

JAN 25 2012

A BILL FOR AN ACT

RELATING TO CONTESTS OF SKILL.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 CONTESTS OF SKILL

6 § -1 Limited contests of skill authorized. Contests of
7 skill, as defined in this chapter, are authorized only to the
8 extent the games are conducted in accordance with this chapter.

9 § -2 Definitions. As used in this chapter, unless the
10 context clearly requires otherwise:

11 "Chairperson" means the member of the commission selected
12 by the other members of the commission.

13 "Commission" means the Hawaii contests of skill commission.

14 "Contest of skill" means any contest, game, gaming scheme,
15 or gaming device in which the outcome depends predominantly upon
16 the skill of the contestants, notwithstanding that an element of
17 chance may also be a factor therein and that is conducted in a
18 manner by which:



1 (1) Each player receives the player's personal winnings
2 from the game; and

3 (2) No other person or entity derives any proceeds based
4 on the outcome of the game.

5 "Department" means the department of commerce and consumer
6 affairs.

7 "Executive director" means the executive director of the
8 commission.

9 § -3 Hawaii contests of skill commission. (a) There is
10 established the Hawaii contests of skill commission, which shall
11 be a body corporate and a public instrumentality of the State
12 for the purpose of implementing this chapter. The commission
13 shall be placed within the department of commerce and consumer
14 affairs for administrative purposes. The commission shall
15 consist of seven members to be appointed by the governor with
16 the advice and consent of the senate under section 26-34. Of
17 the seven members, two shall be appointed from a list of
18 nominees submitted by the president of the senate and two shall
19 be appointed from a list of nominees submitted by the speaker of
20 the house of representatives. All appointments to the
21 commission shall be made within sixty days of the effective date
22 of this Act.



1 (b) No person shall be appointed as a member of the
2 commission or continue to be a member of the commission if the
3 person:

4 (1) Is an elected state official;

5 (2) Is licensed by the commission pursuant to this
6 chapter, or is an official of, has a financial
7 interest in, or has a financial relationship with, any
8 contest of skill operation subject to the jurisdiction
9 of the commission pursuant to this chapter;

10 (3) Is related to any person within the second degree of
11 consanguinity or affinity who is licensed by the
12 commission pursuant to this chapter; or

13 (4) Has been under indictment, convicted, pled guilty or
14 nolo contendere, or forfeited bail for a felony or a
15 misdemeanor involving gambling or fraud under the laws
16 of this State, any other state, or the United States
17 within the ten years prior to appointment, or under a
18 local ordinance in a state involving gambling or fraud
19 that substantially corresponds to a misdemeanor in
20 that state within the ten years prior to appointment.



1 (c) The term of office of a commission member shall be
2 five years. Vacancies in the commission shall be filled for the
3 unexpired term in like manner as the original appointments.

4 (d) The president of the senate or the speaker of the
5 house of representatives may request that the governor remove or
6 suspend a member of the commission who is nominated by the
7 president of the senate or the speaker of the house of
8 representatives. Upon receipt of a request from the president
9 of the senate or the speaker of the house of representatives,
10 and after due notice and public hearing, the governor may remove
11 or suspend for cause any member of the commission.

12 (e) Members of the commission shall:

13 (1) Be a resident of the State;

14 (2) Serve part-time;

15 (3) Be paid compensation of \$ for each day in the
16 performance of official duties; and

17 (4) Be reimbursed for expenses, including travel expenses,
18 incurred in the performance of official duties.

19 (f) Officers of the commission, including the chairperson,
20 shall be selected by the members. The commission, subject to
21 chapter 92, shall hold at least one meeting in each quarter of
22 the State's fiscal year. Special meetings may be called by the



1 chairperson or any four members upon seventy-two hours written
2 notice to each member. Four members shall constitute a quorum,
3 and a majority vote of the members present shall be required for
4 any final determination by the commission. The commission shall
5 keep a complete and accurate record of all its meetings.

6 (g) Before assuming the duties of office, each member of
7 the commission shall take an oath that the member shall
8 faithfully execute the duties of office according to the laws of
9 the State and shall file and maintain with the director a bond
10 in the sum of \$25,000 with good and sufficient sureties. The
11 cost of any bond for any member of the commission under this
12 section shall be considered a part of the necessary expenses of
13 the commission.

