

JAN 26 2011

S.B. NO. 1528

A BILL FOR AN ACT

RELATING TO SHIPBOARD GAMING.

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

1 SECTION 1. Tourism is still the number one industry in
2 Hawaii as there is no other industry that can readily match its
3 capacity to generate continuing revenue. But Hawaii's struggle
4 in recent years to remain competitive with other "sun and sand"
5 resort destinations has challenged the legislature to look
6 beyond traditional means to attract mainland and global
7 visitors. With the convention facility now in operation, it is
8 imperative that Hawaii aggressively compete in the world market.

9 In order to be competitive in the international market
10 place, Hawaii must offer some type of gaming entertainment.
11 Shipboard gaming would create a viable and unique visitor
12 experience while providing thousands of local jobs. In
13 addition, recent studies have shown that shipboard gaming would
14 generate hundreds of millions of dollars, thereby expanding the
15 State's economy.

16 The legislature has received a mandate from the electors of
17 the State of Hawaii to address the massive shortfall of revenue
18 that is threatening county and state programs and economic



1 growth. To maintain much needed social programs, guarantee
2 quality education, expand economic growth, and compete in the
3 global tourism market, the State should address these needs by
4 adopting shipboard gaming.

5 The purpose of this Act is to establish a regulatory
6 framework for the conduct of legal shipboard gaming in Hawaii.

7 SECTION 2. The Hawaii Revised Statutes is amended by
8 adding a new chapter to be appropriately designated and to read
9 as follows:

10 "CHAPTER

11 SHIPBOARD GAMING

12 § -1 Legislative intent. This chapter is intended to
13 benefit the people of the State of Hawaii by creating a new
14 revenue source, shipboard gaming, that will enhance investment,
15 development, and tourism in Hawaii. Because shipboard gaming
16 can be successful only if public confidence and trust in the
17 credibility and integrity of the gaming operations and the
18 regulatory process is maintained, this chapter strictly
19 regulates the facilities, persons, associations, and practices
20 related to gaming operations.

21 § -2 Shipboard gaming authorized. (a) Shipboard gaming
22 operations and the system of wagering incorporated therein, as



1 defined in this chapter, are authorized to the extent that they
2 are carried out in accordance with this chapter.

3 (b) Shipboard gaming pursuant to this chapter may be
4 conducted upon any territorial and archipelagic waters within
5 the State.

6 § -3 Definitions. As used in this chapter unless the
7 context otherwise requires:

8 "Adjusted gross receipts" means the gross receipts less
9 winnings paid to wagerers.

10 "Board" means the Hawaii gaming board.

11 "Department" means the department of business, economic
12 development, and tourism.

13 "Director" means the director of business, economic
14 development, and tourism.

15 "Dock" means the location where a gaming ship moors for the
16 purpose of embarking passengers for, and disembarking passengers
17 from, a gaming excursion.

18 "Gaming excursion" means an outing during which gaming may
19 be operated on a ship licensed under this chapter.

20 "Gaming ship" means a ship or boat licensed under this
21 chapter that is of sufficient size to safely accommodate, in
22 accordance with state, federal, and international law, no fewer



1 than one hundred persons, for the purpose of providing gaming
2 activity within the territorial and archipelagic waters of the
3 State.

4 "Gross receipts" means the total amount of money wagered or
5 exchanged for the purchase of chips, tokens, or electronic cards
6 by shipboard gaming patrons.

7 "Occupational license" means a license issued by the board
8 to a person or entity to perform an occupation which the board
9 has identified as requiring a license to engage in shipboard
10 gaming in Hawaii.

11 "Shipboard gaming" means the operation of games aboard a
12 ship licensed under this chapter, including but not limited to,
13 baccarat, twenty-one, poker, craps, slot machine, video game of
14 chance, roulette wheel, klondike table, punch-board, faro
15 layout, keno layout, numbers ticket, push card, jar ticket, pull
16 tab, or other game of chance that is authorized by the board as
17 a wagering device.

18 § -4 Hawaii gaming board. (a) There is established
19 within the department, for administrative purposes only, the
20 Hawaii gaming board which shall administer, regulate, and
21 enforce the system of shipboard gaming established by this
22 chapter. Its jurisdiction shall extend to every person,



1 association, corporation, partnership, and trust involved in
2 shipboard gaming operations in the State.

3 (b) The board shall consist of three members to be
4 appointed by the governor with the advice and consent of the
5 senate under section 26-34. Of the three members, one shall be
6 appointed from a list of nominees submitted by the president of
7 the senate and one shall be appointed from a list of nominees
8 submitted by the speaker of the house of representatives. The
9 members shall elect one from among them to be the chairperson.

10 (c) The term of office of a board member shall be four
11 years. Vacancies in the board shall be filled for the unexpired
12 term in like manner as the original appointments.

13 (d) Each member of the board shall receive \$300 for each
14 day the board meets and for each day the member conducts any
15 hearing pursuant to this chapter. Each member shall also be
16 reimbursed for all actual and necessary expenses incurred in the
17 execution of official duties.

18 (e) No person shall be appointed a member of the board or
19 continue to be a member of the board if:

20 (1) The person or the person's spouse, child, or parent
21 is, an official of, or a person financially interested



1 in, or has a financial relationship with, any gaming
2 operation subject to the jurisdiction of the board; or

3 (2) The person is not of good moral character or has been
4 convicted of, or is under indictment for, a felony
5 under the laws of Hawaii or any other state, or the
6 United States.

7 (f) No board member shall hold any other public office.

8 Any member of the board may be removed by the governor for
9 neglect of duty, misfeasance, malfeasance, or nonfeasance in
10 office.

11 § -5 Board members; bond requirement. Before assuming
12 the duties of office, each member of the board shall take an
13 oath that the member shall faithfully execute the duties of
14 office according to the laws of the State and shall file and
15 maintain with the director a bond in the sum of \$25,000 with
16 good and sufficient sureties. The cost of any bond for any
17 member of the board under this section shall be considered a
18 part of the necessary expenses of the board.

