

JAN 22 2016

---

---

# 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 in this State for community betterment purposes.  
9 The lottery shall be conducted only by the methods and under the  
10 circumstances prescribed in this chapter. No other form or  
11 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) Funding public education related to technology;
- 6 (2) Assisting teachers, principals, vice-principals, and  
7 other staff in the public school system with their  
8 professional development;
- 9 (3) Addressing heat abatement issues in the public school  
10 system;
- 11 (4) Funding solutions for homelessness; and
- 12 (5) Addressing healthcare issues.

13 "Community betterment purposes" shall not include any  
14 activity consisting of an attempt to influence legislation or  
15 participate in any political campaign on behalf of any elected  
16 official or person who is or has been a candidate for public  
17 office.

18 "Department" means the department of commerce and consumer  
19 affairs.

20 "Expenses" means:



- 1           (1) All costs associated with the purchasing, printing, or
- 2                   manufacturing of any items to be used or distributed
- 3                   in the lottery;
- 4           (2) All office or clerical expenses used in connection
- 5                   with the lottery;
- 6           (3) All promotional expenses used for the lottery;
- 7           (4) All salaries of persons employed to operate, conduct,
- 8                   or supervise the lottery;
- 9           (5) Any rental or lease expense related to the lottery;
- 10          (6) Any fee or commission paid to any person associated
- 11                   with the lottery;
- 12          (7) License fees paid to the department; and
- 13          (8) Any other costs associated with the conduct of a
- 14                   lottery.

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

17           "Gross proceeds" means the total aggregate receipts  
18 received from the conduct of any lottery, including receipts  
19 from admission costs, any consideration necessary for  
20 participation, and the value of any free tickets, games, or



1 plays used, without any reduction for prizes, discounts, taxes,  
2 or expenses.

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

- 4 (1) A lottery operator;
- 5 (2) A manufacturer-distributor; or
- 6 (3) A lottery worker.

7 "Lottery" means a gambling scheme in which:

- 8 (1) The players pay or agree to pay something of value for  
9 an opportunity to win;
- 10 (2) Winning opportunities are represented by tickets;
- 11 (3) Winners are solely determined by chance by the use of  
12 a game in which a player selects numbers from one or  
13 more pools of numbers on a ticket, and a computer,  
14 other electronic selection device, or electrically  
15 operated blower machine that is not player-activated,  
16 randomly selects numbers from the same pool or pools  
17 of numbers and the winning players are determined by  
18 the correct matching of the numbers on the paper  
19 ticket selected by the players with the numbers  
20 randomly selected by the computer, other electronic  
21 selection device, or electrically operated blower



1 machine, provided that there is no player activation  
2 of lottery equipment; and

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

5 "Lottery" shall not include:

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

12 (2) Any activity otherwise prohibited by law.

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

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



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

5 "Lottery worker" means any person who performs work  
6 directly related to the conduct of a lottery, including but not  
7 limited to ticket writing, winning number selection, winning  
8 number verification, prize payment to winners, record keeping,  
9 and security.

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

15 "Multi-state lottery" means a lottery for which the  
16 participants may enter from a minimum of twenty-five different  
17 states of the United States.

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

21 (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 to prorate license fees on an  
6                   annual basis; provided that the department shall  
7                   establish by rule the conditions and circumstances  
8                   under which the 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



1           necessary to carry out its duties under this chapter;  
2           and

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

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

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

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





1 purpose of reconsidering the intended denial of the application.  
2 The date the notice is mailed shall be deemed to be the date of  
3 service of notice to the applicant.

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

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

17 § -5 **Contested case hearing; when; notice.** (a) Before  
18 the suspension, revocation, or cancellation of any license, or  
19 the levying of an administrative fine, the department shall set  
20 the matter for hearing. The suspension, revocation, or  
21 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  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

§ -11 Lottery operator; license; application. (a) No lottery operator shall conduct a lottery in this State without a license issued by the department; provided that the department shall license only one lottery operator to operate a multi-state lottery in this State.