14 (h) The commission shall appoint a person to serve as the
15 executive director of the commission and who shall be subject to
16 the commission's supervision. The executive director shall meet
17 the requirements of section -4(b) and shall:

- 18 (1) Hold office at the will of the commission;
- 19 (2) Be exempt from chapters 76 and 89;
- 20 (3) Devote full time to the duties of the office;
- 21 (4) Not hold any other office or employment;



- 1 (5) Perform any and all duties that the commission
2 assigns; and
3 (6) Receive an annual salary at an amount set by the
4 commission and be reimbursed for expenses actually and
5 necessarily incurred in the performance of the
6 executive director's duties.

7 (i) The executive director shall keep records of all
8 proceedings of the commission and shall preserve all records,
9 books, documents, and other papers belonging to the commission
10 or entrusted to its care relating to contests of skill.

11 § -4 Staff. (a) Except as provided under subsection
12 (b) or as otherwise provided by law, the executive director may:

13 (1) Hire assistants, other officers, and employees, who
14 shall be exempt from chapters 76 and 89 and who shall
15 serve at the will of the executive director; and

16 (2) Appoint committees and consultants necessary for the
17 efficient regulation of contests of skill.

18 The salaries of employees hired pursuant to this subsection
19 shall be set by the executive director.

20 (b) No person shall be hired or appointed under subsection

21 (a) who:

22 (1) Is an elected state official;



1 (2) Is licensed by the commission pursuant to this
2 chapter, or is an official of, has a financial
3 interest in, or has a financial relationship with, any
4 contest of skill operation subject to the jurisdiction
5 of the commission pursuant to this chapter;

6 (3) Has a spouse, parent, child, child's spouse, or
7 sibling who is a member of the commission, or a
8 director of, or a person financially interested in,
9 any person licensed pursuant to this chapter, or any
10 person who has an application for a license pursuant
11 to this chapter pending before the commission; or

12 (4) Has been under indictment, convicted, pled guilty or
13 nolo contendere, or forfeited bail for a felony or
14 misdemeanor concerning gambling or fraud under the
15 laws of this State, any other state, or the United
16 States within the last ten years, or under a local
17 ordinance in any state involving gambling or fraud
18 that substantially corresponds to a misdemeanor in
19 that state within the ten years prior to employment;

20 (c) The commission shall adopt rules in accordance with
21 chapter 91 establishing a code of ethics for its employees that
22 includes restrictions on which employees are prohibited from



1 participating in any contest of skill operation subject to the
2 jurisdiction of the commission. The code of ethics shall be
3 separate from and in addition to any standards of conduct set
4 forth pursuant to chapter 84.

5 § -5 Powers of the commission. The commission shall
6 have all powers necessary to fully and effectively supervise all
7 contests of skill pursuant to this chapter, including the power
8 to:

- 9 (1) Determine what contests of skill may be conducted
10 under this chapter;
- 11 (2) Require that records, including financial or other
12 statements, of any licensee under this chapter be kept
13 in the manner prescribed by the commission and that
14 any licensee involved in the ownership or management
15 of contest of skill operations submit to the
16 commission an annual balance sheet and profit and loss
17 statement, a list of the stockholders or other persons
18 having a five per cent or greater beneficial interest
19 in the contest of skill activities of each licensee,
20 and any other information the commission deems
21 necessary to effectively administer this chapter;



- 1 (3) Prescribe any employment application form to be used
2 by any licensee involved in the ownership or
3 management of contest of skill operations for hiring
4 purposes;
- 5 (4) Suspend, revoke, or restrict licenses or require the
6 removal of a licensee or an employee of a licensee for
7 a violation of this chapter or a commission rule or
8 for engaging in a fraudulent practice;
- 9 (5) Provide for the collection of all fees imposed and to
10 collect, receive, expend, and account for all revenues
11 derived from the operation of contests of skill;
- 12 (6) Investigate alleged violations and take appropriate
13 disciplinary action against operators of contests of
14 skill for violations of this chapter or rules adopted
15 by the commission, or institute appropriate legal
16 action for enforcement, or both;
- 17 (7) Administer, regulate, and enforce the provisions of
18 this chapter relating to contests of skill. The
19 commission's jurisdiction shall extend to every
20 person, association, corporation, partnership, trust,
21 and any other entity with a financial interest in or
22 holding a license to operate a contest of skill



1 operation, or otherwise subject to the requirements of
2 this chapter;

3 (8) Enter at any time without a warrant and without notice
4 the premises, offices, facility, or other places of
5 business of an operator of contests of skill
6 authorized by this chapter where evidence of the
7 compliance or noncompliance with this chapter or rules
8 is likely to be found. Entry is authorized to:

9 (A) Inspect and examine all premises wherein contests
10 of skill are being conducted, or where any
11 records of those activities are prepared;

