shall be maintained and available for inspection by the Virgin Islands Bureau of Internal Revenue for a period of not less than seven (7) years.

§ 456. Complaints

(a) Any person with knowledge of a suspected violation of the provisions of this chapter may file a formal complaint with the Department of Licensing and Consumer Affairs. A complaint can also be made telephonically and may be filed anonymously.

(b) The Department of Licensing and Consumer Affairs shall make a prompt investigation of any complaint.

§ 457. Administration and Enforcement

(a) The Commissioner of the Department of Licensing and Consumer Affairs shall administer and enforce the provisions of this chapter.

(b) The Commissioner of the Department of Licensing and Consumer Affairs is authorized to promulgate rules and regulations necessary to carry out the purposes of this chapter including procedures for filing, investigating and resolving complaints, and for handling notices of payment method unavailability under section 452(a)(3)(B) of this chapter.

- (c) (1) In the administration of this chapter, the Commissioner of the Department of Licensing and Consumer Affairs shall perform periodic on-site inspections of businesses.
- (2) No notice is required before an inspection.

§ 458. Penalties

(a) For any violation of any provision of this chapter, the Commissioner of the Department of Licensing and Consumer Affairs, in consultation with the Director of the Bureau of Internal Revenue, may impose an administrative fine of not less than \$1,000 for a first offense, and not less than \$3,000 but not more than \$5,000 for subsequent offenses.

(b) The money collected as fines imposed under this chapter shall be deposited into the General Fund of the Government of the United States Virgin Islands. However, twenty percent (20%) of fines collected shall be redirected to the Criminal Investigation Division of the Bureau of Internal Revenue in order to strengthen its investigative role regarding violations of the tax laws of the Virgin Islands and, another twenty percent (20%) shall be redirected to the Enforcement Division of the Department of Licensing and Consumer Affairs to strengthen its enforcement of the Virgin Islands business licensing laws.

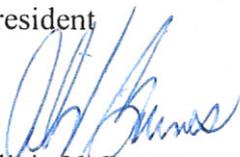
SECTION 2. Section 1 shall take effect 180 days after the enactment of this Act.

Thus passed by the Legislature of the Virgin Islands on September 16, 2019.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 25th day of September, A.D., 2019.




Novelle E. Francis, Jr.
President


Alicia V. Barnes
Legislative Secretary



Bill No. 33-0098 is hereby approved.

**Witness my hand and the seal of the Government of
the United States Virgin Islands at Charlotte Amalie,
St. Thomas, this 6th day of October, 2019 A.D.**


Albert Bryan, Jr.
Governor