

JAN 18 2013

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# A BILL FOR AN ACT

RELATING TO GAMBLING OFFENSES.

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

1           SECTION 1. The legislature finds that a number of  
2 businesses in the State are selling items and services that  
3 allow patrons to engage in activities that, without the  
4 ostensibly legal transaction between the customer and  
5 establishment where money is exchanged, would otherwise  
6 constitute gambling. The Honolulu police department has found  
7 that customers of businesses engaged in these enterprises are  
8 often unaware of, or completely disregard, the items or services  
9 that are the purported basis for transacting business with the  
10 establishment. The legislature finds that the intent of  
11 businesses engaging in these activities is to promote gambling.

12           The purpose of this Act is to clarify actions that  
13 constitute gambling in part III of chapter 712, Hawaii Revised  
14 Statutes, relating to gambling offenses.

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



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

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



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

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

8           ~~[(4)]~~ "Gambling". A person engages in gambling if ~~[he]~~  
9 the person stakes or risks something of value upon the outcome  
10 of a contest of chance or a future contingent event not under  
11 ~~[his]~~ the person's control or influence, upon an agreement or  
12 understanding that ~~[he]~~ the person or someone else will receive  
13 something of value in the event of a certain outcome. Gambling:

14           ~~(a)~~ Includes the use of any gambling device that is  
15 incidentally offered for use at no additional charge  
16 to a person who purchases other goods or services; and

17           ~~(b)~~ [does] Does not include bona fide business  
18 transactions valid under the law of contracts,  
19 including but not limited to contracts for the  
20 purchase or sale at a future date of securities or  
21 commodities, and agreements to compensate for loss  
22 caused by the happening of chance, including but not



1 limited to contracts of indemnity or guaranty and  
2 life, health, or accident insurance.

3 ~~[(5)]~~ "Gambling device" means any device, machine,  
4 paraphernalia, or equipment that is ~~[used]~~:

5 (a) Used or usable in playing phases of any gambling  
6 activity, whether that activity consists of gambling  
7 between persons or gambling by a person involving the  
8 playing of a machine ~~[.—However,]~~; or

9 (b) Available to play or operate a contest of chance upon  
10 payment of something of value, including the purchase  
11 of goods or services incidental to play or operation  
12 of the machine, and which may deliver or entitle the  
13 person playing or operating the machine to a payout of  
14 anything of value, whether the payout is made  
15 automatically by the machine or in any other manner;  
16 provided that lottery tickets and other items used in  
17 the playing phases of lottery schemes are not gambling  
18 devices within this definition.

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

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



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

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

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

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

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

16          [~~(9)~~] "Profit from gambling activity". A person "profits  
17          from gambling activity" if [~~he~~] the person accepts or receives  
18          money or other property pursuant to an agreement or  
19          understanding with any person whereby he participates or is to  
20          participate in the proceeds of gambling activity.

21          [~~(10)~~] "Social gambling" is defined in section 712-1231.

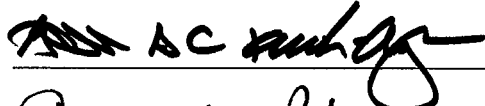
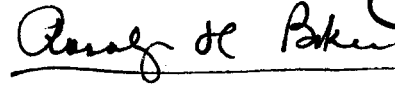




1            ~~[(11)]~~ "Something of value" means any money or property,  
 2 any token, object, or article exchangeable for money or  
 3 property, or any purchase of an item or service which entitles a  
 4 person to participate in a gambling scheme or use a gambling  
 5 device, or any form of credit or promise directly or indirectly  
 6 contemplating transfer of money or property or of any interest  
 7 therein, or involving extension of a service or entertainment."

8            SECTION 3. This Act does not affect rights and duties that  
 9 matured, penalties that were incurred, and proceedings that were  
 10 begun before its effective date.

11            SECTION 4. Statutory material to be repealed is bracketed  
 12 and stricken. New statutory material is underscored.

13            SECTION 5. This Act shall take effect upon its approval.  
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INTRODUCED BY: ~~AC~~ AC   
  
  


**Report Title:**

Gambling; Incidental Goods and Services

**Description:**

Amends various definitions under the gambling offenses statute to clarify that gambling includes the use of a gambling device that is incidentally offered for use at no additional charge to a person who purchases other goods or services.

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