
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.



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;



1 (3) Lessening the burdens borne by government or
2 voluntarily supporting, augmenting, or supplementing
3 services that government would normally render to the
4 people; or

5 (4) Providing tax relief for the community.

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

11 "Department" means the department of commerce and consumer
12 affairs.

13 "Expenses" means:

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

17 (2) All office or clerical expenses used in connection
18 with the lottery;

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

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



- 1 (5) Any rental or lease expense related to the lottery;
- 2 (6) Any fee or commission paid to any person associated
- 3 with the lottery;
- 4 (7) License fees paid to the department; and
- 5 (8) Any other costs associated with the conduct of a
- 6 lottery.

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

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

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

- 16 (1) A lottery operator;
- 17 (2) A manufacturer-distributor; or
- 18 (3) A lottery worker.

19 "Lottery" means a gambling scheme in which:

- 20 (1) The players pay or agree to pay something of value for
- 21 an opportunity to win;



- 1 (2) Winning opportunities are represented by tickets;
- 2 (3) Winners are solely determined by chance by one of the
- 3 following methods:
- 4 (A) At any location selected by the lottery operator
- 5 and authorized by the department pursuant to this
- 6 chapter, by a random drawing of symbols or
- 7 numbers from a paper ticket purchased by a player
- 8 that is differentiated by sequential enumeration
- 9 from a receptacle or ticket dispenser by hand
- 10 under which each ticket has an equal chance of
- 11 being chosen in the drawing; or
- 12 (B) By the use of a game known as keno in which a
- 13 player selects up to twenty numbers from a total
- 14 of eighty numbers on a ticket, and a computer,
- 15 other electronic selection device, or
- 16 electrically operated blower machine that is not
- 17 player-activated, randomly selects up to twenty
- 18 numbers from the same pool of eighty numbers and
- 19 the winning players are determined by the correct
- 20 matching of the numbers on the paper ticket
- 21 selected by the players with the numbers randomly



1 selected by the computer, other electronic
2 selection device, or electrically operated blower
3 machine, provided that there is no player
4 activation of lottery equipment; and

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

7 "Lottery" shall not include:

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

14 (2) Any activity otherwise prohibited by law.

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

19 "Lottery operator" means any individual, sole
20 proprietorship, partnership, limited liability company, or



1 corporation that operates the lottery on behalf of the
2 department.

3 "Lottery supplies" means all tickets, cards, boards,
4 sheets, or other supplies that are used in and are an integral
5 part of the conduct of any lottery authorized or regulated under
6 this chapter.

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

12 "Manufacturer-distributor" means any individual, sole
13 proprietorship, partnership, limited liability company, or
14 corporation that assembles, produces, makes, prints, or supplies
15 lottery equipment or lottery supplies for sale, use, or
16 distribution in the State.

17 § -3 Department; general powers and duties. (a) The
18 department shall regulate any lottery conducted in the State to
19 serve community betterment purposes.

20 (b) The department shall:



- 1 (1) Collect the amounts required to be paid as taxes
2 imposed by this chapter;
- 3 (2) Issue licenses and temporary licenses;
- 4 (3) Collect license application and license renewal
5 application fees and prorate license fees on an annual
6 basis; provided that the department shall establish by
7 rule the conditions and circumstances under which the
8 fees may be prorated;
- 9 (4) Investigate the activities of any person applying for
10 a license under this chapter or relating to the
11 conduct of any lottery under this chapter;
- 12 (5) Enter or authorize any law enforcement officer to
13 enter at any time upon any premises where a lottery is
14 being conducted to determine whether any provisions of
15 this chapter or any rules adopted thereunder have been
16 or are being violated and to examine the premises;
- 17 (6) Require periodic reports from licensed manufacturer-
18 distributors, licensed lottery operators, and any
19 other persons, organizations, limited liability
20 companies, or corporations as the department deems
21 necessary to carry out its duties under this chapter;



