

JAN 24 2013

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# A BILL FOR AN ACT

RELATING TO A LOTTERY.

**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                                           LOTTERY

6                                           PART I. GENERAL PROVISIONS

7           § -1 Purpose. The purpose of this chapter is to allow  
8 for a lottery, including keno, in this State for community  
9 betterment purposes. The lottery shall be conducted only by the  
10 methods and under the circumstances prescribed in this chapter.  
11 No other form or method shall be authorized or allowed.

12          § -2 Definitions. As used in this chapter, the  
13 following terms shall have the meanings ascribed to them, unless  
14 the context requires otherwise:

15                 "Activation" means initiating the selection of winning  
16 numbers through the use of lottery equipment.



# S.B. NO. 1376

1 "Authorized representative" means any person designated by  
2 the department to examine, sign, and approve a lottery worker  
3 license application.

4 "Community betterment purposes" means:

5 (1) Benefiting persons by:

6 (A) Enhancing their opportunity for educational  
7 advancement;

8 (B) Relieving or protecting them from disease,  
9 suffering, or distress;

10 (C) Contributing to their physical well-being;

11 (D) Assisting them in establishing themselves in life  
12 as worthy and useful citizens;

13 (E) Providing them with opportunities to contribute  
14 to the betterment of the community; or

15 (F) Increasing their comprehension of and devotion to  
16 the principles upon which this nation was  
17 founded;

18 (2) Initiating, performing, or fostering worthy public  
19 works or enabling or furthering the erection or  
20 maintenance of public structures;

21 (3) Lessening the burdens borne by government or  
22 voluntarily supporting, augmenting, or supplementing



1 services that government would normally render to the  
2 people; or

3 (4) Providing tax relief for the community.

4 "Community betterment purposes" shall not include any  
5 activity consisting of an attempt to influence legislation or  
6 participate in any political campaign on behalf of any elected  
7 official or person who is or has been a candidate for public  
8 office.

9 "Department" means the department of commerce and consumer  
10 affairs.

11 "Expenses" means:

12 (1) All costs associated with the purchasing, printing, or  
13 manufacturing of any items to be used or distributed  
14 in the lottery;

15 (2) All office or clerical expenses used in connection  
16 with the lottery;

17 (3) All promotional expenses used for the lottery;

18 (4) All salaries of persons employed to operate, conduct,  
19 or supervise the lottery;

20 (5) Any rental or lease expense related to the lottery;

21 (6) Any fee or commission paid to any person associated  
22 with the lottery;



1 (7) License fees paid to the department; and

2 (8) Any other costs associated with the conduct of a  
3 lottery.

4 "Expenses" shall not include taxes paid under this chapter  
5 or prizes awarded to participants.

6 "Gross proceeds" means the total aggregate receipts  
7 received from the conduct of any lottery, including receipts  
8 from admission costs, any consideration necessary for  
9 participation, and the value of any free tickets, games, or  
10 plays used, without any reduction for prizes, discounts, taxes,  
11 or expenses.

12 "License" means a license issued under this chapter to:

- 13 (1) A lottery operator;  
14 (2) A manufacturer-distributor; or  
15 (3) A lottery worker.

16 "Lottery" means a gambling scheme in which:

- 17 (1) The players pay or agree to pay something of value for  
18 an opportunity to win;  
19 (2) Winning opportunities are represented by tickets;  
20 (3) Winners are solely determined by chance by one of the  
21 following methods:



1 (A) At any location selected by the lottery operator  
2 and authorized by the department pursuant to this  
3 chapter, by a random drawing of symbols or  
4 numbers from a paper ticket purchased by a player  
5 that is differentiated by sequential enumeration  
6 from a receptacle or ticket dispenser by hand  
7 under which each ticket has an equal chance of  
8 being chosen in the drawing; or

9 (B) By the use of a game known as keno in which a  
10 player selects up to twenty numbers from a total  
11 of eighty numbers on a ticket, and a computer,  
12 other electronic selection device, or  
13 electrically operated blower machine that is not  
14 player-activated, randomly selects up to twenty  
15 numbers from the same pool of eighty numbers and  
16 the winning players are determined by the correct  
17 matching of the numbers on the paper ticket  
18 selected by the players with the numbers randomly  
19 selected by the computer, other electronic  
20 selection device, or electrically operated blower  
21 machine, provided that there is no player  
22 activation of lottery equipment; and



1 (4) The holders of the winning paper tickets receive cash  
2 or prizes redeemable for cash.

3 "Lottery" shall not include:

4 (1) Any gambling scheme that uses any mechanical gaming  
5 device, computer gaming device, electronic gaming  
6 device, or video gaming device that has the capability  
7 of awarding something of value, free games redeemable  
8 for something of value, or tickets or stubs redeemable  
9 for something of value; or

10 (2) Any activity otherwise prohibited by law.

11 "Lottery equipment" means all proprietary devices,  
12 machines, and parts used in the manufacture or maintenance of  
13 equipment that is used in and is an integral part of the conduct  
14 of any lottery authorized or regulated under this chapter.

15 "Lottery operator" means any individual, sole  
16 proprietorship, partnership, limited liability company, or  
17 corporation that operates the lottery on behalf of the  
18 department.

19 "Lottery supplies" means all tickets, cards, boards,  
20 sheets, or other supplies that are used in and are an integral  
21 part of the conduct of any lottery authorized or regulated under  
22 this chapter.



1 "Lottery worker" means any person who performs work  
2 directly related to the conduct of a lottery, including but not  
3 limited to ticket writing, winning number selection, winning  
4 number verification, prize payment to winners, record keeping,  
5 shift checkout and review of keno writer banks, and security.

