

VISGO Bill Amendment to No. 36-0144

Summary of Changes & Constitutional Justification

1. Overview

VISGO Bill Amendment (the “Amendment”) replaces and reenacts Title 23, Chapter 5 (Control of Firearms and Ammunition) to modernize the Virgin Islands firearms licensing, registration, and transaction framework under objective, record-based criteria; enforceable processing timelines; and strengthened due-process protections for denials, suspensions, and revocations.

In addition to substituting Chapter 5 (Exhibit A), the Amendment also includes (i) public-access and fee provisions for government-owned gun ranges; (ii) an appropriation for “Project Bleachers” and other safer recreational space improvements; and (iii) conforming and sentencing-related amendments to Title 14 firearms offenses.

This updated summary is prepared by comparing the Amendment to the current law (Title 23, Chapter 5 and Title 14) and is intended to highlight principal substantive changes, drafting themes, and implementation considerations.

2. Constitutional framework used for drafting

Second Amendment (Heller / McDonald / Bruen): The Amendment treats firearm possession and public carry as constitutionally protected conduct, and therefore emphasizes narrow, objective, and definite standards; nominal fees; enforceable timelines; and meaningful review mechanisms to reduce the risk of arbitrary denials or indefinite delays.

Second Amendment as-applied analysis (Rahimi / Range): The Amendment’s disqualification and dangerous-person provisions are drafted around objective, record-based criteria and prompt process, with the intent to reduce vagueness and overbreadth risk and to focus restrictions on persons who are violent or dangerous.

Fourth Amendment (Camara and related administrative-search principles): The Amendment rejects warrantless home inspections and unconstitutional conditions (including compelled firearm inspection) as a condition of licensing or renewal, and clarifies that port-of-entry declaration requirements do not themselves create territorial search authority.

Eighth Amendment (Excessive Fines Clause): The Amendment recalibrates certain penalties and introduces civil/curative mechanisms for technical violations, and restricts fee use to firearms-program administration to reduce proportionality and undue-burden concerns.

Fourteenth Amendment (Due Process): The Amendment strengthens notice, written-reason requirements, prompt hearing and review procedures, and *de novo* review standards so that applicants and licensees have meaningful, timely process and an enforceable remedy.

3. Principal changes in VISGO Bill Amendment

3.1 Objective, “shall-issue” licensing standards; eligibility clarifications; licensing scope; enforceable timelines

- Replaces the current discretionary “proper reason” / affidavit framework with an objective, “shall-issue” licensing standard for qualified applicants, and expressly bars denials based on special-need showings, character affidavits, or similar discretionary criteria.
- Modernizes the fee and term structure: a \$25 initial fee and a \$25 renewal fee every five (5) years, assessed per licensee (not per firearm), renewing the licensee’s authority for all firearms registered to that licensee.
- Expands and clarifies licensing eligibility to include applicants who maintain a Virgin Islands “residence address” or “bona fide place of business” (defined terms), including seasonal or part-time presence; and clarifies that this does not require domicile, voting residency, or tax residency.
- Establishes an express minimum age of 18 for general firearm licensing and for a 24-hour concealed handgun license; and preserves a limited long-gun pathway for minors (16+) with written consent of a parent or legal guardian.
- Modernizes and narrows key definitions (including ‘firearm,’ ‘ammunition,’ ‘conversion kit,’ and ‘crime of violence’), including excluding airsoft/BB/CO₂/paintball-type devices from the definition of “firearm” unless readily convertible to expel a projectile by the action of an explosive.
- Simplifies license scope and contents: licenses may cover all firearms registered to the licensee (with firearm descriptions maintained in the Firearms Register and referenced by license number), and current-law “places/times/circumstances” carry restrictions and annual inspection language are removed.
- Limits application information to what is reasonably necessary to verify identity and objective eligibility; prohibits ad hoc or unpublished requirements; and requires substantive requirements to be set by statute or duly promulgated regulation.
- Adds enforceable processing deadlines, including a 7-day written notice of missing required items, a 30-day issue/deny deadline after an application is deemed complete, and “deemed approval” by operation of law if deadlines are missed; and provides that a renewal receipt serves as a temporary license while a renewal is pending.