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

(c) An application for a license to act as a lottery operator shall contain:

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

(d) Each application by any lottery operator shall include:

1           (1) The name, address, social security number, and date of  
2           birth of every individual who is the lottery operator,  
3           the sole proprietor, a partner, a member, or a  
4           corporate officer of the lottery operator, or a person  
5           or entity holding in the aggregate ten per cent or  
6           more of the debt or equity of the lottery operator, if  
7           a corporation;

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

11          (3) Any other information that the department deems  
12          necessary.

13          (e) The information required under this section shall be  
14 kept current. A lottery operator shall notify the department  
15 within thirty days of any changes in the information originally  
16 included in the application form.

17          (f) The department may prescribe a separate application  
18 form for renewal purposes.

19          § -12 Lottery operator license renewal; fees. (a) A  
20 license issued to a lottery operator shall expire on May 31 of  
21 every even-numbered year, or any other date that the department



1 may prescribe by rule, and may be renewed biennially.  
2 Applications for renewal of a lottery operator license shall be  
3 submitted to the department at least sixty days prior to the  
4 expiration date of the license.

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

7 § -13 Lottery workers; licenses; probationary; regular.

8 (a) No person shall act as a lottery worker unless the person  
9 has been issued a lottery worker license from the department.  
10 The application for a license shall be on a form prescribed by  
11 the department and shall include:

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

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

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

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



- 1           (A) Any felony within ten years preceding the date of
- 2           the application; or
- 3           (B) Any felony or misdemeanor involving fraud, theft,
- 4           or any gambling activity, wilful failure to make
- 5           required payments or reports, or filing false
- 6           reports to a governmental agency at any level;
- 7       (5) The date of signing and the signature of the
- 8           applicant, under penalty of perjury, verifying that
- 9           the information is true and accurate; and
- 10       (6) Any other information that the department deems
- 11           necessary.
- 12       (b) The applicant shall submit a completed application to
- 13       the lottery operator. Upon receipt of the completed
- 14       application, the lottery operator shall examine the application
- 15       and shall sign and file the application with the department.
- 16       (c) The department shall have the right to conduct an
- 17       investigation concerning the applicant as may be necessary or
- 18       appropriate to maintain the integrity of the lottery.
- 19       (d) The information required under this section shall be
- 20       kept current, and a new application shall be filed with the
- 21       department if any information on the application is no longer



1 accurate. A lottery operator shall notify the department if the  
2 person to whom the license was originally issued is no longer  
3 working for the lottery operator.

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

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

20 (g) If the department approves the license application  
21 during the probationary period, the applicant shall be granted a



1 regular lottery worker license. The license shall be valid to  
2 allow the person to perform work for the lottery operator or at  
3 an authorized sales outlet location, until such time that:

- 4 (1) The license is suspended, canceled, revoked, or denied  
5 by the department; or
- 6 (2) The license is invalidated upon notification by the  
7 lottery operator that the person to whom the license  
8 was originally issued is no longer working for the  
9 lottery operator.

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

12 (i) A license as a lottery worker shall be nontransferable  
13 and shall no longer be valid if the person is no longer employed  
14 as a lottery worker.

15 (j) A person holding a license as a lottery worker under  
16 this chapter shall not be connected with or interested in,  
17 directly or indirectly, any individual, sole proprietorship,  
18 partnership, limited liability company, corporation, or other  
19 party licensed as a distributor, manufacturer, or manufacturer-  
20 distributor.





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

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

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

9           § -14 **Manufacturer-distributor; license; fees.** (a) No  
10 individual, sole proprietorship, partnership, limited liability  
11 company, or corporation shall manufacture, sell, or distribute  
12 lottery equipment or supplies for use or play in this State  
13 without a license as a manufacturer-distributor issued by the  
14 department. A manufacturer-distributor who is licensed in  
15 another state in the United States shall be automatically  
16 eligible for a license under this chapter upon payment of the  
17 fee established in this section.