19 § -6 Staff. (a) The board shall appoint, without
20 regard to chapter 76, an administrator who shall perform any and
21 all duties that the board shall assign. The salary of the
22 administrator shall be determined by the board. The



1 administrator shall keep records of all proceedings of the board
2 and shall preserve all records, books, documents, and other
3 papers belonging to the board or entrusted to its care. The
4 administrator shall devote full time to the duties of the office
5 and shall not hold any other office or employment.

6 (b) The board may employ personnel, including personnel
7 with law enforcement authority, as may be necessary to carry out
8 its duties. No person shall be employed by the board who is, or
9 whose spouse, parent or child is, an official of, or has a
10 financial interest in or financial relation with, any operator
11 engaged in gaming operations within this State. The employment
12 of any employee violating these prohibitions shall be
13 terminated.

14 § -7 Powers of the board. The board shall have all
15 powers necessary and proper to fully and effectively supervise
16 all shipboard gaming operations, including but not limited to
17 the following:

18 (1) To determine the types and numbers of shipboard gaming
19 licenses to be permitted and the types and numbers of
20 ships a licensee may own under this chapter; provided
21 that the total number of ships operating under



1 licenses granted under this chapter shall not exceed
2 four;

3 (2) To adopt standards for the licensing of all persons
4 under this chapter, to issue licenses, and to
5 establish and collect fees for such licenses;

6 (3) To provide for the collection of all fees and taxes
7 imposed pursuant to this chapter;

8 (4) To enter the office, gaming ships, facilities, or
9 other places of business of a licensee, where evidence
10 of the compliance or noncompliance with this chapter
11 is likely to be found;

12 (5) To investigate alleged violations of this chapter and
13 to take appropriate disciplinary action against a
14 licensee or a holder of an occupational license for a
15 violation, or institute appropriate legal action for
16 enforcement, or both;

17 (6) To be present through its inspectors and agents any
18 time gaming operations are conducted on any gaming
19 ship for the purpose of certifying the revenue
20 thereof, receiving complaints from the public, and
21 conducting such other investigations into the conduct
22 of the shipboard gaming and the maintenance of the



1 equipment as from time to time the board may deem
2 necessary and proper;

3 (7) To adopt appropriate standards for all gaming ships
4 and facilities, as well as for electronic or
5 mechanical gaming devices;

6 (8) To require that the records, including financial or
7 other statements of any licensee under this chapter,
8 be kept in a manner as prescribed by the board and
9 that any licensee involved in the ownership or
10 management of gaming operations submit to the board an
11 annual balance sheet and profit and loss statement, a
12 list of the stockholders or other persons having a ten
13 per cent or greater beneficial interest in the gaming
14 activities of each licensee, and any other information
15 the board deems necessary in order to effectively
16 administer this chapter;

17 (9) To conduct hearings, issue subpoenas for the
18 attendance of witnesses and subpoenas duces tecum for
19 the production of books, records, and other pertinent
20 documents, and to administer oaths and affirmations to
21 the witnesses, when, in the judgment of the board, it
22 is necessary to administer or enforce this chapter;



- 1 (10) To prescribe an employment application criteria to be
2 used by any licensee involved in the ownership or
3 management of shipboard gaming operations for hiring
4 purposes;
- 5 (11) To eject or exclude, or authorize the ejection or
6 exclusion of, any person from shipboard gaming
7 facilities where the person is in violation of this
8 chapter or where the person's conduct or reputation is
9 such that the person's presence within the gaming ship
10 facilities, in the opinion of the board, may call into
11 question the honesty and integrity of the shipboard
12 gaming operation or interfere with the orderly conduct
13 thereof; provided that the propriety of that ejection
14 or exclusion is subject to subsequent hearing by the
15 board;
- 16 (12) To permit licensees of gaming operations to utilize a
17 wagering system whereby gamers' money may be converted
18 to tokens, electronic cards, or chips which shall be
19 used only for wagering aboard the gaming ship;
- 20 (13) To approve the routes of a gaming ship and the stops a
21 gaming ship may make within the territorial and
22 archipelagic waters of the State;



- 1 (14) To suspend, revoke, or restrict licenses, to require
2 the removal of a licensee or an employee of a licensee
3 for a violation of this chapter or a board rule or for
4 engaging in a fraudulent practice;
- 5 (15) To impose and collect fines of up to \$5,000 against
6 individuals and up to \$10,000 or an amount equal to
7 the daily gross receipts, whichever is larger, against
8 licensees for each violation of this chapter, any
9 rules adopted by the board, any order of the board, or
10 any other action which, in the board's discretion, is
11 a detriment or impediment to shipboard gaming
12 operations;
- 13 (16) To hire employees to gather information, conduct
14 investigations, and carry out any other tasks
15 contemplated under this chapter;
- 16 (17) To establish minimum levels of insurance to be
17 maintained by licensees;
- 18 (18) To establish, after consultation with the United
19 States Army Corps of Engineers or the United States
20 Coast Guard, whichever is appropriate, binding
21 emergency orders upon the concurrence of a majority of
22 the members of the board regarding the navigability of



1 the territorial and archipelagic waters of the State
2 in the event of extreme weather conditions, acts of
3 God, or other extreme circumstances;

4 (19) To delegate the execution of any of its powers for the
5 purpose of administering and enforcing this chapter
6 and rules adopted under this chapter;

7 (20) To adopt necessary rules under chapter 91 to implement
8 this chapter; and

9 (21) To take any other action as may be reasonable or
10 appropriate to enforce this chapter and rules adopted
11 under it.

12 § -8 Meetings of the board. The board shall hold at
13 least one meeting each quarter of the State's fiscal year. In
14 addition, special meetings may be called by the chairperson or
15 any two board members upon seventy-two hours written notice to
16 each member. All regular board meetings shall be subject to
17 chapter 92. Three members of the board shall constitute a
18 quorum, and a majority vote of the members present and
19 constituting a quorum shall be required for any final
20 determination by the board. The board shall keep a complete and
21 accurate record of all its meetings.