12 (B) Inspect, examine, audit, impound, seize, or
13 assume physical control of, or summarily remove
14 from the premises all books, ledgers, documents,
15 writings, photocopies of correspondence records,
16 videotapes, including electronically stored
17 records, money receptacles, other containers and
18 their contents, equipment in which the records
19 are stored, or other contest of skill-related
20 equipment and supplies on or around the premises,
21 including counting rooms;



- 1 (C) Inspect the person and inspect, examine, and
2 seize personal effects present in a business
3 operating contests of skill pursuant to this
4 chapter; and
- 5 (D) Investigate and deter alleged violations of this
6 chapter or rules;
- 7 (9) Be present, through its inspectors and agents, any
8 time contests of skill are conducted in any venue for
9 the purpose of certifying compliance with this chapter
10 and applicable rules, receiving complaints from the
11 public, and conducting other investigations into the
12 conduct of contests of skill as from time to time the
13 commission may deem necessary and proper;
- 14 (10) Conduct hearings, issue subpoenas for the attendance
15 of witnesses and subpoenas duces tecum for the
16 production of books, records, and other pertinent
17 documents, and to administer oaths and affirmations to
18 the witnesses, when, in the judgment of the
19 commission, it is necessary to administer or enforce
20 this chapter. The executive director or the executive
21 director's designee is also authorized to issue



1 subpoenaes and to administer oaths and affirmations to
2 witnesses;

3 (11) Eject or exclude, or authorize the ejection or
4 exclusion of, any person from facilities in which
5 contests of skill are being conducted pursuant to this
6 chapter if the person is in violation of this chapter
7 or the person's conduct or reputation is such that the
8 person's presence within a facility, in the opinion of
9 the commission, may call into question the honesty and
10 integrity of the contest of skill operation or
11 interfere with the orderly conduct thereof or for any
12 other action that, in the opinion of the commission,
13 is a detriment or impediment to the contest of skill
14 operation; provided that the propriety of that
15 ejection or exclusion shall be subject to subsequent
16 hearing by the commission;

17 (12) Impose and collect fines of up to \$ against
18 individuals and up to \$ for each violation of
19 this chapter, any rules adopted by the commission, or
20 for any other action that, in the commission's
21 discretion, is a detriment or impediment to contest of
22 skill operations; and



1 (13) Delegate the execution of any of its powers for the
2 purpose of administering and enforcing this chapter.

3 § -6 **Member, employee, or agent of commission; conduct**
4 **generally.** (a) A member of the commission, executive director,
5 or key employee as described in section -7(a) shall not hold
6 any direct or indirect interest in, be employed by, or enter
7 into a contract for services with any applicant or person
8 approved by the commission to operate a contest of skill
9 pursuant to this chapter or with any applicant for a license
10 under this chapter or person licensed by the commission pursuant
11 to this chapter for a period of five years after the date of
12 termination of the person's membership on or employment with the
13 commission.

14 (b) An employee of the commission, other than a key
15 employee subject to subsection (a), shall not hold any direct or
16 indirect interest in, be employed by, or enter into a contract
17 for services with any applicant or person approved by the
18 commission to operate a contest of skill pursuant to this
19 chapter or with any applicant for a license under this chapter
20 or person licensed by the commission pursuant to this chapter
21 for a period of three years after the date of termination of the
22 person's employment with the commission.



1 (c) A commission member or a person employed by the
2 commission shall not represent a person or party other than the
3 State before or against the commission for a period of three
4 years after the date of termination of the member's term of
5 office or the employee's period of employment with the
6 commission.

7 (d) A business entity in which a former commission member
8 or employee or agent has an interest, or any partner, officer,
9 or employee of the business entity, shall not make any
10 appearance or representation before the commission that is
11 prohibited to that former member, employee, or agent. As used
12 in this subsection, "business entity" means a corporation,
13 limited liability company, partnership, limited liability
14 partnership association, trust, or other form of legal entity.

15 (e) Any member, employee, or agent of the commission who
16 is negotiating for, or acquires by any means, any interest in
17 any person who is a licensee or an applicant for a license, or
18 is affiliated with such a person, shall immediately provide
19 written notice of the details of the interest to the
20 chairperson. The member, employee, or agent of the commission
21 shall not act on behalf of the commission with respect to that
22 person.



1 (f) A member, employee, or agent of the commission shall
2 not enter into any negotiations for employment with any person
3 or affiliate of any person who is a licensee or an affiliate and
4 shall immediately provide written notice of the details of any
5 such negotiations or discussions to the chairperson. The
6 member, employee, or agent of the commission shall not take any
7 action on behalf of the commission with respect to that person.

