
A BILL FOR AN ACT

RELATING TO SPORTS WAGERING.

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 **REGULATION OF SPORTS WAGERING**

6 **§ -1 Definitions.** As used in this chapter:

7 "Adjusted gross sports wagering receipts" means a sports
8 wagering operator's gross receipts from sports wagering
9 excluding free bets and promotional credits, less the total of
10 all winnings paid to patrons, which includes the cash equivalent
11 of any merchandise or thing of value awarded as a prize, and
12 less excise tax payments remitted to the federal government.

13 "Collegiate sports" means an athletic or sporting event in
14 which at least one participant is a team or contestant competing
15 on behalf or under the sponsorship of a public or private
16 institution of higher education, regardless of where the
17 institution is located.



"Department" means the department of business, economic development, and tourism.

"License" means any license applied for or issued by the department under this chapter, including but not limited to:

(1) A mobile sports wagering license under section -5 to permit a mobile sports wagering operator to operate sports wagering through an approved mobile application or other digital platform that involves, at least in part, the use of the Internet; and

(2) A sports wagering supplier license under section -6 to sell goods and services to be used in connection with sports wagering but not to directly accept wagers.

"National criminal history background check system" means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification.

"Professional sports or athletic event" means an event at which two or more contestants participate in a sports event or athletic event and one or more participants receive compensation.



1 "Qualified gaming entity" means an entity that offers
2 sports wagering through computers, mobile applications, or
3 digital platforms in not less than three jurisdictions in the
4 United States pursuant to a state regulatory structure.

5 "Sports wagering" means the business of accepting wagers on
6 wagering events or portions of wagering events, the individual
7 performance statistics of individuals in wagering events, or a
8 combination of any of the same by any system or method of
9 wagering approved by the department via a mobile sports wagering
10 licensee's mobile applications and digital platforms that use
11 communications technology to accept wagers. "Sports wagering"
12 includes but is not limited to single-game bets, teaser bets,
13 parlays, over-under, moneyline, pools, exchange wagering, in-
14 game wagering, in-play bets, proposition bets, and straight
15 bets. "Sports wagering" does not include fantasy contests in
16 which the winning outcome reflects the relative knowledge and
17 skill of the participants and is determined predominantly by the
18 accumulated statistical results of the performance of athletes
19 or individuals in an actual event.

20 "Sports wagering account" means a financial record
21 established by a sports wagering operator for an individual



1 patron in which the patron may deposit and withdraw funds for
2 sports wagering and other authorized purchases and to which the
3 licensed sports wagering operator may credit winnings or other
4 amounts due to that patron or authorized by that patron. A
5 sports wagering account may be established electronically
6 through an approved mobile application or digital platform.

7 "Sports wagering operator" means a mobile sports wagering
8 licensee pursuant to section -5.

9 "Sports wagering supplier" means a person that provides
10 critical services to a sports betting operator; provided that
11 critical services shall be deemed to be geolocation and know
12 your customer services.

13 "Wager" means a sum of money or thing of value risked on an
14 uncertain occurrence.

15 "Wagering event" means any professional sports or athletic
16 event, collegiate sports or athletic event, or amateur sports or
17 athletic event, including but not limited to an Olympic or
18 international sports or athletic event; a motor vehicle race;
19 electronic sports event, also known as e-sports; and any other
20 event as permitted by the department.



§ -2 Authorization of sports wagering; license required.

(a) Notwithstanding any law to the contrary, the operation of sports wagering and ancillary activities shall be lawful when conducted in accordance with this chapter and the rules adopted under this chapter.

(b) A person or entity shall not engage in any activities in the State that require a license under this chapter unless all necessary licenses have been obtained in accordance with this chapter and rules adopted under this chapter.

§ -3 Application; criminal history background check.

(a) An application for a license or for renewal of a license required under this chapter shall be submitted on an application form as prescribed by the department. An application submitted to the department shall include the following:

- (1) The full name, current address, and contact information of the applicant;
- (2) Disclosure of each person that has control of the applicant as described in subsection (b);
- (3) Consent to permit the department to conduct a criminal history record check in accordance with subsection (c) of the applicant and each person disclosed under



subsection (b) (2) in accordance with procedures
established by the department;

(4) For the applicant and each person disclosed under
subsection (b) (2), a record of previous issuances and
denials of a gambling-related license or application
in the State or in any other jurisdiction;

(5) For a sports wagering operator applicant, proof that
the sports wagering system has been tested and
certified for use in another United States
jurisdiction by an independent testing laboratory; and

(6) Any other information that the department may require
by rule.

