
A BILL FOR AN ACT

RELATING TO GAMBLING OFFENSES.

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

1 SECTION 1. The legislature finds that Hawaii's gambling
2 laws need clarification. The purpose of this Act is to amend
3 chapter 712, Hawaii Revised Statutes, to clarify the gambling
4 laws to provide that gambling activities offered incident to the
5 purchase of goods or services constitute gambling, but that
6 legitimate business game promotions do not.

7 SECTION 2. Section 712-1220, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§712-1220 Definitions of terms in this part.** In this
10 part unless a different meaning plainly is required, the
11 following definitions apply.

12 [~~(1)~~] "Advance gambling activity". A person "advances
13 gambling activity" if he engages in conduct that materially aids
14 any form of gambling activity. Conduct of this nature includes
15 but is not limited to conduct directed toward the creation or
16 establishment of the particular game, contest, scheme, device,
17 or activity involved, toward the acquisition or maintenance of
18 premises, paraphernalia, equipment, or apparatus therefor,



1 toward the solicitation or inducement of persons to participate
 2 therein, toward the actual conduct of the playing phases
 3 thereof, toward the arrangement of any of its financial or
 4 recording phases, or toward any other phase of its operation. A
 5 person advances gambling activity if, having substantial
 6 proprietary control or other authoritative control over premises
 7 being used with his knowledge for purposes of gambling activity,
 8 he permits that activity to occur or continue or makes no effort
 9 to prevent its occurrence or continuation. A person advances
 10 gambling activity if he plays or participates in any form of
 11 gambling activity.

12 [~~2~~] "Bookmaking" means advancing gambling activity by
 13 accepting bets from members of the public upon the outcomes of
 14 future contingent events.

15 [~~3~~] "Contest of chance" means any contest, game, gaming
 16 scheme, or gaming device in which the outcome depends in a
 17 material degree upon an element of chance, notwithstanding that
 18 skill of the contestants may also be a factor therein.

19 [~~4~~] "Gambling". A person engages in gambling if he
 20 stakes or risks something of value upon the outcome of a contest
 21 of chance or a future contingent event not under his control or
 22 influence, upon an agreement or understanding that he or someone



1 else will receive something of value in the event of a certain
2 outcome. Gambling does not include [bona]:

3 (a) Bona fide business transactions valid under the law of
4 contracts, including but not limited to contracts for
5 the purchase or sale at a future date of securities or
6 commodities, and agreements to compensate for loss
7 caused by the happening of chance, including but not
8 limited to contracts of indemnity or guaranty and
9 life, health, or accident insurance[-]; and

10 (b) Bona fide business game promotions that comply with
11 the following requirements:

12 (i) The game promotion is conducted or offered in
13 connection with the sale, promotion, or
14 advertisement of a bona fide product or service,
15 or to enhance the brand or image of a supplier of
16 bona fide consumer products or services. An item
17 is not bona fide if it is offered at a price that
18 is disproportionate to the value of the item
19 purchased;

20 (ii) No purchase payment, entry fee, or proof of
21 purchase is required as a condition of entering

- 1 the game promotion or receiving something of
2 value;
- 3 (iii) The chance to win by free play must be offered
4 from the same pool from which the chance to win
5 via purchase is drawn;
- 6 (iv) All materials advertising the game promotion
7 clearly disclose that no purchase or payment is
8 necessary to enter and provide details on the
9 free method of participation; and
- 10 (v) In cases where a service or usage time is being
11 sold or promoted, any usage time; privilege to
12 use or operate; or credits accumulated by the
13 customers must be allowed to be transferred or
14 sold to any other person.

15 [~~5~~] "Gambling device" means any device, machine,
16 paraphernalia, or equipment that is used or usable in the
17 playing phases of any gambling activity, whether that activity
18 consists of gambling between persons or gambling by a person
19 involving the playing of a machine. However, lottery tickets
20 and other items used in the playing phases of lottery schemes
21 are not gambling devices within this definition.

22 [~~6~~] "Lottery" means a gambling scheme in which:



1 (a) The players pay or agree to pay something of value for
2 chances, represented and differentiated by numbers or
3 by combinations of numbers or by some other medium,
4 one or more of which chances are to be designated the
5 winning ones; and

6 (b) The winning chances are to be determined by a drawing
7 or by some other method based on an element of chance;
8 and

9 (c) The holders of the winning chances are to receive
10 something of value.

11 [~~7~~] "Mutuel" means a form of lottery in which the
12 winning chances or plays are not determined upon the basis of a
13 drawing or other act on the part of persons conducting or
14 connected with the scheme, but upon the basis of the outcome or
15 outcomes of a future contingent event or events otherwise
16 unrelated to the particular scheme.

17 [~~8~~] "Player" means a person who engages in gambling
18 solely as a contestant or bettor.

19 [~~9~~] "Profit from gambling activity". A person "profits
20 from gambling activity" if he accepts or receives money or other
21 property pursuant to an agreement or understanding with any



1 person whereby he participates or is to participate in the
2 proceeds of gambling activity.

3 ~~[(10)]~~ "Social gambling" is defined in section 712-1231.

4 ~~[(11)]~~ "Something of value" means [any]:

5 (a) Any money or property~~[any]~~;

6 (b) Any token, object, or article exchangeable for money
7 or property~~[any]~~;

8 (c) Any purchase of an item or service that entitles a
9 person to participate in a gambling scheme or use a
10 gambling device; or

11 (d) Any entries, credits, or play points that extend or
12 permit the privilege of playing a game of chance
13 without charge,

14 or any form of credit or promise directly or indirectly
15 contemplating transfer of money or property or of any
16 interest therein, or involving extension of a service or
17 entertainment."

18 SECTION 3. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date.

21 SECTION 4. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 2013.



Report Title:

Gambling Machines and Devices; Gambling Activities Offered
Incident to Purchase of Goods or Services

Description:

Amends a definition in the gambling law to provide that gambling activities offered incident to the purchase of goods or services, or any entries, credits, or play points that extend or permit the privilege of playing a game of chance without charge, constitute gambling. Excepts bona fide business game promotions from gambling. Effective July 1, 2013. (Proposed SD1)

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