1 (7) Audit, examine, or cause to be examined, by any agent
2 or representative designated by the department for
3 such purpose, any books, papers, records, or memoranda
4 relating to the conduct of a lottery, to require by
5 administrative order or summons the production of such
6 documents or the attendance of any person having
7 knowledge of the premises, to take testimony under
8 oath, and to require proof material for its
9 information;

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

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

14 § -4 License application; denial; hearing. (a) Before
15 any application for a license is denied, the department shall
16 notify the applicant in writing by certified mail of the
17 department's intention to deny the application and the reasons
18 for the denial. The notice shall inform the applicant of the
19 applicant's right to request an administrative hearing for the
20 purpose of reconsidering the intended denial of the application.



1 The date the notice is mailed shall be deemed to be the date of
2 service of notice to the applicant.

3 (b) A request for a hearing by the applicant shall be in
4 writing and shall be filed with the department within thirty
5 days after the service of notice to the applicant of the
6 department's intended denial of the application. If a request
7 for hearing is not filed within the thirty-day period, the
8 application denial shall become final upon the expiration of
9 that thirty-day period.

10 (c) If a request for hearing is filed within the thirty-
11 day period, the department shall grant the applicant a hearing
12 and, at least ten days before the hearing, shall serve notice
13 upon the applicant by certified mail, return receipt requested,
14 of the time, date, and place of the hearing. The proceedings
15 shall be considered contested cases.

16 § -5 **Contested case hearing; when; notice.** (a) Before
17 the suspension, revocation, or cancellation of any license, or
18 the levying of an administrative fine, the department shall set
19 the matter for hearing. The suspension, revocation, or
20 cancellation proceedings, or proceedings to levy an



1 administrative fine shall be contested cases pursuant to chapter
2 91.

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

7 § -6 Proceeding before department; service; decision;
8 appeal. (a) A copy of the order or decision of the department
9 in any proceeding before it under this chapter shall be served
10 upon each party of record to the proceeding. Service upon any
11 attorney of record for any party shall be deemed to be service
12 upon the party. Each party appearing before the department
13 shall enter the party's appearance and indicate to the
14 department the party's address for the service of a copy of any
15 order, decision, or notice. The mailing of any copy of any
16 order or decision or of any notice in the proceeding, to the
17 party at the address, shall be deemed to be service upon the
18 party.

19 (b) Any decision of the department in any proceeding
20 before it pursuant to this chapter may be appealed, pursuant to
21 chapter 91.



PART II. LICENSE CATEGORIES

1
2 § -7 Lottery operator; license; application. (a) No
3 lottery operator shall conduct a lottery in this State without a
4 license issued by the department; provided that the department
5 shall license only one lottery operator to operate a lottery in
6 this State.

7 (b) The lottery operator shall be a resident of the United
8 States or, if a partnership, limited liability company, or
9 corporation, shall be organized under the laws of any state in
10 the United States as a partnership, limited liability company,
11 or corporation.

12 (c) The lottery operator shall conduct at least one keno
13 game at a main location, which shall conduct a lottery where
14 winners are determined under both methods of determination as
15 described in paragraph (3) of the definition of "lottery" in
16 section -2. In addition, the lottery operator may conduct a
17 lottery under either method of determining winners at authorized
18 sales outlet locations.

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



1 (1) A written statement describing the type of lottery to
2 be conducted;

3 (2) A copy of the proposed contract or written agreement
4 between the department and the lottery operator; and

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

7 (e) Each application by any lottery operator shall
8 include:

9 (1) The name, address, social security number, and date of
10 birth of every individual who is the lottery operator;
11 the sole proprietor, a partner, a member, or a
12 corporate officer of the lottery operator; or a person
13 or entity holding in the aggregate ten per cent or
14 more of the debt or equity of the lottery operator, if
15 a corporation;

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

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



1 (f) The information required under this section shall be
2 kept current. A lottery operator shall notify the department
3 within thirty days of any changes in the information originally
4 included in the application form.