18           (b) The department shall charge a biennial license fee of  
19 \$1,525 for the issuance or renewal of a license as a  
20 manufacturer-distributor. The department shall remit the  
21 proceeds from the license fees to the director of finance for



1 deposit to the credit of the general fund. A license as a  
2 manufacturer-distributor shall be renewed biennially. The  
3 biennial expiration date shall be September 30 of every odd-  
4 numbered year or such other date that the department may  
5 prescribe by rule. An application for license renewal shall be  
6 submitted to the department at least forty-five days prior to  
7 the expiration date of the license.

8 (c) An applicant for issuance or renewal of a license as a  
9 manufacturer-distributor shall apply for the license on a form  
10 prescribed by the department. The application form shall  
11 include:

12 (1) The name and address of the applicant and the name and  
13 address of each of its separate locations  
14 manufacturing or distributing lottery equipment or  
15 lottery supplies;

16 (2) The name and home address of all owners or members of  
17 the manufacturer-distributor business if the business  
18 is not a corporation. If the business is a  
19 corporation, the name and home address of each of the  
20 officers and directors of the corporation and of each



1 stockholder owning ten per cent or more of any class  
2 of stock in the corporation shall be supplied;

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

5 (4) If the applicant is a foreign manufacturer-  
6 distributor, the full name, business address, and home  
7 address of the local agent; and

8 (5) Any other information that the department deems  
9 necessary.

10 (d) The applicant shall notify the department within  
11 thirty days of any change in the information submitted on or  
12 with the application form. The applicant shall comply with all  
13 applicable laws of the United States and the State and all  
14 applicable rules of the department.

15 (e) The department shall determine which lottery equipment  
16 and lottery supplies shall be acquired only from manufacturers  
17 and distributors licensed by the department. Lottery equipment  
18 and lottery supplies deemed incidental or immaterial to the  
19 operation of the lottery may be acquired from other than from  
20 the licensed manufacturers or distributors.



1           §   -15 **Manufacturer-distributor; resident agent; when**  
2 **required.** (a) A licensed manufacturer-distributor selling  
3 lottery equipment or lottery supplies in this State that is not  
4 a resident of this State or is not a corporation, partnership,  
5 or limited liability company shall designate a natural person  
6 who is:

7           (1) A resident of this State; and

8           (2) At least nineteen years old,

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

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

15           §   -16 **Manufacturer-distributor; lottery supplies;**  
16 **approval required.** No licensed manufacturer-distributor shall  
17 offer or market any type of lottery supplies in this State for  
18 use in a lottery conducted in this State prior to receiving  
19 departmental approval. Approval by the department shall be  
20 based upon but not be limited to conformance with specifications



1 imposed by the department regarding the manufacture, assembly,  
2 and packaging of lottery supplies.

3       §   -17 **Manufacturer-distributor; lottery equipment;**  
4 **approval required; costs of examination.** (a) No licensed  
5 manufacturer-distributor shall offer or market any type of  
6 lottery equipment in this State for use in a lottery conducted  
7 in this State prior to receiving departmental approval.  
8 Approval by the department shall be based upon but not be  
9 limited to conformance with this chapter and any rules adopted  
10 thereunder.

11       (b) The department may require a licensed manufacturer-  
12 distributor seeking approval of any lottery equipment to pay the  
13 actual costs of the examination of the equipment by the  
14 department; provided that the costs shall be paid in advance by  
15 the licensed manufacturer-distributor.

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

19       §   -18 **Lottery supplies; requirements.** (a) All lottery  
20 supplies shall be constructed to conform in all respects to the  
21 requirements of this chapter and any rules adopted thereunder



1 relating to the manufacture, assembly, printing, and packaging  
2 of lottery supplies.

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

6 § -19 **Manufacturer-distributor; information**  
7 **requirements.** Each manufacturer-distributor shall maintain the  
8 following information:

- 9 (1) The name of each purchaser of lottery equipment or  
10 lottery supplies;
- 11 (2) Relative to each sale, the quantity and type of  
12 lottery equipment or lottery supplies sold; and
- 13 (3) Any other information concerning lottery equipment or  
14 lottery supplies sold which the department deems  
15 necessary.

16 The information shall be made available to the department upon  
17 request.

18 § -20 **Manufacturer-distributor; employee, agent, or**  
19 **spouse; restriction on activities.** (a) No licensed  
20 manufacturer-distributor shall hold or attempt to hold any other  
21 category of license provided under this chapter.