(b) The following persons shall be considered to have
control of an applicant or a licensee:

(1) Each corporate holding company, parent company, or
subsidiary company of a corporate applicant or
licensee and each person who owns fifteen per cent or
more of the corporate applicant or licensee and who
has the ability to control the activities of the
corporate applicant or licensee or elect a majority of
the board of directors of that corporate applicant or



1 licensee, except for a bank or other licensed lending
2 institution that holds a mortgage or other lien
3 acquired in the ordinary course of business;
4 (2) Each person associated with a noncorporate applicant
5 or licensee that directly or indirectly holds a
6 beneficial or proprietary interest in the noncorporate
7 applicant's or licensee's business operation or that
8 the department otherwise determines has the ability to
9 control the noncorporate applicant or licensee; and
10 (3) Any executive, employee, or agent of an applicant or
11 licensee who has ultimate decision-making authority
12 over the conduct of the applicant's or licensee's
13 sports wagering operations in the State.
14 (c) The department shall request a criminal history record
15 check in the form the department requires and submit
16 fingerprints for a national criminal records check against the
17 national criminal history background check system. The
18 fingerprints shall be furnished by all persons required to be
19 named in the application and shall be accompanied by a signed
20 authorization for the release of information by a law
21 enforcement agency in the State and the Federal Bureau of



1 Investigation; provided that an individual who has submitted to
2 a criminal history record check in the State or any other state
3 within the previous twelve months shall not be required to
4 submit to another criminal history record check; provided
5 further that the person shall submit the results of such
6 previous criminal history record check and affirm that there has
7 been no material change in the individual's criminal history
8 since the time of the previous criminal history record check.

9 (d) A person licensed under this chapter shall give the
10 department written notice within thirty days of any material
11 change to any information provided in the licensee's application
12 for a license or renewal, including any change in the identity
13 of persons considered to have control of the licensee under
14 subsection (b).

15 (e) The department shall keep all information, records,
16 interviews, reports, statements, memoranda, or other data
17 supplied to or used by the department in the course of its
18 review or investigation of an applicant for an operator license
19 confidential. The department shall also keep confidential any
20 trade secret, proprietary information, confidential commercial



1 information, or confidential financial information pertaining to
2 any applicant or licensee.

3 **§ -4 Denial of license; reprimand, suspension, and**
4 **revocation.** The department may deny a license to any applicant,
5 reprimand any licensee, or suspend or revoke a license if:

6 (1) The applicant or licensee has knowingly made a false
7 statement of material fact to the department;

8 (2) The applicant or licensee has intentionally not
9 disclosed the existence or identity of other persons
10 that have control of the applicant or licensee as
11 required by section -3;

12 (3) The applicant or licensee has had a license revoked by
13 any government authority responsible for regulation of
14 gaming activities;

15 (4) The applicant has been convicted of a crime of moral
16 turpitude, gambling-related offense, theft or fraud
17 offense, or has otherwise demonstrated, either by a
18 police record or other satisfactory evidence, a lack
19 of respect for law and order;

20 (5) The applicant or licensee has not demonstrated to the
21 satisfaction of the department financial



1 responsibility sufficient to adequately meet the
2 requirements of the licensed business or proposed
3 business; or

4 (6) An applicant has not met the requirements of this
5 section or any other provision of this chapter.

6 **§ -5 Mobile sports wagering operator license; issuance;**
7 **fees; term of license; temporary license.** (a) The department
8 shall issue a mobile sports wagering operator license to an
9 applicant that meets all requirements of this section, section
10 -3, and rules adopted under this chapter and that has not
11 violated any portion of this chapter; provided that this section
12 shall not be interpreted to direct the department to license an
13 unqualified applicant. The department shall establish a process
14 that ensures an equal opportunity for mobile sports wagering
15 operators that submitted an application within thirty days of
16 applications first being accepted by the department to first
17 commence offering, conducting, and operating interactive sports
18 wagering on the same day.

19 (b) Only a qualified gaming entity shall be eligible to
20 apply for a mobile sports wagering license.



1 (c) A mobile sports wagering operator license granted by
2 the department pursuant to this section shall grant a licensee
3 the lawful authority to conduct sports wagering through a mobile
4 application or digital platform approved by the department and
5 any rules adopted under this chapter.