5 (g) The department may prescribe a separate application
6 form for renewal purposes.

7 § -8 **Lottery operator license renewal; fees.** (a) A
8 license issued to a lottery operator shall expire on May 31 of
9 every even-numbered year, or any other date that the department
10 may prescribe by rule, and may be renewed biennially.
11 Applications for renewal of a lottery operator license shall be
12 submitted to the department at least sixty days prior to the
13 expiration date of the license.

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

16 § -9 **Lottery workers; licenses; probationary; regular.**

17 (a) No person shall act as a lottery worker unless the person
18 has been issued a lottery worker license from the department.
19 The application for a license shall be on a form prescribed by
20 the department and shall include:



- 1 (1) The name, address, date of birth, and social security
2 number of the applicant;
- 3 (2) The name and state identification number of the
4 lottery operator, and authorized sales outlet location
5 at which the applicant will be performing work;
- 6 (3) A description of the applicant's duties;
- 7 (4) A statement that the applicant has not been convicted
8 of, forfeited bond upon a charge of, or pleaded guilty
9 or nolo contendere to:
 - 10 (A) Any felony within ten years preceding the date of
11 the application; or
 - 12 (B) Any felony or misdemeanor involving fraud, theft,
13 or any gambling activity, wilful failure to make
14 required payments or reports, or filing false
15 reports to a governmental agency at any level;
- 16 (5) The date of signing and the signature of the
17 applicant, under penalty of perjury, verifying that
18 the information is true and accurate; and
- 19 (6) Any other information that the department deems
20 necessary.



1 (b) The applicant shall submit a completed application to
2 the lottery operator. Upon receipt of the completed
3 application, the lottery operator shall examine the application
4 and shall sign and file the application with the department.

5 (c) The department may conduct an investigation concerning
6 the applicant as may be necessary or appropriate to maintain the
7 integrity of the lottery.

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

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

18 (f) The department shall grant the applicant a
19 probationary license as a lottery worker that shall be valid for
20 a period of one hundred twenty days after the application is
21 filed with the department, unless the application is denied by



1 the department. An application shall be considered filed with
2 the department upon receipt by the department or as of the date
3 postmarked or transmitted by electronic facsimile to the
4 department, if the application is received by the department
5 within ten days after the date postmarked or electronically
6 transmitted. An application postmarked or electronically
7 transmitted but not received by the department within ten days
8 shall not be considered filed.

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

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

16 (2) The license is invalidated upon notification by the
17 lottery operator that the person to whom the license
18 was originally issued is no longer working for the
19 lottery operator.

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



1 (i) A license as a lottery worker shall be nontransferable
2 and shall no longer be valid if the person is no longer employed
3 as a lottery worker.

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

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

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

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

18 § -10 **Manufacturer-distributor; license; fees.** (a) No
19 individual, sole proprietorship, partnership, limited liability
20 company, or corporation shall manufacture, sell, or distribute
21 lottery equipment or lottery supplies for use or play in this



1 State without a license as a manufacturer-distributor issued by
2 the department. A manufacturer-distributor who is licensed in
3 another state in the United States shall be automatically
4 eligible for a license under this chapter upon payment of the
5 fee established in this section.

6 (b) The department shall charge a biennial license fee of
7 \$1,525 for the issuance or renewal of a license as a
8 manufacturer-distributor. The department shall remit the
9 proceeds from the license fees to the director of finance for
10 deposit to the credit of the general fund. A license as a
11 manufacturer-distributor shall be renewed biennially. The
12 biennial expiration date shall be September 30 of every odd-
13 numbered year or such other date that the department may
14 prescribe by rule. An application for license renewal shall be
15 submitted to the department at least forty-five days prior to
16 the expiration date of the license.

