
A BILL FOR AN ACT

RELATING TO HEALTH AND WELLNESS PROGRAMS.

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

1 SECTION 1. The legislature finds that preventive health
2 care is important, not only for each individual's wellbeing, but
3 for the health care system as a whole. Taking the initiative of
4 maintaining or improving one's health reduces a person's
5 potential for adverse health conditions that tax pocketbooks and
6 incur costs to society.

7 The federal Patient Protection and Affordable Care Act
8 encourages employers to provide opportunities for employees to
9 participate in wellness programs to support healthier
10 workplaces. The Act does this in part by maximizing the
11 permissible reward to participants of a wellness program from
12 twenty per cent to thirty per cent of the cost of health
13 coverage, and increasing the maximum reward to as much as fifty
14 per cent for programs designed to prevent or reduce tobacco use.

15 The legislature further finds that while wellness programs
16 are laudable and desirable, there have been concerns that such
17 programs that provide rewards for participants may run afoul of
18 Hawaii's gambling and lottery statutes.



1 "Gambling" is defined in section 712-1220(4), Hawaii

2 Revised Statutes, as follows:

3 "(4) "Gambling". A person engages in gambling *if he*
4 *stakes or risks something of value* upon the outcome of a contest
5 of chance or a future contingent event not under his control or
6 influence, upon an agreement or understanding that he or someone
7 else will receive something of value in the event of a certain
8 outcome. Gambling does not include bona fide business
9 transactions valid under the law of contracts, including but not
10 limited to contracts for the purchase or sale at a future date
11 of securities or commodities, and agreements to compensate for
12 loss caused by the happening of chance, including but not
13 limited to contracts of indemnity or guaranty and life, health,
14 or accident insurance." [Emphasis added]

15 "Lottery" is defined in section 712-1220(6), Hawaii Revised
16 Statutes, as:

17 (6) "Lottery" means a gambling scheme in which:

18 (a) *The players pay or agree to pay something of value for*
19 *chances, represented and differentiated by numbers or*
20 *by combinations of numbers or by some other medium,*
21 *one or more of which chances are to be designated the*
22 *winning ones; and*



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

4 (c) *The holders of the winning chances are to receive*
5 *something of value.* [Emphasis added]

6 There are concerns that an employee who pays a portion of
7 health care premiums and is eligible for a chance to win a
8 reward based on the person's participation in a wellness program
9 might be considered to be engaged in an illegal gambling scheme
10 or lottery. While this situation likely was not contemplated by
11 the crafters of the gambling laws, it raises concerns sufficient
12 to warrant appropriate action. The legislature finds that
13 ensuring the success of wellness programs is too important to be
14 stymied by a potential technicality of law.

15 The purpose of this Act is to clarify that participation in
16 a health wellness program does not constitute illegal gambling.

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

19 1. By amending the definition of "gambling" to read:

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



1 influence, upon an agreement or understanding that he or someone
2 else will receive something of value in the event of a certain
3 outcome. Gambling does not include bona fide business
4 transactions valid under the law of contracts, including but not
5 limited to contracts for the purchase or sale at a future date
6 of securities or commodities, [and] agreements to compensate for
7 loss caused by the happening of chance, including but not
8 limited to contracts of indemnity or guaranty and life, health,
9 or accident insurance[-], or any payment for participation in a
10 wellness program for health promotion or disease prevention."

11 2. By amending the definition of "something of value" to
12 read:

13 "(11) "Something of value" means any money or property,
14 any token, object, or article exchangeable for money or
15 property, or any form of credit or promise directly or
16 indirectly contemplating transfer of money or property or of any
17 interest therein, or involving extension of a service or
18 entertainment. The term does not include any payment for health
19 insurance coverage or for participation in a wellness program
20 for health promotion or disease prevention."

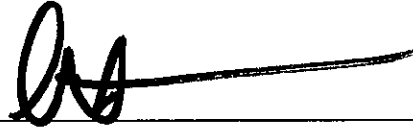
21 SECTION 3. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: _____

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By Request

JAN 24 2013



H.B. NO. 1415

Report Title:

Health Wellness Programs; Gambling

Description:

Clarifies that participation in a health wellness program does not constitute illegal gambling.

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