
A BILL FOR AN ACT

RELATING TO GAMING.

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

1 SECTION 1. The legislature finds that authorizing a single
2 facility for poker and sportsbook betting will not only provide
3 visitors with memorable nighttime activities but will also
4 stimulate the economy by creating hundreds of jobs and
5 generating millions of dollars in revenue for the State. By
6 comparison, other forms of gaming, such as lotteries, internet
7 gambling, and non-casino electronic gambling, create few quality
8 jobs and do not generate significant economic development in the
9 State. Polls have shown that more than seventy per cent of
10 Japanese, Chinese, and Korean visitors approve of a gambling
11 facility.

12 Other locations have found success with legalizing
13 gambling. Within one year of the first casino opening in
14 Singapore in 2010, tourism hit record levels and Singapore's
15 gaming market reached an estimated \$2,800,000,000.
16 Jurisdictions that have allowed casino gambling have not
17 experienced a predicted increase in crime following the opening



1 of casinos. Two decades after Connecticut opened casinos, the
2 communities around the casinos have not experienced an increase
3 in crime and found that crime decreased compared to the time
4 period before the casinos opened.

5 The legislature believes that allowing only hotel patrons
6 to access the gaming facility will help to reduce the potential
7 negative impacts of gambling on Hawaii residents, while creating
8 high-paying jobs within the casino.

9 The legislature further rejects any argument that other
10 entities may open a gaming casino in Hawaii pursuant to the
11 Indian Gaming Regulatory Act, which authorized the establishment
12 of hundreds of Native American gaming operations in other
13 states. According to the National Indian Gaming Association,
14 because there are no federally-recognized Native American
15 nations indigenous to Hawaii, a Native American gaming operation
16 would not be permissible in Hawaii under the Act.

17 The legislature further finds that, according to the 2022
18 Point in Time Count, fifty-two per cent of homeless individuals
19 on Oahu identify "Native Hawaiian and Pacific Islander" as their
20 only race or part of their multiracial identity. This Act will
21 help to address the disproportionate number of Native Hawaiian



1 and Pacific Islander homeless individuals by allocating a
2 percentage of the facility's revenues to the department of
3 Hawaiian home lands to build more homes for native Hawaiians
4 (those who meet the blood quantum under the Hawaiian Homes
5 Commission Act). This, in turn, will help to make housing more
6 affordable for all Hawaii residents by increasing the supply of
7 homes statewide. The Act also allocates a separate percentage
8 to homeless programs to assist all homeless individuals,
9 regardless of ethnicity.

10 The purpose of this Act is to authorize the establishment
11 of one gaming facility within the geographic area designated by
12 a county with a population greater than five hundred thousand
13 residents that contains the largest concentration of hotel
14 rooms, for poker and sportsbook betting and to limit access to
15 that facility to individuals who are staying in hotels.

16 SECTION 2. The Hawaii Revised Statutes is amended by
17 adding a new chapter to be appropriately designated and to read
18 as follows:

19 "CHAPTER

20 GAMING

21 PART I. GENERAL PROVISIONS



1 § -101 Definitions. As used in this chapter, unless the
2 context clearly requires otherwise:

3 "Affiliate" means a person who, directly or indirectly,
4 through one or more intermediaries:

5 (1) Controls, is controlled by, or is under common control
6 with;

7 (2) Is in a partnership or joint venture relationship
8 with; or

9 (3) Is a co-shareholder of a corporation, a co-member of a
10 limited liability company, or a co-partner in a
11 limited liability partnership with,
12 a person who holds or applies for a gaming license under this
13 chapter.

14 "Agent" means any individual who is employed by any agency
15 of the State, other than the commission, who is assigned to
16 perform full-time services on behalf of or for the benefit of
17 the commission, regardless of the title or position held by that
18 individual.

19 "Applicant" means any person who applies for a license
20 under this chapter.



1 "Chairperson" means the chairperson of the Hawaii gaming
2 control commission.

3 "Commission" means the Hawaii gaming control commission.

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

6 "Executive director" means the executive director of the
7 commission.

8 "Facility" means a freestanding, land-based structure for
9 gaming and may include bars, restaurants, showrooms, theaters,
10 or improvements. "Facility" does not include any structure used
11 for hotel or other transient accommodation lodging purposes.

12 "Financial interest" or "financially interested" means any
13 interest in investments, awarding of contracts, grants, loans,
14 purchases, leases, sales, or similar matters under consideration
15 or consummated by the commission or holding a one per cent or
16 more ownership interest in an applicant or a licensee. For
17 purposes of this definition, member, employee, or agent of the
18 commission shall be considered to have a financial interest in a
19 matter under consideration if any of the following circumstances
20 exist:



1 (1) The individual owns one per cent or more of any class
2 of outstanding securities that are issued by a party
3 to the matter under consideration or consummated by
4 the commission; or

5 (2) The individual is employed by or is an independent
6 contractor for a party to the matter under
7 consideration or consummated by the commission.

8 "Gaming", "limited gaming", or "game", as the context may
9 require, means the operation of poker rooms and sportsbook
10 betting.

11 "Gaming license" means a license to operate and maintain
12 the facility under this chapter.

13 "Gross receipts":

14 (1) Means the total of:

- 15 (A) Cash received as winnings;
- 16 (B) Cash received in payment for credit extended by a
17 licensee to a patron for purposes of gaming; and
- 18 (C) Compensation received for conducting any game in
19 which the licensee is not party to a wager; and

20 (2) Does not include:

- 21 (A) Counterfeit money or tokens;



- 1 (B) Coins of other countries that are received in
- 2 gaming devices;
- 3 (C) Cash taken in fraudulent acts perpetrated against
- 4 a licensee for which the licensee is not
- 5 reimbursed; and
- 6 (D) Cash received as entry fees for contests or
- 7 tournaments in which patrons compete for prizes.

8 "Individual" means a natural person.

9 "Institutional investor" means:

- 10 (1) Any retirement fund administered by a public agency
- 11 for the exclusive benefit of federal, state, or county
- 12 public employees;
- 13 (2) An employee benefit plan, or pension fund that is
- 14 subject to the Employee Retirement Income Security Act
- 15 of 1974, as amended;
- 16 (3) An investment company registered under the Investment
- 17 Company Act of 1940 (54 Stat. 789, 15 U.S.C. 80a-1 to
- 18 80a-3 and 80a-4 to 80a-64);
- 19 (4) A collective investment trust organized by a bank
- 20 under title 12 Code of Federal Regulations



- 1 section 9.18 of the rules of the United States
2 Comptroller of the Currency;
- 3 (5) A closed-end investment trust;
 - 4 (6) A chartered or licensed life insurance company or
5 property and casualty insurance company;
 - 6 (7) A chartered or licensed financial institution;
 - 7 (8) An investment advisor registered under the Investment
8 Advisers Act of 1940, (54 Stat. 847, 15 U.S.C.
9 sections 80b-1 to 80b-21 as amended); and
 - 10 (9) Any other person as the commission may determine for
11 reasons consistent with this chapter.

12 "Investigative hearing" means any hearing conducted by the
13 commission or its authorized representative to investigate and
14 gather information or evidence regarding pending license
15 applicants, qualifiers, licensees, or alleged or apparent
16 violations of this chapter or rules adopted by the commission.
17 An investigative hearing shall include any matter related to an
18 apparent deficiency.

19 "Occupational license" means a license issued by the
20 commission to an individual to perform an occupation relating to



1 gaming in the State that the commission has identified as an
2 occupation that requires a license.

3 "Outside employment" includes the following:

- 4 (1) Operation of a proprietorship;
- 5 (2) Participation in a partnership or group business
6 enterprise; or
- 7 (3) Performance as a director or corporate officer of any
8 for-profit corporation, or banking or credit
9 institution.

10 "Person" means an individual, association, partnership,
11 estate, trust, corporation, limited liability company, or other
12 legal entity.

13 "Political activity" or "politically-related activity"
14 includes any of the following:

- 15 (1) Using the person's official authority or influence for
16 the purpose of interfering with or affecting the
17 result of an election;
- 18 (2) Knowingly soliciting, accepting, or receiving
19 political campaign contributions from any person;
- 20 (3) Running for nomination or as a candidate for election
21 to a political office; or



1 (4) Knowingly soliciting or discouraging the participation
2 in any political activity of any person who is:

3 (A) Applying for any compensation, grant, contract,
4 ruling, license, permit, or certificate pending
5 before the commission; or

6 (B) The subject of or a participant in an ongoing
7 audit, investigation, or enforcement action being
8 carried out by the commission.

9 "Qualifier" means an affiliate, affiliated company,
10 officer, director, or managerial employee of an applicant, or a
11 person who holds greater than a five per cent direct or indirect
12 interest in an applicant. As used in this definition,
13 "affiliate" and "affiliated company" do not include a
14 partnership, joint venture relationship, co-shareholder of a
15 corporation, co-member of a limited liability company, or
16 co-partner in a limited liability partnership that has a five
17 per cent or less direct interest in the applicant and is not
18 involved in the facility as defined in rules adopted by the
19 commission.

20 "Supplier" means a person that the commission has
21 identified under rules adopted by the commission as requiring a



1 license to provide the facility licensees with goods or services
2 regarding the realty, construction, maintenance, or business of
3 a proposed or existing facility on a regular or continuing
4 basis, including junket enterprises, security businesses,
5 manufacturers, distributors, persons who service gaming devices
6 or equipment, garbage haulers, maintenance companies, food
7 purveyors, and construction companies.

8 "Supplier license" means a license that authorizes a person
9 to furnish any equipment, devices, supplies, or services to a
10 licensed facility permitted under this chapter.

11 PART II. HAWAII GAMING CONTROL COMMISSION

12 § -201 Hawaii gaming control commission; established.

13 There is established the Hawaii gaming control commission within
14 the department of business, economic development, and tourism
15 for administrative purposes only. The commission shall be a
16 body corporate and a public instrumentality of the State for the
17 purpose of implementing this chapter.

18 § -202 Members, chairperson, officers; appointment. (a)

19 The commission shall consist of seven members to be appointed by
20 the governor pursuant to section 26-34. Of the seven members,
21 two shall be appointed from a list of nominees submitted by the



1 president of the senate and two shall be appointed from a list
2 of nominees submitted by the speaker of the house of
3 representatives.

4 (b) Vacancies in the commission shall be filled for the
5 unexpired term in like manner as the original appointments.

6 (c) The members shall elect a chairperson from among its
7 members.

8 (d) Officers of the commission shall be selected by the
9 members.