8 (g) Any member, employee, or agent of the commission who
9 receives an invitation, written or oral, to initiate a
10 discussion concerning employment or the possibility of
11 employment with a person, or affiliate of a person, who is a
12 licensee or an applicant shall immediately report the invitation
13 to the chairperson. The member, employee, or agent of the
14 commission shall not take action on behalf of the commission
15 with respect to that person.

16 (h) A member, employee, or agent of the commission or a
17 parent, spouse, sibling, or child of a member, employee, or
18 agent of the commission shall not accept any gift, gratuity,
19 compensation, travel, lodging, or anything of value, directly or
20 indirectly from any licensee, applicant, or any affiliate or
21 representative of an applicant or licensee, unless the
22 acceptance conforms to a written policy or directive issued by



1 the chairperson or the commission. Any member, employee, or
2 agent of the commission who is offered or receives any gift,
3 gratuity, compensation, travel, lodging, or anything of value,
4 directly or indirectly, from any licensee or any applicant or
5 affiliate or representative of an applicant or licensee shall
6 immediately provide written notification of the details to the
7 chairperson.

8 (i) Any commission member, licensee, or applicant or
9 affiliate or representative of a commission member, licensee, or
10 applicant who receives any ex parte communication in violation
11 of section -11(c), or who is aware of an attempted
12 communication in violation of section -11(c), shall
13 immediately report details of the communication or attempted
14 communication in writing to the chairperson.

15 (j) Any member of the commission who receives an ex parte
16 communication that attempts to influence that member's official
17 action shall disclose the source and content of the
18 communication to the chairperson. The chairperson may
19 investigate or initiate an investigation of the matter with the
20 assistance of the attorney general and law enforcement to
21 determine if the communication violates subsection (i),
22 section -11(c), or other state law. The disclosure under



1 this section and the investigation shall remain confidential.
2 Following an investigation, the chairperson shall advise the
3 governor or the commission, or both, of the results of the
4 investigation and may recommend action, as the chairperson
5 considers appropriate.

6 (k) A new or current employee or agent of the commission
7 shall obtain written permission from the executive director
8 before continuing outside employment held at the time the
9 employee begins to work for the commission. Permission shall be
10 denied, or permission previously granted shall be revoked, if
11 the nature of the work is considered to or does create a
12 possible conflict of interest or otherwise interferes with the
13 duties of the employee or agent for the commission.

14 (l) An employee or agent of the commission granted
15 permission for outside employment shall not conduct any business
16 or perform any activities, including solicitation, related to
17 outside employment on premises used by the commission or during
18 the employee's working hours for the commission.

19 (m) The chairperson shall report any action the
20 chairperson has taken or contemplates taking under this section,
21 with respect to an employee or agent or former employee or
22 former agent, to the commission at the next meeting of the



1 commission. The commission may direct the executive director to
2 take additional or different action.

3 (n) If a financial interest in a licensee or an applicant,
4 or affiliate or representative of a licensee or applicant, is
5 acquired by:

6 (1) An employee or agent that has been offered employment
7 with the commission;

8 (2) An employee of the commission; or

9 (3) The employee's or agent's spouse, parent, or child;
10 through no intentional action of the employee or agent, the
11 employee or agent shall have up to thirty days to divest or
12 terminate the financial interest. Employment may be terminated
13 if the interest has not been divested after thirty days.

14 (o) A member, employee, or agent of the commission, or
15 former member, employee, or agent of the commission, shall not
16 disseminate or otherwise disclose any material or information in
17 the possession of the commission that the commission considers
18 confidential, unless specifically authorized to do so by the
19 chairperson or the commission.

20 (p) A member, employee, or agent of the commission shall
21 not engage in any conduct that constitutes a conflict of
22 interest and shall immediately advise the chairperson, in



1 writing, of the details of any incident or circumstances that
2 would present the existence of a conflict of interest with
3 respect to the performance of commission-related work or duty of
4 the member, employee, or agent of the commission.

5 (q) A member, employee, or agent of the commission who is
6 approached and offered a bribe in violation of this chapter
7 shall immediately provide a written account of the details of
8 the incident to the chairperson and to a law enforcement officer
9 of a law enforcement agency having jurisdiction.