1 (b) No licensed manufacturer-distributor or employee,  
2 agent, or spouse of any manufacturer-distributor shall play the  
3 lottery or participate in the conduct or operation of the  
4 lottery authorized under this chapter.

5 § -21 **Manufacturer-distributor; lottery equipment or**  
6 **lottery supplies; sales and leases; restrictions.** (a) No

7 licensed manufacturer-distributor shall sell, lease, or  
8 otherwise provide any lottery equipment or lottery supplies to  
9 any person in the State except a licensed lottery operator, or  
10 another licensed manufacturer-distributor.

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

14 (c) Nothing in this section shall prohibit:

15 (1) A licensed lottery operator from moving lottery  
16 equipment to and from authorized sales outlet  
17 locations; or

18 (2) A lottery operator that has voluntarily canceled its  
19 license or allowed its license to lapse or that has  
20 had its license suspended, canceled, or revoked from  
21 selling or donating its lottery equipment to another



1 licensed lottery operator, if prior written approval  
2 has been obtained from the department.

3 § -22 **Manufacturer-distributor; records required.** Every  
4 licensed manufacturer-distributor shall keep and maintain a  
5 complete set of records that shall include all details of all  
6 activities of the licensee related to the conduct of the  
7 licensed activity as may be required by the department,  
8 including the total quantity and types of lottery equipment or  
9 lottery supplies sold to any licensed lottery operator, and to  
10 other licensed manufacturer-distributors. The records shall be  
11 available for inspection by the department and shall be  
12 maintained for a period of not less than three years from the  
13 date of the end of the licensee's fiscal year.

14 § -23 **Lottery operator; conflict of interest prohibited.**  
15 No sole proprietor, partner in a partnership, member in a  
16 limited liability company, officer or director of a corporation,  
17 or individual with a substantial interest in a sole  
18 proprietorship, partnership, limited liability company, or  
19 corporation applying for a lottery operator license or licensed  
20 as a lottery operator shall be connected with or interested in,  
21 directly or indirectly, any person, partnership, limited





1 liability company, firm, corporation, or other party licensed as  
2 a manufacturer-distributor under this chapter.

3 § -24 Sales outlet location; authorization. (a) A  
4 lottery operator shall obtain authorization from the department  
5 prior to conducting a lottery at a sales outlet location.  
6 Applications for authorization shall be on a form prescribed by  
7 the department, containing the information the department deems  
8 necessary. If the lottery operator is an individual, the  
9 application shall include the applicant's social security  
10 number.

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

14 § -25 Licensees; Uniform Unclaimed Property Act. The  
15 department and any lottery operated under its authority shall be  
16 exempt from the Uniform Unclaimed Property Act under part I of  
17 chapter 523A with respect to unclaimed lottery prizes.

18 PART III. CONDUCT OF THE LOTTERY

19 § -31 Participation; restrictions. (a) No person under  
20 nineteen years of age shall play or participate in any way in  
21 any lottery conducted pursuant to this chapter.



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

3 (1) A member of the governing board of the lottery  
4 operator or the immediate family of a member of the  
5 governing board of the lottery operator;

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

7 (3) An owner or officer of an authorized sales outlet  
8 location.

9 (c) No employee or agent of a lottery operator, or  
10 authorized sales outlet location shall play the lottery for  
11 which the employee or agent performs work during the time that  
12 the employee or agent is actually working at the lottery or  
13 while on duty.

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

18 § -32 No extension of credit. (a) No person or  
19 licensee, or any employee or agent thereof, accepting wagers on  
20 a lottery authorized under this chapter shall extend credit from



1 the gross proceeds of a lottery to participants in the lottery  
2 for the purchase of lottery tickets.

3 (b) No person shall purchase or be allowed to purchase any  
4 lottery ticket or make or be allowed to make any wager pursuant  
5 to this chapter unless the person pays for the ticket or wager  
6 with cash.

