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# A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that, in recent years,  
2 video game developers of interstate and global online gaming  
3 platforms have employed predatory mechanisms designed to exploit  
4 human psychology to compel players to keep spending money in the  
5 same way casino games and slot machines are so designed.  
6 According to mental health experts, these predatory mechanisms  
7 can present the same psychological, addictive, and financial  
8 risks as gambling. Certain mechanisms in video games present  
9 similar risks as gambling, particularly to vulnerable youth. In  
10 2009, mental health professionals estimated that 8.5 per cent of  
11 United States youth showed signs of behavioral addiction to  
12 video games, which is likely much higher today.

13           The legislature further finds that the American  
14 Psychological Association has identified "internet gaming  
15 disorder" in the Diagnostic and Statistical Manual of Mental  
16 Disorders as an emerging diagnosis that warrants further study.  
17 The World Health Organization has identified "gaming disorder"



1 alongside gambling as a pattern of gaming behavior that  
2 appreciably increases the risk of harmful physical or mental  
3 health, and it included "hazardous gaming" as a threat to public  
4 health in the latest draft of its International Compendium of  
5 Diseases.

6 The legislature further finds that ninety-one per cent of  
7 persons aged two to seventeen years played video games in 2011.  
8 Video games and game content are now easily purchased at the  
9 touch of a button through mobile phones and game consoles linked  
10 to a credit card, or by minors through gift card purchases.  
11 Game developers can insert gambling mechanisms into games at any  
12 time, without player or parental knowledge, through game  
13 updates. Game updates can also change and withhold the odds of  
14 gambling mechanisms and intentionally exploit player  
15 vulnerabilities in real time. These are all potentially novel  
16 inventions that have been included in patent applications by  
17 some game developers.

18 The legislature further finds that games containing  
19 gambling mechanisms developed for mobile phone applications,  
20 game consoles, and personal computers are regularly marketed to,  
21 and target, youth and young adults. Often there is no



1 meaningful disclosure at the time of sale of the inclusion of  
2 microtransactions and gambling mechanisms in those games.  
3 Consequently, it may be impossible for consumers or parents to  
4 make an informed decision about the appropriateness of the game  
5 that they intend to purchase. Additionally, online gaming  
6 dwarfs the United States film industry, growing to more than  
7 \$30,000,000,000 in annual revenue in the United States, and the  
8 great majority of that revenue now comes from in-game  
9 microtransactions that create a continuous source of revenue.

10 The legislature finds that, unlike traditional games of  
11 chance, video games require active, lengthy participation during  
12 which consumers are exposed to the psychological manipulation  
13 techniques of exploitative variable-reward mechanisms that  
14 aggressively compel spending and lead to harm. Currently, no  
15 meaningful protections exist to prevent the general public, and  
16 in particular vulnerable youth, from being exploited by  
17 predatory video game mechanisms that are now aggressively  
18 marketed on personal computers, gaming consoles, and the mobile  
19 phones in people's pockets.

20 Accordingly, the purpose of this Act is to ensure proper  
21 oversight of game developers and marketers and protect consumers



1 from predatory and manipulative practices by the gaming  
2 industry.

3 SECTION 2. Chapter 487, Hawaii Revised Statutes, is  
4 amended by adding a new section to be appropriately designated  
5 and to read as follows:

6 "§487- Hawaii digital gaming commission. (a) There is  
7 established a Hawaii digital gaming commission within the office  
8 of consumer protection for administrative purposes.

9 (b) The Hawaii digital gaming commission shall coordinate  
10 with other states, as appropriate, and provide oversight and  
11 monitoring of predatory or exploitative practices in digital  
12 games, including:

13 (1) The inclusion in a digital game of mechanisms that  
14 offer randomized virtual items for purchase using real  
15 currency, without disclosing the odds to obtain the  
16 virtual items in the mechanism;

17 (2) Designing a digital game to be impossible or  
18 unreasonably difficult for a user to complete without  
19 using real currency to purchase additional content;



1       (3) Designing a digital game that encourages a user to  
2       make purchases using real currency to remain  
3       competitive with other users of the digital game; or

4       (4) Other practices deemed by the commission to be  
5       predatory or exploitive, as appropriate.

6       (c) The commission shall consist of the director of  
7       commerce and consumer affairs, or the director's designee, and  
8       the director of health, or the director's designee, who shall  
9       serve as co-chairs. The commission shall include twelve  
10      additional members to be selected by the co-chairs, as follows:

11      (1) Two members with experience in the field of mental  
12      health or psychology;

13      (2) Two members that are parents or legal guardians of  
14      children that regularly play digital games;

15      (3) Two members with experience in digital game  
16      development;

17      (4) Two members that have regular and broad experience  
18      playing mobile digital games;

19      (5) Two members that have regular and broad experience  
20      playing console games; and



1       (6) Two members that have regular and broad experience  
2           playing personal computer games.

3       The terms of service provisions in section 26-34 shall  
4 apply to the members of the commission. All other provisions of  
5 section 26-34 shall not apply.

6       (d) The members shall serve without compensation but shall  
7 be reimbursed for reasonable expenses, including travel  
8 expenses, incurred in the discharge of their duties.

9       (e) Any action taken by the commission shall be approved  
10 by a simple majority of its members. Eight members of the  
11 commission shall constitute a quorum to do business.

12       (f) No later than March 31, June 30, and September 30 of  
13 each year, the commission shall publish a report on the  
14 department of commerce and consumer affairs website that  
15 identifies:

16       (1) Predatory or exploitive practices in newly released  
17           digital games;

18       (2) New mechanisms, practices, and trends in digital  
19           gaming; and



1       (3) Recommendations to prevent predatory or exploitative  
2           practices or the impacts of those practices in digital  
3           games.

4       (g) The commission shall submit an annual report of its  
5       findings and recommendations, including any proposed  
6       legislation, to the legislature no later than twenty days prior  
7       to the convening of each regular session. The annual report  
8       shall include the same information as described in subsection  
9       (f), and any supplemental information that the commission deems  
10       appropriate.

11       (h) The office of consumer protection shall provide staff  
12       support and administrative support to the commission, including  
13       clerical and research services, as needed.

14       (i) As used in this section, "digital game" means an  
15       object or device that stores recorded data or instructions,  
16       receives data or instructions generated by a user, and, by  
17       processing the data or instructions, creates an interactive game  
18       capable of being played, viewed, or experienced by a user on or  
19       through a computer, gaming system, game console, mobile phone,  
20       or other technology."



1 SECTION 3. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$ or so much  
3 thereof as may be necessary for fiscal year 2018-2019 for the  
4 establishment of the Hawaii digital gaming commission pursuant  
5 to this Act.

6 The sum appropriated shall be expended by the department of  
7 commerce and consumer affairs for the purposes of this Act.

8 SECTION 4. New statutory material is underscored.

9 SECTION 5. This Act shall take effect on July 1, 2050.





**Report Title:**

Hawaii Digital Gaming Commission; OCP; Appropriation

**Description:**

Creates the Hawaii Digital Gaming Commission within the Office of Consumer Protection to oversee and monitor predatory and exploitative practices in digital games. Makes an appropriation. (HB2471 HD1)

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