3.2 Training and inspection requirements: narrowed training; elimination of mandatory inspection practices; supervised-training safe harbor

- Eliminates the current-law requirement that all initial license applicants complete and submit a handgun training certificate, and eliminates the current-law training certificate requirement for renewals and ten-year recertification.
- Limits any training requirement to initial issuance of a 24-hour concealed handgun license (and specifies that training may be satisfied by nationally recognized or otherwise certified instructors without a local-only mandate).
- Eliminates current-law annual firearm inspection requirements and bars conditioning issuance, renewal, endorsement, or registration on compelled physical inspection, test-firing, serial verification, or warrantless home inspection.
- Creates a supervised-training safe harbor for temporary handling and use of firearms by unlicensed persons at lawful ranges/training locations under direct supervision, with controlled transport rules.

3.3 Firearms Review Board; revised appeal standards; de novo judicial review; civil rights accountability

- Establishes an expedited Firearms Review Board (FRB) process to review license denials, suspensions/limitations/revocations, and failures to issue a license following deemed approval.
- Replaces the current-law judicial-review framework (short filing deadline and highly deferential review absent fraud) with de novo review standards, including Government burden of proof by a preponderance of the evidence.
- Requires written, particularized reasons for denials and adverse actions, including identification of the specific statutory ground(s) and the specific record(s) or facts relied upon.
- Provides expedited hearing timelines, written decisions, interim relief authority, and an enforcement mechanism if an issuing authority fails to comply with an FRB decision.
- Adds a civil-rights accountability and liquidated-damages provision for final judgments finding civil-rights violations in administration of Chapter 5, including mandatory liquidated damages of \$10,000 (personal liability where qualified immunity is defeated) and \$100,000 (Department liability), in addition to any other relief.

3.4 Disqualifications; dangerous-person temporary disarmament; refined mental health and substance-use standards

- Narrows and clarifies disqualifying convictions and statuses, shifting from broad felony-based disqualification concepts toward listed categories (e.g., crimes of violence and specified felony drug offenses), with defined terms and record-based criteria.
- Updates the definition of 'crime of violence' (a key disqualification trigger) by removing certain property offenses included in current law, and focusing the list on enumerated violent crimes.
- Adds a relief-from-disability provision for expunged, set-aside, vacated, or pardoned convictions (and certain civil-rights restorations), unless firearm disability is expressly preserved.
- Refines mental health disqualification language by focusing on formal, involuntary commitment or adjudication, and clarifies that voluntary treatment alone does not trigger disqualification.
- Replaces the current-law "alcoholic / narcotic or drug addict" framework with a more record-based 'current unlawful user or addicted' standard, including a rebuttable presumption tied to recent reliable evidence.

3.5 Suspensions and revocations: due process and written findings; emergency suspension constraints

- Requires Firearms Review Board involvement for cancellation/revocation and (generally) for suspensions, with expedited notice and hearing requirements and specified evidentiary standards.
- Authorizes emergency suspension only upon specific and articulable facts and requires a prompt post-suspension hearing, with heightened burden to continue a suspension.
- Clarifies lawful storage/receipt procedures for surrendered firearms pending a decision and provides for prompt return upon reinstatement absent lawful basis to retain.

3.6 Temporary visitor recognition and reciprocity administration

- Recognizes qualifying out-of-state licenses/permits for nonresidents temporarily present in the Virgin Islands for up to 90 days, subject to prohibited-person rules, ID carry, and port-of-entry declaration requirements.
- Distinguishes possession-only credentials from carry-authorizing credentials: public carry recognition is limited to the scope of the issuing jurisdiction's credential.
- Requires publication and regular updating of a list of recognized licenses/permits; directs reciprocity outreach; and requires public guidance in Police District stations and online.