6 "Manufacturer-distributor" means any individual, sole  
7 proprietorship, partnership, limited liability company, or  
8 corporation that assembles, produces, makes, prints, or supplies  
9 lottery equipment or supplies for sale, use, or distribution in  
10 the State.

11 § -3 Department; general powers and duties. (a) The  
12 department shall regulate any lottery conducted in the State to  
13 serve community betterment purposes.

14 (b) The department shall:

- 15 (1) Collect the amounts required to be paid as taxes  
16 imposed by this chapter;
- 17 (2) Issue licenses and temporary licenses;
- 18 (3) Collect license application and license renewal  
19 application fees and to prorate license fees on an  
20 annual basis; provided that the department shall  
21 establish by rule the conditions and circumstances  
22 under which the fees may be prorated;



- 1           (4) Investigate the activities of any person applying for  
2           a license under this chapter or relating to the  
3           conduct of any lottery under this chapter;
- 4           (5) Enter or authorize any law enforcement officer to  
5           enter at any time upon any premises where a lottery is  
6           being conducted to determine whether any provisions of  
7           this chapter or any rules adopted thereunder have been  
8           or are being violated and to examine the premises;
- 9           (6) Require periodic reports from licensed manufacturer-  
10          distributors, licensed lottery operators, and any  
11          other persons, organizations, limited liability  
12          companies, or corporations as the department deems  
13          necessary to carry out its duties under this chapter;  
14          and
- 15          (7) Audit, examine, or cause to have examined, by any  
16          agent or representative designated by the department  
17          for such purpose, any books, papers, records, or  
18          memoranda relating to the conduct of a lottery, to  
19          require by administrative order or summons the  
20          production of such documents or the attendance of any  
21          person having knowledge in the premises, to take





1 testimony under oath, and to require proof material  
2 for its information;

3 (8) Adopt rules and prescribe forms as are necessary to  
4 carry out the purposes of this chapter; and

5 (9) Employ staff, including auditors and inspectors, as  
6 necessary to carry out the purposes of this chapter.

7 § -4 License application; denial; hearing. (a) Before  
8 any application for a license is denied, the department shall  
9 notify the applicant in writing by certified mail of the  
10 department's intention to deny the application and the reasons  
11 for the denial. The notice shall inform the applicant of the  
12 applicant's right to request an administrative hearing for the  
13 purpose of reconsidering the intended denial of the application.  
14 The date the notice is mailed shall be deemed to be the date of  
15 service of notice to the applicant.

16 (b) A request for a hearing by the applicant shall be in  
17 writing and shall be filed with the department within thirty  
18 days after the service of notice to the applicant of the  
19 department's intended denial of the application. If a request  
20 for hearing is not filed within the thirty-day period, the  
21 application denial shall become final upon the expiration of  
22 that thirty-day period.



1 (c) If a request for hearing is filed within the thirty-  
2 day period, the department shall grant the applicant a hearing  
3 and, at least ten days before the hearing, shall serve notice  
4 upon the applicant by certified mail, return receipt requested,  
5 of the time, date, and place of the hearing. The proceedings  
6 shall be considered contested cases.

7 § -5 **Contested case hearing; when; notice.** (a) Before  
8 the suspension, revocation, or cancellation of any license, or  
9 the levying of an administrative fine, the department shall set  
10 the matter for hearing. The suspension, revocation, or  
11 cancellation proceedings, or proceedings to levy an  
12 administrative fine shall be contested cases pursuant to chapter  
13 91.

14 (b) At least ten days before the hearing, the department  
15 shall serve notice upon the licensee or violator by personal  
16 service or certified mail, return receipt requested, of the  
17 time, date, and place of any hearing.

18 § -6 **Proceeding before department; service; decision;**  
19 **appeal.** (a) A copy of the order or decision of the department  
20 in any proceeding before it under this chapter shall be served  
21 upon each party of record to the proceeding. Service upon any  
22 attorney of record for any party shall be deemed to be service



1 upon the party. Each party appearing before the department  
2 shall enter the party's appearance and indicate to the  
3 department the party's address for the service of a copy of any  
4 order, decision, or notice. The mailing of any copy of any  
5 order or decision or of any notice in the proceeding, to the  
6 party at the address, shall be deemed to be service upon the  
7 party.

8 (b) Any decision of the department in any proceeding  
9 before it pursuant to this chapter may be appealed, pursuant to  
10 chapter 91.

11 **PART II. LICENSE CATEGORIES**

12 § -7 **Lottery operator; license; application.** (a) No  
13 lottery operator shall conduct a lottery in this State without a  
14 license issued by the department; provided that the department  
15 shall license only one lottery operator to operate a lottery in  
16 this State.

17 (b) The lottery operator shall be a resident of the United  
18 States or, if a partnership, limited liability company, or  
19 corporation, shall be organized under the laws of any state in  
20 the United States as a partnership, limited liability company,  
21 or corporation.



1           (c) The lottery operator shall conduct at least one keno  
2 game at a main location, which shall conduct a lottery where  
3 winners are determined under both methods of determination as  
4 described in the definition of "lottery". In addition, the  
5 lottery operator may conduct a lottery under either method of  
6 determining winners at authorized sales outlet locations.

7           (d) An application for a license to act as a lottery  
8 operator shall contain:

- 9           (1) A written statement describing the type of lottery to  
10 be conducted;
- 11           (2) A copy of the proposed contract or written agreement  
12 between the department and the lottery operator; and
- 13           (3) Any other information which the department deems  
14 necessary.

