
A BILL FOR AN ACT

RELATING TO SPORTS WAGERING.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

"CHAPTER

REGULATION OF SPORTS WAGERING

6 **§ -1 Definitions.** As used in this chapter, unless the
7 context otherwise requires:

8 "Adjusted gross sports wagering receipts" means gross
9 sports wagering receipts less the total of all sums actually
10 paid out as winnings to patrons, including the monetary value of
11 any merchandise or thing of value awarded as a prize and subject
12 to federal income tax.

13 "Amateur sports event" means any sports or athletic event
14 that is not a professional sports or athletic event, collegiate
15 sports or athletic event, or youth sports event. "Amateur
16 sports event" includes domestic, international, and Olympic
17 sports or athletic events.



1 "Approved mobile application or digital platform" means a
2 mobile application or digital platform approved by the
3 department that use the Internet, at least in part, to accept
4 wagers originating in the State or in a state or jurisdiction
5 approved by the department and consistent with federal law.

6 "Cash" means moneys that have value as legal tender.

7 "Collegiate sports or athletic event" means an athletic or
8 sporting event in which at least one participant is a team or
9 contestant competing on behalf or under the sponsorship of a
10 public or private institution of higher education, regardless of
11 where the institution is located.

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

14 "Fantasy sports contest" means a contest in which:

15 (1) There are no fewer than two participants; provided
16 that all participants are natural persons and a
17 fantasy sports contest operator shall not be construed
18 to be a participant;

19 (2) Participants own, manage, or coach imaginary teams;



(3) All prizes and awards offered to winning participants are established and made known to participants in advance of the game or contest;

(4) The winning outcome of the game or contest reflects the relative skill of the participants and is determined by statistics generated by actual individuals, including athletes in the case of a sporting event; and

(5) No winning outcome is based solely on the performance of an individual athlete or on the score, point spread, or any performance of any single real-world team or any combination of real-world teams.

"Gross sports wagering receipts" means the total of all cash paid by patrons as wagers.

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

(1) A sports wagering operator license under section -5 to permit a sports wagering operator to operate sports wagering through an approved mobile application or digital platform; and



1 (2) A sports wagering supplier license under section -6
2 to sell or lease equipment, systems, or services to be
3 used in connection with sports wagering but not to
4 directly accept wagers.

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

9 "Professional sports or athletic event" means an event at
10 which two or more contestants participate in a sports event or
11 athletic event and one or more participants receive
12 compensation. "Professional sports or athletic event" shall not
13 include events in which the majority of participants are under
14 eighteen years of age.

15 "Qualified gaming entity" means an entity that offers
16 sports wagering through computers, mobile applications, or
17 digital platforms in no fewer than three jurisdictions in the
18 United States pursuant to a state regulatory structure.

19 "Sports wagering" means the business of accepting wagers on
20 wagering events or portions of wagering events, the individual
21 performance statistics of individuals in wagering events, or any



1 combination thereof, via a sports wagering operator's approved
2 mobile application or digital platform. "Sports wagering"
3 includes but is not limited to single-game bets, teaser bets,
4 parlays, over-under, moneyline, pools, exchange wagering, in-
5 game wagering, in-play bets, proposition bets, and straight
6 bets. "Sports wagering" shall not include fantasy sports
7 contests.

8 "Sports wagering account" means a financial record
9 established by a sports wagering operator for an individual
10 patron in which the patron may deposit and withdraw funds for
11 sports wagering and other authorized purchases and to which the
12 licensed sports wagering operator may credit winnings or other
13 amounts due to that patron or authorized by that patron.

14 "Sports wagering operator" means a sports wagering operator
15 licensee pursuant to section -5.

16 "Sports wagering supplier" means a person that provides
17 geolocation and age verification services to a sports wagering
18 operator.

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



1 "Wagering event" means any professional sports or athletic
2 event, collegiate sports or athletic event, or amateur sports
3 event, including but not limited to an Olympic or international
4 sports or athletic event; a motor vehicle race; electronic
5 sports event, also known as e-sports; and any other event as
6 permitted by the department, provided the majority of
7 participants in the event are not under age eighteen.

8 "Winnings" means the total of all sums actually paid out,
9 including the monetary value of any merchandise of value awarded
10 as a prize.

