

YES COPY
Yes

BILL NO. 26-0183

**Twenty-Sixth Legislature of the Virgin Islands
of the United States**

November 14, 2005

To petition the Congress of the United States of America, The Department of Homeland Security and the United States Congress to amend 33 Code of Federal Regulations, Part 160 to exempt the Virgin Islands from the passenger information reporting requirements

PROPOSED BY:

Senators Lorraine L. Berry, Shawn-Michael Malone,
Craig Barshinger, Roosevelt St. C. David,
Adlah "Foncie" Donastorg, Louis Patrick Hill,
Norman Jn. Baptiste and Usie R. Richards

WHEREAS, the Virgin Islands is an unincorporated territory of the United States
of America; and

WHEREAS, the Virgin Islands consists of 4 islands, St. Thomas, St. John, St.
Croix, and Water Island and various cays; and

WHEREAS, the Virgin Islands enjoys a unique geographical location in the
Caribbean Basin with shared cultural values amongst foreign neighbors notably the
British Virgin Islands; and

1
2
3
4
5
6
7
8
9
10

1 WHEREAS the British Virgin Islands is a possession of United Kingdom, an ally
2 of the United States, with a proximity of less than 1.5 miles; and

3 WHEREAS, regarding their friendly neighbors of the United Kingdom, visa
4 requirements upon entering and departing from the Virgin Islands to the British Virgin
5 Islands are waived; and

6 WHEREAS, regulations that are applicable to the continental United States may
7 have negative or adverse impacts on the; and

8 WHEREAS, the Virgin Islands, similar to many of the fifty states and other
9 territories is, experiencing economic difficulties; and

10 WHEREAS, the charter boat industry is a mainstay for the Virgin Islands
11 economy as it relates to our distinction as a world class cruise ship destination; and

12 WHEREAS, cruise lines depend on destinations such as the United States Virgin
13 Islands to be able to expand the cultural and historical perspectives of their cruise
14 passengers with the assistance of small yacht charter companies in the Virgin Islands and
15 adequately provide daily tours for their passengers; and

16 WHEREAS, the cruise lines economically benefit from charter cruises because
17 of commission sales based upon tours sold the cruise lines bottom line benefits since they
18 receive a percentage of tours sold; and

19 WHEREAS, the Virgin Islands' economy is mainly a tourist-driven economy;
20 and
21

22 WHEREAS, the implementation of 33 Code of Federal Regulation Part 160 has
23 created undue strain and hardship on the charter boat industry of the Virgin Islands; and

24 WHEREAS, a predominate number of boaters are small businesses owned and
25 operated by United States citizens who reside in the Virgin Islands; and
26

1 WHEREAS, the Virgin Islands revenue from the charter yacht industry was
2 \$85,000,000 in 1988; and

3 WHEREAS, revenue from the charter yacht industry dropped to \$25,000,000 in
4 1995 and said businesses cannot endure any further losses; and

5 WHEREAS, with the new rules and regulations being implemented the charter
6 yacht industry stands to lose an additional \$10,000,000; and

7 WHEREAS, temporary requirements for notification of arrival in United States
8 ports were published in the federal register on October 4, 2001

9 WHEREAS, the temporary rule increased submission time for a Notice of
10 Arrival from 24 to 96 hours prior to arriving at a US port; and

11 WHEREAS, Notice of Arrival required centralized submissions; temporarily
12 suspended exemptions from reporting requirements for day charter excursion vessels of
13 the US Virgin Islands and required submission of passenger, crew, and cargo
14 information; and

15 WHEREAS, the damaging economic effect of this regulation must be addressed
16 by the members of United States Congress; and

17 WHEREAS, the Legislature of the Virgin Islands is of the opinion that these
18 circumstances have such dire economic consequences for its United States citizens and
19 the economy that the Legislature of the Virgin Islands believes it is best that the Congress
20 of the United States revisit this matter sooner than later.

21 WHEREAS, the federal government stated that this rule is not a “significant
22 regulatory action” under section 3 (f) of Executive Order 12866, Regulatory Planning and
23 Review, and does not require an assessment of potential costs and benefits under section
24 6 (a) (3) of that Order; and
25
26

1 **WHEREAS**, the small entity section of 33 Code of Federal Regulation, part 160
2 states that under the Regulatory Flexibility Act (5 United States Code §§601-612), “we
3 have considered whether this rule will have a significant impact on a substantial number
4 of small entities”; and

5 **WHEREAS**, the term small entities comprises small businesses, not-for-profit
6 organizations that are independently owned and operated and are not dominant in their
7 fields, and government jurisdictions with populations fewer than 50,000; and

8 **WHEREAS**, “the Coast Guard certifies under 5 United States Code 605 (b) that
9 this rule will not have a significant economic impact on a substantial number of small
10 entities”; and

11 **WHEREAS**, the above statements were apparently made without a full
12 appreciation for the small charter yacht businesses of the Virgin Islands of the United
13 States of America; and

14 **WHEREAS**, it is the Legislature of the Virgin Islands opinion that the federal
15 government acted within its rights but may have misjudged how unfairly the regulation
16 would have on small six pack vessels in this; and

17 **WHEREAS**, the economic benefit analysis did not adequately address the Virgin
18 Islands and how the economic impact has and will continue to create undue hardship on
19 the Virgin Islands small business operator; and

20 **BE IT RESOLVED** by the Legislature of the Virgin Islands:

21 **SECTION 1.** The Legislature of the Virgin Islands on behalf of the people of the
22 Virgin Islands, petitions the United States Congress to amend the Rules and Regulations
23 of 33 Code of Federal Regulations part 160 to be amended and have language inserted to
24 read; “Virgin Islands Charter Vessels departing from the Virgin Islands and entering the
25
26

1 British Virgin Islands with passengers and returning to the Virgin Islands with the same
2 passengers do not have to electronically transmit to the United States Coast Guard which
3 forwards information to Customs and Border Protection.”

4 SECTION 2. A copy of this Resolution shall be sent to the President of the
5 United States, the Secretary of Homeland Security, each member of the Senate and the
6 House of Representatives and to the Virgin Islands Delegate to Congress.

7 BILL SUMMARY

8 In section 1 of this bill the Legislature of the Virgin Islands petitions the United
9 States Congress to amend 33 Code of Federal Regulation, Part 160 to exempt the Virgin
10 Islands from the passenger information reporting requirements.

11 Section 2 provides that the bill be sent to the President of the United States, the
12 Secretary of Homeland Security, each member of the United States Senate and the United
13 States House of Representatives and to the Virgin Islands Delegate to Congress.

14 BR05-2006/November 8, 2005/
15
16
17
18
19
20
21
22
23
24
25
26