10 § -203 Member applicant disclosure. In addition to any
11 other disclosures required by the governor or by law, before
12 appointment as a member, the individual shall disclose to the
13 governor all past involvement with any gaming or casino interest
14 in the past five years.

15 § -204 Member requirements. (a) Each member of the
16 commission shall:

- 17 (1) Be a resident of the State;
- 18 (2) Serve part-time;
- 19 (3) Be paid compensation of \$300 for each day in the
20 performance of official duties; and



1 (4) Be reimbursed for expenses, including travel expenses,
2 incurred in the performance of official duties.

3 (b) Before assuming the duties of office, each member of
4 the commission shall:

5 (1) Take an oath that the member shall faithfully execute
6 the duties of office according to the laws of the
7 State; and

8 (2) File and maintain with the director a bond in the sum
9 of \$25,000 with good and sufficient sureties. The
10 cost of any bond for any member of the commission
11 under this section shall be considered a part of the
12 necessary expenses of the commission.

13 (c) By January 31 of each year, each member shall prepare
14 and file with the commission, a disclosure form in which the
15 member shall:

16 (1) Affirm that the member or the member's spouse, parent,
17 child, or child's spouse is not a member of the board
18 of directors of, financially interested in, or
19 employed by, a licensee or applicant;



- 1 (2) Affirm that the member continues to meet all other
2 criteria for commission membership under this chapter
3 or the rules adopted by the commission;
- 4 (3) Disclose any legal or beneficial interest in any real
5 property that is or may be directly or indirectly
6 involved with gaming operations authorized by this
7 chapter; and
- 8 (4) Disclose any other information that may be required to
9 ensure that the integrity of the commission and its
10 work is maintained.
- 11 (d) Any member who receives any ex parte communication in
12 violation of section -310, or who is aware of an attempted
13 communication in violation of section -310, shall immediately
14 report details of the communication or attempted communication,
15 including the source and content of the communication, in
16 writing to the chairperson.
- 17 § -205 **Member disqualifications.** No individual shall be
18 appointed as a member of the commission or continue to be a
19 member of the commission if the individual:
- 20 (1) Is an elected state official;



- 1 (2) Is licensed by the commission pursuant to this
2 chapter, or is an official of, has a financial
3 interest in, or has a financial relationship with, any
4 gaming operation subject to the jurisdiction of this
5 commission pursuant to this chapter;
- 6 (3) Is related to any individual within the second degree
7 of consanguinity or affinity who is licensed by the
8 commission pursuant to this chapter; or
- 9 (4) Has been under indictment, convicted, pled guilty or
10 nolo contendere, or forfeited bail for a felony or a
11 misdemeanor involving gambling or fraud under the laws
12 of this State, any other state, or the United States
13 within the ten years prior to appointment or a local
14 ordinance in a state involving gambling or fraud that
15 substantially corresponds to a misdemeanor in that
16 state within the ten years prior to appointment.
- 17 § -206 **Member removal.** The president of the senate and
18 speaker of the house of representatives may request that the
19 governor remove or suspend a member of the commission that they
20 personally nominated for a seat on the commission. Upon receipt
21 of a request from the president of the senate or the speaker of



1 the house of representatives, and after due notice and public
2 hearing, the governor may remove or suspend that member for
3 cause.

4 § -207 Powers and duties of the commission. (a) The
5 commission shall have all powers necessary to regulate all
6 gaming operations, including the power to:

- 7 (1) Administer, regulate, and enforce the system of gaming
8 established by this chapter. The commission's
9 jurisdiction shall extend to every person,
10 association, corporation, partnership, trust, and any
11 other entity having a financial interest in or holding
12 a license under this chapter, or required under this
13 chapter to hold a license in gaming operations in the
14 city and county of Honolulu;
- 15 (2) Issue a license to operate the facility pursuant to
16 this chapter;
- 17 (3) Determine the types and numbers of occupational
18 licenses and supplier licenses to be permitted under
19 this chapter;
- 20 (4) Adopt standards for the licensing of all persons under
21 this chapter subject to the qualifications and



1 standards set forth herein, to issue licenses, and to
2 establish and collect fees for these licenses;

3 (5) Provide for the collection of all taxes imposed
4 pursuant to this chapter, and to collect, receive,
5 expend, and account for all revenues derived from
6 gaming within the city and county of Honolulu;

7 (6) Enter at any time without a warrant and without notice
8 to a gaming licensee, the premises, offices, facility,
9 or other places of business of a gaming licensee or
10 supplier licensee, where evidence of the compliance or
11 noncompliance with this chapter or rules is likely to
12 be found. Entry is authorized to:

13 (A) Inspect and examine all premises wherein gaming
14 or the business of gaming or the business of a
15 supplier is conducted, or where any records of
16 the activities are prepared;

17 (B) Inspect, examine, audit, impound, seize, or
18 assume physical control of, or summarily remove
19 from the premises all books, ledgers, documents,
20 writings, photocopies of correspondence records,
21 videotapes, including electronically stored



- 1 records, money receptacles, other containers and
2 their contents, equipment in which the records
3 are stored, or other gaming-related equipment and
4 supplies on or around the premises, including
5 counting rooms;
- 6 (C) Inspect the person, and inspect, examine, and
7 seize personal effects present in a facility
8 licensed under this chapter or of any holder of a
9 gaming license; and
- 10 (D) Investigate and deter alleged violations of this
11 chapter or rules;
- 12 (7) Investigate alleged violations of this chapter and
13 take appropriate disciplinary action against a gaming
14 licensee, supplier licensee, or occupational licensee
15 for a violation, or institute appropriate legal action
16 for enforcement, or both;
- 17 (8) Be present, through its inspectors and agents, any
18 time gaming operations are conducted in the facility
19 for the purpose of certifying the facility's revenue,
20 receiving complaints from the public, or conducting
21 other investigations into the conduct of the gaming



- 1 and the maintenance of the equipment as from time to
2 time the commission may deem necessary and proper;
- 3 (9) Employ any personnel that may be necessary to carry
4 out its duties;
- 5 (10) Adopt appropriate standards for the facility and
6 gaming devices;
- 7 (11) Require that records, including financial or other
8 statements, of any gaming licensee under this chapter
9 be kept in the manner prescribed by the commission and
10 that any gaming licensee involved in the ownership or
11 management of gaming operations submit to the
12 commission an annual balance sheet and profit and loss
13 statement, a list of the stockholders or other persons
14 having a five per cent or greater beneficial interest
15 in the gaming activities of the gaming licensee, and
16 any other information the commission deems necessary
17 to effectively administer this chapter;
- 18 (12) Conduct hearings, issue subpoenas for the attendance
19 of witnesses and subpoenas duces tecum for the
20 production of books, records, and other pertinent
21 documents, and to administer oaths and affirmations to



1 the witnesses, when, in the judgment of the
2 commission, it is necessary to administer or enforce
3 this chapter. The executive director or the executive
4 director's designee may issue subpoenas and administer
5 oaths and affirmations to witnesses;

6 (13) Prescribe any employment application form to be used
7 by the gaming licensee involved in the ownership or
8 management of gaming operations for hiring purposes;

9 (14) Eject or exclude, or authorize the ejection or
10 exclusion of, any individual from the facility where
11 the individual is in violation of this chapter or,
12 based upon the individual's conduct or reputation, the
13 individual's presence within the facility, in the
14 opinion of the commission, may call into question the
15 honesty and integrity of the gaming operation or
16 interfere with the orderly conduct thereof, or any
17 other action that, in the opinion of the commission,
18 is a detriment or impediment to the gaming operations;
19 provided that the propriety of that ejection or
20 exclusion shall be subject to subsequent hearing by
21 the commission;



- 1 (15) Permit the gaming licensee to use a wagering system
2 whereby wagerers' money may be converted to tokens,
3 electronic cards, or chips, that shall be used only
4 for wagering within the facility;
- 5 (16) Suspend, revoke, or restrict any license issued
6 pursuant to this chapter, to require the removal of a
7 licensee or an employee of a licensee for a violation
8 of this chapter or a commission rule, or for engaging
9 in a fraudulent practice;
- 10 (17) Impose and collect fines of up to \$5,000 against
11 individuals and up to \$10,000 or an amount equal to
12 the daily gross receipts, whichever is larger, against
13 the gaming licensee or a supplier licensee for each
14 violation of this chapter, any rules adopted by the
15 commission, or for any other action that, in the
16 commission's discretion, is a detriment or impediment
17 to gaming operations;
- 18 (18) Establish minimum levels of insurance to be maintained
19 by the gaming licensee or a supplier licensee;



H.B. NO. 918

- 1 (19) Establish a process to facilitate and expedite the
2 approval of the necessary licenses and permits for the
3 gaming licensee to begin regular gaming operations;
- 4 (20) Establish its own procedures for the issuance of
5 liquor licenses for the gaming license under this
6 chapter; provided that all state laws and county
7 ordinances relating to liquor are satisfied;
- 8 (21) Delegate the execution of any of its powers for the
9 purpose of administering and enforcing this chapter;
10 and
- 11 (22) Adopt rules pursuant to chapter 91 to implement this
12 chapter, including rules that:
- 13 (A) Govern, restrict, approve, or regulate the gaming
14 authorized in this chapter;
- 15 (B) Promote the safety, security, and integrity of
16 gaming authorized in this chapter;
- 17 (C) License and regulate, consistent with the
18 qualifications and standards set forth in this
19 chapter, persons participating in or involved
20 with gaming authorized in this chapter; and



1 (D) Take any other action that may be reasonable or
2 appropriate to enforce this chapter and rules
3 adopted under this chapter.

4 (b) This section is not intended to limit warrantless
5 inspections except in accordance with constitutional
6 requirements.

7 (c) The commission shall collaborate with the Hawaii
8 tourism authority to identify high value markets for the
9 facility and develop and implement marketing strategies for
10 those markets.

11 (d) The commission shall adopt rules in accordance with
12 chapter 91 establishing a code of ethics for its employees that
13 shall include a prohibition on employees participating in or
14 wagering on any game or gaming operation subject to the
15 jurisdiction of the commission. The code of ethics shall be
16 separate from and in addition to any standards of conduct set
17 forth pursuant to chapter 84.

18 § -208 Chairperson; reports (a) Whenever the
19 chairperson is required to file disclosure forms or report in
20 writing the details of any incident or circumstance pursuant to



1 this chapter, the chairperson shall file the forms or reports to
2 the commission.

