

---

# 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 according to a 2011  
2 study, ninety-one per cent of children aged two through  
3 seventeen played video games. Games and game content are now  
4 easily accessible and may be purchased at the touch of a button  
5 through smart phones, gaming consoles, or personal computers, or  
6 by minors with cash or through gift card purchases.

7           In recent years, video game publishers have begun to employ  
8 predatory mechanisms designed to exploit human psychology to  
9 compel players to keep spending money in the same way that  
10 casino games are designed. These mechanisms allow players to  
11 purchase chances at winning rewards within games, similar to a  
12 slot machine. One common variety of this type of predatory  
13 mechanism, known as a loot box, can present the same  
14 psychological, addictive, and financial risks as gambling. The  
15 legislature notes that there are even online marketplaces where  
16 players can buy and sell digital items won from loot boxes and



1 other gambling-like mechanisms in many games, enabling players  
2 to effectively cash out their winnings.

3       The legislature further finds that the American Psychiatric  
4 Association has incorporated diagnostic criteria for internet  
5 gaming disorder as a condition warranting more clinical research  
6 and experience, in order to feature this diagnosis in future  
7 versions of the Diagnostic and Statistical Manual for Mental  
8 Disorders. The World Health Organization has defined gaming  
9 disorder, characterized by a pattern of persistent or recurrent  
10 gaming behavior, and plans to add this disorder to the latest  
11 version of its list of diseases and mental health conditions,  
12 the International Classification of Diseases. Mental health  
13 experts have raised particular concern about the exposure of  
14 youth and young adults to gambling-like mechanisms, which can  
15 affect cognitive development and lead to addiction, and to which  
16 youth and young adults are particularly vulnerable.

17       There is currently no age restriction on games that include  
18 loot boxes and other exploitive gambling-like mechanisms, and  
19 the legislature notes that games featuring these mechanisms are  
20 often marketed to youth. Furthermore, there are no disclosure  
21 requirements that these types of games may contain predatory,



1 potentially harmful loot boxes and gambling-like mechanisms.  
2 The legislature also notes that game publishers can insert  
3 gambling-like mechanisms into games at any time via game  
4 updates, without prior player or parental knowledge.

5       Compared to casinos, games rarely disclose the odds of  
6 winning items of value in loot boxes or in-game gambling-like  
7 mechanisms. Video games also lack gaming commissions to ensure  
8 players are being treated fairly and not being exploited by  
9 gambling-like mechanisms that do not pay out as advertised.  
10 Furthermore, game publishers have already begun to develop  
11 algorithms that are far more exploitive than casino games and  
12 can change the odds of winning valuable items in real time,  
13 based on a player's reactions and likelihood of continued  
14 spending.

15       The legislature additionally finds that no meaningful  
16 protections exist to prevent consumers, particularly vulnerable  
17 youth, from being exploited by predatory video game mechanisms  
18 that are aggressively marketed on smart phones, gaming consoles,  
19 and personal computers. Unlike traditional card games or other  
20 games of chance, the ubiquitous reach of video games, which  
21 require active, lengthy participation and exposure to the



1 psychological manipulation techniques of exploitive loot boxes  
2 and gambling-like mechanisms, presents potentially harmful risks  
3 to the financial well-being and mental health of individuals,  
4 especially vulnerable youth and young adults.

5 The purpose of this Act is to establish certain disclosure  
6 requirements for publishers of video games that contain a system  
7 to purchase a randomized reward or consumable virtual item that  
8 can be redeemed and directly or indirectly converted to a  
9 randomized reward.

10 SECTION 2. Chapter 481B, Hawaii Revised Statutes, is  
11 amended by adding two new sections to be appropriately  
12 designated and to read as follows:

13 "§481B-A Video games; probability rates; disclosure. (a)  
14 Video game publishers that distribute video games that contain a  
15 system of further purchasing that includes:

- 16 (1) A randomized reward; or  
17 (2) A consumable virtual item that can be redeemed and  
18 directly or indirectly converted to a randomized  
19 reward,

20 shall prominently disclose and publish to the consumer the  
21 probability rates of receiving each type of randomized reward at



1 the time of purchase and at the time any mechanism to receive a  
2 randomized reward is activated so as to meaningfully inform the  
3 consumer's decision prior to the purchase or activation of any  
4 mechanism to receive a randomized reward.

5 (b) The department of commerce and consumer affairs, in  
6 consultation with the office of enterprise technology services,  
7 is authorized to audit the code of video games sold in this  
8 State and subject to this section to ensure that the probability  
9 rates for receiving each type of randomized reward are  
10 calculated correctly and working properly. The department may  
11 contract with a third party to provide additional assistance as  
12 needed. The department shall not publicly disclose proprietary  
13 information beyond that which is necessary to fulfill the intent  
14 of this section.

15 (c) For purposes of this section:

16 "Randomized reward" means a reward in a video game that is  
17 based on a variable ratio schedule, wherein a player receives a  
18 reward after a random number of actions.

19 "Video game" means an object or device that stores recorded  
20 data or instructions, receives data or instructions generated by  
21 a person who uses it, and, by processing the data or



1 instructions, creates an interactive game capable of being  
2 played, viewed, or experienced on or through a computer, gaming  
3 system, console, or other technology.

4 "Video game publisher" means an entity that publishes video  
5 games that have either been created internally or through a  
6 separate entity.

7 §481B-B Video games; labeling; disclosure. (a) Each  
8 video game subject to section 481B-A shall:

- 9 (1) Bear a prominent, easily legible, bright red label on  
10 its packaging that reads: "Warning: contains in-game  
11 purchases and gambling-like mechanisms which may be  
12 harmful or addictive"; or
- 13 (2) If purchased digitally and downloaded through the  
14 Internet or an online application, prominently  
15 disclose to the consumer at the time of consumer  
16 purchase a bright red label that is easily legible and  
17 that reads: "Warning: contains in-game purchases and  
18 gambling-like mechanisms which may be harmful or  
19 addictive",
- 20 so as to meaningfully inform the consumer's decision prior to  
21 purchase.



1        (b) No video game publisher shall at any time modify a  
2 game to contain or otherwise permit the inclusion of additional  
3 content for which the game was not appropriately labeled at the  
4 time of original sale.

5        (c) For purposes of this section:

6        "Randomized reward" shall have the same meaning as in  
7 section 481B-A.

8        "Video game" shall have the same meaning as in section  
9 481B-A.

10       "Video game publisher" shall have the same meaning as in  
11 section 481B-A."

12       SECTION 3. This Act does not affect rights and duties that  
13 matured, penalties that were incurred, and proceedings that were  
14 begun before its effective date.

15       SECTION 4. In codifying the new sections added by section  
16 2 of this Act, the revisor of statutes shall substitute  
17 appropriate section numbers for the letters used in designating  
18 the new sections in this Act.

19       SECTION 5. New statutory material is underscored.

20       SECTION 6. This Act shall take effect upon its approval.



**Report Title:**

Video Games; Disclosure; Labeling; In-game Purchases; Randomized  
Reward

**Description:**

Establishes certain disclosure requirements for publishers of  
video games that contain a system of purchasing a randomized  
reward or consumable virtual item. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is  
not legislation or evidence of legislative intent.*