15           (e) Each application by any lottery operator shall  
16 include:

- 17           (1) The name, address, social security number, and date of  
18 birth of every individual who is the lottery operator,  
19 the sole proprietor, a partner, a member, or a  
20 corporate officer of the lottery operator, or a person  
21 or entity holding in the aggregate ten per cent or



1 more of the debt or equity of the lottery operator, if  
2 a corporation;

3 (2) A statement signed by an authorized representative of  
4 the department indicating that the department licenses  
5 the applicant to act as a lottery operator; and

6 (3) Any other information that the department deems  
7 necessary.

8 (f) The information required under this section shall be  
9 kept current. A lottery operator shall notify the department  
10 within thirty days of any changes in the information originally  
11 included in the application form.

12 (g) The department may prescribe a separate application  
13 form for renewal purposes.

14 § -8 Lottery operator license renewal; fees. (a) A  
15 license issued to a lottery operator shall expire on May 31 of  
16 every even-numbered year, or any other date that the department  
17 may prescribe by rule, and may be renewed biennially.  
18 Applications for renewal of a lottery operator license shall be  
19 submitted to the department at least sixty days prior to the  
20 expiration date of the license.

21 (b) A biennial license fee of \$500 shall be charged for  
22 each license issued to a lottery operator.



1           §   -9 Lottery workers; licenses; probationary; regular.

2   (a) No person shall be act as a lottery worker unless the  
3 person has been issued a lottery worker license from the  
4 department. The application for a license shall be on a form  
5 prescribed by the department and shall include:

6           (1) The name, address, date of birth, and social security  
7               number of the applicant;

8           (2) The name and state identification number of the  
9               lottery operator, and authorized sales outlet location  
10              at which the applicant will be performing work;

11          (3) A description of the applicant's duties;

12          (4) A statement that the applicant has not been convicted  
13              of, forfeited bond upon a charge of, or pleaded guilty  
14              or nolo contendere to:

15           (A) Any felony within ten years preceding the date of  
16               the application; or

17           (B) Any felony or misdemeanor involving fraud, theft,  
18               or any gambling activity, wilful failure to make  
19               required payments or reports, or filing false  
20               reports to a governmental agency at any level;



1           (5) The date of signing and the signature of the  
2                   applicant, under penalty of perjury, verifying that  
3                   the information is true and accurate; and

4           (6) Any other information that the department deems  
5                   necessary.

6           (b) The applicant shall submit a completed application to  
7                   the lottery operator. Upon receipt of the completed  
8                   application, the lottery operator shall examine the application  
9                   and shall sign and file the application with the department.

10           (c) The department shall have the right to conduct an  
11                   investigation concerning the applicant as may be necessary or  
12                   appropriate to maintain the integrity of the lottery.

13           (d) The information required under this section shall be  
14                   kept current, and a new application shall be filed with the  
15                   department if any information on the application is no longer  
16                   accurate. A lottery operator shall notify the department if the  
17                   person to whom the license was originally issued is no longer  
18                   working for the lottery operator.

19           (e) Falsification of information on the application by the  
20                   applicant shall disqualify the applicant from being a lottery  
21                   worker, in addition to any other penalties that may be imposed  
22                   under the laws of this State.

1           (f) The department shall grant the applicant a  
2 probationary license as a lottery worker that shall be valid for  
3 a period of one hundred twenty days after the application is  
4 filed with the department, unless the application is denied by  
5 the department. An application shall be considered filed with  
6 the department upon receipt by the department or as of the date  
7 postmarked or transmitted by electronic facsimile to the  
8 department, if the application is received by the department  
9 within ten days after the date postmarked or electronically  
10 transmitted. An application postmarked or electronically  
11 transmitted but not received by the department within ten days  
12 shall not be considered filed.

13           (g) If the department approves the license application  
14 during the probationary period, the applicant shall be granted a  
15 regular lottery worker license. The license shall be valid to  
16 allow the person to perform work for the lottery operator or at  
17 an authorized sales outlet location, until such time that:

18           (1) The license is suspended, canceled, revoked, or denied  
19               by the department; or

20           (2) The license is invalidated upon notification by the  
21               lottery operator that the person to whom the license





1           was originally issued is no longer working for the  
2           lottery operator.

3           (h) An applicant may obtain a license as a lottery worker  
4 for more than one authorized sales outlet location.

5           (i) A license as a lottery worker shall be nontransferable  
6 and shall no longer be valid if the person is no longer employed,  
7 as a lottery worker.

8           (j) A person holding a license as a lottery worker under  
9 this chapter shall not be connected with or interested in,  
10 directly or indirectly, any individual, sole proprietorship,  
11 partnership, limited liability company, corporation, or other  
12 party licensed as a distributor, manufacturer, or manufacturer-  
13 distributor.

14           (k) A license issued to a lottery worker shall expire on  
15 May 31 of every odd-numbered year, or such other date that the  
16 department may prescribe by rule, and may be renewed biennially.

17           (l) Applications for renewal of a license as a lottery  
18 worker shall be submitted to the department at least sixty days  
19 prior to the expiration date of the license.

20           (m) No license fee or license renewal fee shall be charged  
21 for a license as a lottery worker.



1           § -10 **Manufacturer-distributor; license; fees.** (a) No  
2 individual, sole proprietorship, partnership, limited liability  
3 company, or corporation shall manufacture, sell, or distribute  
4 lottery equipment or supplies for use or play in this State  
5 without a license as a manufacturer-distributor issued by the  
6 department. A manufacturer-distributor who is licensed in  
7 another state in United States shall be automatically eligible  
8 for a license under this chapter upon payment of the fee  
9 established in this section.

