

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

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

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

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

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

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



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

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

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



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

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

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

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

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



1 **§ -2 Authorization of sports wagering; license required.**

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

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

10 **§ -3 Application; criminal history background check.**

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

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



- 1 subsection (b) (2) in accordance with procedures
- 2 established by the department;
- 3 (4) For the applicant and each person disclosed under
- 4 subsection (b) (2), a record of previous issuances and
- 5 denials of a gambling-related license or application
- 6 in the State or in any other jurisdiction;
- 7 (5) For a sports wagering operator applicant, proof that
- 8 the sports wagering system has been tested and
- 9 certified for use in another United States
- 10 jurisdiction by an independent testing laboratory; and
- 11 (6) Any other information that the department may require
- 12 by rule.
- 13 (b) The following persons shall be considered to have
- 14 control of an applicant or a licensee:
- 15 (1) Each corporate holding company, parent company, or
- 16 subsidiary company of a corporate applicant or
- 17 licensee and each person who owns fifteen per cent or
- 18 more of the corporate applicant or licensee and who
- 19 has the ability to control the activities of the
- 20 corporate applicant or licensee or elect a majority of
- 21 the board of directors of that corporate applicant or



1 licensee, except for a bank or other licensed lending
2 institution that holds a mortgage or other lien
3 acquired in the ordinary course of business;

4 (2) Each person associated with a noncorporate applicant
5 or licensee that directly or indirectly holds a
6 beneficial or proprietary interest in the noncorporate
7 applicant's or licensee's business operation or that
8 the department otherwise determines has the ability to
9 control the noncorporate applicant or licensee; and

10 (3) Any executive, employee, or agent of an applicant or
11 licensee who has ultimate decision-making authority
12 over the conduct of the applicant's or licensee's
13 sports wagering operations in the State.

14 (c) The department shall request a criminal history record
15 check in the form the department requires and submit
16 fingerprints for a national criminal records check against the
17 national criminal history background check system. The
18 fingerprints shall be furnished by all persons required to be
19 named in the application and shall be accompanied by a signed
20 authorization for the release of information by a law
21 enforcement agency in the State and the Federal Bureau of



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

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

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



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

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

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

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

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

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

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



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

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

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

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



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

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

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



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



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

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

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

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



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

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

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



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

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



1 department shall approve house rules prior to implementation by
2 a sports wagering operator.

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

6 § -8 Sports wagering operator; duties. A sports
7 wagering operator shall:

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

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



- 1 (3) Conduct all sports wagering activities and functions
2 in a manner that does not pose a threat to the public
3 health, safety, or welfare of the residents of the
4 State;
- 5 (4) Keep current in all payments and obligations to the
6 department;
- 7 (5) Prevent any person from tampering with or interfering
8 with the operation of any sports wagering;
- 9 (6) Ensure that sports wagering occurs using only a mobile
10 application or digital platform approved by the
11 department that uses communications technology to
12 accept wagers originating in the State or in a state
13 or jurisdiction approved by the department and
14 consistent with federal law;
- 15 (7) Conspicuously display the minimum and maximum wagers
16 permitted on any mobile application or digital
17 platform used to place wagers and shall comply with
18 the same;
- 19 (8) Maintain sufficient cash and other supplies to conduct
20 sports wagering at all times;



1 (9) Maintain daily records showing the gross sports
2 wagering receipts and adjusted gross sports wagering
3 receipts of the licensee; and

4 (10) Timely file with the department any additional reports
5 required by this chapter or by rule adopted under this
6 chapter.

7 **§ -9 Sports wagering agreements.** (a) The department
8 shall be authorized to:

9 (1) Enter into sports wagering agreements with other
10 states, territories, nations, jurisdictions,
11 governments, or other entities to accept wagers from
12 individuals located outside the State; provided that
13 entering into the sports wagering agreement shall not
14 violate state or federal law; and

15 (2) Take all necessary actions to ensure that any sports
16 wagering agreement entered into pursuant to this
17 section becomes effective.

18 (b) The department may adopt rules to implement this
19 section.

20 **§ -10 Acceptance of wagers; excluded persons.** (a) A
21 sports wagering operator shall accept wagers on sports events by



1 means of electronic devices using a mobile application or
2 digital platform approved by the department. A person placing a
3 wager shall be eighteen years of age or older and be physically
4 located in the State. No person shall offer sports wagering at
5 a physical location via kiosks, computer terminals, or other
6 means established for that purpose.

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

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

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



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

8 (e) The department or a sports wagering operator may ban a
9 person from participating in the play or operation of sports
10 wagering. A log of all excluded persons shall be kept by the
11 department and shared with each sports wagering operator. A
12 person on the department's exclusion list or a sports wagering
13 operator's exclusion list shall not engage in sports wagering
14 under this chapter.