6 (d) The fee for an initial or renewal mobile sports
7 wagering license shall be \$50,000; provided that the fee shall
8 be retained by the department for the costs of administering
9 this chapter. In addition to the license fee, the department
10 may charge a processing fee for an initial or renewal mobile
11 sports wagering license in an amount equal to the projected cost
12 of processing the application and performing any background
13 investigations. If the actual cost exceeds the projected cost,
14 an additional fee may be charged to meet the actual cost;
15 provided that if the projected cost exceeds the actual cost, the
16 difference may be refunded to the applicant or licensee.

17 (e) Except as provided in subsection (f), a license
18 granted or renewed under this section shall be valid for three
19 years, unless sooner revoked by the department pursuant to
20 section -4.



1 (f) An applicant for a mobile sports wagering operator
2 license may submit with the application a request to the
3 department for the immediate commencement of sports wagering
4 operations; provided that this request shall include the initial
5 license fee of \$50,000 payable to the department. Upon
6 receiving a request for a temporary license, the department
7 shall review the request. If the department determines that the
8 entity requesting the temporary license is a qualified gaming
9 entity, has paid the initial license fee, and has submitted an
10 application for a mobile sports wagering license, the department
11 shall authorize the qualified gaming entity to conduct sports
12 wagering for three years under a temporary license or until a
13 final determination on the sports wagering operator's license
14 application is made. Sports wagering conducted under authority
15 of a temporary license shall comply with the sports wagering
16 operator's house rules adopted pursuant to section -7. The
17 department shall establish a process that ensures an equal
18 opportunity for all temporary licensees that submitted an
19 application within thirty days of applications first being
20 accepted by the department to commence offering, conducting, and
21 operating interactive sports wagering on the same day, which may



1 be in advance of the date established for licensees that are not
2 eligible for a temporary license.

3 **§ -6 Sports wagering supplier license; issuance; fees;**
4 **term of license; temporary license.** (a) The department shall
5 issue a sports wagering supplier license upon finding that the
6 applicant meets all requirements of this section, section -3,
7 and rules adopted under this chapter.

8 (b) An applicant for a sports wagering supplier license
9 shall demonstrate that the equipment, systems, or services that
10 the applicant plans to offer to a sports wagering operator
11 conform to standards established by the department by rule. The
12 department may accept approval by another jurisdiction that is
13 specifically determined by the department to have similar
14 equipment standards as evidence the applicant meets the
15 standards established by the department.

16 (c) A sports wagering supplier license granted by the
17 department pursuant to this section shall grant a licensee
18 lawful authority to sell or lease sports wagering equipment,
19 systems, or services to sports wagering operators in the State
20 within the terms and conditions of the license and any rules
21 adopted under this chapter.



1 (d) The fee for an initial or renewal sports wagering
2 supplier license shall be \$5,000; provided that the fee shall be
3 retained by the department for the costs of administering this
4 chapter. In addition to the license fee, the department may
5 charge a processing fee for an initial or renewed license in an
6 amount equal to the projected cost of processing the application
7 and performing any background investigations. If the actual
8 cost exceeds the projected cost, an additional fee may be
9 charged to meet the actual cost; provided that if the projected
10 cost exceeds the actual cost, the difference may be refunded to
11 the applicant or licensee.

12 (e) Except as provided in subsection (f), a license
13 granted or renewed under this section shall be valid for three
14 years unless sooner revoked by the department under section
15 -4.

16 (f) An applicant for a sports wagering supplier license
17 may submit with the application a request for a temporary
18 license; provided that the request for a temporary license shall
19 include the initial license fee of \$5,000. If the department
20 determines that the applicant is qualified under subsection (b),
21 meets the requirements established by rule for a temporary



1 license, and has paid the initial license fee and the department
2 is not aware of any reason the applicant is ineligible for a
3 license under this section, the department shall issue a
4 temporary sports wagering supplier license. A temporary sports
5 wagering supplier license issued under this subsection shall be
6 valid for three years or until a final determination on the
7 sports wagering supplier license application is made, whichever
8 is sooner. If after investigation the department determines
9 that the applicant is eligible for a sports wagering supplier
10 license under this chapter, the department shall issue the
11 initial sports wagering supplier license, at which time the
12 temporary license shall be terminated.