3 (b) The chairperson shall report any action the
4 chairperson has taken or contemplates taking under this chapter,
5 with respect to an employee or agent or former employee or
6 former agent, to the commission at the next meeting of the
7 commission. The commission may direct the executive director to
8 take additional or different action.

9 (c) The chairperson may investigate or initiate an
10 investigation of any matter reported pursuant to
11 section -204(e) or 310(d) with the assistance of the attorney
12 general and law enforcement to determine if the communication
13 violates sections -204 or -310 or other state law. The
14 disclosure under this section and the investigation shall remain
15 confidential. Following an investigation, the chairperson shall
16 advise the governor and the commission of the results of the
17 investigation and may recommend action the chairperson considers
18 appropriate.

19 § -209 Meetings; hearings. (a) The commission, subject
20 to chapter 92, shall hold at least one meeting in each quarter
21 of the state fiscal year. The chairperson or any four members



1 may call special meetings; provided that written notice of a
2 special meeting shall be provided to each member not less than
3 seventy-two hours before the meeting. Four members shall
4 constitute a quorum, and a majority vote of the members present
5 shall be required for any final determination by the commission.
6 The commission shall keep a complete and accurate record of all
7 its meetings.

8 (b) Upon order of the commission, one of the commission
9 members, or a hearings officer designated by the commission, may
10 conduct any hearing provided for under this chapter related to
11 gaming or by commission rule, and may recommend findings and
12 decisions to the commission. The record made at the time of the
13 hearing shall be reviewed by the commission, or a majority
14 thereof, and the findings and decisions of the majority of the
15 commission shall constitute the order of the commission in that
16 case.

17 (c) Notice of the actions of the commission shall be
18 served either by personal delivery or by certified mail, postage
19 prepaid, to the aggrieved party. Notice served by certified
20 mail shall be deemed complete on the business day following the
21 date of the mailing.



1 (d) Any party aggrieved by an action of the commission
2 denying, suspending, revoking, restricting, or refusing to renew
3 a license under this chapter may request a hearing before the
4 commission. A request for a hearing shall be made to the
5 commission in writing within five days after service of notice
6 of the action of the commission. The commission shall conduct
7 all requested hearings promptly and in reasonable order.

8 § -210 Executive director of the Hawaii gaming control
9 commission. (a) The commission shall appoint an executive
10 director of the commission who shall be subject to the
11 commission's supervision. The executive director shall:

- 12 (1) Hold office at the pleasure of the commission;
- 13 (2) Be exempt from chapters 76 and 89;
- 14 (3) Devote full time to the duties of the office;
- 15 (4) Not hold any other office or employment;
- 16 (5) Perform all duties that the commission assigns;
- 17 (6) Receive an annual salary at an amount set by the
18 commission;
- 19 (7) Be reimbursed for expenses actually and necessarily
20 incurred in the performance of the executive
21 director's duties;



1 (8) Preserve all records, books, documents, and other
2 papers belonging to the commission or entrusted to its
3 care relating to gaming;

4 (9) Set the salaries of employees hired pursuant to this
5 section; and

6 (10) Keep records of all proceedings of the commission.

7 (b) Except as otherwise provided by law, the executive
8 director may:

9 (1) Hire assistants, other officers, and employees, who
10 shall be exempt from chapters 76 and 89 and who shall
11 serve at the pleasure of the executive director; and

12 (2) Appoint committees and consultants necessary for the
13 efficient operation of gaming; provided that no
14 individual shall be hired or appointed under this
15 subsection who:

16 (A) Is an elected state official;

17 (B) Is licensed by the commission pursuant to this
18 chapter or is an official of, has a financial
19 interest in, or has a financial relationship
20 with, any gaming operation subject to the



1 jurisdiction of the commission pursuant to this
2 chapter;

3 (C) Is related to any individual within the second
4 degree of consanguinity or affinity who is
5 licensed by the commission pursuant to this
6 chapter; or

7 (D) Has been under indictment, convicted, pled guilty
8 or nolo contendere, or forfeited bail for a
9 felony or misdemeanor concerning gambling or
10 fraud under the laws of this State, any other
11 state, or the United States within the last ten
12 years, or a local ordinance in any state
13 involving gambling or fraud that substantially
14 corresponds to a misdemeanor in that state within
15 the ten years prior to employment.

16 § -211 **Commission employees.** (a) No individual shall
17 be employed by the commission if:

18 (1) During the three years immediately preceding
19 appointment or employment, the individual held any
20 direct or indirect interest in, or was employed by:



- 1 (A) A licensee under this chapter or in another
- 2 jurisdiction; or
- 3 (B) A potential licensee who had an application to
- 4 operate the facility pending before the
- 5 commission or any other jurisdiction;
- 6 except that the individual seeking employment may be
- 7 employed by the commission if the individual's
- 8 interest in any licensee would not, in the opinion of
- 9 the commission, interfere with the objective discharge
- 10 of the individual's employment obligations. An
- 11 individual shall not be employed by the commission if
- 12 the individual's interest in the licensee constitutes
- 13 a controlling interest in that licensee; or
- 14 (2) The individual or the individual's spouse, parent,
- 15 child, child's spouse, or sibling:
- 16 (A) Is a member of the commission;
- 17 (B) Is a director of or has a financial interest in
- 18 the gaming licensee;
- 19 (C) Is a director of or has a financial interest in a
- 20 supplier licensee; or



1 (D) Has an application for any license pending before
2 the commission.

3 § -212 Employee, agent of commission; pre-employment
4 disclosure. Before employment as an employee or agent of the
5 commission, the individual shall disclose all past involvement
6 with any gaming or casino interest in the past five years.

7 § -213 Hawaii gaming control commission employees;
8 financial disclosures. Each employee or agent of the
9 commission, except the executive director, shall file with the
10 commission at the time of employment a financial disclosure
11 statement listing all assets, liabilities, property and business
12 interests, and sources of income of the employee and the
13 employee's spouse.

14 § -214 Member, employee, or agent of commission;
15 conduct. (a) Any member, employee, or agent of the commission
16 who:

17 (1) Becomes aware that the member, employee, or agent of
18 the commission or their spouse, parent, or child is a
19 member of the board of directors of, financially
20 interested in, or employed by a licensee or an



1 applicant shall immediately provide detailed written
2 notice thereof to the chairperson.

3 (2) Has been indicted, charged with, convicted of, pled
4 guilty or nolo contendere to, or forfeited bail for:

5 (A) A misdemeanor involving gambling, dishonesty,
6 theft, or fraud;

7 (B) A local ordinance in any state involving
8 gambling, dishonesty, theft, or fraud that
9 substantially corresponds to a misdemeanor in
10 that state; or

11 (C) A felony under Hawaii law, the laws of any other
12 state, or the laws of the United States, or any
13 other jurisdiction;

14 shall immediately provide detailed written notice of
15 the conviction or charge to the chairperson.

16 (3) Is negotiating for, or acquires by any means, any
17 interest in a licensee or an applicant, or is
18 affiliated with such a person, shall immediately
19 provide written notice of the details of the interest
20 to the chairperson. The member, employee, or agent of



- 1 the commission shall not act on behalf of the
2 commission with respect to that person.
- 3 (4) Receives an invitation, written or oral, to initiate a
4 discussion concerning employment or the possibility of
5 employment with a person, or affiliate of a person,
6 who is a licensee or an applicant shall immediately
7 report the invitation to the chairperson. The member,
8 employee, or agent of the commission shall not take
9 action on behalf of the commission with respect to
10 that person;
- 11 (5) Is offered a bribe in violation of this chapter shall
12 immediately provide a written account of the details
13 of the incident to the chairperson and to a law
14 enforcement officer of a law enforcement agency having
15 jurisdiction; and
- 16 (6) Acquires a financial interest in a licensee or
17 applicant, or affiliate or representative of a
18 licensee or applicant through no intentional action of
19 the employee or agent, shall have up to thirty days to
20 divest or terminate the financial interest. An
21 individual who has been offered employment with the



1 commission and any employee's, agent's, or member's
2 spouse, parent, or child who acquires a financial
3 interest in a licensee or applicant, or affiliate or
4 representative of a licensee or applicant through no
5 intentional action of the individual who has been
6 offered employment with the commission, member,
7 employee, or agent of the commission shall have up to
8 thirty days to divest or terminate the financial
9 interest. Any employment or agent may be terminated
10 by the chairperson if the interest has not been
11 divested after thirty days.

12 § -215 Member, employee, or agent of commission;
13 prohibitions. No member, employee, or agent of the commission
14 shall:

- 15 (1) Engage in political activity or politically-related
16 activity during the duration of the individual's
17 appointment or employment;
- 18 (2) Enter into any negotiations for employment with any
19 person or affiliate of any person who is a licensee or
20 an affiliate; provided that if a member, an employee,
21 or an agent of the commission does enter into any



1 negotiations for employment with any person or
2 affiliate of any person who is a licensee or an
3 affiliate, the member, employee, or agent of the
4 commission shall immediately provide written notice of
5 the details of any negotiations or discussions to the
6 chairperson, and the member, employee, or agent of the
7 commission shall not take any action on behalf of the
8 commission with respect to that person for the
9 duration of any negotiations for employment;

- 10 (3) Accept any gift, gratuity, compensation, travel,
11 lodging, or anything of value, directly or indirectly,
12 from any licensee, applicant, or any affiliate or
13 representative of an applicant or licensee or allow
14 any parent, spouse, sibling, or child of a member,
15 employee, or agent of the commission to do the same,
16 unless the acceptance conforms to a written policy or
17 directive issued by the chairperson or the commission.
18 If any member, employee, or agent of the commission or
19 any parent, spouse, sibling, or child of a member,
20 employee, or agent of the commission is offered or
21 receives any gift, gratuity, compensation, travel,



1 lodging, or anything of value, directly or indirectly,
2 from any licensee or any applicant or affiliate or
3 representative of an applicant or licensee, that
4 member, employee, or agent of the commission shall
5 immediately provide written notification of the
6 details to the chairperson;

7 (4) Engage in any conduct that constitutes a conflict of
8 interest, and shall immediately provide written
9 notification to the chairperson of the details of any
10 incident or circumstances that would present the
11 appearance of a conflict of interest with respect to
12 the performance of commission-related work or duty of
13 the member, employee, or agent of the commission; and

14 (5) Participate in or wager on any gambling game conducted
15 by any licensee or applicant, or any affiliate of an
16 applicant or licensee, in the State or in any other
17 jurisdiction; provided that:

18 (A) A member, employee, or agent of the commission
19 may participate in and wager on a gambling game
20 conducted by a licensee under this chapter, to
21 the extent authorized by the chairperson or



1 commission as part of the member's surveillance,
2 security, or other official duties for the
3 commission; and

4 (B) A member, employee, or agent of the commission
5 shall advise the chairperson at least twenty-four
6 hours in advance if the member plans to be
7 present in the facility in the State, or a casino
8 in another jurisdiction, operated by a licensee,
9 applicant, or affiliate of a licensee or
10 applicant, outside the scope of their official
11 duties for the commission.

