
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 or electronic
7 communication as an alternative to play via purchase of:

8 (a) 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 (b) A chance to win if the free play by mail or electronic
12 communication is offered from a pool different from
13 the pool from which the chance to win via purchase is
14 drawn."

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



1 "§712-1220 Definitions of terms in this part. In this
2 part unless a different meaning plainly is required, the
3 following definitions apply.

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



1 definition is not rendered otherwise by the fact that free play
2 is offered by mail as an alternative to play via purchase of:

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

6 (b) A chance to win if the free play by mail or electronic
7 communication is offered from a pool different from
8 the pool from which the chance to win via purchase is
9 drawn.

10 [~~2~~] "Bookmaking" means advancing gambling activity by
11 accepting bets from members of the public upon the outcomes of
12 future contingent events.

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

17 "Free play" means the availability to a player of a free
18 alternative method of playing a game or engaging in gambling
19 without staking or risking something of value or purchasing a
20 product or chance.

21 [~~4~~] "Gambling" [~~— A person engages in gambling if he~~
22 ~~stakes or risks]~~ means staking or risking something of value



1 upon the outcome of a contest of chance or a future contingent
2 event not under [his] the control or influence [7] of the person
3 making the stake or risk, upon an agreement or understanding
4 that [he] the person or someone else will receive something of
5 value in the event of a certain outcome. Gambling does not
6 include bona fide business transactions valid under the law of
7 contracts, including but not limited to contracts for the
8 purchase or sale at a future date of securities or commodities,
9 and agreements to compensate for loss caused by the happening of
10 chance, including but not limited to contracts of indemnity or
11 guaranty and life, health, or accident insurance.

12 [-5] "Gambling device" means any device, machine,
13 paraphernalia, or equipment that is used or usable in the
14 playing phases of any gambling activity, whether that activity
15 consists of gambling between persons [æ], gambling by a person
16 involving the playing of a machine [~~— However, lottery tickets~~
17 ~~and other items used in the playing phases of lottery schemes~~
18 ~~are not gambling devices within this definition.~~], or a lottery.

19 [-6] "Lottery" means a gambling scheme in which:

20 (a) The players pay or agree to pay something of value for
21 chances, represented and differentiated by numbers or
22 by combinations of numbers or by some other medium,



1 one or more of which chances are to be designated the
2 winning ones; [~~and~~]

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

6 (c) The holders of the winning chances are to receive
7 something of value.

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

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

16 "Pool" means the entry group from which a winner or winners
17 are selected.

18 [~~(9)~~] "Profit from gambling activity" [~~—A~~] means a person
19 [~~"profits from gambling activity" if he~~] who accepts or receives
20 money or other property pursuant to an agreement or
21 understanding with any person whereby [~~he~~] the person



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

3 ~~[(10)]~~ "Social gambling" ~~[is]~~ means the same as defined in
4 section 712-1231.

5 ~~[(11)]~~ "Something of value" means any money or property,
6 any token, object, or article exchangeable for money or
7 property, or any form of credit or promise directly or
8 indirectly contemplating transfer of money or property or of any
9 interest therein, or involving extension of a service or
10 entertainment."

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

14 SECTION 4. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect on July 1, 2050;
17 provided that section 1 shall take effect on January 1, 2013.

18



Report Title:

Gambling; Lottery; Sweepstakes

Description:

Amends definition of advance gambling activity to clarify that purchase of sweepstakes entry that also provides nominal non-gambling value advances gambling even if sweepstakes entry can be obtained without payment of consideration. Eliminates free play, beginning 01/01/2013, as a defense under certain circumstances. Effective 7/1/2050. (SD1)

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