
A BILL FOR AN ACT

RELATING TO GAMBLING.

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

1 SECTION 1. Chapter 712, Hawaii Revised Statutes, is
2 amended by adding a new section to part III, to be appropriately
3 designated and to read as follows:

4 "**§712- Free play not a defense; when.** It shall not be a
5 defense to an offense charged under this part that free play was
6 offered, if the free play was offered by mail as an alternative
7 to play via purchase of:

8 (1) An item that is not bona fide or is offered at a price
9 that is disproportionate to the value of the item
10 purchased; or

11 (2) A chance to win if the free play by mail is offered
12 from a pool different from the pool from which the
13 chance to win via purchase is drawn."

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

16 "**§712-1220 Definitions of terms in this part.** In this
17 part unless a different meaning plainly is required, the
18 following definitions apply.

1 [~~(1)~~] "Advance gambling activity". A person "advances
2 gambling activity" if [~~he~~] the person engages in conduct that
3 materially aids any form of gambling activity. Conduct of this
4 nature includes but is not limited to conduct directed toward
5 the creation or establishment of the particular game, contest,
6 scheme, device, or activity involved, toward the acquisition or
7 maintenance of premises, paraphernalia, equipment, or apparatus
8 therefor, toward the solicitation or inducement of persons to
9 participate therein, toward the actual conduct of the playing
10 phases thereof, toward the arrangement of any of its financial
11 or recording phases, or toward any other phase of its operation.
12 A person advances gambling activity if, having substantial
13 proprietary control or other authoritative control over premises
14 being used with [~~his~~] the person's knowledge for purposes of
15 gambling activity, [~~he~~] the person permits that activity to
16 occur or continue or makes no effort to prevent its occurrence
17 or continuation. A person advances gambling activity if [~~he~~]
18 the person plays or participates in any form of gambling
19 activity. Conduct that constitutes gambling activity under this
20 definition is not rendered otherwise by the fact that free play
21 is offered by mail as an alternative to play via purchase of:

1 (1) An item that is not bona fide or is offered at a price
2 that is disproportionate to the value of the item
3 purchased; or

4 (2) A chance to win if the free play by mail is offered
5 from a pool different from the pool from which the
6 chance to win via purchase is drawn.

7 [~~2~~] "Bookmaking" means advancing gambling activity by
8 accepting bets from members of the public upon the outcomes of
9 future contingent events.

10 [~~3~~] "Contest of chance" means any contest, game, gaming
11 scheme, or gaming device in which the outcome depends in a
12 material degree upon an element of chance, notwithstanding that
13 skill of the contestants may also be a factor therein.

14 [~~4~~] "Gambling". A person engages in gambling if [~~he~~
15 the person stakes or risks something of value upon the outcome
16 of a contest of chance or a future contingent event not under
17 [~~his~~] the person's control or influence, upon an agreement or
18 understanding that [~~he~~] the person or someone else will receive
19 something of value in the event of a certain outcome. Gambling
20 does not include bona fide business transactions valid under the
21 law of contracts, including but not limited to contracts for the
22 purchase or sale at a future date of securities or commodities,

1 and agreements to compensate for loss caused by the happening of
2 chance, including but not limited to contracts of indemnity or
3 guaranty and life, health, or accident insurance.

4 ~~[(5)]~~ "Gambling device" means any device, machine,
5 paraphernalia, or equipment that is used or usable in the
6 playing phases of any gambling activity, whether that activity
7 consists of gambling between persons ~~[or]~~, gambling by a person
8 involving the playing of a machine~~[-. However, lottery tickets~~
9 ~~and other items used in the playing phases of lottery schemes~~
10 ~~are not gambling devices within this definition.]~~, or a lottery.

11 ~~[(6)]~~ "Lottery" means a gambling scheme in which:

12 ~~[(a)]~~ (1) The players pay or agree to pay something of
13 value for chances, represented and differentiated by
14 numbers or by combinations of numbers or by some other
15 medium, one or more of which chances are to be
16 designated the winning ones; and

17 ~~[(b)]~~ (2) The winning chances are to be determined by a
18 drawing or by some other method based on an element of
19 chance; and

20 ~~[(c)]~~ (3) The holders of the winning chances are to receive
21 something of value.

1 ~~[(7)]~~ "Mutuel" means a form of lottery in which the
2 winning chances or plays are not determined upon the basis of a
3 drawing or other act on the part of persons conducting or
4 connected with the scheme, but upon the basis of the outcome or
5 outcomes of a future contingent event or events otherwise
6 unrelated to the particular scheme.

7 ~~[(8)]~~ "Player" means a person who engages in gambling
8 solely as a contestant or bettor.

9 ~~[(9)]~~ "Profit from gambling activity". A person "profits
10 from gambling activity" if ~~[he]~~ the person accepts or receives
11 money or other property pursuant to an agreement or
12 understanding with any person whereby ~~[he]~~ the person
13 participates or is to participate in the proceeds of gambling
14 activity.

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

16 ~~[(11)]~~ "Something of value" means any money or property,
17 any token, object, or article exchangeable for money or
18 property, or any form of credit or promise directly or
19 indirectly contemplating transfer of money or property or of any
20 interest therein, or involving extension of a service or
21 entertainment."

1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on July 1, 2050;
4 provided that section 1 shall take effect on January 1, 2011.

Report Title:

Gambling; Lottery; Sweepstakes

Description:

Amends definition of gambling to clarify that purchase of sweepstakes entry that also provides nominal non-gambling value constitutes gambling even if sweepstakes entry can be obtained without payment of consideration. Eliminates free play, beginning 1/1/2011, as a defense under certain circumstances. Effective 7/1/2050. (SD1)