12 § -216 **Employee; outside employment.** (a) A new or
13 current employee or agent of the commission shall obtain written
14 permission from the executive director before continuing outside
15 employment held at the time the employee begins to work for the
16 commission. Permission shall be denied, or permission
17 previously granted shall be revoked, if the nature of the work
18 is considered to create a possible conflict of interest or
19 otherwise interferes with the duties of the employee or agent
20 for the commission.



1 (b) An employee or agent of the commission granted
2 permission for outside employment shall not conduct any business
3 or perform any activities, including solicitation, related to
4 outside employment on premises used by the commission or during
5 the employee's working hours for the commission.

6 § -217 Confidentiality. A member, employee, or agent of
7 the commission, or former member, employee, or agent of the
8 commission, shall not disseminate or otherwise disclose any
9 material or information in the possession of the commission that
10 the commission considers confidential, unless specifically
11 authorized to do so by the chairperson or the commission.

12 § -218 Post-employment, post-membership; restrictions.

13 (a) Within five years after the date of termination of the
14 individual's membership on or employment with the commission, a
15 member of the commission or the executive director, shall not
16 hold direct or indirect interest in, be employed by, or enter
17 into a contract for service with, any applicant or person
18 licensed by the commission.

19 (b) Within three years after the date of termination of
20 the member's term of office or the employee's period of
21 employment with the commission, a commission member or an



1 individual employed by the commission shall not represent a
2 person or party other than the State before or against the
3 commission.

4 (c) Within a period of three years after the date of
5 termination of the individual's employment with the commission,
6 the individual shall not acquire any direct or indirect interest
7 in, be employed by, or enter into a contract for services with
8 any applicant or person licensed by the commission.

9 (d) A business entity in which a former commission member
10 or employee or agent has an interest, or any partner, officer,
11 or employee of the business entity, shall not make any
12 appearance or representation before the commission from which
13 that former member, employee, or agent is prohibited. As used
14 in this subsection, "business entity" means a corporation,
15 limited liability company, partnership, limited liability
16 partnership association, trust, or other form of legal entity.

17 § -219 Former member, employee, agent of the commission;
18 witness. A former member, employee, or agent of the commission
19 may appear before the commission as a witness testifying as to
20 factual matters or actions handled by the member, employee, or
21 agent during the individual's tenure as a member, employee, or



1 agent of the commission. The member, employee, or agent of the
2 commission shall not receive compensation for the appearance
3 other than a standard witness fee and reimbursement for travel
4 expenses as established by statute or court rule.

5 § -220 Member, employee, or agent of commission;
6 penalties. (a) Violation of this chapter by a member of the
7 commission may result in disqualification or constitute cause
8 for removal under section 26-34(d) or other disciplinary action
9 as determined by the commission.

10 (b) Violation of this chapter by an employee or agent of
11 the commission shall not result in termination of employment or
12 require other disciplinary action if the commission determines
13 that the conduct involved does not violate the purpose of this
14 chapter; provided that employment shall be terminated:

- 15 (1) If the employee or agent is a spouse, parent, child,
16 or spouse of a child of a commission member; or
- 17 (2) If, after being offered employment or having begun
18 employment with the commission, the employee or agent
19 intentionally acquires a financial interest in a
20 licensee or applicant, or affiliate or representative
21 of a licensee or applicant.



1 § -221 Annual report. The commission shall file a
2 written report with the governor and legislature at least sixty
3 days prior to the close of each fiscal year and shall file any
4 additional reports that the governor or legislature requests.

5 The annual report shall include:

- 6 (1) A statement of receipts and disbursements related to
7 gaming pursuant to this chapter;
- 8 (2) Actions taken by the commission; and
- 9 (3) Any additional information and recommendations that
10 the commission may deem valuable or which the governor
11 or legislature may request.

12 § -222 No civil cause of action. A violation of this
13 part shall not create a civil cause of action.

14 PART III. GAMING FACILITY

15 SUBPART A. GAMING LICENSE APPLICATIONS

16 § -301 Authorization of gaming. (a) Gaming shall only
17 be authorized in one facility located in the geographic area
18 designated by a county with a population greater than five
19 hundred thousand residents as a special district that contains
20 the largest concentration of hotel rooms.



1 (b) Within one hundred and twenty days of its appointment,
2 the commission shall adopt necessary rules and make applications
3 available for a gaming license to operate the facility.
4 Applications for a gaming license shall be submitted to the
5 commission no later than sixty days after the date applications
6 are made available. The commission shall select the applicant
7 that best meets the criteria pursuant to this subpart no later
8 than ninety days after the final date applications must be
9 submitted to the commission. If the selected applicant meets
10 all the requirements of this chapter, the commission shall issue
11 a gaming license to the applicant within one hundred and twenty
12 days after the date the applicant is selected.

13 § -302 Application for the gaming license. (a) Each
14 applicant shall be a resident of the State for at least the
15 thirty years immediately preceding the submission of the
16 application. If an entity submits an application, a principal
17 of the entity shall be a resident of the State for the thirty
18 years immediately preceding the submission of the application.

19 (b) A person, including qualifiers, may apply to the
20 commission for a gaming license. The application shall be made
21 under oath on forms provided by the commission and shall contain



1 information as prescribed by the commission, including the
2 following:

3 (1) The name, business address, telephone number, social
4 security number and, where applicable, the federal tax
5 identification number of the applicant and every
6 qualifier;

7 (2) An identification of any business, including, if
8 applicable, the state of incorporation or
9 registration, in which the applicant or qualifier has
10 an equity interest of more than five per cent. If the
11 applicant or qualifier is a corporation, partnership
12 or other business entity, the applicant or qualifier
13 shall identify any other corporation, partnership, or
14 other business entity in which it has an equity
15 interest of more than five per cent, including, if
16 applicable, the state of incorporation or
17 registration. The applicant or qualifier may comply
18 with this paragraph by filing a copy of the
19 applicant's or qualifier's registration with the
20 United States Securities and Exchange Commission if



1 the registration contains the information required by
2 this paragraph;

3 (3) Whether the applicant or qualifier has been indicted,
4 convicted, pled guilty or nolo contendere, or
5 forfeited bail for a felony within the last eight
6 years or a misdemeanor involving gambling, theft, or
7 fraud within the last eight years, not including
8 traffic violations, and including the date, name, and
9 location of the court, arresting agency, prosecuting
10 agency, the case caption, docket number, offense,
11 disposition, and location and length of incarceration;

12 (4) Whether the applicant or qualifier has ever been
13 granted any license or certificate issued by a
14 licensing authority in the State, or any other
15 jurisdiction, that has been restricted, suspended,
16 revoked, or not renewed and a statement describing the
17 facts and circumstances concerning the application,
18 denial, restriction, suspension, revocation, or
19 nonrenewal, including the licensing or codifying
20 authority, the date each action was taken, and the
21 reason for each action;



- 1 (5) Whether the applicant or qualifier, within the last
2 ten years, has filed or had filed against it a civil
3 or administrative action or proceeding in bankruptcy
4 or has, within the last ten years, been involved in
5 any formal process to adjust, defer, suspend, or
6 otherwise address the payment of any debt, including
7 the date of filing, name and location of the court,
8 case caption, docket number, and disposition;
- 9 (6) Whether the applicant or qualifier, within the last
10 five tax years, has failed to pay any final amount of
11 tax due and payable under federal, state, or local
12 law, after exhaustion of all interagency appeals
13 processes, including the amount, type of tax, taxing
14 jurisdiction, and time periods involved;
- 15 (7) Bank statements, escrow accounts, or other documents
16 demonstrating the financial resources that have been
17 under the control of the applicant for not less than
18 ninety days immediately preceding the date of the
19 application;
- 20 (8) A statement listing the names and titles of all public
21 officials or officers of any unit of state or county



1 government in the jurisdiction in which the facility
2 is to be located, and the spouses, parents, and
3 children of those public officials or officers who,
4 directly or indirectly, own any financial interest in,
5 have any beneficial interest in, are the creditors of
6 or hold any debt instrument issued by, or hold or have
7 an interest in any contractual or service relationship
8 with, the applicant or a qualifier. As used in this
9 paragraph, "public official" or "officer" does not
10 include an individual who would be listed solely
11 because of the individual's state or federal military
12 service;

13 (9) The name and business telephone number of any
14 attorney, counsel, or any other person representing an
15 applicant or a qualifier in matters before the
16 commission; and

17 (10) For the applicant only, a development plan for the
18 facility that includes a description of the proposed
19 facility, including the economic benefit to the
20 community, anticipated or actual number of employees,
21 any statement from an applicant regarding compliance



1 with federal and state affirmative action guidelines,
2 projected or actual admissions, projected or actual
3 gross receipts, and scientific market research, if
4 any.

5 (c) Applicants shall submit with their application a plan
6 for training residents of the State for jobs that are available
7 at the facility. The plan shall take into consideration the
8 need to provide training to low-income individuals to enable
9 them to qualify for jobs that will be created by the facility.

10 (d) Each applicant and qualifier shall disclose the
11 identity of every person, association, trust, or corporation
12 having a greater than five per cent direct or indirect financial
13 interest in the gaming operation for which the license is
14 sought. If the disclosed entity is a:

- 15 (1) Trust, the application shall disclose the names and
16 addresses of the beneficiaries;
- 17 (2) Corporation, the application shall disclose the names
18 and addresses of all stockholders and directors; and
- 19 (3) Partnership, the application shall disclose the names
20 and addresses of all partners, both general and
21 limited.



1 (e) To demonstrate financial ability, the applicant may
2 include the economic resources of the person or persons who will
3 operate the facility and any qualifiers.

4 (f) Each applicant and qualifier shall submit with the
5 application two sets of the applicant's fingerprints on forms
6 provided by the commission.