17 (c) An applicant for issuance or renewal of a license as a
18 manufacturer-distributor shall apply for the license on a form
19 prescribed by the department. The application form shall
20 include:



- 1 (1) The name and address of the applicant and the name and
2 address of each of its separate locations
3 manufacturing or distributing lottery equipment or
4 lottery supplies;
- 5 (2) The name and home address of all owners or members of
6 the manufacturer-distributor business if the business
7 is not a corporation. If the business is a
8 corporation, the name and home address of each of the
9 officers and directors of the corporation and of each
10 stockholder owning ten per cent or more of any class
11 of stock in the corporation shall be supplied;
- 12 (3) If the applicant is an individual, the applicant's
13 social security number;
- 14 (4) If the applicant is a foreign manufacturer-
15 distributor, the full name, business address, and home
16 address of the local agent; and
- 17 (5) Any other information that the department deems
18 necessary.
- 19 (d) The applicant shall notify the department within
20 thirty days of any change in the information submitted on or
21 with the application form. The applicant shall comply with all



1 applicable laws of the United States and the State and all
2 applicable rules of the department.

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

9 § -11 **Manufacturer-distributor; resident agent; when**
10 **required.** (a) A licensed manufacturer-distributor selling
11 lottery equipment or lottery supplies in this State that is not
12 a resident of this State or is not a corporation, partnership,
13 or limited liability company shall designate a natural person
14 who is:

15 (1) A resident of this State; and

16 (2) At least nineteen years old,

17 to serve as a resident agent for the purpose of receipt and
18 acceptance of service of process and other communications on
19 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



1 actual costs of the examination of the equipment by the
2 department; provided that the costs shall be paid in advance by
3 the licensed manufacturer-distributor.

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

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

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

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

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

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



1 (3) Any other information concerning lottery equipment or
2 lottery supplies sold that 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.



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

4 (c) Nothing in this section shall prohibit:

5 (1) A licensed lottery operator from moving lottery
6 equipment to and from authorized sales outlet
7 locations; or

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

14 § -18 **Manufacturer-distributor; records required.** Every
15 licensed manufacturer-distributor shall keep and maintain a
16 complete set of records that shall include all details of all
17 activities of the licensee related to the conduct of the
18 licensed activity as may be required by the department,
19 including the total quantity and types of lottery equipment or
20 lottery supplies sold to any licensed lottery operator, and to
21 other licensed manufacturer-distributors. The records shall be



1 available for inspection by the department and shall be
2 maintained for a period of not less than three years from the
3 date of the end of the licensee's fiscal year.

4 § -19 Lottery operator; conflict of interest prohibited.

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

14 § -20 Sales outlet location; authorization. (a) A

15 lottery operator shall obtain authorization from the department
16 prior to conducting a lottery at a sales outlet location.
17 Applications for authorization shall be on a form prescribed by
18 the department, containing the information the department deems
19 necessary. If the lottery operator is an individual, the
20 application shall include the applicant's social security
21 number.



1 which the employee or agent performs work during the time that
2 the employee or agent is actually working at the lottery or
3 while on duty.

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

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

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

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

20 § -24 Lottery ticket; requirements. The lottery shall
21 have its name clearly printed on each ticket used in the



1 lottery. No ticket shall be sold unless the name of the lottery
2 is printed on it.

3 § -25 Winning number selection; player activation. (a)

4 There shall be no player activation of lottery equipment in a
5 keno game.

6 (b) Notwithstanding the definition of "lottery" in section
7 -2, a player may select more than twenty numbers on a paper
8 ticket when a top or bottom, left or right, edge, or way ticket
9 is played:

10 (1) For a top or bottom ticket, the player shall select
11 all numbers from one through forty or all numbers from
12 forty-one through eighty;

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

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

18 (4) For a way ticket, the player shall select a
19 combination of groups of numbers in multiple ways on a
20 single ticket.