10 (r) A member, employee, or agent of the commission shall
11 not engage in political activity or politically related activity
12 during the duration of the person's appointment or employment,
13 including:

14 (1) Using the person's official authority or influence for
15 the purpose of interfering with or affecting the
16 result of an election;

17 (2) Knowingly soliciting, accepting, or receiving
18 political contributions from any person;

19 (3) Running for nomination or as a candidate for election
20 to a partisan political office; or

21 (4) Knowingly soliciting or discouraging the participation
22 in any political activity of any person who is:



1 (A) Applying for any compensation, grant, contract,
2 ruling, license, permit, or certificate pending
3 before the commission; or

4 (B) The subject of or a participant in an ongoing
5 audit, investigation, or enforcement action being
6 carried out by the commission.

7 (s) A former member, employee, or agent of the commission
8 may appear before the commission as a witness testifying as to
9 factual matters or actions handled by the member, employee, or
10 agent during the person's tenure as a member, employee, or agent
11 of the commission. The member, employee, or agent of the
12 commission shall not receive compensation for such an appearance
13 other than a standard witness fee and reimbursement for travel
14 expenses as established by statute or court rule.

15 (t) No member, employee, or agent of the commission may
16 participate in any contest of skill operation authorized by this
17 chapter or conducted by any licensee, applicant for a license,
18 or any affiliate of a licensee under this chapter, except that
19 the member, employee, or agent of the commission may participate
20 in an contest of skill operation conducted by a licensee under
21 this chapter, to the extent authorized by the chairperson or



1 commission as part of the official duties of the member,
2 employee, or agent.

3 (u) Violation of this section by a member of the
4 commission may result in disqualification or constitute cause
5 for removal or other disciplinary action as determined by the
6 commission.

7 (v) A violation of this section by an employee or agent of
8 the commission shall not result in termination of employment or
9 require other disciplinary action if the commission determines
10 that the conduct involved does not violate the purpose of this
11 chapter.

12 (w) Violation of this section shall not create a civil
13 cause of action.

14 (x) As used in this section:

15 "Outside employment" includes the following:

- 16 (1) Operation of a proprietorship;
17 (2) Participation in a partnership or group business
18 enterprise; or
19 (3) Performance as a director or corporate officer of any
20 for-profit corporation or banking or credit
21 institution.



1 § -7 **Disclosures.** (a) Each member of the commission,
2 the executive director, and each key employee, as determined by
3 the commission, shall file with the governor a financial
4 disclosure statement:

5 (1) Listing all assets, liabilities, and property and
6 business interests of the member, executive director,
7 key employee, and any of their spouses; and

8 (2) Affirming that the member, executive director, and key
9 employee are in compliance with this chapter.

10 The financial disclosure statement shall be made under oath and
11 filed at the time of employment and annually thereafter.

12 (b) Each employee of the commission, except the executive
13 director or a key employee, shall file with the commission at
14 the time of employment a financial disclosure statement listing
15 all assets, liabilities, property and business interests, and
16 sources of income of the employee and the employee's spouse.

17 (c) By January 31 of each year, each member of the
18 commission shall prepare and file with the commission, a
19 disclosure form in which the member shall:

20 (1) Affirm that the member or the member's spouse, parent,
21 child, or child's spouse is not a member of the board
22 of directors of, financially interested in, or



1 employed by an operator of contests of skill or a
2 licensee, or applicant for a license, under this
3 chapter;

4 (2) Affirm that the member continues to meet all other
5 criteria for commission membership under this chapter
6 or the rules adopted by the commission;

7 (3) Disclose any legal or beneficial interest in any real
8 property that is or may be directly or indirectly
9 involved with contests of skill authorized by this
10 chapter; and

11 (4) Disclose any other information that may be required to
12 ensure that the integrity of the commission and its
13 work is maintained.

14 (d) By January 31 of each year, each employee of the
15 commission shall prepare and file with the commission a
16 disclosure form in which the employee shall:

17 (1) Affirm the absence of financial interests prohibited
18 by this chapter;

19 (2) Disclose any legal or beneficial interests in any real
20 property that is or that may be directly or indirectly
21 involved with an operator of contests of skill
22 authorized by this chapter;



1 (3) Disclose whether the employee or the employee's
2 spouse, parent, child, or child's spouse is
3 financially interested in or employed by an operator
4 of contests of skill authorized by this chapter; and

5 (4) Disclose any other information that may be required to
6 ensure that the integrity of the commission and its
7 work is maintained.

8 (e) A member, employee, or agent of the commission who
9 becomes aware that the member, employee, or agent of the
10 commission or their spouse, parent, or child is a member of the
11 board of directors of, financially interested in, or employed by
12 an operator of contests of skill authorized by this chapter or
13 by a licensee, or an applicant for a license, pursuant to this
14 chapter shall immediately provide detailed written notice to the
15 chairperson.

