

ACT NO. 8185

BILL NO. 33-0043

THIRTY-THIRD LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

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

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WHEREAS, the Legislature of the Virgin Islands finds that three chemicals, oxybenzone, octocrylene and octinoxate, contained in many sunscreen and personal-care products, have significant harmful impacts on the Virgin Islands' marine environment and ecosystem, including coral reefs that protect the Virgin Islands' shoreline;

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

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

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

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

WHEREAS, species that are listed in the federal Endangered Species Act and inhabit Virgin Islands' waters, including sea turtle species, coral species, marine mammals, and migratory birds, may be exposed to oxybenzone, octocrylene and octinoxate contamination;

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

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

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

WHEREAS, the purpose of this legislation is to seek to preserve marine ecosystems, including coral reefs, by, beginning March 30, 2020, restricting the sale, offer for sale, and distribution in the Virgin Islands of topical sunscreen products containing oxybenzone, octocrylene and octinoxate to licensed pharmacies or drug stores to be dispensed by prescription only from a licensed healthcare provider; Now, Therefore,

Be it enacted by the Legislature of the Virgin Islands:

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

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

(a) For purposes of this section:

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

(2) “octinoxate” means the chemical ((RS)-2-Ethylhexyl(2E)-3-(4-methoxyphenyl)) prop-2-enoate under the International Union of Pure and Applied Chemistry Chemical Nomenclature Registry, that has a Chemical Abstract Service Registry Number 5466-77-3, and whose synonyms include ethylhexyl methoxycinnamate, octyl methoxycinnamate, Eusolex 2292, NSC 26466, Parsol MOX, Parsol MCX and Uvinul MC80, and is intended to be used as protection against ultraviolet light radiation with a spectrum wavelength from 400 nanometers to 280 nanometers in an epidermal sunscreen-protection personal-care product.

(3) "Octocrylene" means the chemical 2-ethylhexyl 2-cyano-3,3-diphenyl-2-propenoate under the International Union of Pure and Applied Chemistry Chemical Nomenclature Registry, that has a Chemical Abstract Service Registry Number 6197-30-4, and whose synonyms include octocrylene, octocrylene, Uvinul N-539, 2-ethylhexyl 2-cyano-3,3-diphenylacrylate, Octocrileno, Parasol 340, UV Absorber-3, Escalol 597, Eusolex OCR, Neo Heliopan 303, Sanduvor 3039, Seesorb 502, and Viosorb 930, and is intended to be used as protection against ultraviolet light radiation with a maximum ultraviolet spectrum wavelength at 303 nanometers in an epidermal sunscreen-protection personal care product.

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

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

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

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

(2) import, after September 30, 2019, into the Virgin Islands for sale any sunscreen product that contains oxybenzone, octocrylene or octinoxate including, but not limited to, lotions, pastes, balms, serums, or ointments; or

(3) use or possess, after March 30, 2020, while in the Virgin Islands, any sunscreen products that contains oxybenzone, octocrylene or octinoxate including, but not limited to, lotions, pastes, balms, serums, or ointments.

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


SECTION 2. All persons, or entities that sell, distribute, or that are otherwise in possession of products containing oxybenzone, octocrylene, or octinoxate must dispose of them pursuant to the Virgin Islands Waste Management Authority hazardous waste collection system process not later than March 30, 2020.

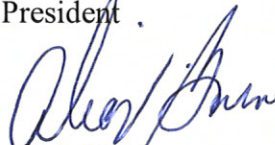
SECTION 3. Upon the effective date of this Act, it shall be unlawful for any person or entity to place new orders for any sun screen product containing oxybenzone, octocrylene, or octinoxate to be offered for sale in the Virgin Islands.

Thus passed by the Legislature of the Virgin Islands on June 25, 2019.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 5th day of July, A.D., 2019.




Novelle E. Francis, Jr.
President


Alicia V. Barnes
Legislative Secretary



Bill No. 33-0043 is hereby approved.

**Witness my hand and the seal of the
Government of the United States
Virgin Islands at Charlotte Amalie,
St. Thomas, this 20th day of July, 2019 A.D.**


Albert Bryan, Jr.
Governor