1 § -9 Annual report. The board shall file a written
2 annual report with the governor and the legislature on or before
3 sixty days following the close of each fiscal year and make such
4 additional reports as the governor or the legislature may
5 request. The annual report shall include a statement of
6 receipts and disbursements by the board, actions taken by the
7 board, and any additional information and recommendations which
8 the board may deem valuable or which the governor or the
9 legislature may request.

10 § -10 Hearings by the board. (a) Upon order of the
11 board, one of the board members or a hearings officer designated
12 by the board may conduct any hearing provided for under this
13 chapter or by board rule and may recommend findings and
14 decisions to the board. The board member or hearings officer
15 conducting the hearing shall have all powers and rights granted
16 to the board in this chapter. The record made at the time of
17 the hearing shall be reviewed by the board, or a majority
18 thereof, and the findings and decision of the majority of the
19 board shall constitute the order of the board in that case.

20 (b) Any party aggrieved by an action of the board denying,
21 suspending, revoking, restricting, or refusing to renew a
22 license may request a hearing before the board. A request for a



1 hearing must be made to the board in writing within five days
2 after service of notice of the action of the board. Notice of
3 the action of the board shall be served either by personal
4 delivery or by certified mail, postage prepaid, to the aggrieved
5 party. Notice served by certified mail shall be deemed complete
6 on the business day following the date of such mailing. The
7 board shall conduct all requested hearings as required by
8 chapter 91.

9 § -11 Disclosure of records. (a) Notwithstanding any
10 other law to the contrary, the board on written request from any
11 person, shall provide information furnished by an applicant or
12 licensee concerning the applicant or licensee, or the
13 applicant's or licensee's products, services, or gaming
14 enterprises, and business holdings, as follows:

- 15 (1) The name, business address, and business telephone
16 number of any applicant or licensee;
- 17 (2) An identification of any applicant or licensee
18 including, if an applicant or licensee is not an
19 individual or partnership, the state of incorporation
20 or registration, the corporate officers, and the
21 identity of all shareholders or participants;



- 1 (3) An identification of any business, including, if
2 applicable, the state of incorporation or
3 registration, in which an applicant or licensee or an
4 applicant's or licensee's spouse or children has an
5 equity interest of more than five per cent. If an
6 applicant or licensee is a corporation, partnership,
7 or other business entity, the applicant or licensee
8 shall identify any other corporation, partnership, or
9 business entity in which it has an equity interest of
10 five per cent or more, including, if applicable, the
11 state of incorporation or registration;
- 12 (4) Whether an applicant or licensee has been convicted,
13 pleaded guilty or nolo contendere, or forfeited bail
14 concerning any criminal offense under the laws of any
15 jurisdiction, either felony or misdemeanor (except for
16 traffic violations), including the date, the name, and
17 location of the court, arresting agency, and
18 prosecuting agency, the case number, the offense, the
19 disposition, and the location and length of
20 incarceration;
- 21 (5) Whether an applicant or licensee has had any license
22 or certificate issued by a licensing authority in



1 Hawaii or any other jurisdiction denied, restricted,
2 suspended, revoked, or not renewed and a statement
3 describing the facts and circumstances concerning the
4 denial, restriction, suspension, revocation, or
5 nonrenewal, including the licensing authority, the
6 date each such action was taken, and the reason for
7 each such action;

8 (6) Whether an applicant or licensee has ever filed or had
9 filed against it a proceeding in bankruptcy or has
10 ever been involved in any formal process to adjust,
11 defer, suspend, or otherwise work out the payment of
12 any debt including the date of filing, the name and
13 location of the court, the case and number of the
14 disposition;

15 (7) Whether an applicant or licensee has filed, or been
16 served with a complaint or other notice filed with any
17 public body, regarding the delinquency in the payment
18 of, or a dispute over the filings concerning the
19 payment of, any tax required under federal, state, or
20 county law, including the amount, type of tax, the
21 taxing agency, and time periods involved;



- 1 (8) A statement listing the names and titles of all public
2 officials or officers of any unit of government, and
3 relatives of such public officials or officers who,
4 directly or indirectly, own any financial interest in,
5 have any beneficial interest in, are the creditors of
6 or hold any debt instrument issued by, or hold or have
7 any interest in any contractual or service
8 relationship with, an applicant or licensee;
- 9 (9) Whether an applicant or licensee has made any
10 political contribution, or any loans, donations, or
11 other payments, to any candidate or office holder,
12 within five years from the date of filing the
13 application, including the amount and the method of
14 payment;
- 15 (10) The name and business telephone number of any attorney
16 representing an applicant or licensee in matters
17 before the board;
- 18 (11) A description of any proposed or approved shipboard
19 gaming operation, including the type of ship, home
20 dock location, expected economic benefit to the
21 community, anticipated or actual number of employees,
22 statement from an applicant or licensee stating the



1 applicant or licensee is in compliance with federal
2 and state hiring and employment practices, projected
3 or actual admissions, and projected or actual adjusted
4 gross gaming receipts; and

5 (12) A description of the product or service to be supplied
6 by an applicant for a supplier's license.

7 (b) Notwithstanding any provision of law to the contrary,
8 the board, on written request from any person, shall also
9 provide the following information:

10 (1) The amount of the wagering tax and admission tax paid
11 daily to the State by the holder of an owner's
12 license;

13 (2) Whenever the board finds an applicant for an owner's
14 license unsuitable for licensing, a written
15 explanation of the reasons for the denial; and

16 (3) Whenever the board has refused to grant leave for an
17 applicant to withdraw an application, a copy of the
18 letter outlining the reasons for the refusal.

19 (c) Subject to the above provisions, the board shall not
20 disclose any information that would be barred by:

21 (1) Chapter 92F; or



1 (2) The statutes, rules, regulations, or intergovernmental
2 agreements of any jurisdiction.

3 (d) The board may assess fees for the copying of
4 information in accordance with chapter 92F.