16 (f) A member, employee, or agent of the commission who has
17 been indicted, charged with, convicted of, pled guilty or nolo
18 contendere to, or forfeited bail for:

19 (1) A misdemeanor involving gambling, dishonesty, theft,
20 or fraud;



1 (2) A local ordinance in any state involving gambling,
2 dishonesty, theft, or fraud that substantially
3 corresponds to a misdemeanor in that state; or

4 (3) A felony under Hawaii law, the laws of any other
5 state, or the laws of the United States, or any other
6 jurisdiction;

7 shall immediately provide detailed written notice of the
8 conviction or charge to the chairperson.

9 § -8 **Contest of skill licenses.** (a) No person shall
10 engage in any contest of skill operation without a license
11 issued pursuant to this chapter. The commission shall adopt
12 rules necessary and make applications available for a licensee
13 to engage in contest of skill operations. Applications for a
14 contest of skill license shall be submitted to the commission
15 and shall include a development plan for the facility and its
16 operations. The commission shall make a determination on an
17 application no later than ninety days after the application has
18 been submitted to the commission. If a selected applicant meets
19 all the requirements of this chapter, the commission shall issue
20 a license to the applicant within one hundred and twenty days
21 after the date the applicant is selected.



1 § -9 Application for contest of skill license. (a)

2 Applications to the commission for a license to conduct any
3 contest of skill shall be made under oath on forms provided by
4 the commission and shall contain information as prescribed by
5 the commission, including all of the following:

6 (1) The name, business address, telephone number, social
7 security number and, where applicable, the federal tax
8 identification number of the applicant;

9 (2) An identification of any business, including, if
10 applicable, the state of incorporation or
11 registration, in which the applicant or qualifier has
12 an equity interest of more than five per cent. If the
13 applicant is a corporation, partnership or other
14 business entity, the applicant or qualifier shall
15 identify any other corporation, partnership, or other
16 business entity in which it has an equity interest of
17 more than five per cent, including, if applicable, the
18 state of incorporation or registration. The applicant
19 may comply with this paragraph by filing a copy of the
20 applicant's registration with the Securities Exchange
21 Commission if the registration contains the
22 information required by this paragraph;



- 1 (3) Whether the applicant has been indicted, convicted,
2 pled guilty or nolo contendere, or forfeited bail for
3 a felony within the last ten years or for a
4 misdemeanor involving gambling, theft, or fraud within
5 the last ten years and including the date, the name
6 and location of the court, arresting agency,
7 prosecuting agency, the case caption, the docket
8 number, the offense, the disposition, and the location
9 and length of incarceration;
- 10 (4) Whether the applicant has ever been granted any
11 license or certificate issued by a licensing authority
12 in the State, or any other jurisdiction, that has been
13 restricted, suspended, revoked, or not renewed and a
14 statement describing the facts and circumstances
15 concerning the application, denial, restriction,
16 suspension, revocation, or nonrenewal, including the
17 licensing or codifying authority, the date each action
18 was taken, and the reason for each action;
- 19 (5) Whether the applicant, within the last ten years, has
20 filed or had filed against it a civil or
21 administrative action or proceeding in bankruptcy or,
22 within the last ten years, has been involved in any



1 formal process to adjust, defer, suspend, or otherwise
2 address the payment of any debt, including the date of
3 filing, the name and location of the court, the case
4 caption, the docket number, and the disposition;

5 (6) Whether the applicant, within the last five tax years,
6 has failed to pay any final amount of tax due and
7 payable under federal, state, or local law, after
8 exhaustion of all inter-agency appeals processes,
9 including the amount, type of tax, the taxing, and
10 time periods involved;

11 (7) A statement listing the names and titles of all public
12 officials or officers of any unit of state government
13 or county government in the jurisdiction in which the
14 contest of skill facility is to be located, and the
15 spouses, parents, and children of those public
16 officials or officers who, directly or indirectly, own
17 any financial interest in, have any beneficial
18 interest in, are the creditors of or hold any debt
19 instrument issued by, or hold or have an interest in
20 any contractual or service relationship with, the
21 applicant or a qualifier. As used in this paragraph,
22 "public official" or "officer" does not include a



1 person who would be listed solely because of the
2 person's state or federal military service; and

3 (8) The name and business telephone number of any
4 attorney, counsel, or any other person representing an
5 applicant in matters before the commission.

6 (b) Information provided on the application shall be used
7 as the basis for a thorough background investigation that the
8 commission shall conduct with respect to each applicant. An
9 incomplete application shall be cause for denial of a license by
10 the commission.