7 (g) An application fee of \$50,000 shall be paid to the
8 commission by an applicant at the time of filing to defray the
9 costs associated with an applicant and qualifier's background
10 investigation conducted by the commission. If the costs of the
11 investigation exceed \$50,000, the applicant shall pay the
12 additional amount to the commission. If the costs of the
13 investigation are less than \$50,000, the applicant shall receive
14 a refund of the remaining amount. All information, records,
15 interviews, reports, statements, memoranda, or other data
16 supplied to or used by the commission in the course of its
17 review or investigation of an application for a license shall be
18 confidential, used only for the purpose of evaluating an
19 applicant, and exempt from public disclosure required by chapter
20 92F, and shall not be admissible as evidence, nor discoverable
21 in any action of any kind in any court or before any tribunal,



1 commission, agency, or person, except for any action deemed
2 necessary by the commission.

3 § -303 Gaming license application; denial. (a) An
4 applicant shall be denied a gaming license if:

5 (1) The applicant has been convicted of a felony under the
6 laws of this State, any other state, or the United
7 States within eight years before the date of the
8 application;

9 (2) The individual has been convicted of any violation
10 under part III of chapter 712, or substantially
11 similar laws of another jurisdiction;

12 (3) The individual has knowingly submitted an application
13 for a license under this chapter that contains false
14 information;

15 (4) The applicant fails to present proof of financial
16 resources in excess of \$1,000,000 under its control;

17 (5) The individual is a member of the commission;

18 (6) The firm or corporation applying for a license employs
19 an individual described in paragraph (1), (2), (3), or
20 (4) who participates in the management or operation of
21 gaming operations authorized under this chapter; or



1 (7) A license of the applicant issued under this chapter,
2 or a license to own or operate gaming facilities in
3 any other jurisdiction, has been revoked.

4 (b) An incomplete application shall be cause for denial of
5 a license by the commission.

6 § -304 Application deficiency. (a) If, in the review
7 of an application submitted under this chapter, the executive
8 director identifies an apparent deficiency that, if true, would
9 require denial of the license or the disqualification of a
10 qualifier, the executive director shall notify the affected
11 applicant or qualifier in writing of the apparent deficiency.
12 The applicant or qualifier may then request an informal
13 conference with the executive director to discuss the factual
14 basis of the apparent deficiency.

15 (b) The executive director shall provide the applicant or
16 qualifier a reasonable period of time to correct the apparent
17 deficiency. If the apparent deficiency is not corrected within
18 the reasonable time period, the executive director shall find
19 that the apparent deficiency has not been corrected. Following
20 this finding, the affected applicant or qualifier shall have an
21 opportunity to appeal the executive director's finding of an



1 apparent deficiency to the commission. The commission shall
2 conduct an investigative hearing, pursuant to section -209
3 and in accordance with rules adopted under this chapter, to
4 determine whether there is sufficient evidence to support an
5 apparent deficiency finding. At the hearing, the burden of
6 proof shall be on the executive director to demonstrate that the
7 finding of an apparent deficiency is supported by law and facts.
8 Any finding by the commission about an applicant or a
9 qualifier's apparent deficiency shall not constitute a final
10 determination by the commission as to the suitability of the
11 applicant to hold a license, or the suitability of a qualifier
12 to hold an ownership interest in the facility applicant.

13 (c) At any time prior to a finding by the commission that
14 a qualifier is unsuitable to hold an ownership interest in the
15 facility license applicant, a qualifier shall have the ability
16 to sell its ownership interest in the facility license applicant
17 to the facility license applicant, another qualifier, or a third
18 party.

19 (d) A qualifier who has been issued a finding of an
20 apparent deficiency shall have the right to request that the
21 commission expand the apparent deficiency hearing under this



1 section to include a determination of the qualifier's
2 suitability to hold an ownership interest in the gaming license
3 applicant. If that request is made, the commission shall
4 determine the suitability of the affected qualifier separate
5 from the suitability of the applicant and any of its other
6 qualifiers. A request by a qualifier for an extended hearing
7 pursuant to this section shall not prevent the commission from
8 issuing a license to the applicant. Until the commission
9 determines that a qualifier under this section is suitable to
10 hold an ownership interest in the applicant, the applicant or
11 licensee shall not do any of the following:

12 (1) Make any direct or indirect payments or distributions
13 of revenue or other benefits to the qualifier that are
14 related in any way to the qualifier's interest in the
15 applicant; or

16 (2) Pay any direct or indirect compensation to the
17 qualifier for services rendered to the applicant,
18 unless specifically approved and authorized by the
19 commission.

20 § -305 Criteria for award of a gaming license. (a) The
21 information provided on the application shall be used as the



1 basis for a background investigation that the commission shall
2 conduct with respect to each applicant and qualifier.

3 (b) The license to operate a facility shall be awarded
4 based upon the following criteria:

- 5 (1) Whether the applicant's facility development plan for
6 the facility will increase tourism, generate jobs, and
7 provide revenue to the local economy;
- 8 (2) Whether the applicant has the financial resources and
9 ability to construct the facility, based upon the
10 submitted financial data and other facts;
- 11 (3) Whether the applicant has the financial ability to
12 purchase and maintain adequate liability and casualty
13 insurance and to provide an adequate surety bond;
- 14 (4) Whether the applicant has adequate capitalization to
15 develop, construct, maintain, and operate, for the
16 duration of the license, the proposed facility, in
17 accordance with the requirements of this chapter and
18 rules adopted by the commission, and to responsibly
19 pay off its secured and unsecured debts, in accordance
20 with its financing agreement and other contractual
21 obligations;



- 1 (5) The extent to which the applicant or any of its
2 qualifiers demonstrate that they have assisted the
3 State in developing gaming through their commitment of
4 resources to support, promote, and establish gaming in
5 the State. Expenditures of time, money, and effort
6 shall all be considered in connection with this
7 criterion. The timing of participation shall further
8 influence this criterion, with early participation and
9 contribution to the development program receiving more
10 favorable consideration;
- 11 (6) The extent to which the applicant or any of its
12 qualifiers demonstrate that they have at least four
13 years of experience in helping to revitalize an urban
14 area by successfully planning, developing, and opening
15 a land-based casino in any state that previously did
16 not permit gaming. The experience in planning,
17 developing, and opening a land-based casino in an
18 urban area in the past five years shall receive more
19 favorable consideration for this criterion. For
20 purposes of this paragraph, "urban area" means a



- 1 jurisdiction having a population of at least seven
2 hundred fifty thousand;
- 3 (7) Whether the applicant or any of its qualifiers has
4 been indicted, convicted, pled guilty or nolo
5 contendere, or forfeited bail for a felony within the
6 last ten years or a misdemeanor involving gambling,
7 theft, or fraud within the last ten years, not
8 including traffic violations;
- 9 (8) Whether the applicant or any of its qualifiers, within
10 the last ten years:
11 (A) Has filed, or had filed against it, a proceeding
12 for bankruptcy; or
13 (B) Has been involved in any formal process to
14 adjust, defer, suspend, or otherwise address the
15 payment of any debt;
- 16 (9) Whether an applicant or any of its qualifiers, within
17 the last five tax years, has failed to pay any final
18 amount of tax due and payable under federal, state, or
19 local law, after exhaustion of all interagency appeals
20 processes; and



1 (10) Whether the applicant meets other standards for the
2 issuance of a gaming license that the commission may
3 have adopted by rule. Any rules adopted pursuant to
4 chapter 91 shall not be arbitrary, capricious, or
5 contradictory to the expressed provisions of this
6 chapter and shall further define and clarify the above
7 listed conditions, rather than create new conditions
8 for licensure.

9 § -306 Institutional investor. (a) Unless the
10 commission determines that an institutional investor is
11 unqualified, an institutional investor holding less than ten per
12 cent of the equity securities or ten per cent of the debt
13 securities of a gaming licensee's affiliate or affiliated
14 company that is related in any way to the financing of the
15 gaming licensee, shall be granted a waiver of the eligibility
16 and suitability requirements if:

17 (1) The securities represent a percentage of the
18 outstanding debt of the affiliate or affiliated
19 company not exceeding twenty per cent, or a percentage
20 of any issue of the outstanding debt of the affiliate
21 or affiliated company not exceeding fifty per cent;



1 (2) The securities are those of a publicly traded
2 corporation and its holdings of the securities were
3 purchased for investment purposes only; and

4 (3) Upon request by the commission, the institutional
5 investor files with the commission a certified
6 statement that it has no intention of influencing or
7 affecting the affairs of the issuer, the gaming
8 licensee, or its affiliate or affiliated company.

9 (b) The commission may grant a waiver under this section
10 to an institutional investor holding a higher percentage of
11 securities than allowed in subsection (a) upon a showing of good
12 cause and if the conditions specified in subsection (a) are met.

13 (c) An institutional investor granted a waiver under this
14 section that subsequently intends to influence or affect the
15 affairs of the issuer shall provide notice to the commission and
16 file an application for a determination of eligibility and
17 suitability before taking any action that may influence or
18 affect the affairs of the issuer.

19 (d) Notwithstanding any provisions of this chapter, an
20 institutional investor may vote on all matters that are put to
21 the vote of the outstanding security holders of the issuer.



1 (e) If an institutional investor changes its investment
2 intent or if the commission finds that the institutional
3 investor is unqualified, no action other than divestiture of the
4 security holdings shall be taken until there has been compliance
5 with this chapter.

6 (f) The gaming licensee or an affiliate or affiliated
7 company of the gaming licensee shall immediately notify the
8 commission of any information concerning an institutional
9 investor holding its equity or debt securities that may affect
10 the eligibility and suitability of the institutional investor
11 for a waiver under this section.

12 (g) If the commission finds that an institutional
13 investor, holding any security of an affiliate or affiliated
14 company of a gaming licensee that is related in any way to the
15 financing of the gaming licensee, fails to comply with the
16 requirements of this section, or if at any time the commission
17 finds that, by reason of the extent or nature of its holdings,
18 an institutional investor is in a position to exercise a
19 substantial impact upon the controlling interests of a gaming
20 licensee, the commission may take any necessary action to
21 protect the public interest, including requiring the



1 institutional investor to satisfy the eligibility and
2 suitability requirements under sections -302, -305,
3 and -307.

4 § -307 Bond of gaming licensee. Before a gaming license
5 is issued, the licensee shall file a bond in the sum of \$200,000
6 with the department. The bond shall be used to guarantee that
7 the licensee faithfully makes the payments, keeps books and
8 records, makes reports, and conducts games of chance, in
9 conformity with this chapter and rules adopted by the
10 commission. The bond shall not be canceled by a surety less
11 than thirty days after providing written notice to the
12 commission. If a bond is canceled and the licensee fails to
13 file a new bond with the commission in the required amount on or
14 before the effective date of cancellation, the licensee's
15 license shall be revoked. The total and aggregate liability of
16 the surety on the bond shall be limited to the amount specified
17 in the bond.