10           (b) The department shall charge a biennial license fee of  
11 \$1,525 for the issuance or renewal of a license as a  
12 manufacturer-distributor. The department shall remit the  
13 proceeds from the license fees to the director of finance for  
14 deposit to the credit of the general fund. A license as a  
15 manufacturer-distributor shall be renewed biennially. The  
16 biennial expiration date shall be September 30 of every odd-  
17 numbered year or such other date that the department may  
18 prescribe by rule. An application for license renewal shall be  
19 submitted to the department at least forty-five days prior to  
20 the expiration date of the license.

21           (c) An applicant for issuance or renewal of a license as a  
22 manufacturer-distributor shall apply for the license on a form



1 prescribed by the department. The application form shall  
2 include:

3 (1) The name and address of the applicant and the name and  
4 address of each of its separate locations  
5 manufacturing or distributing lottery equipment or  
6 lottery supplies;

7 (2) The name and home address of all owners or members of  
8 the manufacturer-distributor business if the business  
9 is not a corporation. If the business is a  
10 corporation, the name and home address of each of the  
11 officers and directors of the corporation and of each  
12 stockholder owning ten per cent or more of any class  
13 of stock in the corporation shall be supplied;

14 (3) If the applicant is an individual, the applicant's  
15 social security number;

16 (4) If the applicant is a foreign manufacturer-  
17 distributor, the full name, business address, and home  
18 address of the local agent; and

19 (5) Any other information that the department deems  
20 necessary.

21 (d) The applicant shall notify the department within  
22 thirty days of any change in the information submitted on or



1 with the application form. The applicant shall comply with all  
2 applicable laws of the United States and the State and all  
3 applicable rules of the department.

4 (e) The department shall determine which lottery equipment  
5 and lottery supplies shall be acquired only from manufacturers  
6 and distributors licensed by the department. Lottery equipment  
7 and lottery supplies deemed incidental or immaterial to the  
8 operation of the lottery may be acquired from other than from  
9 the licensed manufacturers or distributors.

10 § -11 **Manufacturer-distributor; resident agent; when**  
11 **required.** (a) A licensed manufacturer-distributor selling  
12 lottery equipment or lottery supplies in this State that is not  
13 a resident of this State or is not a corporation, partnership,  
14 or limited liability company shall designate a natural person  
15 who is:

16 (1) A resident of this State; and

17 (2) At least nineteen years old,

18 to serve as a resident agent for the purpose of receipt and  
19 acceptance of service of process and other communications on  
20 behalf of the licensed manufacturer-distributor.



1 (b) The name, business address where service of process  
2 and delivery of mail can be made, and home address of the agent  
3 shall be filed with the department.

4 § -12 **Manufacturer-distributor; lottery supplies;**  
5 **approval required.** No licensed manufacturer-distributor shall  
6 offer or market any type of lottery supplies in this State for  
7 use in a lottery conducted in this State prior to receiving  
8 departmental approval. Approval by the department shall be  
9 based upon, but not be limited to, conformance with  
10 specifications imposed by the department regarding the  
11 manufacture, assembly, and packaging of lottery supplies.

12 § -13 **Manufacturer-distributor; lottery equipment;**  
13 **approval required; costs of examination.** (a) No licensed  
14 manufacturer-distributor shall offer or market any type of  
15 lottery equipment in this State for use in a lottery conducted  
16 in this State prior to receiving departmental approval.  
17 Approval by the department shall be based upon, but not be  
18 limited to, conformance with this chapter and any rules adopted  
19 thereunder.

20 (b) The department may require a licensed manufacturer-  
21 distributor seeking approval of any lottery equipment to pay the  
22 actual costs of the examination of the equipment by the



1 department; provided that the costs shall be paid in advance by  
2 the licensed manufacturer-distributor.

3 (c) Lottery equipment that fails to conform in every  
4 respect to the requirements of this chapter and any rules  
5 adopted thereunder shall be deemed contraband goods.

6 § -14 **Lottery supplies; requirements.** (a) All lottery  
7 supplies shall be constructed to conform in all respects to the  
8 requirements of this chapter and any rules adopted thereunder  
9 relating to the manufacture, assembly, printing, and packaging  
10 of lottery supplies.

11 (b) Any lottery supplies that fail to conform in every  
12 respect to the requirements of this chapter and any rules  
13 adopted thereunder shall be deemed contraband goods.

14 § -15 **Manufacturer-distributor; information**  
15 **requirements.** Each manufacturer-distributor shall maintain the  
16 following information:

17 (1) The name of each purchaser of lottery equipment or  
18 lottery supplies;

19 (2) Relative to each sale, the quantity and type of  
20 lottery equipment or lottery supplies sold; and



1           (3) Any other information concerning lottery equipment or  
2           lottery supplies sold which the department deems  
3           necessary.

4 The information shall be made available to the department upon  
5 request.

6           § -16 **Manufacturer-distributor; employee, agent, or**  
7 **spouse; restriction on activities.** (a) No licensed  
8 manufacturer-distributor shall hold or attempt to hold any other  
9 category of license provided under this chapter.

10           (b) No licensed manufacturer-distributor or employee,  
11 agent, or spouse of any manufacturer-distributor shall play the  
12 lottery or participate in the conduct or operation of the  
13 lottery authorized under this chapter.

14           § -17 **Manufacturer-distributor; lottery equipment or**  
15 **lottery supplies; sales and leases; restrictions.** (a) No  
16 licensed manufacturer-distributor shall sell, lease, or  
17 otherwise provide any lottery equipment or lottery supplies to  
18 any person in the State except a licensed lottery operator, or  
19 another licensed manufacturer-distributor.