11 "Youth sports event" means an athletic event:

12 (1) Involving a majority of participants under eighteen
13 years of age; or

14 (2) In which at least one participant is a team from a
15 public or private elementary, middle, or secondary
16 school, regardless of where the school is located;

17 provided that if an athletic event meets the definition of
18 "college sports or athletic event" or "professional sports or
19 athletic event", the event shall not be considered a youth
20 sports event regardless of the age of the participants. An
21 international athletic event organized by the International



1 Olympic Committee shall not be considered to be a youth sports
2 event, regardless of the age of the participants.

3 § -2 **Authorization of sports wagering; license required;**
4 **emergency rules.** (a) Notwithstanding any law to the contrary,
5 sports wagering and ancillary activities shall be lawful when
6 conducted under this chapter and rules adopted under this
7 chapter.

8 (b) No person or entity shall engage in any activities in
9 the State that require a license under this chapter unless all
10 necessary licenses have been obtained under this chapter and
11 rules adopted under this chapter.

12 (c) In regard to rulemaking:

13 (1) The department may adopt emergency rules pursuant to
14 the requirements of sections 91-3 and 91-4;

15 (2) The department's determination that there is imminent
16 peril and the reasons therefor shall be stated in, and
17 as a part of, the emergency rule; and

18 (3) The authority shall make the emergency rule known to
19 the public by publishing the rule, at least once, in a
20 newspaper of general circulation in the State, within



1 five days from the date the rule is filed with the
2 lieutenant governor.

3 § -3 **Application; criminal history record check.** (a)

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

- 8 (1) The full name, current address, and contact
9 information of the applicant;
- 10 (2) Disclosure of each person that has control of the
11 applicant as described in subsection (b);
- 12 (3) Consent to permit the department to conduct a criminal
13 history record check under subsection (c) of the
14 applicant and each person disclosed under subsection
15 (b) (2);
- 16 (4) For the applicant and each person disclosed under
17 subsection (b) (2), a record of previous issuances and
18 denials of a gambling-related license or application
19 in the State or in any other jurisdiction;
- 20 (5) For a sports wagering operator applicant, proof that
21 the sports wagering system has been tested and



1 certified for use in another United States
2 jurisdiction by an independent testing laboratory
3 within the last six months; and
4 (6) Any other information that the department may require
5 by rule.

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

8 (1) Each corporate holding company, parent company, or
9 subsidiary company of a corporate applicant or
10 licensee and each person who owns fifteen per cent or
11 more of the corporate applicant or licensee and who
12 has the ability to control the activities of the
13 corporate applicant or licensee or elect a majority of
14 the board of directors of that corporate applicant or
15 licensee, except for a bank or other licensed lending
16 institution that holds a mortgage or other lien
17 acquired in the ordinary course of business;

18 (2) Each person associated with a noncorporate applicant
19 or licensee that directly or indirectly holds a
20 beneficial or proprietary interest in the noncorporate
21 applicant's or licensee's business operation or that



1 the department otherwise determines has the ability to
2 control the noncorporate applicant or licensee; and
3 (3) Any executive, employee, or agent of an applicant or
4 licensee who has ultimate decision-making authority
5 over the conduct of the applicant's or licensee's
6 sports wagering operations in the State.

7 (c) The department shall request a criminal history record
8 check in the form the department requires and submit
9 fingerprints for a national criminal records check against the
10 national criminal history background check system. The
11 fingerprints shall be furnished by all persons required to be
12 named in the application and shall be accompanied by a signed
13 authorization for the release of information by a law
14 enforcement agency in the State and the Federal Bureau of
15 Investigation; provided that an individual who has submitted to
16 a criminal history record check in the State or any other state
17 within the previous twelve months shall not be required to
18 submit to another criminal history record check; provided
19 further that the person shall submit the results of the previous
20 criminal history record check to the department and affirm that
21 there has been no material change in the individual's criminal



1 history since the time of the previous criminal history record
2 check.

3 (d) A person licensed under this chapter shall give the
4 department written notice within thirty days of any material
5 change to any information provided in the licensee's application
6 for a license or renewal, including any change in the identity
7 of persons considered to have control of the licensee under
8 subsection (b).