18 § -308 Gaming license; term. The term of the gaming
19 license shall be ten years and shall be renewable for additional
20 ten-year terms according to rules adopted by the commission.



1 § -309 Revocation of gaming license. The commission may
2 revoke the gaming license if the gaming licensee fails to begin
3 regular gaming operations within twelve months of receipt of the
4 commission's approval of the application or twelve months after
5 a certificate of occupancy for the facility is first issued,
6 whichever is later, upon a finding by the commission that the
7 gaming license revocation is in the best interest of the State.

8 § -310 Gaming licensee or applicant; prohibitions; ex
9 parte communications. (a) A licensee or applicant shall not
10 knowingly initiate a negotiation for, or discussion of,
11 employment with a member, employee, or agent of the commission.
12 A licensee or applicant who initiates a negotiation or
13 discussion about employment shall immediately provide written
14 notice of the details of the negotiation or discussion to the
15 chairperson as soon as that person becomes aware that the
16 negotiation or discussion has been initiated with a member,
17 employee, or agent of the commission.

18 (b) A licensee or applicant, or affiliate or
19 representative of an applicant or licensee, shall not, directly
20 or indirectly, knowingly give or offer to give any gift,
21 gratuity, compensation, travel, lodging, or anything of value to



1 any member, employee, or agent of the commission that the
2 member, employee, or agent of the commission is prohibited from
3 accepting under subsection (j).

4 (c) A licensee or applicant or any affiliate or
5 representative of an applicant or licensee shall not engage in
6 ex parte communications concerning a pending application,
7 license, or enforcement action with members of the commission.
8 A member of the commission shall not engage in any ex parte
9 communications with a licensee or an applicant, or with any
10 affiliate or representative of an applicant or licensee,
11 concerning a pending application, license, or enforcement
12 action.

13 (d) Any licensee or applicant, or affiliate or
14 representative of licensee or applicant, who receives any ex
15 parte communication in violation of this section from a member,
16 or who is aware of an attempted communication in violation of
17 this section, shall immediately report in writing to the
18 chairperson details of the communication or attempted
19 communication.

20 (e) Violation this section by a licensee, applicant, or
21 affiliate or representative of a licensee or applicant, may



1 result in denial of the application for licensure, revocation or
2 suspension of a license, or other disciplinary action by the
3 commission.

4 SUBPART B. GAMING LICENSEE OPERATIONS

5 § -351 Conduct of gaming. Gaming conducted by the
6 gaming licensee shall be subject to the following:

7 (1) The site of the facility shall be restricted to the
8 area specified in § -301(a);

9 (2) The facility shall be a standalone building or
10 buildings and shall not be located within a hotel;

11 (3) The facility shall open no earlier than 8:00 a.m. and
12 shall close no later than 4:00 a.m. daily, at which
13 time all individuals admitted pursuant to
14 section -352 shall leave the facility;

15 (4) Minimum and maximum wagers on games shall be set by
16 the gaming licensee; provided that the maximum
17 permitted wager for:

18 (A) Sportsbook gaming shall not exceed \$1,500 per
19 event; and



- 1 (B) Each poker hand shall not exceed \$1,500 in gaming
2 tokens or other objects not in violation of
3 paragraph (7);
- 4 (5) The facility shall not have more than thirty poker
5 tables, and each poker table shall not seat more than
6 nine players and one dealer;
- 7 (6) No person under twenty-one years of age shall be
8 permitted in an area of the facility where gaming is
9 being conducted, except for a person at least eighteen
10 years of age who is an employee of the facility. No
11 employee under twenty-one years of age shall perform
12 any function involved in gaming by patrons. No person
13 under twenty-one years of age shall be permitted to
14 make a wager under this chapter;
- 15 (7) Wagering for poker shall not be conducted with money
16 or other negotiable currency;
- 17 (8) Gaming equipment and supplies customarily used in
18 conducting gaming shall be purchased or leased only
19 from suppliers licensed under this chapter;
- 20 (9) All tokens, chips, or electronic cards used to make
21 wagers shall only be purchased from a licensed owner



1 within the facility. The tokens, chips, or electronic
2 cards may be purchased by means of an agreement under
3 which the owner extends credit to the patron. The
4 tokens, chips, or electronic cards shall be used while
5 within the facility only for the purpose of making
6 wagers on authorized games; and

7 (10) All rules adopted by the commission.

8 § -352 Gaming facility admission. (a) The facility
9 shall only admit individuals twenty-one years of age or older
10 who:

11 (1) Pay a \$ fee; and

12 (2) Provide proof that the individual will stay or has
13 stayed at a transient accommodation, such as a hotel,
14 on the same island as the facility, within twenty-four
15 hours of the admission to the facility.

16 After an individual has paid the \$ fee pursuant to paragraph
17 (1), the individual need only demonstrate compliance with
18 paragraph (2) for any subsequent admission within one year of
19 payment. The facility shall provide a membership card to the
20 individual upon payment of the fee.



1 (b) The gaming licensee shall adopt rules governing
2 admission and make those rules available to the general public.

3 (c) This section shall not require the facility to admit
4 any individual who has violated any gaming licensee rule or who
5 is prohibited from entering the facility pursuant to law or
6 order of a court.

7 § -353 In person wagers; remote wagers. (a) During the
8 first three years of operation of the facility:

9 (1) All wagers shall be received from an individual
10 present in the facility; and

11 (2) No individual present in the facility shall place or
12 attempt to place a wager on behalf of another
13 individual who is not present in the facility.

14 (b) After the first three years of operation of the
15 facility, the gaming licensee may allow sportsbook wagers to be
16 made through the Internet; provided that no individual making a
17 wager with the facility shall place a wager on behalf of another
18 individual. Any individual who places a wager pursuant to this
19 subsection shall satisfy the facility admission requirements of
20 section -352 and wagers shall be subject to the maximum
21 permitted wager limits for sportsbook gaming in the facility.



1 § -354 Collection of amounts owing under credit
2 agreements. Notwithstanding any other law to the contrary, a
3 gaming licensee who extends credit to an individual for the
4 purpose of making a wager at the facility shall be expressly
5 authorized to institute a cause of action to collect any amounts
6 due and owing under the extension of credit as well as the
7 gaming licensee's costs, expenses, and reasonable attorney's
8 fees incurred in collection.

9 § -355 Training occupational licensees. A gaming
10 licensee may:

- 11 (1) Train occupational licensees; or
- 12 (2) Enter into an agreement with another entity to train
13 occupational licensees,
14 in the facility or at a location away from the facility;
15 provided that the training does not violate of any other law or
16 rule.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

PART IV. GAMING SUPPLIES

§ -401 Supplier license; when required. No person shall furnish in excess of \$500,000 worth of equipment, devices, or supplies to a gaming licensee unless the person has first obtained a supplier license pursuant to this part.

§ -402 Supplier license; applications. (a) The commission may issue a supplier license to any person, firm, or corporation who pays a nonrefundable application fee, as set by the commission, upon a determination by the commission that the applicant is eligible for a supplier license and upon payment by the applicant of a \$5,000 license fee.

(b) Supplier licenses shall be renewable annually upon payment of the \$5,000 annual license fee and a determination by the commission that the licensee continues to meet all of the requirements of this part.

(c) A person, firm, or corporation shall be ineligible to receive a supplier license if:

- (1) The person has been convicted of a felony under the laws of this State, any other state, or the United States;



- 1 (2) The person has been convicted of any violation under
2 part III of chapter 712, or substantially similar laws
3 of another jurisdiction;
- 4 (3) The person has knowingly submitted an application for
5 a license under this chapter that contains false
6 information;
- 7 (4) The person is a member of the commission;
- 8 (5) The firm or corporation is one in which a person
9 described in paragraph (1), (2), (3), or (4) is an
10 officer, director, or managerial employee;
- 11 (6) The firm or corporation employs a person described in
12 paragraph (1), (2), (3), or (4) that participates in
13 the management or operation of gaming authorized under
14 this chapter; or
- 15 (7) The license of the person, firm, or corporation issued
16 under this chapter, or a license to own or operate
17 gambling facilities in any other jurisdiction, has
18 been revoked.
- 19 (d) Any person who knowingly makes a false statement on an
20 application is guilty of a petty misdemeanor.



1 § -403 Supplier requirements. (a) Each licensed
2 supplier shall:

3 (1) Furnish to the commission a list of all equipment,
4 devices, and supplies offered for sale or lease in
5 connection with gaming authorized under this chapter;

6 (2) Keep books and records for the furnishing of
7 equipment, devices, and supplies to gaming operations
8 separate and distinct from any other business that the
9 supplier might operate;

10 (3) File quarterly returns with the commission listing all
11 sales and leases;

12 (4) Permanently affix its name to all its equipment,
13 devices, and supplies, used for gaming operations; and

14 (5) File an annual report listing its inventories of
15 gaming equipment, devices, and supplies.

16 (b) No gaming supplier shall distribute supplies and
17 equipment worth more than \$500,000 unless that distribution
18 conforms to standards adopted by rules of the commission.

19 § -404 Supply repairs. Any gaming equipment, device, or
20 supply provided by a supplier licensee may be repaired in the



1 facility or moved from the facility to a location owned by the
2 gaming licensee for repair.

3 § -405 Supply forfeiture. Any equipment, device, or
4 supplies that are used by any person in an unauthorized gambling
5 operation shall be forfeited to the county in which the facility
6 is situated.

7 PART V. GAMING OCCUPATIONS

8 § -501 Occupational license; required. No individual
9 shall be employed at a facility without a valid occupational
10 license issued pursuant to this chapter.

11 § -502 Occupational license; application. (a) The
12 commission may issue an occupational license to an individual
13 upon:

- 14 (1) Submission of an application form prescribed by the
15 commission;
- 16 (2) Submission of two sets of the applicant's
17 fingerprints;
- 18 (3) The payment of a nonrefundable application fee set by
19 the commission. The amount of the fee shall be
20 sufficient to defray the costs associated with the
21 search and classification of fingerprints obtained by



1 the commission with respect to the application and any
2 other expenses to process the application;

3 (4) A determination by the commission that the applicant
4 meets the requirements for an occupational license;
5 and

6 (5) Payment of an annual license fee in an amount set by
7 the commission.

