

COMMITTEE ON GOVERNMENT OPERATIONS,
CONSUMERS AND VETERANS AFFAIR

05/20/2019-AMENDED AND REPORTED OUT TO THE COMMITTEE ON RULES AND
JUDICIARY

BILL NO. 33-0043

Thirty-Third Legislature of the Virgin Islands

March 25, 2019

An Act amending title 27, chapter 9 of the Virgin Islands Code by adding a section 305h providing for a ban on the retail sale or offer for sale, and the distribution or importation for retail purposes of topical sunscreen products containing oxybenzone and octinoxate

PROPOSED BY: Senators Marvin A. Blyden, Alicia V. Barnes,
Myron D. Jackson, Janelle K. Sarauw, and
Athneil “Bobby” Thomas
Co-Sponsors: Dwayne M. DeGraff, Javan E. James, Sr. and
Steven D. Payne, Sr.

1 **WHEREAS**, the Legislature of the Virgin Islands finds that two chemicals,
2 oxybenzone and octinoxate, contained in many sunscreen and personal-care products, have
3 significant harmful impacts on the Virgin Islands’ marine environment and ecosystem,
4 including coral reefs that protect the Virgin Islands’ shoreline;

5 **WHEREAS**, oxybenzone and octinoxate cause mortality in developing coral, increase
6 coral bleaching that indicates extreme stress, even at temperatures below 87.8 degrees
7 Fahrenheit, and causes genetic damage to coral and other marine organisms;

8 **WHEREAS**, these chemicals have also been shown to inhibit recruitment of new
9 corals and degrade corals’ resiliency and ability to adjust to climate change factors;

1 **WHEREAS**, oxybenzone and octinoxate appear to increase the probability of endocrine
2 disruption and scientific studies show that both chemicals can induce feminization in adult
3 male fish and increase reproductive diseases in marine invertebrate species, e.g., sea urchins’;
4 vertebrate species, e.g., fish such as wrasses, eels, and parrotfish; and mammals, in species
5 similar to the bottlenose dolphin;

6 **WHEREAS**, the chemicals have also been found to cause deformities in the
7 embryonic development of fish, sea urchins, and coral, and induce neurological behavioral
8 changes in fish that threaten the continuity of fish populations;

9 **WHEREAS**, species that are listed on the federal Endangered Species Act and inhabit
10 Virgin Islands’ waters, including sea turtle species, coral species, marine mammals, and
11 migratory birds, may be exposed to oxybenzone and octinoxate contamination;

12 **WHEREAS**, elevated levels of oxybenzone and octinoxate have been detected at
13 popular swimming beaches and critical coral reef areas throughout the Territory, including
14 Trunk Bay, Hawksnest Bay and Buck Island;

15 **WHEREAS**, the Legislature further finds that environmental contamination of
16 oxybenzone and octinoxate persists in the Virgin Islands’ coastal waters, as the contamination
17 is constantly refreshed and renewed daily by swimmers and beachgoers, and swimming and
18 other water activities cause these chemicals to pollute Virgin Islands’ waters, unless they are
19 actively mitigated;

20 **WHEREAS**, sewage contamination of coastal waters is another source of oxybenzone
21 and octinoxate environmental contamination, as these chemicals are not removed by the
22 Territory’s wastewater treatment system and oxybenzone and octinoxate are also discharged
23 to the ground and surface waters from functioning septic systems, leaking septic systems, and
24 municipal wastewater collection and treatment systems; and

1 **WHEREAS**, the purpose of this legislation is to seek to preserve marine ecosystems,
2 including coral reefs, by, beginning January 1, 2021, restricting the sale, offer for sale, and
3 distribution in the Virgin Islands of topical sunscreen products containing oxybenzone and
4 octinoxate to licensed pharmacies or drug stores to be dispensed by prescription only from a
5 licensed healthcare provider; Now, Therefore,

6 *Be it enacted by the Legislature of the Virgin Islands:*

7 **SECTION 1.** Title 27, chapter 9 of the Virgin Islands Code is amended by adding a
8 new section 305h to read as follows:

9 **“§ 305h. Prohibition on the sale, importation and distribution of sunscreen and**
10 **personal-care products containing oxybenzone or octinoxate**

11 (a) For purposes of this section:

12 (1) “oxybenzone” means the chemical (2-Hydroxy-4-methoxyphenyl)-
13 phenylmethanone under the International Union of Pure and Applied Chemistry
14 Chemical Nomenclature Registry, that has a Chemical Abstract Service Registry
15 Number 131-57-7, and whose synonyms include benzophenone-3, Escalol 567, Eusolex
16 4360, KAHSCREEN BP-3, 4-methoxy-2-hydroxybenzophenone and Milestab 9, and is
17 intended to be used as protection against ultraviolet light radiation with a spectrum
18 wavelength from 400 nanometers to 280 nanometers in an epidermal sunscreen-
19 protection personal-care product.

20 (2) “octinoxate” means the chemical ((RS)-2-Ethylhexyl(2E)-3-(4-
21 methoxyphenyl)) prop-2-enoate under the International Union of Pure and Applied
22 Chemistry Chemical Nomenclature Registry, that has a Chemical Abstract Service
23 Registry Number 5466-77-3, and whose synonyms include ethylhexyl
24 methoxycinnamate, octyl methoxycinnamate, Eusolex 2292, NSC 26466, Parsol MOX,
25 Parsol MCX and Uvinul MC80, and is intended to be used as protection against

1 ultraviolet light radiation with a spectrum wavelength from 400 nanometers to 280
2 nanometers in an epidermal sunscreen-protection personal-care product.

3 (3) “Licensed healthcare provider” means a physician or osteopathic
4 physician licensed pursuant to chapter 1, subchapters I and II of this title, or an advanced
5 practice registered nurse licensed pursuant to chapter 1, subchapter IV of this title.

6 (4) “Prescription” means an order for medication that is dispensed to or for
7 an ultimate user. Prescription does not include an order for medication that is dispensed
8 for immediate administration to the ultimate user, such as a chart order to dispense a
9 drug to a bed patient for immediate administration in hospital but includes an order for
10 sunscreen.

11 (5) “Sunscreen” means a product marketed or intended for topical use to
12 prevent sunburn. Sunscreen does not include products marketed or intended for use as
13 a cosmetic, as defined in section 301(i) of the Federal Food, Drug & Cosmetic Act, title
14 21, chapter 9, subchapter II of the United States Code, for use on the face.

15 (b) Unless prescribed by a licensed healthcare provider and imported, distributed
16 and offered for sale by a licensed pharmacy or drug store as defined in 27 V.I.C. § 141, it is
17 unlawful to:

18 (1) sell, offer for sale, or distribute, after September 30, 2020, in the Virgin
19 Islands any sunscreen product that contains oxybenzone or octinoxate including, but not
20 limited to, lotions, pastes, balms, serums, or ointments;

21 (2) import, after December 31, 2019, into the Virgin Islands for sale any
22 sunscreen product that contains oxybenzone or octinoxate including, but not limited to,
23 lotions, pastes, balms, serums, or ointments; or

1 (3) bring into, use or possess, after January 1, 2021, while in the Virgin
2 Islands, any sunscreen products that contains oxybenzone or octinoxate including, but
3 not limited to, lotions, pastes, balms, serums, or ointments.

4 (c) After notice and an opportunity to be heard, the Department of Licensing and
5 Consumer Affairs shall fine any person or entity found to have violated subsection (a), (b), or
6 (c) of this section \$1,000 for the first offense and \$2,000 for each subsequent offense.

7 **SECTION 2.** This Act becomes effective January 1, 2021.

8 **Bill Summary**

9 This Bill bans the sale, offer for sale, distribution and importation of oxybenzone and
10 octinoxate in the Virgin Islands unless prescribed by a licensed healthcare provider.

11 **BR19-0160/March 18, 2019/SLR/Reviewed by EEM**

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