3.7 Uniform administration; civilian staffing; transparency and reporting

- Requires the licensing and registration function to be staffed and supervised exclusively by civilian classified employees under a Director of Firearms Licensing and Registration (none of whom are or ever have been sworn law enforcement officers).
- Bars Police Districts from imposing additional substantive requirements beyond statute or duly promulgated regulation, and prohibits use of unpublished policies as independent grounds to deny or delay.
- Requires annual aggregate statistics reporting (applications, processing times, approvals/denials, and review outcomes) to the Governor and Legislature, with public posting that preserves confidentiality.

3.8 Dealer licensing, firearms sales, and private transfers: objective criteria, deadlines, and deemed approvals

- Requires dealer/gunsmith licensing decisions to be based on objective statutory criteria, with written, particularized grounds for any recommended denial and a 30-day reporting timeline for the Police Commissioner's report to Licensing and Consumer Affairs.
- Establishes objective processing and a 14-day approve/deny deadline (with deemed approval upon inaction) for non-dealer private transfers reported to the Department.
- Modernizes dealer sale procedures by treating a firearms license as authorizing purchase of any firearm the purchaser may lawfully acquire (rather than tying a license to a single described firearm), and removes the current-law 48-hour waiting period language for delivery.
- Updates ammunition sales rules and related definitions to reduce caliber-matching and license-description constraints present in current law, while preserving federal-law compliance limitations.

3.9 Targeted public-safety prohibitions aligned with federal categories: conversion devices, NFA items, regulated components, and manufacturing/export

- Creates an explicit felony prohibition on machine gun conversion devices (including auto-sears and similar conversion parts), with defined terms and enhanced penalties.
- Adds a statutory framework for federally regulated firearms and devices (NFA categories), including an exemption for items lawfully owned and possessed under federal law and an enhanced background check endorsement pathway where federal registration is not required or not available as a matter of law in the Virgin Islands.
- Prohibits registration of certain prohibited firearms (e.g., machine guns/automatic weapons, assault rifles, short-barreled shotguns, and firearms with conversion devices) absent an express statutory exemption and, where applicable, lawful federal registration/approval or the enhanced endorsement pathway.

- Authorizes federally licensed firearms manufacturers (and certain dealers) to manufacture/possess federally regulated items in the Virgin Islands for lawful out-of-territory transfer or shipment, subject to federal compliance and limitations on in-territory transfers.
- Refines the declaration regime for 'regulated firearm components' at ports of entry (frames/receivers, unfinished frames/receivers, parts kits containing frames/receivers, and conversion devices), adds a knowledge element for felony liability, and clarifies that ordinary non-controlled parts for lawful maintenance are excluded.

3.10 Registration mechanics; ministerial registration; confidentiality; probate/incapacity safe harbors; seized-firearm disposition safeguards

- Characterizes firearm registration as a ministerial act and limits registration denials to objective statutory grounds, with written reasons and review rights.
- Adds confidentiality protections making the Firearms Register and related licensing/registration records non-public and exempt from disclosure, while listing limited permissible disclosure purposes (e.g., to the applicant, law enforcement, courts under seal, and federal trace requests).
- Adds safe-harbor provisions for probate representatives and fiduciaries (executors, trustees, guardians, attorneys-in-fact) to possess/transport/transfer firearms in defined circumstances without criminal exposure, provided they are not otherwise prohibited persons.
- Strengthens safeguards governing surrendered/seized/confiscated firearms by requiring receipts and chain-of-custody; restricting destruction or governmental retention of lawfully owned firearms absent contraband status, final forfeiture order, or unclaimed-property procedures; and providing notice and an opportunity to request lawful transfer (including to an FFL).