5 § -12 **Application for owner's license.** (a) A qualified
6 person may apply to the board for an owner's license to conduct
7 a shipboard gaming operation. The application shall be made on
8 forms provided by the board and shall contain such information
9 as the board prescribes, including but not limited to the
10 identity of the ship on which such gaming operation is to be
11 conducted and the exact location where the ship will be docked
12 or anchored off-shore within the territorial and archipelagic
13 waters of the State, a certification that the ship will be
14 registered under this chapter at all times during which gaming
15 operations are conducted on board, detailed information
16 regarding the ownership and management of the applicant, and
17 detailed personal information regarding the applicant.
18 Information provided on the application shall be used as the
19 basis for a thorough background investigation which the board
20 shall conduct with respect to each applicant. An incomplete
21 application shall be cause for denial of a license by the board.



1 (b) Applicants shall submit with their application all
2 documents, resolutions, and letters of support from the
3 governing body that represents the county wherein the licensee
4 will dock or anchor off-shore.

5 (c) Each applicant shall disclose the identity of every
6 person, association, trust, or corporation having a greater than
7 five per cent direct or indirect pecuniary interest in the
8 shipboard gaming operation with respect to which the license is
9 sought. If the disclosed entity is a trust, the application
10 shall disclose the names and addresses of the beneficiaries; if
11 a corporation, the names and addresses of all stockholders and
12 directors; if a partnership, the names and addresses of all
13 partners, both general and limited.

14 (d) An application fee of \$25,000 shall be paid at the
15 time of filing to defray the costs associated with the
16 background investigation conducted by the board and the search
17 and classification of fingerprints obtained by the board with
18 respect to the application. If the costs of the investigation
19 exceed \$25,000, the applicant shall pay the additional amount to
20 the board. If the costs of the investigation are less than
21 \$25,000, the applicant shall receive a refund of the remaining
22 amount. All information, records, interviews, reports,



1 statements, memoranda, or other data supplied to or used by the
2 board in the course of its review or investigation of an
3 application for a license shall be privileged, strictly
4 confidential, and used only for the purpose of evaluating an
5 applicant. The information, records, interviews, reports,
6 statements, memoranda, or other data shall not be admissible as
7 evidence, nor-discoverable in any action of any kind in any
8 court or before any tribunal, board, agency, or person, except
9 for any action deemed necessary by the board.

10 (e) The licensed owner shall be the person primarily
11 responsible for the ship itself. Only one shipboard gaming
12 operation may be authorized by the board on any ship. The
13 applicant must identify each ship it intends to use and certify
14 that the ship:

- 15 (1) Has the capacity required in this chapter;
16 (2) Is accessible to persons with disabilities; and
17 (3) Is fully registered and licensed in accordance with
18 any applicable laws.

19 (f) A person who knowingly makes a false statement on an
20 application shall be guilty of a petty misdemeanor.

21 § -13 Owner's licenses. (a) No person shall operate
22 and maintain a gaming ship in this State unless the person has



1 first obtained an owner's license from the board pursuant to
2 this section. If the board finds that the applicant meets the
3 eligibility requirements, the board shall issue an owner's
4 license upon payment by the applicant of a \$15,000 license fee
5 for the first year of operation. An applicant is ineligible to
6 receive an owner's license if:

- 7 (1) The person has been convicted of a felony under the
8 laws of this State, any other state, or the United
9 States;
- 10 (2) The person has been convicted of any violation under
11 part III, chapter 712, or substantially similar laws
12 of another jurisdiction;
- 13 (3) The person has submitted an application for a license
14 under this chapter which contains false information;
- 15 (4) The person is a member of the board;
- 16 (5) A person defined in paragraph (1), (2), (3), or (4) is
17 an officer, director, or managerial employee of the
18 firm or corporation;
- 19 (6) The firm or corporation employs a person defined in
20 paragraph (1), (2), (3), or (4) who participates in
21 the management or operation of gaming operations
22 authorized under this chapter;



1 (7) The person, firm, or corporation has more than a ten
2 per cent ownership interest in any entity holding an
3 owner's license issued under this chapter; or

4 (8) A license of the person, firm, or corporation issued
5 under this chapter, or a license to own or operate
6 gaming facilities in any other jurisdiction, has been
7 revoked.

8 (b) In determining whether to grant an owner's license to
9 an applicant, the board shall consider:

10 (1) The character, reputation, experience, and financial
11 integrity of the applicants and of any other or
12 separate person that either:

13 (A) Controls, directly or indirectly, the applicant;
14 or

15 (B) Is controlled, directly or indirectly, by the
16 applicant or by a person which controls, directly
17 or indirectly, the applicant;

18 (2) The facilities or proposed facilities for the conduct
19 of shipboard gaming;

20 (3) The highest prospective total revenue to be derived by
21 the State from the conduct of shipboard gaming;



1 (4) The financial ability of the applicant to purchase and
2 maintain adequate liability and casualty insurance; or

3 (5) Whether the applicant has adequate capitalization to
4 provide and maintain, for the duration of a license, a
5 shipboard gaming operation; and

6 (6) The extent to which the applicant exceeds or meets
7 other standards for the issuance of an owner's license
8 which the board may adopt by rule.

9 (c) Each applicant shall submit with the application, on
10 forms provided by the board, two sets of the applicant's
11 fingerprints.

12 (d) In the application for an owner's license, the
13 applicant shall specify the dock at which the gaming ship will
14 be based, including but not limited to the pier at the aloha
15 tower, and the area within the territorial and archipelagic
16 waters of the State on which the gaming ship will operate. In
17 determining the territorial and archipelagic waters upon which
18 gaming ships will operate with licenses, the board shall
19 consider the economic benefit that shipboard gaming confers on
20 the State and shall seek to ensure that all counties of the
21 State share in the economic benefits of shipboard gaming.



1 (e) In granting licenses, the board may give favorable
2 consideration to economically depressed areas of the State,
3 including but not limited to the area surrounding the aloha
4 tower, to applicants presenting plans that provide for
5 significant economic development, applicants currently licensed
6 in other United States jurisdictions, and to applicants who
7 operated nongaming ships in Hawaii prior to the effective date
8 of this Act. The board shall promptly review and determine
9 whether to grant all applications for owner's licenses and shall
10 promptly inform each applicant of the board's decision.