20           (b) No licensed lottery operator shall purchase, lease, or  
21 otherwise obtain any lottery equipment or lottery supplies  
22 except from a licensed manufacturer-distributor.



1 (c) Nothing in this section shall prohibit:

2 (1) A licensed lottery operator from moving lottery  
3 equipment to and from authorized sales outlet  
4 locations; or

5 (2) A lottery operator that has voluntarily canceled its  
6 license or allowed its license to lapse or that has  
7 had its license suspended, canceled, or revoked from  
8 selling or donating its lottery equipment to another  
9 licensed lottery operator, if prior written approval  
10 has been obtained from the department.

11 § -18 **Manufacturer-distributor; records required.** Every  
12 licensed manufacturer-distributor shall keep and maintain a  
13 complete set of records that shall include all details of all  
14 activities of the licensee related to the conduct of the  
15 licensed activity as may be required by the department,  
16 including the total quantity and types of lottery equipment or  
17 lottery supplies sold to any licensed lottery operator, and to  
18 other licensed manufacturer-distributors. The records shall be  
19 available for inspection by the department and shall be  
20 maintained for a period of not less than three years from the  
21 date of the end of the licensee's fiscal year.





1           §   -19   **Lottery operator; conflict of interest prohibited.**

2   No sole proprietor, partner in a partnership, member in a  
3   limited liability company, officer or director of a corporation,  
4   or individual with a substantial interest in a sole  
5   proprietorship, partnership, limited liability company, or  
6   corporation applying for a lottery operator license or licensed  
7   as a lottery operator shall be connected with or interested in,  
8   directly or indirectly, any person, partnership, limited  
9   liability company, firm, corporation, or other party licensed as  
10  a manufacturer-distributor under this chapter.

11           §   -20   **Sales outlet location; authorization.**   (a)   A

12  lottery operator shall obtain authorization from the department  
13  prior to conducting a lottery at a sales outlet location.

14  Applications for authorization shall be on a form prescribed by  
15  the department, containing the information the department deems  
16  necessary.  If the lottery operator is an individual, the  
17  application shall include the applicant's social security  
18  number.

19           (b)   The information required by this section shall be kept  
20  current and a new application shall be filed with the department  
21  if any information on the application becomes incorrect.



1           §   -21   Licensees; Uniform Unclaimed Property Act. The  
2 department and any lottery operated under its authority shall be  
3 exempt from the Uniform Unclaimed Property Act under part I of  
4 chapter 523A with respect to unclaimed lottery prizes.

5                           PART III. CONDUCT OF THE LOTTERY

6           §   -22   Participation; restrictions. (a) No person under  
7 nineteen years of age shall play or participate in any way in  
8 any lottery conducted pursuant to this chapter.

9           (b) None of the following persons shall play any lottery  
10 authorized under this chapter:

11           (1) A member of the governing board of the lottery  
12 operator or the immediate family of a member of the  
13 governing board of the lottery operator;

14           (2) An owner or officer of a lottery operator; or

15           (3) An owner or officer of an authorized sales outlet  
16 location.

17           (c) No employee or agent of a lottery operator, or  
18 authorized sales outlet location shall play the lottery for  
19 which the employee or agent performs work during the time that  
20 the employee or agent is actually working at the lottery or  
21 while on duty.



1 (d) No person or licensee, or employee or agent thereof,  
2 shall knowingly permit an individual under nineteen years of age  
3 to play or participate in any way in any lottery authorized  
4 under this chapter.

5 § -23 **No extension of credit.** (a) No person or  
6 licensee, or any employee or agent thereof, accepting wagers on  
7 a lottery authorized under this chapter shall extend credit from  
8 the gross proceeds of a lottery to participants in the lottery  
9 for the purchase of lottery tickets.

10 (b) No person shall purchase or be allowed to purchase any  
11 lottery ticket or make or be allowed to make any wager pursuant  
12 to this chapter unless the person pays for the ticket or wager  
13 with cash.

14 (c) For the purposes of this section, "cash" means United  
15 States currency having the same face value as the price of the  
16 ticket or wager.

17 § -24 **Lottery ticket; requirements.** The lottery shall  
18 have its name clearly printed on each ticket used in the  
19 lottery. No ticket shall be sold unless the name of the lottery  
20 is printed on it.



1 § -25 Winning number selection; player activation. (a)

2 There shall be no player activation of lottery equipment in a  
3 keno game.

4 (b) Notwithstanding the definition of "lottery", a player  
5 may select more than twenty numbers on a paper ticket when a top  
6 or bottom, left or right, edge, or way ticket is played:

7 (1) For a top or bottom ticket, the player shall select  
8 all numbers from one through forty or all numbers from  
9 forty-one through eighty;

10 (2) For a left or right ticket, the player shall select  
11 all numbers ending in one through five or all numbers  
12 ending in six through zero;

13 (3) For an edge ticket, the player shall select all of the  
14 numbers comprising the outside edge of the ticket; and

15 (4) For a way ticket, the player shall select a  
16 combination of groups of numbers in multiple ways on a  
17 single ticket.

18 (c) For a keno game, the lottery operator shall designate  
19 the method of winning number selection to be used in the keno  
20 game and submit the designation in writing to the department  
21 prior to conducting a keno game. Only those methods of winning  
22 number selection as described in the definition of "lottery"



1 shall be permitted, and the method of winning number selection  
2 initially used may only be changed once during that business day  
3 as set forth in the designation. A lottery operator shall not  
4 change the method or methods of winning number selection filed  
5 with the department or allow it to be changed once the initial  
6 designation has been made, unless:

7 (1) Otherwise authorized in writing by the department,  
8 based upon a written request from the lottery  
9 operator; or

10 (2) An emergency arises, requiring that a ball draw method  
11 of number selection shall be switched to a number  
12 selection by a random number generator; provided that  
13 any emergency situation shall be reported by the  
14 lottery operator to the department within twenty-four  
15 hours of its occurrence.