11 (c) Each applicant shall disclose the identity of every
12 person, association, trust, or corporation having a greater than
13 five per cent direct or indirect financial interest in the
14 contest of skill operation for which the license is sought. If
15 the disclosed entity is a trust, the application shall disclose
16 the names and addresses of the beneficiaries; if a corporation,
17 the names and addresses of all stockholders and directors; if a
18 partnership, the names and addresses of all partners, both
19 general and limited.

20 (d) An application fee of \$ shall be paid to the
21 commission by an applicant at the time of filing to defray the
22 costs associated with an applicant and qualifier's background



1 investigation conducted by the commission. All information,
2 records, interviews, reports, statements, memoranda, or other
3 data supplied to or used by the commission in the course of its
4 review or investigation of an application for a license shall be
5 confidential, used only for the purpose of evaluating an
6 applicant, and exempt from public disclosure required by chapter
7 92F, and shall not be admissible as evidence, nor discoverable
8 in any action of any kind in any court or before any tribunal,
9 commission, agency, or person, except for any action deemed
10 necessary by the commission.

11 (e) An applicant shall be ineligible for a license under
12 this chapter if:

13 (1) The applicant has been convicted of a felony under the
14 laws of this State, any other state, or the United
15 States;

16 (2) The person has been convicted of any violation under
17 part III, chapter 712, or substantially similar laws
18 of another jurisdiction;

19 (3) The person has knowingly submitted an application for
20 a license under this chapter that contains false
21 information;



1 (4) The person is a member, employee, or agent of the
2 commission;

3 (5) The firm or corporation applying for a license employs
4 a person described in paragraph (1), (2), (3), or (4)
5 who participates in the management or operation of any
6 contest of skill authorized under this chapter; or

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

10 § -10 **License fee; disposition.** No license shall be
11 issued under this chapter without payment of a license fee of
12 \$ to the commission; provided that each licensee shall
13 thereafter pay an annual license fee of \$. All fees
14 collected pursuant to this section shall be deposited into the
15 general fund.

16 § -11 **Licensee or applicant; conduct generally.** (a) A
17 licensee or applicant shall not knowingly initiate a negotiation
18 for, or discussion of, employment with a member, employee, or
19 agent of the commission. A licensee or applicant who initiates
20 a negotiation or discussion about employment shall immediately
21 provide written notice of the details of the negotiation or
22 discussion to the chairperson as soon as that person becomes



1 aware that the negotiation or discussion has been initiated with
2 a member, employee, or agent of the commission.

3 (b) A licensee or applicant, or affiliate or
4 representative of an applicant or licensee, shall not, directly
5 or indirectly, knowingly give or offer to give any gift,
6 gratuity, compensation, travel, lodging, or anything of value to
7 any member, employee, or agent of the commission that the
8 member, employee, or agent of the commission is prohibited from
9 accepting under section -6(h).

10 (c) A licensee or applicant or any affiliate or
11 representative of an applicant or licensee shall not engage in
12 ex parte communications concerning a pending application,
13 license, or enforcement action with members of the commission.
14 A member of the commission shall not engage in any ex parte
15 communications with a licensee or an applicant, or with any
16 affiliate or representative of an applicant or licensee,
17 concerning a pending application, license, or enforcement
18 action.

19 (d) Violation of this chapter by a licensee, applicant, or
20 affiliate or representative of a licensee or applicant may
21 result in denial of the application of licensure or revocation



1 or suspension of license or other disciplinary action by the
2 commission.

3 § -12 Rules. The commission shall adopt rules pursuant
4 to chapter 91 necessary to govern, restrict, approve, or
5 regulate the contests of skill authorized by this chapter,
6 including rules that:

- 7 (1) Require applicants for a license under this chapter to
8 possess current federal and state tax clearances;
- 9 (2) Address the requirements for a contest of skill venue,
10 including that it is open to the public, is capable of
11 accommodating a specified minimum number of persons,
12 and meets all applicable state and county code
13 requirements;
- 14 (3) Establish minimum levels of insurance to be obtained
15 by applicants for a license to operate a contest of
16 skill operation;
- 17 (4) Promote the safety, security, and integrity of the
18 contest of skill operations authorized in this
19 chapter;
- 20 (5) Establish requirements for the conduct of contests of
21 skill, including requirements that:



- 1 (A) The player actively participates in the contest
- 2 of skill;
- 3 (B) The outcome of the contest of skill is not in the
- 4 control to any material degree of any person
- 5 other than the player;
- 6 (C) The award of a prize is based solely on the
- 7 player's achieving the object of the contest of
- 8 skill or upon the player's score;
- 9 (D) The likelihood of winning cannot be increased by
- 10 paying more than is ordinarily required to play
- 11 the contest of skill;
- 12 (E) The value of any tangible personal property
- 13 awarded as a prize immediately after play of the
- 14 contest of skill may not exceed a specified
- 15 value;
- 16 (F) The redemption value of any token or ticket
- 17 awarded may not exceed a specified value;
- 18 (G) The value of prizes awarded or for which tokens
- 19 or tickets are redeemed is limited to a specified
- 20 amount or to some ratio of the value of the item
- 21 to the cost to play the contest of skill;



1 (H) The total value of tokens or tickets redeemed is
2 limited to a specific amount;

3 (I) Awards may be redeemed only at the premises at
4 which they are earned and only for merchandise
5 sold in the normal course of business for the
6 premises;

7 (J) Replays may not be accumulated and used other
8 than at the time they are earned; and

9 (K) The contest of skill device shall be equipped to
10 accept only one or more of the following: coins,
11 currency, tokens, or prepaid game cards sold only
12 at the premises,

13 provided that nothing in this chapter or the rules shall be
14 construed to permit the establishment of a casino, card room, or
15 similar operation on either an occasional or ongoing basis."

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

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

21 [~~1~~] "Advance gambling activity" [~~—A person—advances~~
22 ~~gambling activity" if he engages]~~ means to engage in conduct



1 that materially aids any form of gambling activity. Conduct of
2 this nature includes but is not limited to conduct directed
3 toward ~~[the]~~ :

4 (1) The creation or establishment of the particular game,
5 contest, scheme, device, or activity involved ~~[, toward~~
6 ~~the]~~ ;

7 (2) The acquisition or maintenance of premises,
8 paraphernalia, equipment, or apparatus therefor ~~[, toward~~
9 ~~the]~~ ;

10 (3) The solicitation or inducement of persons to
11 participate therein ~~[, toward the]~~ ;

12 (4) The actual conduct of the playing phases thereof ~~[, toward~~
13 ~~the]~~ ;

14 (5) The arrangement of any of its financial or recording
15 phases ~~[, or toward any]~~ ; or

16 (6) Any other phase of its operation. A person advances
17 gambling activity if, having substantial proprietary
18 control or other authoritative control over premises
19 being used with ~~[his]~~ the person's knowledge for
20 purposes of gambling activity, ~~[he]~~ the person permits
21 that activity to occur or continue or makes no effort
22 to prevent its occurrence or continuation. A person



1 advances gambling activity if [he] the person plays or
2 participates in any form of gambling activity.

3 "Contest of skill" means the contests of skill authorized
4 by the contest of skill commission pursuant to chapter .

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

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

13 [~~(4)~~] "Gambling" [~~.—A person engages in gambling if he~~]
14 means conduct by which a person stakes or risks something of
15 value upon the outcome of a contest of chance or a future
16 contingent event not under [his] the person's control or
17 influence, upon an agreement or understanding that [he] the
18 person or someone else will receive something of value in the
19 event of a certain outcome. Gambling does not include contests
20 of skill, bona fide business transactions valid under the law of
21 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, devices, machines,
9 paraphernalia, or equipment used in contests of skill conducted
10 pursuant to chapter _____; lottery tickets; and other items used
11 in the playing phases of lottery schemes are not gambling
12 devices within this definition.

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

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

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



1 [~~(e)~~] (3) The holders of the winning chances are to
2 receive something of value.

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

9 [~~(8)~~] "Player" means a person who engages in gambling or
10 contests of skill solely as a contestant or bettor.

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

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

19 [~~(11)~~] "Something of value" means any money or property,
20 any token, object, or article exchangeable for money or
21 property, or any form of credit or promise directly or
22 indirectly contemplating transfer of money or property or of any



1 interest therein, or involving extension of a service or
2 entertainment."

3 SECTION 3. If any provision of this Act, or the
4 application thereof to any person or circumstance, is held
5 invalid, the invalidity does not affect other provisions or
6 applications of the Act that can be given effect without the
7 invalid provision or application, and to this end the provisions
8 of this Act are severable.

9 SECTION 4. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 5. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

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

15

INTRODUCED BY:



By Request



Report Title:

Contests of Skill

Description:

Authorizes contests of skill in which the outcome of the contest is predominantly determined by the skill of the player.

Establishes the contests of skill commission.

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