8 (b) Each application for an occupational license shall be
9 on a form prescribed by the commission and shall contain all
10 information required by the commission. The form shall require
11 the disclosure of whether the applicant:

12 (1) Has been issued prior gambling-related licenses in any
13 jurisdiction;

14 (2) Has been issued a gambling-related license in any
15 other jurisdiction under any other name, and, if so,
16 the name and the applicant's age at the time; and

17 (3) Has had a gambling-related license issued from any
18 other jurisdiction suspended, restricted, or revoked,
19 and, if so, for what period of time.

20 (c) To be eligible for an occupational license, an
21 applicant shall:



- 1 (1) Be at least twenty-one years of age if the applicant
2 seeks to perform any function involved in gaming;
3 provided that any applicant seeking an occupational
4 license for a non-gaming function shall be at least
5 eighteen years of age;
- 6 (2) Not have been convicted of a felony offense in any
7 jurisdiction or a crime involving dishonesty or moral
8 turpitude;
- 9 (3) Have demonstrated a level of skill or knowledge that
10 the commission determines to be necessary to operate
11 games in the facility; and
- 12 (4) Have met standards for the holding of an occupational
13 license, as provided in rules adopted by the
14 commission, including background inquiries and other
15 requirements.
- 16 (d) The commission may deny an application for an
17 occupational license because the applicant:
- 18 (1) Is unqualified to perform the duties required;
19 (2) Has failed to disclose or stated falsely any
20 information called for in the application;
21 (3) Has been found guilty of a violation of this chapter;



1 (4) Whose prior gambling-related permit, license, or
2 application has been suspended, restricted, revoked,
3 or denied for just cause in any other jurisdiction; or

4 (5) For any other just cause.

5 (e) A person who knowingly makes a false statement on an
6 application for an occupational license shall be guilty of a
7 petty misdemeanor.

8 § -503 Occupational license; term. Any occupational
9 license issued pursuant to this part shall be valid for a period
10 of one year from the date of issuance and shall be renewable
11 annually upon payment of the annual license fee and a
12 determination by the commission that the licensee continues to
13 meet all of the requirements of this chapter.

14 § -504 Occupational license; suspension, revocation,
15 restriction. The commission may suspend, revoke, or restrict
16 any occupational license:

- 17 (1) For any violation of this chapter;
18 (2) For any violation of the rules of the commission;
19 (3) For any cause which, if known to the commission, would
20 have disqualified the applicant from receiving an
21 occupational license;



- 1 (4) For default in the payment of any obligation or debt
- 2 due to the State or any county within the State; or
- 3 (5) For any other just cause.

PART VI. MISCELLANEOUS PROVISIONS

5 § -601 The state gaming fund; disposition of revenues
6 collected. There is established within the state treasury the
7 state gaming fund to be administered by the Hawaii gaming
8 control commission into which shall be deposited all fees and
9 fines collected under this chapter and general excise tax
10 revenues realized pursuant to section 237-31. Moneys from the
11 state gaming fund shall be used to fund:

- 12 (1) A compulsive gamblers program;
- 13 (2) Public security at the facility;
- 14 (3) Administrative expenses of the commission;
- 15 (4) Marketing of the facility;
- 16 (5) The department of Hawaiian home lands by depositing
17 not less than per cent of the revenues realized by
18 the fund in each fiscal year into the Hawaiian home
19 lands trust fund establish pursuant to section 213.6
20 of the Hawaiian Homes Commission Act, 1920, as
21 amended;



- 1 (6) Programs that address homelessness by setting aside
2 not less than per cent of the revenues to the fund
3 in each fiscal year for appropriation by the
4 legislature to the department of human services; and
5 (7) Law enforcement programs by setting aside not less
6 than per cent of the revenues to the fund in each
7 fiscal year for appropriation by the legislature to
8 the department of law enforcement;

9 provided that no more than one per cent of the tax revenues
10 collected in any fiscal year pursuant to section 237-13(9) shall
11 be expended to fund the public security at the facility and the
12 administrative expenses of the commission.

13 § -602 Legislative oversight. (a) After the first
14 fiscal year of operation, the auditor shall conduct a financial
15 and social assessment of gaming operations. Thereafter, the
16 auditor shall conduct biennial financial and social assessments
17 of gaming operations. In conducting the assessments, the
18 auditor shall identify the financial impacts of gaming on the
19 state economy and social impacts of gaming upon the community.
20 The auditor shall submit a report of its findings and
21 recommendations to the legislature no later than twenty days



1 prior to the convening of the next regular session after the
2 initial and biennial assessments are completed.

3 (b) After the first full fiscal year of operation, the
4 auditor shall conduct a program and financial audit of the
5 Hawaii gaming commission. Thereafter, the auditor shall conduct
6 a program and financial audit every four years after the initial
7 audit is completed.

8 § -603 **Compulsive gambler program.** The commission shall
9 create and implement a program to assist individuals who are
10 identified as compulsive gamblers and shall train operational
11 licensees to identify and monitor potential compulsive gambling
12 behavior."

13 SECTION 3. Chapter 712, Hawaii Revised Statutes, is
14 amended by adding a new section to part III to be appropriately
15 designated and to read as follows:

16 "§712- _____ **Gaming; exempted.** This part shall not apply to
17 gaming as authorized by chapter _____."

18 SECTION 4. Section 84-17, Hawaii Revised Statutes, is
19 amended by amending subsection (c) to read as follows:

20 "(c) The following persons shall file annually with the
21 state ethics commission a disclosure of financial interests:



- 1 (1) The governor, the lieutenant governor, the members of
2 the legislature, and delegates to the constitutional
3 convention; provided that delegates to the
4 constitutional convention shall only be required to
5 file initial disclosures;
- 6 (2) The directors and their deputies, the division chiefs,
7 the executive directors and the executive secretaries
8 and their deputies, the purchasing agents and the
9 fiscal officers, regardless of the titles by which the
10 foregoing persons are designated, of every state
11 agency and department;
- 12 (3) The permanent employees of the legislature and its
13 service agencies, other than persons employed in
14 clerical, secretarial, or similar positions;
- 15 (4) The administrative director of the State, and the
16 assistants in the office of the governor and the
17 lieutenant governor, other than persons employed in
18 clerical, secretarial, or similar positions;
- 19 (5) The hearings officers of every state agency and
20 department;



- 1 (6) The president, the vice presidents, assistant vice
2 presidents, the chancellors, and the provosts of the
3 University of Hawaii and its community colleges;
- 4 (7) The superintendent, the deputy superintendent, the
5 assistant superintendents, the complex area
6 superintendents, the state librarian, and the deputy
7 state librarian of the department of education;
- 8 (8) The administrative director and the deputy director of
9 the courts;
- 10 (9) The members of every state board or commission whose
11 original terms of office are for periods exceeding one
12 year and whose functions are not solely advisory;
- 13 (10) Candidates for state elective offices, including
14 candidates for election to the constitutional
15 convention, provided that candidates shall only be
16 required to file initial disclosures;
- 17 (11) The administrator and assistant administrator of the
18 office of Hawaiian affairs;
- 19 (12) The Hawaii unmanned aerial systems test site chief
20 operating officer[+] ; [~~+~~and]



1 (13) The members of the school facilities board appointed
2 by the governor[-]; and

3 (14) The executive director, assistants, officers, and
4 employees of the Hawaii gaming control commission."

5 SECTION 5. Section 237-13, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§237-13 Imposition of tax. There is hereby levied and
8 shall be assessed and collected annually privilege taxes against
9 persons on account of their business and other activities in the
10 State measured by the application of rates against values of
11 products, gross proceeds of sales, or gross income, whichever is
12 specified, as follows:

13 (1) Tax on manufacturers.

14 (A) Upon every person engaging or continuing within
15 the State in the business of manufacturing,
16 including compounding, canning, preserving,
17 packing, printing, publishing, milling,
18 processing, refining, or preparing for sale,
19 profit, or commercial use, either directly or
20 through the activity of others, in whole or in
21 part, any article or articles, substance or



1 substances, commodity or commodities, the amount
2 of the tax to be equal to the value of the
3 articles, substances, or commodities,
4 manufactured, compounded, canned, preserved,
5 packed, printed, milled, processed, refined, or
6 prepared for sale, as shown by the gross proceeds
7 derived from the sale thereof by the manufacturer
8 or person compounding, preparing, or printing
9 them, multiplied by one-half of one per cent.

10 (B) The measure of the tax on manufacturers is the
11 value of the entire product for sale.

12 (2) Tax on business of selling tangible personal property;
13 producing.

14 (A) Upon every person engaging or continuing in the
15 business of selling any tangible personal
16 property whatsoever, there is likewise hereby
17 levied, and shall be assessed and collected, a
18 tax equivalent to four per cent of the gross
19 proceeds of sales of the business; provided that,
20 in the case of a wholesaler, the tax shall be
21 equal to one-half of one per cent of the gross



1 proceeds of sales of the business; and provided
2 further that insofar as the sale of tangible
3 personal property is a wholesale sale under
4 section 237-4(a)(8), the tax shall be one-half of
5 one per cent of the gross proceeds. Upon every
6 person engaging or continuing within this State
7 in the business of a producer, the tax shall be
8 equal to one-half of one per cent of the gross
9 proceeds of sales of the business, or the value
10 of the products, for sale.

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



1 Acts of Congress, there may be attributed gross
2 proceeds of sales, the gross proceeds shall be so
3 attributed.

4 (C) No manufacturer or producer, engaged in such
5 business in the State and selling the
6 manufacturer's or producer's products for
7 delivery outside of the State (for example,
8 consigned to a mainland purchaser via common
9 carrier f.o.b. Honolulu), shall be required to
10 pay the tax imposed in this chapter for the
11 privilege of so selling the products, and the
12 value or gross proceeds of sales of the products
13 shall be included only in determining the measure
14 of the tax imposed upon the manufacturer or
15 producer.

16 (D) A manufacturer or producer, engaged in such
17 business in the State, shall pay the tax imposed
18 in this chapter for the privilege of selling its
19 products in the State, and the value or gross
20 proceeds of sales of the products, thus subjected
21 to tax, may be deducted insofar as duplicated as



1 to the same products by the measure of the tax
2 upon the manufacturer or producer for the
3 privilege of manufacturing or producing in the
4 State; provided that no producer of agricultural
5 products who sells the products to a purchaser
6 who will process the products outside the State
7 shall be required to pay the tax imposed in this
8 chapter for the privilege of producing or selling
9 those products.

10 (E) A taxpayer selling to a federal cost-plus
11 contractor may make the election provided for by
12 paragraph (3) (C), and in that case the tax shall
13 be computed pursuant to the election,
14 notwithstanding this paragraph or paragraph (1)
15 to the contrary.