16 **PART IV. GROSS PROCEEDS AND TAXES**

17 § -26 **Gross proceeds; use; audit and legal expenses,**  
18 **defined.** (a) The gross proceeds of the lottery shall be used  
19 solely for community betterment purposes, awarding of prizes,  
20 and the payment of taxes and expenses.

21 (b) The lottery operator shall determine the percentage of  
22 gross proceeds to pay out in prizes, provided that not less than



1 sixty-five per cent of the gross proceeds shall be used for the  
2 awarding of prizes.

3 (c) The lottery operator shall establish and manage a  
4 segregated prize fund by which to accumulate gross proceeds to  
5 be used to pay prizes. One-half per cent of the gross proceeds  
6 shall be used by the lottery operator to establish a segregated  
7 prize fund. Once the amount of the largest prize offered under  
8 the payable established for the keno game is fully funded, the  
9 remainder shall be used to fund promotional games developed by  
10 the lottery operator.

11 (d) Two per cent of the gross proceeds shall be used to  
12 pay the lottery tax.

13 (e) Of the first \$2,000,000 in gross proceeds, subsections  
14 (a), (b), and (c) shall apply and the remaining gross proceeds  
15 shall be used by the lottery operator for the payment of  
16 expenses associated with the lottery.

17 (f) Of the gross proceeds in excess of \$2,000,000:

18 (1) Fourteen per cent of the gross proceeds shall be used  
19 to pay the expenses of operating the lottery, except  
20 that license fees paid to the department and audit or  
21 legal expenses that relate directly to the conduct of  
22 operating the lottery shall not be included in



1 determining the fourteen per cent limitation on  
2 expenses; and

3 (2) The remainder of the gross proceeds shall be paid over  
4 to the department.

5 (g) The lottery operator shall be responsible for the  
6 payment of sales commissions to authorized sales outlet  
7 locations from its fourteen per cent of the gross proceeds. The  
8 sales commissions to authorized sales outlet locations shall be  
9 an amount equal to four per cent of the gross proceeds of the  
10 lotteries being operated pursuant to this chapter.

11 (h) For purposes of this section, audit and legal expenses  
12 shall include all expenses relating to:

13 (1) The governmental organization of the lottery;

14 (2) Government maintenance, monitoring, and examination of  
15 lottery records; and

16 (3) Enforcement, regulatory, administrative,  
17 investigative, and litigation functions undertaken by  
18 government,

19 but shall not include the expenses of the actual conduct of the  
20 game.

21 § -27 Segregation of gross proceeds; use of interest;

22 records; requirements. (a) The gross proceeds of any lottery,



1 less the amount awarded in prizes and any salary, fee, or  
2 commission paid to a licensed lottery operator plus any interest  
3 on those funds, shall be segregated from any other revenue and  
4 placed in a separate account of the lottery operator. The  
5 proceeds, including any interest, shall be transferred from the  
6 lottery operator's separate account to a separate account of the  
7 department. Any interest received by the department from the  
8 proceeds of the lottery shall be used solely for community  
9 betterment purposes.

10 (b) Separate records shall be maintained by a licensed  
11 lottery operator. Records required under this chapter shall be  
12 preserved for at least three years unless otherwise provided for  
13 by the rules adopted thereunder. Any law enforcement agency or  
14 other agency of government shall have the authority to  
15 investigate the records relating to the lottery and gross  
16 proceeds from the lottery at any time. Any lottery operator,  
17 upon proper written request, shall deliver all those records to  
18 the department or other law enforcement agency for  
19 investigation.

20 § -28 Lottery tax; collection. The lottery operator  
21 shall submit to the department on a quarterly basis a tax of two  
22 per cent of the gross proceeds from its operations. The





1 department shall remit the tax to the director of taxation for  
2 deposit to the credit of the general fund.

3 **PART V. SANCTIONS AND RELATED ACTIONS**

4 § -29 **Licensing sanctions.** In addition to any other  
5 powers, duties, and functions, the department shall have the  
6 power to:

- 7 (1) Deny any license application or renewal application  
8 for cause; provided that no renewal of a license shall  
9 be issued if the applicant for renewal would be denied  
10 an application for a license;
- 11 (2) Revoke, cancel, or suspend any license for cause;
- 12 (3) Issue an order requiring a licensee or other person to  
13 cease from further violations of this chapter or any  
14 of the rules adopted thereunder; and
- 15 (4) Levy an administrative fine upon an individual,  
16 partnership, limited liability company, corporation,  
17 or organization for cause.