13 **§ -7 Sports wagering; house rules.** (a) A sports
14 wagering operator shall adopt comprehensive house rules for game
15 play governing sports wagering transactions with its patrons.
16 The rules shall specify the amounts to be paid on winning
17 wagers, the circumstances under which the sports wagering
18 operator will void a bet, treatment of errors, late bets and
19 related contingencies, and the effect of schedule changes. The
20 department shall approve house rules prior to implementation by
21 a sports wagering operator.



1 (b) The house rules, together with any other information
2 the department determines to be appropriate, shall be available
3 in the sports wagering system.

4 **§ -8 Sports wagering operator; duties.** A sports
5 wagering operator shall:

6 (1) Employ a monitoring system using software to identify
7 irregularities in volume or odds swings that could
8 signal suspicious activity that requires further
9 investigation; provided that such activity shall be
10 promptly reported to and investigated by the
11 department; provided further that system requirements
12 and specifications shall be in accordance with
13 industry standards;

14 (2) Promptly report to the department any facts or
15 circumstances related to the operation of a licensee
16 that constitute a violation of state or federal law
17 and immediately report any suspicious betting over a
18 threshold set by the operator that has been approved
19 by the department;

20 (3) Conduct all sports wagering activities and functions
21 in a manner that does not pose a threat to the public



- 1 health, safety, or welfare of the residents of the
2 State;
- 3 (4) Keep current in all payments and obligations to the
4 department;
- 5 (5) Prevent any person from tampering with or interfering
6 with the operation of any sports wagering;
- 7 (6) Ensure that sports wagering occurs using only a mobile
8 application or digital platform approved by the
9 department that uses communications technology to
10 accept wagers originating in the State or in a state
11 or jurisdiction approved by the department and
12 consistent with federal law;
- 13 (7) Maintain sufficient cash and other supplies to conduct
14 sports wagering at all times;
- 15 (8) Maintain daily records showing the gross sports
16 wagering receipts and adjusted gross sports wagering
17 receipts of the licensee; and
- 18 (9) Timely file with the department any additional reports
19 required by this chapter or by rule adopted under this
20 chapter.



1 **§ -9 Sports wagering agreements.** (a) The department
2 shall be authorized to:

3 (1) Enter into sports wagering agreements with other
4 states, territories, nations, jurisdictions,
5 governments, or other entities to accept wagers from
6 individuals located outside the State; provided that
7 entering into the sports wagering agreement shall not
8 violate state or federal law; and

9 (2) Take all necessary actions to ensure that any sports
10 wagering agreement entered into pursuant to this
11 section becomes effective.

12 (b) The department may adopt rules to implement this
13 section.

14 **§ -10 Acceptance of wagers; excluded persons.** (a) A
15 sports wagering operator shall accept wagers on sports events by
16 means of electronic devices using a mobile application or
17 digital platform approved by the department. A person placing a
18 wager shall be eighteen years of age or older and be physically
19 located in the State. No person shall offer sports wagering at
20 a physical location via kiosks, computer terminals, or other
21 means established for that purpose.



(b) A sports wagering operator shall allow patrons to fund a sports wagering account using:

(1) A credit or debit card;

(2) Bonuses or promotions;

(3) Electronic bank transfer;

(4) An online or mobile payment system that supports online money transfers; and

(5) Any other means approved by the department.

(c) A sports wagering operator may accept wagers from a patron physically located in the State through the patron's sports wagering account, using a mobile application or digital platform approved by the department. The branding for each mobile application or digital platform shall be determined by the sports wagering operator.

(d) A sports wagering operator may accept layoff wagers placed by other sports wagering operators and may place layoff wagers with other sports wagering operators as long as a sports wagering operator that places a wager with another sports wagering operator informs the sports wagering operator accepting the wager that the wager is being placed by a sports wagering operator and discloses the wagering operator's identity.



1 (e) The department or a sports wagering operator may ban a
2 person from participating in the play or operation of sports
3 wagering. A log of all excluded persons shall be kept by the
4 department and shared with each sports wagering operator. A
5 person on the department's exclusion list or a sports wagering
6 operator's exclusion list shall not engage in sports wagering
7 under this chapter.

8 (f) An employee of a sports wagering operator shall not
9 place a wager on any wagering event through a mobile application
10 or digital platform of that employee's employer.

11 § -11 **Sports wagering revenues; tax.** For the privilege
12 of holding a license to operate sports wagering under this
13 chapter, a tax of ten per cent of the licensee's adjusted gross
14 sports wagering receipts shall be levied on the licensee. The
15 accrual method of accounting shall be used for purposes of
16 calculating the amount of the tax owed by the licensee.