9 (e) The department shall keep confidential information,
10 records, interviews, reports, statements, memoranda, or other
11 data supplied to or used by the department in the course of its
12 review or investigation of an applicant for a sports wagering
13 operator license confidential to the extent such information
14 falls within an exception to public disclosure under chapter
15 92F. The department shall also keep confidential information
16 pertaining to any applicant or licensee to the extent such
17 information falls within an exception to public disclosure under
18 chapter 92F.

19 § -4 Denial of license; reprimand, suspension, and
20 revocation. The department may deny a license to any applicant,
21 reprimand any licensee, or suspend or revoke a license if:



- 1 (1) The applicant or licensee has knowingly made a false
2 statement of material fact to the department;
- 3 (2) The applicant or licensee has intentionally not
4 disclosed the existence or identity of other persons
5 that have control of the applicant or licensee as
6 required by section -3;
- 7 (3) The applicant or licensee has had a license revoked by
8 any government authority responsible for the
9 regulation of gambling or gaming activities;
- 10 (4) The applicant has been convicted of a crime of moral
11 turpitude, gambling-related offense, theft or fraud
12 offense, or has otherwise demonstrated, either by a
13 police record or other satisfactory evidence, a lack
14 of respect for law and order;
- 15 (5) The applicant or licensee has not demonstrated to the
16 satisfaction of the department financial
17 responsibility sufficient to adequately meet the
18 requirements of the licensed business or proposed
19 business; or
- 20 (6) An applicant has not met the requirements of this
21 section or any other provision of this chapter.



1 § -5 **Sports wagering operator license; issuance; fees;**
2 **term of license; temporary license.** (a) The department shall
3 issue a minimum of four sports wagering operator licenses to
4 applicants that meet all requirements of this section,
5 section -3, and rules adopted under this chapter and that
6 have not violated any provision of this chapter; provided that
7 this section shall not be interpreted to direct the department
8 to license an unqualified applicant. The department shall
9 establish a universal start date for sports wagering operators
10 that is no later than one hundred eighty days after the
11 effective date of this Act. No person shall offer sports
12 wagering in this State prior to the universal start date.

13 (b) Only a qualified gaming entity shall be eligible to
14 apply for a sports wagering operator license.

15 (c) A sports wagering operator license granted by the
16 department pursuant to this section shall grant a licensee the
17 lawful authority to conduct sports wagering through a mobile
18 application or digital platform approved by the department and
19 any rules adopted under this chapter.

20 (d) The fee for an initial or renewal sports wagering
21 operator license shall be \$250,000; provided that the fee shall



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

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

14 (f) An applicant for a sports wagering operator license
15 may submit with the application a request to the department to
16 commence sports wagering through a temporary license subject to
17 the universal start date in subsection (a); provided that this
18 request shall include the initial license fee of \$250,000
19 payable to the department. Upon receiving a request for a
20 temporary license, the department shall review the request. If
21 the department determines that the entity requesting the



1 temporary license is a qualified gaming entity, has paid the
2 initial license fee for a temporary license, and has submitted
3 an application for a sports wagering operator license, the
4 department shall authorize the qualified gaming entity to
5 conduct sports wagering for three years under a temporary
6 license or until a final determination on the sports wagering
7 operator's license application is made. Sports wagering
8 conducted under the authority of a temporary license shall
9 comply with the sports wagering operator's house rules adopted
10 pursuant to section -7.

11 **§ -6 Sports wagering supplier license; issuance; fees;**
12 **term of license; temporary license.** (a) The department shall
13 issue a sports wagering supplier license upon finding that the
14 applicant meets all the requirements of this section,
15 section -3, and rules adopted under this chapter.

16 (b) An applicant for a sports wagering supplier license
17 shall demonstrate that the equipment, systems, or services that
18 the applicant plans to offer to a sports wagering operator
19 conform to standards established by the department by rule. The
20 department may accept approval by another jurisdiction that is
21 specifically determined by the department to have similar



1 standards for equipment, systems, or services as evidence the
2 applicant meets the standards established by the department.

3 (c) A sports wagering supplier license granted by the
4 department pursuant to this section shall grant a licensee
5 lawful authority to sell or lease sports wagering equipment,
6 systems, or services to sports wagering operators in the State
7 within the terms and conditions of the license and any rules
8 adopted under this chapter.