11 (f) The board may revoke the owner's license if a licensee
12 fails to begin regular shipboard gaming excursions within twelve
13 months of receipt of the board's approval of the application
14 upon a finding by the board that license revocation is in the
15 best interest of the State.

16 (g) Licenses shall be issued for a one-year period and
17 shall be renewable annually upon payment of a \$5,000 license fee
18 and a determination by the board that the licensee continues to
19 meet all of the requirements of this chapter.

20 (h) The board may authorize a licensee to own and operate
21 up to two gaming ships per owner's license.



1 (i) The board shall establish a process to facilitate and
2 expedite the approval of the necessary licenses and permits.
3 The board may establish its own procedures for the issuance of
4 liquor licenses for any holder of an owner's license under this
5 chapter; provided that the applicant complies with all state
6 laws and county ordinances relating to liquor.

7 (j) Nothing in this chapter shall be interpreted to
8 prohibit a licensed owner from operating a school for the
9 training of any occupational licensee.

10 § -14 Bond of licensee. Before an owner's license is
11 issued, the licensee shall file a bond in the sum of \$200,000
12 with the department. The bond shall be used to guarantee that
13 the licensee faithfully makes the payments, keeps books and
14 records, makes reports, and conducts games of chance in
15 conformity with this chapter and the rules adopted by the board.
16 The bond shall not be canceled by a surety on less than thirty
17 days notice in writing to the board. If a bond is canceled and
18 the licensee fails to file a new bond with the board in the
19 required amount on or before the effective date of cancellation,
20 the licensee's license shall be revoked. The total and
21 aggregate liability of the surety on the bond is limited to the
22 amount specified in the bond.



1 § -15 Supplier's licenses. (a) No person shall furnish
2 any equipment, devices, or supplies to a licensed shipboard
3 gaming operation unless the person has first obtained a
4 supplier's license pursuant to this section. The board may
5 issue a supplier's license to any person, firm, or corporation
6 who pays a nonrefundable application fee of \$50,000 upon a
7 determination by the board that the applicant is eligible for a
8 supplier's license and upon payment by the applicant of a \$1,000
9 license fee. Supplier's licenses shall be renewable annually
10 upon payment of the \$1,000 annual license fee and a
11 determination by the board that the licensee continues to meet
12 all of the requirements of this chapter.

13 (b) The holder of a supplier's license may sell or lease,
14 or contract to sell or lease, gaming equipment and supplies to
15 any licensee involved in the ownership or management of gaming
16 operations.

17 (c) Gaming supplies and equipment shall not be distributed
18 unless supplies and equipment conform to standards adopted by
19 rules of the board.

20 (d) A person, firm, or corporation is ineligible to
21 receive a supplier's license if:



- 1 (1) The person has been convicted of a felony under the
- 2 laws of this State, any other state, or the United
- 3 States;
- 4 (2) The person has been convicted of any violation under
- 5 part III, chapter 712, or substantially similar laws
- 6 of another jurisdiction;
- 7 (3) The person has submitted an application for a license
- 8 under this chapter which contains false information;
- 9 (4) The person is a member of the board;
- 10 (5) The firm or corporation is one in which a person
- 11 defined in paragraph (1), (2), (3), or (4) is an
- 12 officer, director, or managerial employee;
- 13 (6) The firm or corporation employs a person defined in
- 14 paragraph (1), (2), (3), or (4) who participates in
- 15 the management or operation of shipboard gaming
- 16 authorized under this chapter; or
- 17 (7) The license of the person, firm, or corporation issued
- 18 under this chapter, or a license to own or operate
- 19 gaming facilities in any other jurisdiction, has been
- 20 revoked.
- 21 (e) A supplier shall:



- 1 (1) Furnish to the board a list of all equipment, devices,
2 and supplies offered for sale or lease in connection
3 with games authorized under this chapter;
- 4 (2) Keep books and records for the furnishing of
5 equipment, devices, and supplies to gaming operations
6 separate and distinct from any other business that the
7 supplier might operate;
- 8 (3) File a quarterly return with the board listing all
9 sales and leases;
- 10 (4) Permanently affix its name to all its equipment,
11 devices, and supplies for gaming operations; and
- 12 (5) File an annual report listing its inventories of
13 gaming equipment, devices, and supplies.
- 14 (f) Any person who knowingly makes a false statement on an
15 application is guilty of a petty misdemeanor.
- 16 (g) Any gaming equipment, devices, or supplies provided by
17 any licensed supplier may either be repaired on the gaming ship
18 or removed from the gaming ship to a facility owned by the
19 holder of an owner's license for repair. Any supplier's
20 equipment, devices, and supplies that are used by any person in
21 an unauthorized gaming operation shall be forfeited to the
22 State.



1 § -16 Occupational licenses. (a) The board may issue
2 an occupational license to an applicant upon the payment of a
3 nonrefundable application fee as set by the board, upon a
4 determination by the board that the applicant is eligible for an
5 occupational license, and upon payment of an annual license fee
6 in an amount set by the board. To be eligible for an
7 occupational license, an applicant shall:

- 8 (1) Be at least twenty-one years of age if the applicant
9 will perform any function involved in gaming by
10 patrons. Any applicant seeking an occupational
11 license for a nongaming function shall be at least
12 eighteen years of age;
- 13 (2) Not have been convicted of a felony offense, or a
14 similar statute in any other jurisdiction, or a crime
15 involving dishonesty or moral turpitude; and
- 16 (3) Have met standards for the holding of an occupational
17 license as provided in rules adopted by the board,
18 including background inquiries and other requirements
19 similar to those for an owner's license.

20 (b) Each application for an occupational license shall be
21 on forms prescribed by the board and shall contain all



1 information required by the board. The applicant shall set
2 forth in the application whether the applicant:

3 (1) Has been issued prior gaming-related licenses in any
4 jurisdiction;

5 (2) Has been licensed in any other jurisdiction under any
6 other name, and, if so, the name and the applicant's
7 age at the time the license was issued; or

8 (3) Whether or not a permit or license issued to the
9 applicant in any other jurisdiction has been
10 suspended, restricted, or revoked and, if so, for what
11 period of time.