17 § -12 **Civil violation.** Except as provided in section
18 -13, a person that violates the provisions of this chapter
19 commits a civil violation for which the department may impose a
20 fine of not more than \$1,000 for each violation, or \$10,000 for
21 a series of violations arising from the same occurrence or



1 event. The department may impose a fine on any person who
2 violates this chapter and shall not be limited to persons
3 licensed under this chapter.

4 **§ -13 Civil violation; subsequent violations.** (a) A
5 person, other than a licensee under this chapter, who conducts
6 sports wagering shall be subject to a fine of not more than
7 \$10,000 and a term of imprisonment of not more than ninety days.

8 (b) A person convicted of a second violation or subsequent
9 violation of subsection (a) shall be subject to a fine of not
10 more than \$50,000 and a term of imprisonment of not more than
11 six months.

12 (c) A person convicted of a third or subsequent violation
13 of subsection (a) shall be subject to a fine of not less than
14 \$25,000 and not more than \$100,000 and a term of imprisonment of
15 not less than one year and not more than five years.

16 **§ -14 Exemption from gambling.** Sports wagering operated
17 by a sports wagering operator that is licensed under this
18 chapter shall be exempt from part III of chapter 712, Hawaii
19 Revised Statutes."

20 SECTION 2. Section 237-13, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§237-13 Imposition of tax.** There is hereby levied and
2 shall be assessed and collected annually privilege taxes against
3 persons on account of their business and other activities in the
4 State measured by the application of rates against values of
5 products, gross proceeds of sales, or gross income, whichever is
6 specified, as follows:

7 (1) Tax on manufacturers.

8 (A) Upon every person engaging or continuing within
9 the State in the business of manufacturing,
10 including compounding, canning, preserving,
11 packing, printing, publishing, milling,
12 processing, refining, or preparing for sale,
13 profit, or commercial use, either directly or
14 through the activity of others, in whole or in
15 part, any article or articles, substance or
16 substances, commodity or commodities, the amount
17 of the tax to be equal to the value of the
18 articles, substances, or commodities,
19 manufactured, compounded, canned, preserved,
20 packed, printed, milled, processed, refined, or
21 prepared for sale, as shown by the gross proceeds



1 derived from the sale thereof by the manufacturer
2 or person compounding, preparing, or printing
3 them, multiplied by one-half of one per cent.
4 (B) The measure of the tax on manufacturers is the
5 value of the entire product for sale.
6 (2) Tax on business of selling tangible personal property;
7 producing.
8 (A) Upon every person engaging or continuing in the
9 business of selling any tangible personal
10 property whatsoever, there is likewise hereby
11 levied, and shall be assessed and collected, a
12 tax equivalent to four per cent of the gross
13 proceeds of sales of the business; provided that,
14 in the case of a wholesaler, the tax shall be
15 equal to one-half of one per cent of the gross
16 proceeds of sales of the business; and provided
17 further that insofar as the sale of tangible
18 personal property is a wholesale sale under
19 section 237-4(a)(8), the tax shall be one-half of
20 one per cent of the gross proceeds. Upon every
21 person engaging or continuing within this State



1 in the business of a producer, the tax shall be
2 equal to one-half of one per cent of the gross
3 proceeds of sales of the business, or the value
4 of the products, for sale.

5 (B) Gross proceeds of sales of tangible property in
6 interstate and foreign commerce shall constitute
7 a part of the measure of the tax imposed on
8 persons in the business of selling tangible
9 personal property, to the extent, under the
10 conditions, and in accordance with the provisions
11 of the Constitution of the United States and the
12 Acts of the Congress of the United States which
13 may be now in force or may be hereafter adopted,
14 and whenever there occurs in the State an
15 activity to which, under the Constitution and
16 Acts of Congress, there may be attributed gross
17 proceeds of sales, the gross proceeds shall be so
18 attributed.

19 (C) No manufacturer or producer, engaged in such
20 business in the State and selling the
21 manufacturer's or producer's products for



1 delivery outside of the State (for example,
2 consigned to a mainland purchaser via common
3 carrier f.o.b. Honolulu), shall be required to
4 pay the tax imposed in this chapter for the
5 privilege of so selling the products, and the
6 value or gross proceeds of sales of the products
7 shall be included only in determining the measure
8 of the tax imposed upon the manufacturer or
9 producer.