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

10 § -33 **Lottery ticket; requirements.** The lottery shall  
11 have its name clearly printed on each ticket used in the  
12 lottery. No ticket shall be sold unless the name of the lottery  
13 is printed on it.

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

15 § -41 **Gross proceeds; use; audit and legal expenses,**  
16 **defined.** (a) The gross proceeds of the lottery shall be used  
17 solely for community betterment purposes, awarding of prizes,  
18 and the payment of taxes and expenses.

19 (b) The lottery operator shall determine the percentage of  
20 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) Two per cent of the gross proceeds shall be used to  
4 pay the lottery tax.

5 (d) Of the first \$2,000,000 in gross proceeds, subsections  
6 (a) and (b) shall apply and the remaining gross proceeds shall  
7 be used by the lottery operator for the payment of expenses  
8 associated with the lottery.

9 (e) Of the gross proceeds in excess of \$2,000,000:

10 (1) Fourteen per cent of the gross proceeds shall be used  
11 to pay the expenses of operating the lottery, except  
12 that license fees paid to the department and audit or  
13 legal expenses that relate directly to the conduct of  
14 operating the lottery shall not be included in  
15 determining the fourteen per cent limitation on  
16 expenses; and

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

19 (f) The lottery operator shall be responsible for the  
20 payment of sales commissions to authorized sales outlet  
21 locations from its fourteen per cent of the gross proceeds. The



1 sales commissions to authorized sales outlet locations shall be  
2 an amount equal to four per cent of the gross proceeds of the  
3 lotteries being operated pursuant to this chapter.

4 (g) For purposes of this section, audit and legal expenses  
5 shall include all expenses relating to:

- 6 (1) The governmental organization of the lottery;
- 7 (2) Government maintenance, monitoring, and examination of  
8 lottery records; and
- 9 (3) Enforcement, regulatory, administrative,  
10 investigative, and litigation functions undertaken by  
11 government,

12 but shall not include the expenses of the actual conduct of the  
13 game.

14 § -42 Segregation of gross proceeds; use of interest;  
15 records; requirements. (a) The gross proceeds of any lottery,  
16 less the amount awarded in prizes and any salary, fee, or  
17 commission paid to a licensed lottery operator plus any interest  
18 on those funds, shall be segregated from any other revenue and  
19 placed in a separate account of the lottery operator. The  
20 proceeds, including any interest, shall be transferred from the  
21 lottery operator's separate account to a separate account of the



1 department. Any interest received by the department from the  
2 proceeds of the lottery shall be used solely for community  
3 betterment purposes.

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

14 § -43 **Lottery tax; collection.** The lottery operator  
15 shall submit to the department on a quarterly basis a tax of two  
16 per cent of the gross proceeds from its operations. The  
17 department shall remit the tax to the director of taxation for  
18 deposit to the credit of the general fund.

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



1           §   **-51 Licensing sanctions.** In addition to any other  
2 powers, duties, and functions, the department shall have the  
3 power to:

4           (1) Deny any license application or renewal application  
5               for cause; provided that no renewal of a license shall  
6               be issued if the applicant for renewal would be denied  
7               an application for a license;

8           (2) Revoke, cancel, or suspend any license for cause;

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

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

15           §   **-52 Grounds for licensing sanctions.** Grounds for  
16 denial of an application for a license, the nonrenewal of a  
17 license, or a revocation, cancellation, or suspension of a  
18 license shall include but not be limited to the following:

19           (1) Violating the provisions, requirements, conditions,  
20             limitations, or duties imposed under this chapter or  
21             any of the rules adopted thereunder;



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





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



1           for illegal gambling activities that occurred on or  
2           about a premises licensed thereby.

3           §   -53   **Injunctions; procedures.**   (a)   An order to cease  
4   and desist from violations of this chapter or any of the rules  
5   adopted thereunder shall contain reasonable notice of the rights  
6   of the licensee or other person to request a hearing and shall  
7   state the reason for the entry of the order.   The notice of  
8   order shall be mailed by certified mail to or personally served  
9   upon the licensee or other person.   If the notice of order is  
10   mailed by certified mail, the date the notice is mailed shall be  
11   deemed to be the date of service of notice to the licensee or  
12   other person.

