

JAN 24 2018

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 youth aged two to seventeen played
3 video games. Games and game content are now easily accessible
4 and may be purchased at the touch of a button through phones,
5 consoles such as the XBOX or Playstation, or personal computers,
6 or by minors with cash 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 so designed. These mechanisms allow players to
11 purchase chances at winning rewards within games, similar to a
12 slot machine. These predatory mechanisms, a common variety of
13 which are known as loot boxes, can present the same
14 psychological, addictive, and financial risks as gambling.
15 There are even online marketplaces where players can buy and
16 sell digital items won from loot boxes and other gambling-like



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

3 The legislature further finds that the American
4 Psychological Association has identified Internet gaming
5 disorder as an emerging diagnosis which warrants further study
6 in the Diagnostic and Statistical Manual of Mental Disorders and
7 the World Health Organization has identified gaming disorder,
8 alongside gambling, as a pattern of gaming behavior which
9 appreciably increases the risk of harmful physical or mental
10 health effects in the latest draft of its International
11 Compendium of Diseases. Mental health experts have raised
12 particular concern about the exposure of youth and young adults
13 to gambling-like mechanisms which can affect cognitive
14 development and lead to addiction and to which youth and young
15 adults are particularly vulnerable.

16 There is currently no age restriction on games which
17 include loot boxes and other exploitive gambling-like
18 mechanisms. In fact, games which include these mechanisms are
19 often marketed to youth. There is currently no disclosure
20 required at time of purchase that video games contain predatory
21 loot boxes and gambling-like mechanisms which may pose a harmful



1 risk for some people, particularly youth and young adults.
2 Further, game publishers can insert gambling-like mechanisms
3 into games at any time with game updates without prior player or
4 parental knowledge.

5 Unlike at casinos, there is rarely disclosure of the odds
6 of winning items of value in loot boxes or in-game gambling-like
7 mechanisms. There are no gaming commissions to ensure players
8 are being treated fairly and not exploited by gambling-like
9 mechanisms which do not pay out as advertised. Game publishers
10 have already begun to develop algorithms which are far more
11 exploitive than casino games because they can now change the
12 odds of winning valuable items in real time based on a player's
13 reactions and likelihood of continued spending, an ability which
14 has already been included in multiple patent applications.

15 The legislature further finds that no meaningful
16 protections exist to prevent consumers, and in particular
17 vulnerable youth, from being exploited by predatory video game
18 mechanisms which are now aggressively marketed on home
19 computers, gaming consoles, and the smart phones in people's
20 pockets. Unlike traditional card games or other games of
21 chance, the ubiquitous reach of video games which require



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

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

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

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

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



1 shall prominently disclose and publish to the consumer the
2 probability rates of receiving each type of randomized reward or
3 rewards at the time of purchase and at the time any mechanism to
4 receive a randomized reward or rewards is activated so as to
5 meaningfully inform the consumer's decision prior to the
6 purchase or activation of any mechanism to receive a randomized
7 reward or rewards.

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

18 (c) As used in this section:

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; labelling; 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 which 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 which 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 SECTION 3. This Act does not affect rights and duties that
 6 matured, penalties that were incurred, and proceedings that were
 7 begun before its effective date.

8 SECTION 4. In codifying the new sections added by section
 9 2 of this Act, the revisor of statutes shall substitute
 10 appropriate section numbers for the letters used in designating
 11 the new sections in this Act.

12 SECTION 5. New statutory material is underscored.

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

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INTRODUCED BY: _____

[Handwritten Signature]
Randy H. Baker



S.B. NO. 3025

Report Title:

Video Games; Disclosure; Labelling

Description:

Establishes certain disclosure requirements for publishers of video games that contain a system of purchasing a randomized reward.

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