10 (D) A manufacturer or producer, engaged in such
11 business in the State, shall pay the tax imposed
12 in this chapter for the privilege of selling its
13 products in the State, and the value or gross
14 proceeds of sales of the products, thus subjected
15 to tax, may be deducted insofar as duplicated as
16 to the same products by the measure of the tax
17 upon the manufacturer or producer for the
18 privilege of manufacturing or producing in the
19 State; provided that no producer of agricultural
20 products who sells the products to a purchaser
21 who will process the products outside the State



1 shall be required to pay the tax imposed in this
2 chapter for the privilege of producing or selling
3 those products.

4 (E) A taxpayer selling to a federal cost-plus
5 contractor may make the election provided for by
6 paragraph (3) (C), and in that case the tax shall
7 be computed pursuant to the election,
8 notwithstanding this paragraph or paragraph (1)
9 to the contrary.

10 (F) The department, by rule, may require that a
11 seller take from the purchaser of tangible
12 personal property a certificate, in a form
13 prescribed by the department, certifying that the
14 sale is a sale at wholesale; provided that:

15 (i) Any purchaser who furnishes a certificate
16 shall be obligated to pay to the seller,
17 upon demand, the amount of the additional
18 tax that is imposed upon the seller whenever
19 the sale in fact is not at wholesale; and

20 (ii) The absence of a certificate in itself shall
21 give rise to the presumption that the sale



1 is not at wholesale unless the sales of the
2 business are exclusively at wholesale.

3 (3) Tax upon contractors.

4 (A) Upon every person engaging or continuing within
5 the State in the business of contracting, the tax
6 shall be equal to four per cent of the gross
7 income of the business.

8 (B) In computing the tax levied under this paragraph,
9 there shall be deducted from the gross income of
10 the taxpayer so much thereof as has been included
11 in the measure of the tax levied under
12 subparagraph (A), on another taxpayer who is a
13 contractor, as defined in section 237-6; provided
14 that any person claiming a deduction under this
15 paragraph shall be required to show in the
16 person's return the name and general excise
17 number of the person paying the tax on the amount
18 deducted by the person.

19 (C) In computing the tax levied under this paragraph
20 against any federal cost-plus contractor, there
21 shall be excluded from the gross income of the



contractor so much thereof as fulfills the following requirements:

(i) The gross income exempted shall constitute reimbursement of costs incurred for materials, plant, or equipment purchased from a taxpayer licensed under this chapter, not exceeding the gross proceeds of sale of the taxpayer on account of the transaction; and

(ii) The taxpayer making the sale shall have certified to the department that the taxpayer is taxable with respect to the gross proceeds of the sale, and that the taxpayer elects to have the tax on gross income computed the same as upon a sale to the state government.

(D) A person who, as a business or as a part of a business in which the person is engaged, erects, constructs, or improves any building or structure, of any kind or description, or makes, constructs, or improves any road, street,



1 sidewalk, sewer, or water system, or other
2 improvements on land held by the person (whether
3 held as a leasehold, fee simple, or otherwise),
4 upon the sale or other disposition of the land or
5 improvements, even if the work was not done
6 pursuant to a contract, shall be liable to the
7 same tax as if engaged in the business of
8 contracting, unless the person shows that at the
9 time the person was engaged in making the
10 improvements the person intended, and for the
11 period of at least one year after completion of
12 the building, structure, or other improvements
13 the person continued to intend to hold and not
14 sell or otherwise dispose of the land or
15 improvements. The tax in respect of the
16 improvements shall be measured by the amount of
17 the proceeds of the sale or other disposition
18 that is attributable to the erection,
19 construction, or improvement of such building or
20 structure, or the making, constructing, or
21 improving of the road, street, sidewalk, sewer,



1 or water system, or other improvements. The
2 measure of tax in respect of the improvements
3 shall not exceed the amount which would have been
4 taxable had the work been performed by another,
5 subject as in other cases to the deductions
6 allowed by subparagraph (B). Upon the election
7 of the taxpayer, this paragraph may be applied
8 notwithstanding that the improvements were not
9 made by the taxpayer, or were not made as a
10 business or as a part of a business, or were made
11 with the intention of holding the same. However,
12 this paragraph shall not apply in respect of any
13 proceeds that constitute or are in the nature of
14 rent, which shall be taxable under paragraph (9);
15 provided that insofar as the business of renting
16 or leasing real property under a lease is taxed
17 under section 237-16.5, the tax shall be levied
18 by section 237-16.5.