1 (c) For a keno game, the lottery operator shall designate
2 the method of winning number selection to be used in the keno
3 game and submit the designation in writing to the department
4 prior to conducting the keno game. Only those methods of
5 winning number selection as described in the definition of
6 "lottery" in section -2 shall be permitted, and the method of
7 winning number selection initially used may only be changed once
8 during that business day as set forth in the designation. A
9 lottery operator shall not change the method or methods of
10 winning number selection filed with the department or allow it
11 to be changed once the initial designation has been made,
12 unless:

13 (1) Otherwise authorized in writing by the department,
14 based upon a written request from the lottery
15 operator; or

16 (2) An emergency arises, requiring that a ball draw method
17 of number selection shall be switched to a number
18 selection by a random number generator; provided that
19 any emergency situation shall be reported by the
20 lottery operator to the department within twenty-four
21 hours of its occurrence.



1 shall be used by the lottery operator for the payment of
2 expenses associated with the lottery.

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

4 (1) Fourteen per cent of the gross proceeds shall be used
5 to pay the expenses of operating the lottery, except
6 that license fees paid to the department and audit or
7 legal expenses that relate directly to the conduct of
8 operating the lottery shall not be included in
9 determining the fourteen per cent limitation on
10 expenses; and

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

13 (g) The lottery operator shall be responsible for the
14 payment of sales commissions to authorized sales outlet
15 locations from its fourteen per cent of the gross proceeds. The
16 sales commissions to authorized sales outlet locations shall be
17 an amount equal to four per cent of the gross proceeds of the
18 lotteries being operated pursuant to this chapter.

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

21 (1) The governmental organization of the lottery;



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

3 (3) Enforcement, regulatory, administrative,
4 investigative, and litigation functions undertaken by
5 government,

6 but shall not include the expenses of the actual conduct of the
7 game.

8 § -27 Segregation of gross proceeds; use of interest;
9 records; requirements. (a) The gross proceeds of any lottery,
10 less the amount awarded in prizes and any salary, fee, or
11 commission paid to a licensed lottery operator plus any interest
12 on those funds, shall be segregated from any other revenue and
13 placed in a separate account of the lottery operator. The
14 proceeds, including any interest, shall be transferred from the
15 lottery operator's separate account to a separate account of the
16 department. Any interest received by the department from the
17 proceeds of the lottery shall be used solely for community
18 betterment purposes.

19 (b) Separate records shall be maintained by a licensed
20 lottery operator. Records required under this chapter shall be
21 preserved for at least three years unless otherwise provided for



1 by the rules adopted thereunder. Any law enforcement agency or
2 other agency of government shall have the authority to
3 investigate the records relating to the lottery and gross
4 proceeds from the lottery at any time. Any lottery operator,
5 upon proper written request, shall deliver all those records to
6 the department or other law enforcement agency for
7 investigation.

8 § -28 **Lottery tax; collection.** The lottery operator
9 shall submit to the department on a quarterly basis a tax of two
10 per cent of the gross proceeds from its operations. The
11 department shall remit the tax to the director of taxation for
12 deposit to the credit of the general fund.

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

14 § -29 **Licensing sanctions.** In addition to any other
15 powers, duties, and functions, the department shall have the
16 power to:

- 17 (1) Deny any license application or renewal application
18 for cause; provided that no renewal of a license shall
19 be issued if the applicant for renewal would be denied
20 an application for a license;
- 21 (2) Revoke, cancel, or suspend any license for cause;



1 (3) Issue an order requiring a licensee or other person to
2 cease from further violations of this chapter or any
3 of the rules adopted thereunder; and

4 (4) Levy an administrative fine upon an individual,
5 partnership, limited liability company, corporation,
6 or organization for cause.

