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Legislature of the Virgin Islands
1 Lagoon Street Complex
Frederiksted, St. Croix, USVI 00840

Re: Bill No. 30-0387: Plastic Bag Ban of 2014, An Act to prohibit retailers from providing customers with plastic bags to carry items purchased by the customer.

Good morning Chairman Barshinger, committee members and those present,

My name is Michael Baron and I am here to present testimony from the St. Croix Environmental Association, of which I am Acting Chair, the Virgin Islands Conservation Society, and the Environmental Association of St. Thomas/St. John, as well as comment and engagement by many other affiliated and associated groups and businesses concerned about this issue. Thank you for the opportunity to present the environmental issues regarding the bill before us today.

As environmentalists we look for two kinds of benefits from government policy: global effects with far-reaching positive impacts, and local effects that protect the environment and heighten our quality of life in the Virgin Islands. We praise the bill's intent to reduce impacts on wildlife and the waste stream and strongly support the effort to encourage consumers to use multi-use bags they bring to stores or get when they shop.

We should keep in mind that the energy requirements for producing, distributing, and recycling or disposal of any plastic bag, biodegradable, compostable, or not, are far lower than those for paper bags.¹ Whereas a plastic bag may be used more than once, it is unlikely that shoppers will reuse paper bags.² Paper sounds great, but newspapers discarded in landfills from a century ago have been legible and intact. The fact that

The ultimate solution is for consumers to use their own multi-use bags or get them when they shop. Retailers should encourage this by making them available at low prices and giving discounts at checkout to customers who do bring their own bags, as is done for seniors, military personnel, and others. An important benefit of multi-use bags is the savings in freight costs that raise the price of all bagged carry-out items.³ This savings could be used as incentive for retailer participation. For example, a combined order for 100,000 multi-use bags landed in the V.I., with a mandatory purchase by all retailers, could bring the price of a recycled polypropylene bag to 25¢ or less, allowing the retailer to charge 50¢, as many restaurants do for take-out orders.

Section 500 under "Administration" line 20-22" The Commissioner of the Department of Planning and Natural Resources has primary responsibility for the administration of this chapter, and shall adopt rules and regulations within one hundred eighty days from the effective date of this Act."

Why was the VI Waste Management Authority not chosen to be the lead agency, in view of WMA's mandate and the possibility for an industrial-grade composting facility being established on Renaissance property?

1. The total energy used, cradle-to-grave, is almost double for paper bags and much higher for cotton or jute bags.

2. Plastic bags are reused regularly for household waste and pet litter.

3. Paper bags are four times the weight of plastic bags.

Section 501 under “Definitions, section (3) line 11 -16: Compostable plastic Bag means a plastic carryout bag that meets the current American Society for Testing and Materials International Standard (ASTM) D6400 for compostable plastic, as that standard may be amended from time to time.”

The bill calls for “compostable” as distinct from “biodegradable.” If the industry definition of compostable is used instead of the scientific biological definition, a plastic bag could disappear over time but leave behind metals and other compounds, whereas if the biological definition is used, everything in the bag is consumed and nothing is left behind. Which definition is to be used in this instance? Because a manufacturer labels their product “compostable” under the industry definition, it does not mean that it will completely break down or be combined into organic matter leaving no sort of residuals behind.

Also under this section there is no mention of ASTM D7081: “A pass/fail standard for the compostability of a plastic in a marine environment, such as the ocean. A product that passes this specification can claim to be “biodegradable in marine waters and sediments.” Without this certification there is no difference between the impact of a standard, biodegradable, or compostable plastic bag.

[Demonstration] I have here 2 biodegradable bags, the ones that were mandated by law for Pueblo to use a couple of years ago, sitting in seawater and fresh water for over 1 year. They are both completely intact and unaffected. If I were to remove them from their jars, you would be able to use either today to carry home your 6-pack.

Section 501, section 10, lines 6-9: “Store” means a drug store, supermarket or retail establishment that has over 1,000 square feet of retail space, shops, eating places, food vendors and retail food vendors, and that provides plastic carryout bags to its customers as a result of the sale of a product. It does not include sales for not-for-profit organizations.”

We disagree with the exclusion from the law of hundreds of convenience stores, event booths, and food trucks that may be below the arbitrary 1000 square foot limit. We also object to the exclusion of not-for-profit organizations in that it creates an uneven playing field and overlooks the influence organizations like the Boy’s & Girls Club, schools, and other non-profits have on youngsters just when their values for the environment should be a robust part of their education.

Section 502 under “Restriction on Plastic Carryout Bag, section (a-c) lines 11-16: Beginning November 30, 2014, every operator of a store shall restrict the use of non-compostable plastic bags by 50 % of the current volume and by December 31, 2016 all non-compostable plastic bags shall be banned from use in the Virgin Islands. Every operator of a store shall submit a report documenting the reduction in usage of non- compostable bags to the department on or before November 30, 2014. Beginning January 1, 2017, every operator of a store shall provide as carryout bags to customers a recyclable paper bag, or a reusable bag.”

Retailers should report the inventories of single-use bags on hand and the time to exhaust these supplies, at which time the new rules would take effect. We recommend a charge at checkout of 5¢ per single-use bag for purchases under \$20, and that a multi-use bag be provided at no cost to the consumer with purchases over \$20 to encourage the public’s acceptance of the stricter no-single-use rule to follow. At a time to be determined, only multi-use bags of various kinds would be sold or provided by retailers and distributors. Some comments we received regarding subsection (b) hold that this line should be removed entirely from the bill due to the additional hardship on retailers due to reporting requirements. However, on balance we believe that some minimum level of reporting by retailers and distributors should be required to gauge the Bill’s effectiveness, as well as quarterly reports from the agencies involved.

Section 503 under “Penalties section (b) lines 6-9: The Commissioner of the Department Licensing and Consumer Affairs, and the Commissioner of the Department of Health may assist with the enforcement responsibility

by entering the premises of the a store as part of their regular inspection functions and reporting any alleged violations to the Commissioner of the Department of Planning and Natural Resources.”

Will these departments and agencies receive additional resources for these tasks?

Section 503 under “Penalties, section (g) lines 17-19: The hearing officer may sustain, rescind, or modify the written warning notice of fine as applicable, by written decision. The hearing officer will have the power to waive any portion of the fine in a manner consistent with the decision.”

In our opinion the hearing officer could post a general notice on their office door that all appeals are approved, and that would be that; no further recourse for the retailer or the government. A dead-end appeal process is not acceptable and violates due process.

Section 503 under “Penalties, (f), lines 4-5: All fines collected pursuant to this Chapter shall be deposited in the Plastic Bag Ban Fund pursuant to title 33 Virgin Islands Code section 3100().”

Monies collected as penalties or fees, or for any other reason under this bill should be reserved and dedicated toward recycling and/or environmental efforts and programs.

In summary, we support a ban on any type of single-use bag of any material. We advocate for incentives directed at consumers as well as penalties for retailers to motivate the use of multi-use bags. This is the only way to permanently reduce the pressure on the waste stream WMA deals with and to minimize or eliminate the detrimental environmental effects and unsightly litter single-use bags of any type will produce.

Sincerely,



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References:

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<http://www.reuseit.com/facts-and-myths/facts-about-the-plastic-bag-pandemic.htm>

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