19 (4) Tax upon theaters, amusements, radio broadcasting
20 stations, etc.



1 (A) Upon every person engaging or continuing within
2 the State in the business of operating a theater,
3 opera house, moving picture show, vaudeville,
4 amusement park, dance hall, skating rink, radio
5 broadcasting station, or any other place at which
6 amusements are offered to the public, the tax
7 shall be equal to four per cent of the gross
8 income of the business, and in the case of a sale
9 of an amusement at wholesale under section 237-
10 4(a)(13), the tax shall be one-half of one per
11 cent of the gross income.

12 (B) The department may require that the person
13 rendering an amusement at wholesale take from the
14 licensed seller a certificate, in a form
15 prescribed by the department, certifying that the
16 sale is a sale at wholesale; provided that:

17 (i) Any licensed seller who furnishes a
18 certificate shall be obligated to pay to the
19 person rendering the amusement, upon demand,
20 the amount of additional tax that is imposed



upon the seller whenever the sale is not at
wholesale; and

(ii) The absence of a certificate in itself shall
give rise to the presumption that the sale
is not at wholesale unless the person
rendering the sale is exclusively rendering
the amusement at wholesale.

(5) Tax upon sales representatives, etc. Upon every
person classified as a representative or purchasing
agent under section 237-1, engaging or continuing
within the State in the business of performing
services for another, other than as an employee, there
is likewise hereby levied and shall be assessed and
collected a tax equal to four per cent of the
commissions and other compensation attributable to the
services so rendered by the person.

(6) Tax on service business.

(A) Upon every person engaging or continuing within
the State in any service business or calling
including professional services not otherwise
specifically taxed under this chapter, there is



1 likewise hereby levied and shall be assessed and
2 collected a tax equal to four per cent of the
3 gross income of the business, and in the case of
4 a wholesaler under section 237-4(a)(10), the tax
5 shall be equal to one-half of one per cent of the
6 gross income of the business.

7 (B) The department may require that the person
8 rendering a service at wholesale take from the
9 licensed seller a certificate, in a form
10 prescribed by the department, certifying that the
11 sale is a sale at wholesale; provided that:

12 (i) Any licensed seller who furnishes a
13 certificate shall be obligated to pay to the
14 person rendering the service, upon demand,
15 the amount of additional tax that is imposed
16 upon the seller whenever the sale is not at
17 wholesale; and

18 (ii) The absence of a certificate in itself shall
19 give rise to the presumption that the sale
20 is not at wholesale unless the person



1 rendering the sale is exclusively rendering
2 services at wholesale.

3 (C) Where any person is engaged in the business of
4 selling interstate or foreign common carrier
5 telecommunication services within and without the
6 State, other than as a home service provider, the
7 tax shall be imposed on that portion of gross
8 income received by a person from service which is
9 originated or terminated in this State and is
10 charged to a telephone number, customer, or
11 account in this State notwithstanding any other
12 state law (except for the exemption under section
13 237-23(a)(1)) to the contrary. If, under the
14 Constitution and laws of the United States, the
15 entire gross income as determined under this
16 paragraph of a business selling interstate or
17 foreign common carrier telecommunication services
18 cannot be included in the measure of the tax, the
19 gross income shall be apportioned as provided in
20 section 237-21; provided that the apportionment



1 factor and formula shall be the same for all
2 persons providing those services in the State.

3 (D) Where any person is engaged in the business of a
4 home service provider, the tax shall be imposed
5 on the gross income received or derived from
6 providing interstate or foreign mobile
7 telecommunications services to a customer with a
8 place of primary use in this State when the
9 services originate in one state and terminate in
10 another state, territory, or foreign country;
11 provided that all charges for mobile
12 telecommunications services which are billed by
13 or for the home service provider are deemed to be
14 provided by the home service provider at the
15 customer's place of primary use, regardless of
16 where the mobile telecommunications originate,
17 terminate, or pass through; provided further that
18 the income from charges specifically derived from
19 interstate or foreign mobile telecommunications
20 services, as determined by books and records that
21 are kept in the regular course of business by the



1 home service provider in accordance with section
2 239-24, shall be apportioned under any
3 apportionment factor or formula adopted under
4 subparagraph (C). Gross income shall not
5 include:

6 (i) Gross receipts from mobile
7 telecommunications services provided to a
8 customer with a place of primary use outside
9 this State;

10 (ii) Gross receipts from mobile
11 telecommunications services that are subject
12 to the tax imposed by chapter 239;

13 (iii) Gross receipts from mobile
14 telecommunications services taxed under
15 section 237-13.8; and

16 (iv) Gross receipts of a home service provider
17 acting as a serving carrier providing mobile
18 telecommunications services to another home
19 service provider's customer.