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

20 (e) Except as provided in subsection (f), a license
21 granted or renewed under this section shall be valid for five



1 years unless sooner revoked by the department under
2 section -4.

3 (f) An applicant for a sports wagering supplier license
4 may submit with the application a request for a temporary
5 license; provided that the request for a temporary license shall
6 include the initial license fee of \$10,000. If the department
7 determines that the applicant is qualified under subsection (b),
8 meets the requirements established by rule for a temporary
9 license, and has paid the initial license fee for a temporary
10 license and the department is not aware of any reason the
11 applicant is ineligible for a license under this section, the
12 department shall issue a temporary sports wagering supplier
13 license. A temporary sports wagering supplier license issued
14 under this subsection shall be valid for three years or until a
15 final determination on the sports wagering supplier license
16 application is made, whichever is sooner. If after
17 investigation the department determines that the applicant is
18 eligible for a sports wagering supplier license under this
19 chapter, the department shall issue the initial sports wagering
20 supplier license, at which time the temporary license shall be
21 terminated.



1 § -7 **Sports wagering; house rules.** (a) A sports
2 wagering operator shall adopt comprehensive house rules for game
3 play governing sports wagering transactions with its patrons.
4 The rules shall specify the amounts to be paid on winning
5 wagers, the circumstances under which the sports wagering
6 operator will void a bet, treatment of errors, late bets, and
7 related contingencies, and the effect of schedule changes. The
8 department shall approve house rules before implementation by a
9 sports wagering operator.

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

13 § -8 **Sports wagering operator; duties.** A sports
14 wagering operator shall:

15 (1) Employ a monitoring system using software to identify
16 irregularities in volume or odds swings that could
17 signal suspicious activity that requires further
18 investigation; provided that the suspicious activity
19 shall be promptly reported to and investigated by the
20 department; provided further that monitoring system



requirements and specifications shall be consistent
with industry standards;

(2) Promptly report to the department any facts or
circumstances related to the operation of a licensee
that constitute a violation of state or federal law
and immediately report any suspicious betting over a
threshold amount, to be set by the sports wagering
operator and approved by the department;

(3) Conduct all sports wagering activities and functions
in a manner that does not pose a threat to the public
health, safety, or welfare of the residents of the
State;

(4) Keep current in all payments and obligations to the
department;

(5) Prevent any person from tampering with or interfering
with any sports wagering;

(6) Ensure that sports wagering occurs using only an
approved mobile application or digital platform;

(7) Conspicuously display in all advertising for sports
wagering the availability of the toll-free helpline
"1-800-GAMBLER" or a successor phone number;



- 1 (8) At all times, maintain sufficient cash and other
2 supplies to conduct sports wagering;
3 (9) Maintain daily records showing the gross sports
4 wagering receipts and adjusted gross sports wagering
5 receipts of the licensee; and
6 (10) Timely file with the department any additional reports
7 required by this chapter or by rule adopted under this
8 chapter.

9 § -9 Sports wagering agreements. (a) The department
10 may:

- 11 (1) Enter into sports wagering agreements with other
12 states, territories, nations, jurisdictions,
13 governments, or other entities to accept wagers from
14 individuals located outside the State; provided that
15 entering into the sports wagering agreement shall not
16 violate state or federal law; and
17 (2) Take all necessary actions to ensure that any sports
18 wagering agreement entered into pursuant to this
19 section becomes effective.

20 (b) The department may adopt rules pursuant to chapter 91
21 to implement this section.



1 § -10 **Acceptance of wagers; sports wagering accounts;**
2 **excluded persons.** (a) A sports wagering operator shall accept
3 wagers on wagering events only through an approved mobile
4 application or digital platform or a patron's sports wagering
5 account using an approved mobile application or digital
6 platform. The branding for each approved mobile application or
7 digital platform shall be determined by the sports wagering
8 operator.

9 (b) A sports wagering account may be established through
10 an approved mobile application or digital platform. A sports
11 wagering operator shall allow patrons to fund a sports wagering
12 account using:

- 13 (1) A credit or debit card;
14 (2) Bonuses or promotions;
15 (3) Electronic bank transfer;
16 (4) An online or mobile payment system that supports
17 online money transfers; and
18 (5) Any other means approved by the department.