12 (c) Each applicant shall submit with the application two
13 sets of the applicant's fingerprints. The board shall charge
14 each applicant a fee to defray the costs associated with the
15 search and classification of fingerprints obtained by the board
16 with respect to the application.

17 (d) The board may refuse an occupational license to any
18 person:

19 (1) Who is unqualified to perform the duties required of a
20 licensee;

21 (2) Who fails to disclose or states falsely any
22 information called for in the application;



1 (3) Who has been found guilty of a violation of this
2 chapter or whose prior gaming related license or
3 application therefor has been suspended, restricted,
4 revoked, or denied for just cause in any other
5 jurisdiction; or

6 (4) For any other just cause.

7 (e) The board may suspend, revoke, or restrict any
8 occupational licensee:

9 (1) For any violation of this chapter;

10 (2) For any violation of the rules of the board;

11 (3) For any cause which, if known to the board, would have
12 disqualified the applicant from receiving the license;

13 (4) For default in the payment of any obligation or debt
14 due to the State; or

15 (5) For any other just cause.

16 (f) A person who knowingly makes a false statement on an
17 application is guilty of a petty misdemeanor.

18 (g) Any license issued pursuant to this section shall be
19 valid for a period of one year from the date of issuance and
20 shall be renewable annually upon payment of the annual license
21 fee and a determination by the board that the license continues
22 to meet all of the requirements of this chapter.



1 (h) Any training provided for occupational licensees may
2 be conducted either on a licensed gaming ship or at a school
3 with which a licensed owner has entered into an agreement.

4 § -17 Conduct of gaming. Gaming may be conducted by
5 licensed owners aboard gaming ships, subject to the following
6 standards:

7 (1) Gaming shall be permitted after a vessel departs and
8 no closer than one hundred yards from the dock;

9 (2) For all gaming ships except those that are licensed
10 under this chapter to anchor off-shore, gaming
11 excursions shall not exceed five hours for a round
12 trip; provided that the board, by rule, may provide
13 for exceptions for inter-island cruises;

14 (3) Minimum and maximum wagers on games shall be set by
15 the licensee;

16 (4) Agents of the board may board and inspect any gaming
17 ship at any time for the purpose of determining
18 compliance with this chapter. Every gaming ship, if
19 under way and being hailed by a law enforcement
20 officer or agent of the board, shall stop immediately
21 and lay to;



- 1 (5) Employees of the board shall have the right to be
2 present on the gaming ship or on adjacent facilities
3 under the control of the licensee;
- 4 (6) Gaming equipment and supplies customarily used in
5 conducting shipboard gaming must be purchased or
6 leased only from suppliers licensed under this
7 chapter;
- 8 (7) Persons licensed under this chapter shall permit no
9 form of wagering on games except as permitted by this
10 chapter;
- 11 (8) Wagers may be received only from a person present on a
12 licensed gaming ship. No person present on a licensed
13 gaming ship shall place or attempt to place a wager on
14 behalf of another person who is not present on the
15 gaming ship;
- 16 (9) Wagering shall not be conducted with money or other
17 negotiable currency, except for wagering on slot
18 machines;
- 19 (10) A person under age twenty-one shall not be permitted
20 on an area of a gaming ship where gaming is being
21 conducted, except for a person at least eighteen years
22 of age who is an employee of the shipboard gaming



1 operation. No employee under age twenty-one shall
2 perform any function involved in gaming by the
3 patrons. No person under age twenty-one shall be
4 permitted to make a wager under this chapter;

5 (11) Gaming excursions shall be permitted only when the
6 territorial and archipelagic waters for which the ship
7 is licensed are navigable as determined by the board
8 in consultation with the United States Army Corps of
9 Engineers or the United States Coast Guard, as
10 appropriate;

11 (12) All tokens, chips, or electronic cards used to make
12 wagers shall be purchased from a licensed owner either
13 aboard a gaming ship or at an onshore facility that
14 has been approved by the board and that is located
15 where the gaming ship docks. The tokens, chips, or
16 electronic cards may be purchased by means of an
17 agreement under which the owner extends credit to the
18 patron. The tokens, chips, or electronic cards may be
19 used while aboard the gaming ship only for the purpose
20 of making wagers on authorized games; and

21 (13) In addition to the above, gaming shall be conducted in
22 accordance with all rules adopted by the board.



1 **§ -18 Collection of amounts owing under credit**
2 **agreements.** Notwithstanding any other law to the contrary, a
3 licensed owner who extends credit to a shipboard gaming patron
4 is expressly authorized to institute a cause of action to
5 collect any amounts due and owing under the extension of credit,
6 as well as the owner's costs, expenses, and reasonable
7 attorney's fees incurred in collection; provided that all
8 collections activity be subject to state and federal fair debt
9 collection practices.

10 **§ -19 Wagering tax; rate; distribution.** A tax is
11 imposed on the adjusted gross receipts received from games
12 authorized under this chapter at the rate of per cent.
13 The tax imposed by this section shall be paid by the licensed
14 owner to the board no later than seven days following the last
15 day of each month in which the wagers were made and shall be
16 deposited into the state gaming fund pursuant to section -27.
17 The wagering tax imposed by this section shall be in lieu of all
18 other state taxes on gross or adjusted gross receipts, except
19 income taxes, including taxes levied under chapters 237 and 239.

20 **§ -20 Licensees; records; reports; supervision.** (a) A
21 licensed owner shall keep books and records so as to clearly
22 show:



1 (1) The daily number of admissions and the amount of
2 admission tax payable each day;

3 (2) The total amount of gross receipts; and

4 (3) The total amount of the adjusted gross receipts.

5 (b) The licensed owner shall furnish to the board reports
6 and information as the board may require with respect to its
7 activities on forms designed and supplied for such purpose by
8 the board.

9 (c) The books and records kept by a licensed owner are
10 government records and the examination, publication, and
11 dissemination of the books and records shall be subject to
12 chapter 92F.