7 § -30 **Grounds for licensing sanctions.** Grounds for
8 denial of an application for a license, the nonrenewal of a
9 license, or a revocation, cancellation, or suspension of a
10 license shall include but not be limited to the following:

11 (1) Violating the provisions, requirements, conditions,
12 limitations, or duties imposed under this chapter or
13 any of the rules adopted thereunder;

14 (2) Knowingly causing, aiding, abetting, or conspiring
15 with another to cause any person to violate this
16 chapter or any of the rules adopted thereunder;

17 (3) Obtaining a license or permit by fraud,
18 misrepresentation, or concealment;

19 (4) Being convicted of, forfeiting bond upon a charge of,
20 or pleading guilty or nolo contendere to any offense
21 or crime, whether a felony or a misdemeanor, involving



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- 1 any gambling activity or fraud, theft, wilful failure
2 to make required payments or reports, or filing false
3 reports with a governmental agency at any level;
- 4 (5) Being convicted of, forfeiting bond upon a charge of,
5 or pleading guilty or nolo contendere to any felony
6 other than those described in paragraph (4) within the
7 ten years preceding the filing of the application;
- 8 (6) Denying the department or its authorized
9 representatives, including authorized law enforcement
10 agencies, access to any place where activity required
11 to be licensed under this chapter is being conducted
12 or failing to produce for inspection or audit any
13 book, record, document, or item as required by law;
- 14 (7) Making a misrepresentation of or failing to disclose a
15 material fact to the department;
- 16 (8) Failing to prove by clear and convincing evidence
17 one's qualifications to be licensed under this
18 chapter;
- 19 (9) Failing to pay any taxes and additions to taxes,
20 including penalties and interest, required by this



1 chapter or any other taxes imposed pursuant to law and
2 enforced by the department of taxation;

3 (10) Failing to pay an administrative fine levied pursuant
4 to this chapter;

5 (11) Failing to demonstrate good character, honesty, and
6 integrity;

7 (12) Failing to demonstrate, either individually or in the
8 case of a business entity through its managers,
9 employees, or agents, the ability, experience, or
10 financial responsibility necessary to establish or
11 maintain the activity for which the application is
12 made; or

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

17 § -31 Injunctions; procedures. (a) An order to cease
18 and desist from violations of this chapter or any of the rules
19 adopted thereunder shall contain reasonable notice of the rights
20 of the licensee or other person to request a hearing and shall
21 state the reason for the entry of the order. The notice of



1 order shall be mailed by certified mail to or personally served
2 upon the licensee or other person. If the notice of order is
3 mailed by certified mail, the date the notice is mailed shall be
4 deemed to be the date of service of notice to the licensee or
5 other person.

6 (b) A request for a hearing by the licensee or other
7 person shall be in writing and shall be filed with the
8 department within thirty days after the service of the cease and
9 desist order. If a request for hearing is not filed within the
10 thirty-day period, the cease and desist order shall become
11 permanent at the expiration of the thirty-day period. A hearing
12 shall be held not later than thirty days after the request for
13 the hearing is received by the department, and within twenty
14 days after the date of the hearing, the department shall issue
15 an order vacating the cease and desist order or making it
16 permanent as the facts require. All hearings shall be held in
17 accordance with chapter 91. If the licensee or other person to
18 whom a cease and desist order is issued fails to appear at the
19 hearing after being duly notified, the licensee or other person
20 shall be deemed in default and the proceeding may be determined
21 against the licensee or other person upon consideration of the



1 cease and desist order, the allegations of which may be deemed
2 to be true.

3 § -32 Administrative fines; grounds; disposition. (a)

4 Grounds for administrative fines shall include instances in
5 which the individual, partnership, limited liability company,
6 corporation, or organization violate the provisions,
7 requirements, conditions, limitations, or duties imposed by this
8 chapter or any rule adopted thereunder. In determining whether
9 to levy an administrative fine and the amount of the fine if any
10 fine is levied, the department shall take into consideration:

- 11 (1) The seriousness of the violation;
- 12 (2) The intent of the violator;
- 13 (3) Whether the violator voluntarily reported the
14 violation;
- 15 (4) Whether the violator derived financial gain as a
16 result of the violation and the extent thereof; and
- 17 (5) Whether the violator has had previous violations of
18 this chapter or the rules adopted thereunder.