16 (F) The department, by rule, may require that a
17 seller take from the purchaser of tangible
18 personal property a certificate, in a form
19 prescribed by the department, certifying that the
20 sale is a sale at wholesale; provided that:



- 1 (i) Any purchaser who furnishes a certificate
- 2 shall be obligated to pay to the seller,
- 3 upon demand, the amount of the additional
- 4 tax that is imposed upon the seller whenever
- 5 the sale in fact is not at wholesale; and
- 6 (ii) The absence of a certificate in itself shall
- 7 give rise to the presumption that the sale
- 8 is not at wholesale unless the sales of the
- 9 business are exclusively at wholesale.

10 (3) Tax upon contractors.

11 (A) Upon every person engaging or continuing within

12 the State in the business of contracting, the tax

13 shall be equal to four per cent of the gross

14 income of the business.

15 (B) In computing the tax levied under this paragraph,

16 there shall be deducted from the gross income of

17 the taxpayer so much thereof as has been included

18 in the measure of the tax levied under

19 subparagraph (A), on another taxpayer who is a

20 contractor, as defined in section 237-6; provided

21 that any person claiming a deduction under this



1 paragraph shall be required to show in the
2 person's return the name and general excise
3 number of the person paying the tax on the amount
4 deducted by the person.

5 (C) In computing the tax levied under this paragraph
6 against any federal cost-plus contractor, there
7 shall be excluded from the gross income of the
8 contractor so much thereof as fulfills the
9 following requirements:

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

17 (ii) The taxpayer making the sale shall have
18 certified to the department that the
19 taxpayer is taxable with respect to the
20 gross proceeds of the sale, and that the
21 taxpayer elects to have the tax on gross



1 income computed the same as upon a sale to
2 the state government.

3 (D) A person who, as a business or as a part of a
4 business in which the person is engaged, erects,
5 constructs, or improves any building or
6 structure, of any kind or description, or makes,
7 constructs, or improves any road, street,
8 sidewalk, sewer, or water system, or other
9 improvements on land held by the person (whether
10 held as a leasehold, fee simple, or otherwise),
11 upon the sale or other disposition of the land or
12 improvements, even if the work was not done
13 pursuant to a contract, shall be liable to the
14 same tax as if engaged in the business of
15 contracting, unless the person shows that at the
16 time the person was engaged in making the
17 improvements the person intended, and for the
18 period of at least one year after completion of
19 the building, structure, or other improvements
20 the person continued to intend to hold and not
21 sell or otherwise dispose of the land or



1 improvements. The tax in respect of the
2 improvements shall be measured by the amount of
3 the proceeds of the sale or other disposition
4 that is attributable to the erection,
5 construction, or improvement of such building or
6 structure, or the making, constructing, or
7 improving of the road, street, sidewalk, sewer,
8 or water system, or other improvements. The
9 measure of tax in respect of the improvements
10 shall not exceed the amount which would have been
11 taxable had the work been performed by another,
12 subject as in other cases to the deductions
13 allowed by subparagraph (B). Upon the election
14 of the taxpayer, this paragraph may be applied
15 notwithstanding that the improvements were not
16 made by the taxpayer, or were not made as a
17 business or as a part of a business, or were made
18 with the intention of holding the same. However,
19 this paragraph shall not apply in respect of any
20 proceeds that constitute or are in the nature of
21 rent, which shall be taxable under paragraph (9);



1 provided that insofar as the business of renting
2 or leasing real property under a lease is taxed
3 under section 237-16.5, the tax shall be levied
4 by section 237-16.5.

5 (4) Tax upon theaters, amusements, radio broadcasting
6 stations, etc.

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

18 (B) The department may require that the person
19 rendering an amusement at wholesale take from the
20 licensed seller a certificate, in a form



1 prescribed by the department, certifying that the
2 sale is a sale at wholesale; provided that:

3 (i) Any licensed seller who furnishes a
4 certificate shall be obligated to pay to the
5 person rendering the amusement, upon demand,
6 the amount of additional tax that is imposed
7 upon the seller whenever the sale is not at
8 wholesale; and

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

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



1 commissions and other compensation attributable to the
2 services so rendered by the person.

3 (6) Tax on service business.

4 (A) Upon every person engaging or continuing within
5 the State in any service business or calling
6 including professional services not otherwise
7 specifically taxed under this chapter, there is
8 likewise hereby levied and shall be assessed and
9 collected a tax equal to four per cent of the
10 gross income of the business, and in the case of
11 a wholesaler under section 237-4(a)(10), the tax
12 shall be equal to one-half of one per cent of the
13 gross income of the business.

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

19 (i) Any licensed seller who furnishes a
20 certificate shall be obligated to pay to the
21 person rendering the service, upon demand,



1 the amount of additional tax that is imposed
2 upon the seller whenever the sale is not at
3 wholesale; and

4 (ii) The absence of a certificate in itself shall
5 give rise to the presumption that the sale
6 is not at wholesale unless the person
7 rendering the sale is exclusively rendering
8 services at wholesale.

9 (C) Where any person is engaged in the business of
10 selling interstate or foreign common carrier
11 telecommunication services within and without the
12 State, other than as a home service provider, the
13 tax shall be imposed on that portion of gross
14 income received by a person from service which is
15 originated or terminated in this State and is
16 charged to a telephone number, customer, or
17 account in this State notwithstanding any other
18 state law (except for the exemption under
19 section 237-23(a)(1)) to the contrary. If, under
20 the Constitution and laws of the United States,
21 the entire gross income as determined under this



1 paragraph of a business selling interstate or
2 foreign common carrier telecommunication services
3 cannot be included in the measure of the tax, the
4 gross income shall be apportioned as provided in
5 section 237-21; provided that the apportionment
6 factor and formula shall be the same for all
7 persons providing those services in the State.

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



1 terminate, or pass through; provided further that
2 the income from charges specifically derived from
3 interstate or foreign mobile telecommunications
4 services, as determined by books and records that
5 are kept in the regular course of business by the
6 home service provider in accordance with
7 section 239-24, shall be apportioned under any
8 apportionment factor or formula adopted under
9 subparagraph (C). Gross income shall not
10 include:

11 (i) Gross receipts from mobile
12 telecommunications services provided to a
13 customer with a place of primary use outside
14 this State;

15 (ii) Gross receipts from mobile
16 telecommunications services that are subject
17 to the tax imposed by chapter 239;

18 (iii) Gross receipts from mobile
19 telecommunications services taxed under
20 section 237-13.8; and



1 (iv) Gross receipts of a home service provider
2 acting as a serving carrier providing mobile
3 telecommunications services to another home
4 service provider's customer.

5 For the purposes of this paragraph, "charges for
6 mobile telecommunications services", "customer",
7 "home service provider", "mobile
8 telecommunications services", "place of primary
9 use", and "serving carrier" have the same meaning
10 as in section 239-22.

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

16 (8) Tax on receipts of sugar benefit payments. Upon the
17 amounts received from the United States government by
18 any producer of sugar (or the producer's legal
19 representative or heirs), as defined under and by
20 virtue of the Sugar Act of 1948, as amended, or other
21 Acts of the Congress of the United States relating



1 thereto, there is hereby levied a tax of one-half of
2 one per cent of the gross amount received; provided
3 that the tax levied hereunder on any amount so
4 received and actually disbursed to another by a
5 producer in the form of a benefit payment shall be
6 paid by the person or persons to whom the amount is
7 actually disbursed, and the producer actually making a
8 benefit payment to another shall be entitled to claim
9 on the producer's return a deduction from the gross
10 amount taxable hereunder in the sum of the amount so
11 disbursed. The amounts taxed under this paragraph
12 shall not be taxable under any other paragraph,
13 subsection, or section of this chapter.

14 (9) Tax on gaming. Upon every person engaging or
15 continuing within the State in the business of gaming,
16 as authorized under chapter _____, the tax shall be
17 equal to _____ per cent of the gross income of the
18 business.

19 ~~[(9)]~~ (10) Tax on other business. Upon every person
20 engaging or continuing within the State in any
21 business, trade, activity, occupation, or calling not



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

12 SECTION 6. Section 237-31, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§237-31 Remittances. All remittances of taxes imposed by
15 this chapter shall be made by money, bank draft, check,
16 cashier's check, money order, or certificate of deposit to the
17 office of the department of taxation to which the return was
18 transmitted. The department shall issue its receipts therefor
19 to the taxpayer and shall pay the moneys into the state treasury
20 as a state realization, to be kept and accounted for as provided
21 by law; provided that:



1 (1) A sum, not to exceed \$5,000,000, from all general
 2 excise tax revenues realized by the State shall be
 3 deposited in the state treasury in each fiscal year to
 4 the credit of the compound interest bond reserve fund;
 5 [and]

6 (2) A sum from all general excise tax revenues realized by
 7 the State that is equal to one-half of the total
 8 amount of funds appropriated or transferred out of the
 9 hurricane reserve trust fund under sections 4 and 5 of
 10 Act 62, Session Laws of Hawaii 2011, shall be
 11 deposited into the hurricane reserve trust fund in
 12 fiscal year 2013-2014 and in fiscal year 2014-2015;
 13 provided that the deposit required in each fiscal year
 14 shall be made by October 1 of that fiscal year[-]; and

15 (3) Two per cent of all general excise tax revenues
 16 realized by the State pursuant to section 237-13(9)
 17 shall be deposited into the state gaming fund,
 18 established under section -601."

19 SECTION 7. All initial appointments to the Hawaii gaming
 20 control commission shall be made within sixty days of the
 21 effective date of this Act.

H.B. NO. 918

1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect on July 1, 2023;
4 provided that the amendments made to section 237-31, Hawaii
5 Revised Statutes, by section 6 of this Act shall not be repealed
6 when that section is reenacted on June 30, 2023, pursuant to
7 section 9 of Act 229, Session Laws of Hawaii 2021.

8

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "John M. ...", is written over a horizontal line. The signature is stylized and cursive.

JAN 23 2023



H.B. NO. 918

Report Title:

Gambling; Poker; Sportsbook; Gaming; Legalization

Description:

Authorizes a 10-year license for 1 poker and sportsbook gaming facility in a special district designated for tourism in a county with over 500,000 residents that is not in a hotel. Allows admission for individuals 21 years of age or older who register to stay at a hotel on Oahu and pay an annual fee. Establishes the Hawaii gaming control commission. Imposes wagering tax on gross receipts. Creates the state gaming fund and compulsive gambler program.

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