13 § -21 **Audit of licensee operations.** Within ninety days
14 after the end of each quarter of each fiscal year, the licensed
15 owner shall transmit to the board an audit of the financial
16 transactions and condition of the licensee's total operations.
17 All audits shall be conducted by certified public accountants
18 selected by the board. Each certified public accountant shall
19 be registered and licensed to practice in this State. The
20 compensation for each certified public accountant shall be paid
21 directly by the licensed owner to the certified public
22 accountant.



1 § -22 **Judicial review.** (a) Jurisdiction and venue for
2 the judicial review of a final order of the board relating to
3 owner's, supplier's, occupational, shuttle service, or special
4 event licenses is vested in the circuit court of the appropriate
5 jurisdiction. A petition for judicial review of a final order
6 of the board must be filed within thirty days after entry of the
7 final order.

8 § -23 **Prohibited activities; penalty.** (a) A person
9 shall be guilty of a misdemeanor for any of the following:

- 10 (1) Intentionally operating a gaming ship where wagering
11 is used or is to be used without a license issued by
12 the board;
 - 13 (2) Intentionally operating a gaming ship where wagering
14 is permitted other than in the manner authorized under
15 this chapter;
 - 16 (3) Knowingly permitting a person under twenty-one years
17 to make a wager; or
 - 18 (4) Knowingly violating section -17(12).
- 19 (b) A person wagering or accepting a wager at any location
20 outside the gaming ship is subject to the penalties in sections
21 712-1220 to 712-1230.



1 (c) A person shall be guilty of a class C felony and, in
2 addition, shall be barred for life from gaming ships under the
3 jurisdiction of the board, if the person does any of the
4 following:

5 (1) Offers, promises, or gives anything of value or
6 benefit to a person who is connected with a gaming
7 ship owner including but not limited to an officer or
8 employee of a licensed owner or holder of an
9 occupational license pursuant to an agreement or
10 arrangement or with the intent that the promise or
11 thing of value or benefit will influence the actions
12 of the person to whom the offer, promise, or gift was
13 made in order to affect or attempt to affect the
14 outcome of a gaming activity or to influence official
15 action of a member of the board;

16 (2) Solicits or knowingly accepts or receives a promise of
17 anything of value or benefit while the person is
18 connected with a gaming ship including but not limited
19 to an officer or employee of a licensed owner or
20 holder of an occupational license pursuant to an
21 understanding or arrangement or with the intent that
22 the promise or thing of value or benefit will



- 1 influence the actions of the person to affect or
2 attempt to affect the outcome of a gaming activity or
3 to influence official action of a member of the board;
- 4 (3) Cheats at a gaming activity;
- 5 (4) Manufactures, sells, or distributes any cards, chips,
6 dice, game, or device that is intended to be used to
7 violate this chapter;
- 8 (5) Alters or misrepresents the outcome of a gaming
9 activity on which wagers have been made after the
10 outcome is made sure but before it is revealed to the
11 players;
- 12 (6) Places a bet after acquiring knowledge, not available
13 to all players, of the outcome of the gaming activity
14 that is subject of the bet or to aid a person in
15 acquiring the knowledge for the purpose of placing a
16 bet contingent on that outcome;
- 17 (7) Claims, collects, or takes, or attempts to claim,
18 collect, or take, money or anything of value in or
19 from the games, with intent to defraud, without having
20 made a wager contingent on winning a gaming activity,
21 or claims, collects, or takes an amount of money or
22 thing of value of greater value than the amount won;



1 (8) Uses counterfeit chips or tokens in a gaming activity;
2 or

3 (9) Possesses any key or device designed for the purpose
4 of opening, entering, or affecting the operation of a
5 gaming activity, drop box, or an electronic or
6 mechanical device connected with the gaming activity
7 or for removing coins, tokens, chips, or other
8 contents of a gaming activity. This paragraph does
9 not apply to a gaming licensee or employee of a gaming
10 licensee acting in furtherance of the employee's
11 employment.

12 (d) An action to prosecute any crime occurring during a
13 gaming excursion shall be tried in the county of the dock at
14 which the gaming ship is based.

15 § -24 Forfeiture of property. (a) Except as provided
16 in subsection (b), any gaming ship used for the conduct of
17 gaming in violation of section -17, shall be subject to
18 section 712-1222.5. Every gaming device found on a ship
19 operating games in violation of this chapter shall be subject to
20 seizure, confiscation, and destruction.

21 (b) It is not a violation of this chapter for a ship or
22 other watercraft that is licensed for gaming by a foreign nation



1 or another state or territory of the United States to dock on
2 the shores of this State if the State has granted permission for
3 docking; provided that no gaming is conducted on the ship or
4 other watercraft while it is docked on the shores of this State
5 or traversing in the territorial and archipelagic waters of the
6 State. No gaming device shall be subject to seizure,
7 confiscation, or destruction if the gaming device is located on
8 such a ship or other watercraft.

9 § -25 **Prohibited activities; civil penalties.** Any
10 person who conducts a gaming operation without first obtaining a
11 license to do so, or who continues to conduct such games after
12 revocation of the person's license, or any licensee who conducts
13 or allows to be conducted any unauthorized games on a ship where
14 it is authorized to conduct its shipboard gaming operation, in
15 addition to other penalties provided, shall be subject to a
16 civil penalty equal to the amount of gross receipts derived from
17 wagering on the games, whether unauthorized or authorized,
18 conducted on that day as well as confiscation and forfeiture of
19 all gaming equipment used in the conduct of unauthorized games.

20 § -26 **Criminal history record information.** Whenever the
21 board is authorized or required by law to consider some aspect
22 of criminal history record information for the purpose of



1 carrying out its statutory powers and responsibilities, upon
2 request from the board, the Hawaii criminal justice data center
3 shall furnish criminal history record information contained in
4 its files.