20 For the purposes of this paragraph, "charges for
21 mobile telecommunications services", "customer",



1 "home service provider", "mobile
2 telecommunications services", "place of primary
3 use", and "serving carrier" have the same meaning
4 as in section 239-22.

5 (7) Tax on insurance producers. Upon every person engaged
6 as a licensed producer pursuant to chapter 431, there
7 is hereby levied and shall be assessed and collected a
8 tax equal to 0.15 per cent of the commissions due to
9 that activity.

10 (8) Tax on receipts of sugar benefit payments. Upon the
11 amounts received from the United States government by
12 any producer of sugar (or the producer's legal
13 representative or heirs), as defined under and by
14 virtue of the Sugar Act of 1948, as amended, or other
15 Acts of the Congress of the United States relating
16 thereto, there is hereby levied a tax of one-half of
17 one per cent of the gross amount received; provided
18 that the tax levied hereunder on any amount so
19 received and actually disbursed to another by a
20 producer in the form of a benefit payment shall be
21 paid by the person or persons to whom the amount is



1 actually disbursed, and the producer actually making a
2 benefit payment to another shall be entitled to claim
3 on the producer's return a deduction from the gross
4 amount taxable hereunder in the sum of the amount so
5 disbursed. The amounts taxed under this paragraph
6 shall not be taxable under any other paragraph,
7 subsection, or section of this chapter.

8 (9) Tax on licensed sports wagering. Upon every person
9 engaged in sports wagering as a licensed sports
10 wagering operator or sports wagering supplier in the
11 State pursuant to chapter , there is hereby levied
12 and shall be assessed and collected a tax equal to ten
13 per cent of the adjusted gross sports wagering
14 receipts. For purposes of this paragraph "adjusted
15 gross sports wagering receipts" shall have the same
16 meaning as in section -1.

17 [~~9~~] (10) Tax on other business. Upon every person
18 engaging or continuing within the State in any
19 business, trade, activity, occupation, or calling not
20 included in the preceding paragraphs or any other
21 provisions of this chapter, there is likewise hereby



1 levied and shall be assessed and collected, a tax
2 equal to four per cent of the gross income thereof.
3 In addition, the rate prescribed by this paragraph
4 shall apply to a business taxable under one or more of
5 the preceding paragraphs or other provisions of this
6 chapter, as to any gross income thereof not taxed
7 thereunder as gross income or gross proceeds of sales
8 or by taxing an equivalent value of products, unless
9 specifically exempted."

10 SECTION 3. Section 712-1220, Hawaii Revised Statutes, is
11 amended by amending the definitions of "contest of chance" and
12 "gambling" to read as follows:

13 "Contest of chance" means any contest, game, gaming
14 scheme, or gaming device in which the outcome depends in a
15 material degree upon an element of chance, notwithstanding that
16 skill of the contestants may also be a factor therein. "Contest
17 of chance" does not include sports wagering pursuant to
18 chapter _____.

19 "Gambling" [~~— A person engages in gambling if he stakes or~~
20 ~~risks~~] means staking or risking something of value upon the
21 outcome of a contest of chance or a future contingent event not



1 under ~~[his]~~ a person's control or influence, upon an agreement
2 or understanding that ~~[he]~~ the person or someone else will
3 receive something of value in the event of a certain outcome.

4 ~~[Gambling]~~ "Gambling" does not include ~~[bona]~~:

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

13 (c) Sports wagering activities authorized pursuant to
14 chapter _____."

15 SECTION 4. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 5. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 6. This Act shall take effect on July 1, 2022.

21



H.B. NO. 1973

INTRODUCED BY:

Al Tol

JAN 24 2022



H.B. NO. 1973

Report Title:

Sports Wagering; Sports Wagering Operators; Sports Wagering Suppliers; License

Description:

Allows for the regulation of sports wagering by the department of business, economic development, and tourism. Establishes licensing requirements for sports wagering operators and sports wagering suppliers. Specifies that sports wagering shall not be considered games of chance or gambling.

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