3.11 Voluntary compliance; civil cure framework; recalibrated penalties for technical violations (serial numbers, altered marks, importation)

- Creates a voluntary compliance program for first-time nonregistration that treats the violation as civil (with a \$250 fine) and provides a cure period and temporary proof of filing, with specified exceptions for higher-risk circumstances.
- Creates a one-time, one-year grace period (beginning on the Act's effective date) during which the first-time civil fine is waived for eligible persons registering previously unregistered firearms, and requires proof-of-filing receipts.
- Revises the altered/obliterated identifying marks offense by adding mens rea and graduated penalty tiers, replacing the current-law mandatory 15-year imprisonment without parole structure.

- Revises the serial-number requirement by covering firearms made/assembled by a 'maker' (including 3D printing and parts kits) and by adopting graduated misdemeanor/felony penalties instead of the current-law single severe felony penalty.
- Revises certain importation/entry-related penalties by adding a knowledge element and adjusting mandatory-minimum structures, while maintaining strong felony exposure for knowing violations.

3.12 Safe storage and community safety programming; range access; Project Bleachers appropriation

- Replaces current-law safe-storage criminal penalty provisions and the motor-vehicle lockbox mandate with a voluntary safe-storage education and outreach framework, including distribution of safety devices and privacy/non-intrusion protections (no in-home verification).
- Requires public access to any government-owned firearms range on a scheduled basis; caps daily range fees at \$25 absent a documented-cost justification adopted by regulation after public notice; and dedicates range-access fees to range operation and maintenance.
- Appropriates \$250,000 for Project Bleachers and related safer recreational space improvements and directs cross-agency coordination for youth engagement, tutoring/mentorship, and education-to-career pathway programming.

3.13 Criminal law and technical conforming amendments outside Title 23, chapter 5 (Title 14)

- Amends Title 14 firearms offenses to add 'knowingly' to certain possession offenses and to restore/expand judicial discretion by reducing certain mandatory-minimum sentencing language.
- Creates enhanced penalty provisions for unlawful possession in specified locations (e.g., schools, courthouses, correctional facilities) while preserving express exemptions for authorized persons.
- Adds defenses/safe harbors tied to compliance with Title 23 processes (including renewal grace periods and deemed approvals) and makes technical conforming definition cross-reference updates.

3.14 Fees; dedicated funds; severability; constitutional construction; implementation timeline

- Redirects licensing/registration-related fees into a dedicated Firearms Licensing and Registration Administration Fund restricted to administering Chapter 5 and maintaining the Firearms Register (replacing current-law deposit into the Virgin Islands Education Initiative Fund).

- Includes severability and constitutional-construction provisions, including guidance limiting ad hoc ‘sensitive place’ expansion absent express statutory authorization and historical support.
- Requires promulgation of implementing rules and regulations on an accelerated schedule and requires publication of forms, checklists, fee schedules, and reciprocity lists to support consistent implementation.
- Uses a delayed effective date structure (generally 180 days after enactment, with certain rulemaking provisions effective upon enactment) and ties the one-time grace period to the delayed effective date.

4. Implementation notes and remaining areas to monitor

- Implementing regulations and forms: Ensure regulations are promulgated on schedule, remain objective and ministerial, and do not reintroduce discretionary standards through forms or unpublished practices.
- Operational readiness for deadlines: Ensure staffing, databases, and workflows can meet the 7-day completeness notice and 30-day issue/deny requirements (and that ‘deemed approval’ is operationalized consistently).
- Firearms Review Board procedures: Ensure the FRB is appointed, trained, and able to meet expedited hearing and written-decision timelines.
- Public guidance: Maintain clear public-facing guidance on reciprocity, port declaration procedures, cure/grace programs, and what constitutes ‘regulated firearm components’ to reduce compliance confusion.
- Privacy and record security: Implement controls to preserve confidentiality of licensing and register records while still enabling permitted disclosures and aggregate reporting.
- Coordination with Title 14 changes: Align enforcement/training with revised mens rea requirements, defenses, and enhanced-location penalty provisions.