19 (c) A person placing a wager shall be twenty-one years of
20 age or older. A person placing a wager shall be physically
21 located in the State unless the department has entered into a



1 sports wagering agreement pursuant to section -9 to accept
2 wagers from individuals located outside the State. No person
3 shall offer sports wagering at a physical location via kiosks,
4 computer terminals, or other means established for that purpose.

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

12 (e) The department shall establish a voluntary exclusion
13 program for any individual to voluntarily exclude themselves
14 from sports wagering. Sports wagering operators shall use
15 reasonable means to comply with the exclusion of individuals
16 participating in the voluntary exclusion program by the
17 department.

18 (f) The department shall adopt rules to establish the
19 voluntary exclusion program, including the following:



- 1 (1) Verification of the individual's request to be placed
2 in the voluntary exclusion program and for how long,
3 up to and including that individual's lifetime;
- 4 (2) How information regarding the identity of individuals
5 who are in the voluntary exclusion program shall be
6 disseminated to sports wagering operators;
- 7 (3) How an individual in the voluntary exclusion program
8 may petition the department for removal from the
9 voluntary exclusion program;
- 10 (4) The means by which sports wagering operators and their
11 agents shall make all reasonable efforts to cease
12 direct marketing efforts to individuals participating
13 in the voluntary exclusion program; and
- 14 (5) The means by which the department shall make available
15 to all sports wagering operators the names of the
16 individuals participating in the voluntary exclusion
17 program; provided that the names shall be made
18 available at least quarterly.
- 19 (g) The names of the individuals participating in the
20 voluntary exclusion program shall be treated as confidential by
21 each sports wagering operator. Sports wagering operators



1 conducting sports wagering in another state may share the
2 information provided under this section with its agents and
3 affiliates in other states for excluding individuals
4 participating in the voluntary exclusion program.

5 (h) No employee of a sports wagering operator shall place
6 a wager on any wagering event through an unapproved or approved
7 mobile application or digital platform of that employee's
8 employer.

9 § -11 Sports wagering revenues; tax. (a) For the
10 privilege of holding a license to engage in sports wagering as a
11 sports wagering operator, the tax imposed by section 237-13(9)
12 shall be levied on the licensee. The accrual method of
13 accounting shall be used for purposes of calculating the amount
14 of the tax owed by the licensee. The department shall adopt
15 rules and develop any forms necessary to carry out enforcement
16 of this section. This tax shall be in lieu of all other taxes
17 imposed on the operation of sports wagering or on the proceeds
18 from the operation of sports wagering in this State.

19 (b) per cent of all taxes collected in this section
20 shall be deposited into the problem gambling prevention and
21 treatment special fund established under section -12.



1 § -12 **Problem gambling prevention and treatment special**
2 **fund.** (a) There is established the problem gambling prevention
3 and treatment special fund into which shall be deposited:

4 (1) Appropriations by the legislature to the special fund;
5 and

6 (2) The portion of taxes collected under section -11
7 for deposit into the problem gambling prevention and
8 treatment special fund.

9 Any interest and moneys earned on the investments shall be
10 credited to the problem gambling prevention and treatment
11 special fund. Notwithstanding any other provision of law to the
12 contrary, any moneys remaining in the fund at the end of the
13 biennium shall not revert to the credit of the general fund of
14 the State.

15 (b) Subject to legislative appropriation, moneys in the
16 problem gambling prevention and treatment special fund shall be
17 expended by the department of health for:

18 (1) Counseling and other support services for disordered
19 and problem gamers;

20 (2) Developing and implementing problem gaming treatment
21 and prevention programs; and



(3) Creating and disseminating responsible gaming
education and messages.

§ -13 **Civil violation.** Except as provided in
section -14, a violation of any provision of this chapter
shall be a civil violation. The department may impose a fine of
no more than \$5,000 on any person who violates this chapter or
\$10,000 for all violations resulting from the same occurrence of
events. Fines imposed under this chapter shall not be limited
to persons licensed under this chapter.