13           (b)   A request for a hearing by the licensee or other  
14   person shall be in writing and shall be filed with the  
15   department within thirty days after the service of the cease and  
16   desist order.   If a request for hearing is not filed within the  
17   thirty-day period, the cease and desist order shall become  
18   permanent at the expiration of the thirty-day period.   A hearing  
19   shall be held no later than thirty days after the request for  
20   the hearing is received by the department, and within twenty  
21   days after the date of the hearing, the department shall issue



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

10 § -54 **Administrative fines; grounds; disposition.** (a)

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

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



1 circuit court of the county in which the violator resides or  
2 owns property.

3 § -55 Audits; lack of cooperation; court remedies. (a)

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

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

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

18 (b) If any person wilfully refuses to make documents  
19 available for examination by the department, or wilfully fails  
20 to attend and testify at a hearing, the department may apply to  
21 a judge of the circuit court of the county in which the person



1 resides for an order directing the person to comply with the  
2 department's request.

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

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

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

12 § -56 Attorney general; power to seize contraband;  
13 effect. (a) The attorney general may seize, without a warrant,  
14 the following contraband goods found anywhere in this State:

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

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



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

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

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

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

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



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

4           § -57 **Violations; penalties; enforcement; venue.** (a)  
5 Except when another penalty is specifically provided, any person  
6 or licensee, or employee or agent thereof, who knowingly or  
7 intentionally violates this chapter, or who causes, aids, abets,  
8 or conspires with another to cause any person or licensee or any  
9 employee or agent thereof to violate this chapter, shall be  
10 guilty of a misdemeanor for the first offense and a class C  
11 felony for any second or subsequent violation.

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

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

17           (1) Giving, providing, or offering to give or provide,  
18 directly or indirectly, to any public official,  
19 employee, or agent of this State or any agencies or  
20 political subdivisions of this State any compensation  
21 or reward or share of the money for property paid or





1 received through gambling activities regulated under  
2 this chapter in consideration for obtaining any  
3 license, authorization, permission, or privilege to  
4 participate in any gaming operations, except as  
5 authorized under this chapter or any rules adopted  
6 thereunder;

7 (2) Intentionally employing or possessing any device to  
8 facilitate cheating in any lottery or using any  
9 fraudulent scheme or technique in connection with any  
10 lottery when the amount gained or intended to be  
11 gained through the use of the device, scheme, or  
12 technique is \$300 or more;

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

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

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

20 **PART VI. MISCELLANEOUS**



1           §   -61 Relationship to other laws. Part III of chapter  
 2 712 shall not apply to the activities regulated under this  
 3 chapter. In case of a conflict between this chapter and part  
 4 III of chapter 712, this chapter shall govern."

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

8           ""Gambling". A person engages in gambling if [~~he~~] the  
 9 person stakes or risks something of value upon the outcome of a  
 10 contest of chance or a future contingent event not under [~~his~~]  
 11 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 does not include [~~bona~~]:

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

19           (2) Agreements to compensate for loss caused by the  
 20 happening of chance, including but not limited to



# S.B. NO. 2626

1           contracts of indemnity or guaranty and life, health,  
 2           or accident insurance~~[ ]~~; and

3           (3) The lottery conducted under chapter \_\_\_\_\_."

4           SECTION 3. This Act does not affect rights and duties that  
 5 matured, penalties that were incurred, and proceedings that were  
 6 begun before its effective date.

7           SECTION 4. Statutory material to be repealed is bracketed  
 8 and stricken. New statutory material is underscored.

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

10

INTRODUCED BY: Will Eyo



# S.B. NO. 2626

**Report Title:**

Lottery; DCCA

**Description:**

Authorizes DCCA to license a single lottery operator to operate a lottery in the State to serve community betterment purposes including addressing homelessness and healthcare issues, as well as funding public education needs in technology, professional development, and heat abatement. Requires the licensure of lottery workers and manufacturer-distributors of lottery equipment or supplies. Exempts the lottery from the definition of "gambling" in chapter 712, HRS.

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