5 § -27 The state gaming fund; disposition of taxes
6 collected. (a) There is established within the state treasury
7 the state gaming fund, into which shall be deposited all fees,
8 taxes, and fines collected under this chapter, which shall be
9 used for expenses incurred for the administration and
10 enforcement of this chapter. All amounts exceeding per
11 cent of the total collections each quarter shall be deposited to
12 the credit of the state general fund.

13 (b) In addition to the annual report required under
14 section -9, the board shall submit to the legislature no less
15 than twenty days prior to the convening of each regular session,
16 a comprehensive financial report detailing:

- 17 (1) The revenues collected from the taxes, fees, and fines
18 imposed under this chapter; and
19 (2) The amounts allocable to administrative and
20 enforcement costs.

21 § -28 Legislative oversight. (a) Beginning with the
22 second fiscal year after gaming activities commence, the auditor



1 shall conduct a biennial financial and social assessment of
2 shipboard gaming operations. In conducting the assessment, the
3 auditor shall identify the financial impacts of shipboard gaming
4 on the state economy and the social impacts of gaming upon the
5 community. The auditor shall submit a report of findings and
6 recommendations to the legislature no later than twenty days
7 prior to the convening of the next regular session after the
8 biennial assessment is completed.

9 (b) Beginning with the second fiscal year after gaming
10 activities commence, the auditor shall conduct a program and
11 financial audit of the Hawaii gaming board. Thereafter, the
12 auditor shall conduct a program and financial audit every four
13 years after the first audit is completed."

14 SECTION 3. Chapter 46, Hawaii Revised Statutes, is amended
15 by adding a new section to be appropriately designated and to
16 read as follows:

17 "§46- Gaming in counties; conditions. Any other law to
18 the contrary notwithstanding, shipboard gaming shall be
19 permitted in a county if shipboard gaming is approved in the
20 county by a majority of voters voting in a referendum held in
21 the next general election following the effective date of
22 Act ."



1 SECTION 4. Section 36-30, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Each special fund, except the:

4 (1) Transportation use special fund established by section
5 261D-1;

6 (2) Special out-of-school time instructional program fund
7 under section 302A-1310;

8 (3) School cafeteria special funds of the department of
9 education;

10 (4) Special funds of the University of Hawaii;

11 (5) State educational facilities improvement special fund;

12 (6) Special funds established by section 206E-6;

13 (7) Aloha Tower fund created by section 206J-17;

14 (8) Funds of the employees' retirement system created by
15 section 88-109;

16 (9) Unemployment compensation fund established under
17 section 383-121;

18 (10) Hawaii hurricane relief fund established under section
19 431P-2;

20 (11) Convention center enterprise special fund established
21 under section 201B-8;



- 1 (12) Hawaii health systems corporation special funds and
- 2 the subaccounts of its regional system boards;
- 3 (13) Tourism special fund established under section 201B-
- 4 11;
- 5 (14) Universal service fund established under section 269-
- 6 42;
- 7 (15) Emergency and budget reserve fund under section 328L-
- 8 3;
- 9 (16) Public schools special fees and charges fund under
- 10 section 302A-1130;
- 11 (17) Sport fish special fund under section 187A-9.5;
- 12 (18) Center for nursing special fund under section 304A-
- 13 2163;
- 14 (19) Passenger facility charge special fund established by
- 15 section 261-5.5;
- 16 (20) Court interpreting services revolving fund under
- 17 section 607-1.5;
- 18 (21) Hawaii cancer research special fund;
- 19 (22) Community health centers special fund;
- 20 (23) Emergency medical services special fund;
- 21 (24) Rental motor vehicle customer facility charge special
- 22 fund established under section 261-5.6; [and]



1 (25) Shared services technology special fund under section
2 27-43 [7]; and

3 (26) State gaming fund under section -27;

4 shall be responsible for its pro rata share of the
5 administrative expenses incurred by the department responsible
6 for the operations supported by the special fund concerned."

7 SECTION 5. Section 712-1222.5, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "(3) This section shall not apply to gambling activity
10 conducted during travel from foreign nations or another state or
11 territory of the United States to the point of first entry into
12 state waters or during travel to foreign nations or another
13 state or territory of the United States from the point of final
14 exit from state waters; provided that nothing herein shall
15 preclude prosecution for any offense under this part.

16 Except as specifically provided in chapter , this part
17 shall not apply to gaming activity authorized on ships licensed
18 under chapter ."

19 SECTION 6. If any person commences a proceeding in any
20 court of competent jurisdiction to extend any provision of this
21 Act to allow shipboard gaming as defined in this Act on any
22 land, on or in any building, structure, or improvement attached



1 to or on land within the jurisdiction of the State, or if any
2 person contests, challenges, or defends against any prosecution
3 or claim that no provision of this Act allows shipboard gaming
4 as defined in this Act on any land, on or in any building,
5 structure, or improvement attached to or on land within the
6 jurisdiction of the State, the commencement of the proceeding,
7 prosecution, or claim shall be deemed to be public notice that
8 this Act shall be repealed on the date that a court of competent
9 jurisdiction issues a final order that would allow shipboard
10 gaming on land, on or in any building, structure, or improvement
11 attached to or on land.

12 This Act shall be repealed on the date that a court of
13 competent jurisdiction issues a final order which would allow
14 shipboard gaming on land, on or in any building, structure, or
15 improvement attached to or on land.

16 SECTION 7. This Act shall take effect upon its approval;
17 provided that section 2 of this Act shall not take effect unless
18 the governor issues a proclamation that shipboard gaming has
19 been approved by a majority of voters voting in a referendum in
20 the county or counties identified in the proclamation, pursuant
21 to section 3 of this Act. The referendum on shipboard gaming



1 shall take place in all counties at the next general election
2 following the effective date of this Act.

3 SECTION 8. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 9. This Act shall be repealed on December 31,
6 2012, if the governor has not issued the proclamation.

7

INTRODUCED BY:

Malcolm Jensen

John He
John Ryan



Report Title:

Shipboard Gaming

Description:

Authorizes shipboard gaming on vessels in state waters.
Establishes the Hawaii gaming board within DBEDT, an admission tax and a wagering tax, and a gaming fund for the deposit of fees, taxes, and fines.

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