§ -14 **Unlicensed sports wagering; penalties.** (a) Any
person other than a licensee under this chapter who conducts
sports wagering shall be subject to a fine of no more than
\$10,000 or a term of imprisonment of no more than ninety days,
or both.

(b) A person convicted of a second violation of subsection
(a) shall be subject to a fine of no more than \$50,000 or a term
of imprisonment of no more than six months, or both.

(c) A person convicted of a third or subsequent violation
of subsection (a) shall be subject to a fine of no less than
\$25,000 and no more than \$100,000, or a term of imprisonment of
no less than one year and no more than five years, or both.



1 § -15 **Exemption from gambling.** Sports wagering operated
2 by a sports wagering operator licensed under and in compliance
3 with this chapter shall not constitute a gambling offense under
4 part III of chapter 712."

5 SECTION 2. 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 under the provisions of the
17 Constitution of the United States and the Acts of
18 the Congress of the United States which may be
19 now in force or may be hereafter adopted, and
20 whenever there occurs in the State an activity to
21 which, under the Constitution and Acts of



1 Congress, there may be attributed gross proceeds
2 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 section
16 237-4(a)(13), the tax shall be one-half of one
17 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 section
19 237-23(a)(1)) to the contrary. If, under the
20 Constitution and laws of the United States, the
21 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 section
7 239-24, 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



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

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

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

(8) Tax on receipts of sugar benefit payments. Upon the amounts received from the United States government by any producer of sugar (or the producer's legal representative or heirs), as defined under and by virtue of the Sugar Act of 1948, as amended, or other 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 licensed sports wagering. Upon every person
15 engaged in sports wagering as a licensed sports
16 wagering operator or sports wagering supplier in the
17 State pursuant to chapter , there is hereby levied
18 and shall be assessed and collected a tax equal to ten
19 per cent of the adjusted gross sports wagering
20 receipts. For purposes of this paragraph, "adjusted



1 gross sports wagering receipts" has the same meaning
2 as in section -1.

3 ~~[(9)]~~ (10) Tax on other business. Upon every person
4 engaging or continuing within the State in any
5 business, trade, activity, occupation, or calling not
6 included in the preceding paragraphs or any other
7 provisions of this chapter, there is likewise hereby
8 levied and shall be assessed and collected, a tax
9 equal to four per cent of the gross income thereof.
10 In addition, the rate prescribed by this paragraph
11 shall apply to a business taxable under one or more of
12 the preceding paragraphs or other provisions of this
13 chapter, as to any gross income thereof not taxed
14 thereunder as gross income or gross proceeds of sales
15 or by taxing an equivalent value of products, unless
16 specifically exempted."

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

20 "Contest of chance" means any contest, game, gaming
21 scheme, or gaming device in which the outcome depends in a



1 material degree upon an element of chance, notwithstanding that
2 skill of the contestants may also be a factor therein. "Contest
3 of chance" does not include sports wagering under chapter or
4 fantasy sports contests as defined in section -1.

5 "Gambling" [~~A person engages in gambling if he stakes or~~
6 ~~risks~~] means staking or risking something of value upon the
7 outcome of a contest of chance or a future contingent event not
8 under [~~his~~] the person's control or influence, upon an agreement
9 or understanding that [~~he~~] the person or someone else will
10 receive something of value in the event of a certain outcome.

11 Gambling does not include [~~bona~~]:

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

16 (2) Agreements to compensate for loss caused by the
17 happening of chance, including but not limited to
18 contracts of indemnity or guaranty and life, health,
19 or accident insurance[~~+~~];

20 (3) Sports wagering authorized under chapter and
21 placing wagers on wagering events or portions of



1 wagering events, the individual performance statistics
2 of individuals in wagering events, or any combination
3 thereof, by any system or method of wagering under
4 chapter ; and

5 (4) Fantasy sports contests as defined in section -1."

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

9 SECTION 5. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect on July 1, 3000.



Report Title:

Gambling; Sports Wagering; Fantasy Sports; DCCA

Description:

Allows for the regulation of sports wagering by the Department of Commerce and Consumer Affairs. Establishes licensing requirements for sports wagering operators and sports wagering suppliers. Specifies that sports wagering and fantasy sports contests shall not be considered contests of chance or gambling. Effective 07/01/3000. (HD1)

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