18 § -30 **Grounds for licensing sanctions.** Grounds for  
19 denial of an application for a license, the nonrenewal of a  
20 license, or a revocation, cancellation, or suspension of a  
21 license shall include but not be limited to the following:



- 1 (1) Violating the provisions, requirements, conditions,  
2 limitations, or duties imposed under this chapter or  
3 any of the rules adopted thereunder;
- 4 (2) Knowingly causing, aiding, abetting, or conspiring  
5 with another to cause any person to violate this  
6 chapter or any of the rules adopted thereunder;
- 7 (3) Obtaining a license or permit by fraud,  
8 misrepresentation, or concealment;
- 9 (4) Being convicted of, forfeited bond upon a charge of,  
10 or pleaded guilty or nolo contendere to any offense or  
11 crime, whether a felony or a misdemeanor, involving  
12 any gambling activity or fraud, theft, wilful failure  
13 to make required payments or reports, or filing false  
14 reports with a governmental agency at any level;
- 15 (5) Being convicted of, forfeited bond upon a charge of,  
16 or pleaded guilty or nolo contendere to any felony  
17 other than those described in paragraph (4) within the  
18 ten years preceding the filing of the application;
- 19 (6) Denying the department or its authorized  
20 representatives, including authorized law enforcement  
21 agencies, access to any place where activity required  
22 to be licensed under this chapter is being conducted



- 1 or failing to produce for inspection or audit any  
2 book, record, document, or item required by law;
- 3 (7) Making a misrepresentation of or failing to disclose a  
4 material fact to the department;
- 5 (8) Failing to prove by clear and convincing evidence  
6 one's qualifications to be licensed under this  
7 chapter;
- 8 (9) Failing to pay any taxes and additions to taxes,  
9 including penalties and interest, required by this  
10 chapter or any other taxes imposed pursuant to law and  
11 enforced by the department of taxation;
- 12 (10) Failing to pay an administrative fine levied pursuant  
13 to this chapter;
- 14 (11) Failing to demonstrate good character, honesty, and  
15 integrity;
- 16 (12) Failing to demonstrate, either individually or in the  
17 case of a business entity through its managers,  
18 employees, or agents, the ability, experience, or  
19 financial responsibility necessary to establish or  
20 maintain the activity for which the application is  
21 made; or



1           (13) Having a liquor license suspended, canceled, or  
2           revoked by the applicable liquor license control board  
3           for illegal gambling activities that occurred on or  
4           about a premises licensed thereby.

5           §   -31   **Injunctions; procedures.**   (a) An order to cease  
6 and desist from violations of this chapter or any of the rules  
7 adopted thereunder shall contain reasonable notice of the rights  
8 of the licensee or other person to request a hearing and shall  
9 state the reason for the entry of the order. The notice of  
10 order shall be mailed by certified mail to or personally served  
11 upon the licensee or other person. If the notice of order is  
12 mailed by certified mail, the date the notice is mailed shall be  
13 deemed to be the date of service of notice to the licensee or  
14 other person.

15           (b) A request for a hearing by the licensee or other  
16 person shall be in writing and shall be filed with the  
17 department within thirty days after the service of the cease and  
18 desist order. If a request for hearing is not filed within the  
19 thirty-day period, the cease and desist order shall become  
20 permanent at the expiration of the thirty-day period. A hearing  
21 shall be held not later than thirty days after the request for  
22 the hearing is received by the department, and within twenty



1 days after the date of the hearing, the department shall issue  
2 an order vacating the cease and desist order or making it  
3 permanent as the facts require. All hearings shall be held in  
4 accordance with chapter 91. If the licensee or other person to  
5 whom a cease and desist order is issued fails to appear at the  
6 hearing after being duly notified, the licensee or other person  
7 shall be deemed in default and the proceeding may be determined  
8 against the licensee or other person upon consideration of the  
9 cease and desist order, the allegations of which may be deemed  
10 to be true.

11 § -32 **Administrative fines; grounds; disposition.** (a)  
12 Grounds for administrative fines shall include instances in  
13 which the individual, partnership, limited liability company,  
14 corporation, or organization violate the provisions,  
15 requirements, conditions, limitations, or duties imposed by this  
16 chapter or any rule adopted thereunder. In determining whether  
17 to levy an administrative fine and the amount of the fine if any  
18 fine is levied, the department shall take into consideration:

- 19 (1) The seriousness of the violation;  
20 (2) The intent of the violator;  
21 (3) Whether the violator voluntarily reported the  
22 violation;



1 (4) Whether the violator derived financial gain as a  
2 result of the violation and the extent thereof; and

3 (5) Whether the violator has had previous violations of  
4 this chapter or the rules adopted thereunder.

5 (b) A fine levied on a violator under this section shall  
6 not exceed \$25,000 for each violation of this chapter or any of  
7 the rules adopted thereunder in addition to the financial  
8 benefit derived by the violator as a result of each violation.

9 If an administrative fine is levied, the fine shall not be paid  
10 from lottery gross proceeds and shall be remitted by the  
11 violator to the department within thirty days from the date of  
12 the order issued by the department levying the fine.

13 (c) All moneys collected by the department as an  
14 administrative fine shall be remitted on a monthly basis to the  
15 director of finance for deposit to the credit to the general  
16 fund.

17 (d) Any administrative fine levied under this section and  
18 unpaid shall constitute a debt to the State of Hawaii, which may  
19 be collected by lien foreclosure or sued for and recovered in  
20 any proper form of action in the name of the State in the  
21 circuit court of the county in which the violator resides or  
22 owns property.

1           §   -33   Audits; lack of cooperation; court remedies.   (a)

2   Any license applicant or licensee shall produce any information,  
3   documentation, and assurances as may be required by the  
4   department to establish by a preponderance of the evidence the  
5   financial stability, integrity, and responsibility of the  
6   applicant or licensee, including but not limited to:

- 7           (1)   Bank account references;
- 8           (2)   Business and personal income and disbursement  
9               schedules, tax returns, and other reports filed with  
10              governmental agencies;
- 11          (3)   Business entity and personal accounting records; and
- 12          (4)   Check records and ledgers.

13   The license applicant or licensee shall authorize the department  
14   to examine bank accounts and any other records that may be  
15   deemed necessary by the department.