19 (b) A fine levied on a violator under this section shall
20 not exceed \$25,000 for each violation of this chapter or any of
21 the rules adopted thereunder in addition to the financial



1 benefit derived by the violator as a result of each violation.
2 If an administrative fine is levied, the fine shall not be paid
3 from lottery gross proceeds and shall be remitted by the
4 violator to the department within thirty days from the date of
5 the order issued by the department levying the fine.

6 (c) All moneys collected by the department as an
7 administrative fine shall be remitted on a monthly basis to the
8 director of finance for deposit to the credit to the general
9 fund.

10 (d) Any administrative fine levied under this section and
11 unpaid shall constitute a debt to the State of Hawaii, which may
12 be collected by lien foreclosure or sued for and recovered in
13 any proper form of action in the name of the State in the
14 circuit court of the county in which the violator resides or
15 owns property.

16 § -33 Audits; lack of cooperation; court remedies. (a)
17 Any license applicant or licensee shall produce any information,
18 documentation, and assurances as may be required by the
19 department to establish by a preponderance of the evidence the
20 financial stability, integrity, and responsibility of the
21 applicant or licensee, including but not limited to:



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

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

10 (b) If any person wilfully refuses to make documents
11 available for examination by the department, or wilfully fails
12 to attend and testify at a hearing, the department may apply to
13 a judge of the circuit court of the county in which the person
14 resides for an order directing the person to comply with the
15 department's request.

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

19 (d) If the documents requested by the department are in
20 the custody of a limited liability company, the court order may



1 be directed to any member when management is reserved to the
2 members or otherwise to any manager.

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

5 § -34 Attorney general; power to seize contraband;
6 effect. (a) The attorney general may seize, without a warrant,
7 the following contraband goods found anywhere in this State:

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

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

13 (3) Any lottery equipment or lottery supplies that have
14 been sold in violation of this chapter or any of the
15 rules adopted thereunder; or

16 (4) Any lottery equipment or lottery supplies used in
17 connection with any lottery that has been or is being
18 conducted in violation of this chapter or any of the
19 rules adopted thereunder.

20 (b) The attorney general, upon satisfactory proof, may
21 direct the return of any seized lottery equipment or lottery



1 supplies when the attorney general has reason to believe that
2 the owner has not wilfully or intentionally failed to comply
3 with this chapter or any of the rules adopted thereunder.

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

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

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

15 § -35 Violations; penalties; enforcement; venue. (a)
16 Except when another penalty is specifically provided, any person
17 or licensee, or employee or agent thereof, who knowingly or
18 intentionally violates this chapter, or who causes, aids, abets,
19 or conspires with another to cause any person or licensee or any
20 employee or agent thereof to violate this chapter, shall be



1 guilty of a misdemeanor for the first offense and a class C
2 felony for any second or subsequent violation.

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

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

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

19 (2) Intentionally employing or possessing any device to
20 facilitate cheating in any lottery or using any
21 fraudulent scheme or technique in connection with any



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

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

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

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

11 **PART VI. MISCELLANEOUS**

12 § -36 Relationship to other laws. Part III of chapter
13 712 shall not apply to the activities regulated under this
14 chapter. In case of a conflict between this chapter and part
15 III of chapter 712, this chapter shall govern."

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

19 "Gambling". A person engages in gambling if [he] the
20 person stakes or risks something of value upon the outcome of a
21 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~~]; and

13 (3) The lottery conducted under chapter _____."

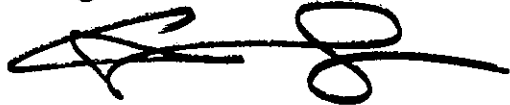
14 SECTION 3. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

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: Ka lb John M. Wilson
Greg
Ryan

Lyn DeCote


JAN 22 2016



H.B. NO. 1830

Report Title:
Lottery; DCCA

Description:
Authorizes DCCA to license a single operator for 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.