16          (b)   If any person wilfully refuses to make documents  
17   available for examination by the department, or wilfully fails  
18   to attend and testify at a hearing, the department may apply to  
19   a judge of the circuit court of the county in which the person  
20   resides for an order directing the person to comply with the  
21   department's request.

1 (c) If any documents requested by the department are in  
2 the custody of a corporation, the court order may be directed to  
3 any principal officer of the corporation.

4 (d) If the documents requested by the department are in  
5 the custody of a limited liability company, the court order may  
6 be directed to any member when management is reserved to the  
7 members or otherwise to any manager.

8 (e) Any person who fails or refuses to obey the court  
9 order shall be guilty of contempt of court.

10 § -34 Attorney general; power to seize contraband;  
11 effect. (a) The attorney general may seize, without a warrant,  
12 the following contraband goods found anywhere in this State:

13 (1) Any lottery equipment or lottery supplies that do not  
14 conform in all respects to the requirements of this  
15 chapter or any of the rules adopted thereunder;

16 (2) Any lottery equipment or lottery supplies that are  
17 being sold without the proper license;

18 (3) Any lottery equipment or lottery supplies that have  
19 been sold in violation of this chapter or any of the  
20 rules adopted thereunder; or

21 (4) Any lottery equipment or lottery supplies used in  
22 connection with any lottery that has been or is being





1           conducted in violation of this chapter or any of the  
2           rules adopted thereunder.

3           (b) The attorney general, upon satisfactory proof, may  
4           direct the return of any seized lottery equipment or lottery  
5           supplies when the attorney general has reason to believe that  
6           the owner has not wilfully or intentionally failed to comply  
7           with this chapter or any of the rules adopted thereunder.

8           (c) The attorney general, upon finding that an owner of  
9           contraband goods has wilfully or intentionally failed to comply  
10          with this chapter, may confiscate the goods. Any lottery  
11          equipment or lottery supplies confiscated shall be destroyed.

12          (d) The seizure of contraband goods under this section  
13          shall not relieve any person from a fine, imprisonment, or other  
14          penalty for violation of this chapter or any of the rules  
15          adopted thereunder.

16          (e) The attorney general shall not be responsible for  
17          negligence in any court for the seizure or confiscation of any  
18          lottery equipment or lottery supplies pursuant to this section.

19          §     -35   **Violations; penalties; enforcement; venue.** (a)  
20          Except when another penalty is specifically provided, any person  
21          or licensee, or employee or agent thereof, who knowingly or  
22          intentionally violates this chapter, or who causes, aids, abets,



1 or conspires with another to cause any person or licensee or any  
2 employee or agent thereof to violate this chapter, shall be  
3 guilty of a misdemeanor for the first offense and a class C  
4 felony for any second or subsequent violation.

5 (b) Any licensee found guilty of violating this chapter  
6 more than once in a twelve-month period shall have its license  
7 canceled or revoked.

8 (c) Each of the following violations of this chapter shall  
9 be a class C felony:

10 (1) Giving, providing, or offering to give or provide,  
11 directly or indirectly, to any public official,  
12 employee, or agent of this State or any agencies or  
13 political subdivisions of this State any compensation  
14 or reward or share of the money for property paid or  
15 received through gambling activities regulated under  
16 this chapter in consideration for obtaining any  
17 license, authorization, permission, or privilege to  
18 participate in any gaming operations, except as  
19 authorized under this chapter or any rules adopted  
20 thereunder;

21 (2) Intentionally employing or possessing any device to  
22 facilitate cheating in any lottery or using any



1 fraudulent scheme or technique in connection with any  
2 lottery when the amount gained or intended to be  
3 gained through the use of the device, scheme, or  
4 technique is \$300 or more;

5 (3) Knowingly filing a false report under this chapter; or

6 (4) Knowingly falsifying or making any false entry in any  
7 books or records with respect to any transaction  
8 connected with the conduct of a lottery.

9 (d) The attorney general or the prosecuting attorney of  
10 the affected county shall prosecute and defend all proceedings  
11 initiated in any court or otherwise under this chapter.

12 **PART VI. MISCELLANEOUS**

13 § -36 **Relationship to other laws.** Part III of chapter  
14 712 shall not apply to the activities regulated under this  
15 chapter. In case of a conflict between this chapter and part  
16 III of chapter 712, this chapter shall govern."

17 SECTION 2. Section 712-1220, Hawaii Revised Statutes, is  
18 amended by amending the definition of "gambling" to read as  
19 follows:

20 "(4) "Gambling". A person engages in gambling if [~~he~~] the  
21 person stakes or risks something of value upon the outcome of a  
22 contest of chance or a future contingent event not under [~~his~~]



1 the person's control or influence, upon an agreement or  
2 understanding that [~~he~~] the person or someone else will receive  
3 something of value in the event of a certain outcome. Gambling  
4 does not include [~~bona~~]:

5 (1) Bona fide business transactions valid under the law of  
6 contracts, including but not limited to contracts for  
7 the purchase or sale at a future date of securities or  
8 commodities [~~, and agreements~~];

9 (2) Agreements to compensate for loss caused by the  
10 happening of chance, including but not limited to  
11 contracts of indemnity or guaranty and life, health,  
12 or accident insurance [~~-~~]; and

13 (3) The lottery conducted under chapter ."

14 SECTION 3. This Act does not affect rights and duties that  
15 matured, penalties that were incurred, and proceedings that were  
16 begun before its effective date.

17 SECTION 4. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect upon its approval.

20

INTRODUCED BY: *James Overcast*

**By Request**



# S.B. NO. 1376

**Report Title:**

Lottery; DCCA

**Description:**

Authorizes DCCA to license a single lottery operator to operate a lottery, including keno, in the State.

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