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

18 § -11 Sports wagering revenues; tax. For the privilege
19 of holding a license to operate sports wagering under this
20 chapter, a tax of per cent of the licensee's adjusted
21 gross sports wagering receipts shall be levied on the licensee.



1 The accrual method of accounting shall be used for purposes of
2 calculating the amount of the tax owed by the licensee. The
3 department shall adopt rules and develop any forms necessary to
4 carry out enforcement of this section.

5 § -12 Civil violation. Except as provided in
6 section -13, any person that violates the provisions of this
7 chapter commits a civil violation for which the department may
8 impose a fine of not more than \$5,000. The department may
9 impose a fine on any person who violates this chapter and shall
10 not be limited to persons licensed under this chapter.

11 § -13 Civil violation; subsequent violations. (a) Any
12 person, other than a licensee under this chapter, who conducts
13 sports wagering shall be subject to a fine of not more than
14 \$10,000 or a term of imprisonment of not more than ninety days,
15 or both.

16 (b) A person convicted of a second violation or subsequent
17 violation of subsection (a) shall be subject to a fine of not
18 more than \$50,000 or a term of imprisonment of not more than six
19 months, or both.

20 (c) A person convicted of a third or subsequent violation
21 of subsection (a) shall be guilty of a felony and subject to a



1 fine of not less than \$25,000 and not more than \$100,000 or a
2 term of imprisonment of not less than one year and not more than
3 five years, or both.

4 **§ -14 Exemption from gambling.** Sports wagering operated
5 by a sports wagering operator that is licensed under this
6 chapter shall be exempt from part III of chapter 712, Hawaii
7 Revised Statutes."

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

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

- 16 (1) Tax on manufacturers:
- 17 (A) Upon every person engaging or continuing within
18 the State in the business of manufacturing,
19 including compounding, canning, preserving,
20 packing, printing, publishing, milling,
21 processing, refining, or preparing for sale,



1 profit, or commercial use, either directly or
2 through the activity of others, in whole or in
3 part, any article or articles, substance or
4 substances, commodity or commodities, the amount
5 of the tax to be equal to the value of the
6 articles, substances, or commodities,
7 manufactured, compounded, canned, preserved,
8 packed, printed, milled, processed, refined, or
9 prepared for sale, as shown by the gross proceeds
10 derived from the sale thereof by the manufacturer
11 or person compounding, preparing, or printing
12 them, multiplied by one-half of one per cent.

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

15 (2) Tax on business of selling tangible personal property;
16 producing.

17 (A) Upon every person engaging or continuing in the
18 business of selling any tangible personal
19 property whatsoever, there is likewise hereby
20 levied, and shall be assessed and collected, a
21 tax equivalent to four per cent of the gross



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

14 (B) Gross proceeds of sales of tangible property in
15 interstate and foreign commerce shall constitute
16 a part of the measure of the tax imposed on
17 persons in the business of selling tangible
18 personal property, to the extent, under the
19 conditions, and in accordance with the provisions
20 of the Constitution of the United States and the
21 Acts of the Congress of the United States which



1 may be now in force or may be hereafter adopted,
2 and whenever there occurs in the State an
3 activity to which, under the Constitution and
4 Acts of Congress, there may be attributed gross
5 proceeds of sales, the gross proceeds shall be so
6 attributed.

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

19 (D) A manufacturer or producer, engaged in such
20 business in the State, shall pay the tax imposed
21 in this chapter for the privilege of selling its



1 products in the State, and the value or gross
2 proceeds of sales of the products, thus subjected
3 to tax, may be deducted insofar as duplicated as
4 to the same products by the measure of the tax
5 upon the manufacturer or producer for the
6 privilege of manufacturing or producing in the
7 State; provided that no producer of agricultural
8 products who sells the products to a purchaser
9 who will process the products outside the State
10 shall be required to pay the tax imposed in this
11 chapter for the privilege of producing or selling
12 those products.

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

19 (F) The department, by rule, may require that a
20 seller take from the purchaser of tangible
21 personal property 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 purchaser who furnishes a certificate
4 shall be obligated to pay to the seller,
5 upon demand, the amount of the additional
6 tax that is imposed upon the seller whenever
7 the sale in fact is not at wholesale; and
8 (ii) The absence of a certificate in itself shall
9 give rise to the presumption that the sale
10 is not at wholesale unless the sales of the
11 business are exclusively at wholesale.
12 (3) Tax upon contractors.
13 (A) Upon every person engaging or continuing within
14 the State in the business of contracting, the tax
15 shall be equal to four per cent of the gross
16 income of the business.
17 (B) In computing the tax levied under this paragraph,
18 there shall be deducted from the gross income of
19 the taxpayer so much thereof as has been included
20 in the measure of the tax levied under
21 subparagraph (A), on another taxpayer who is a



1 contractor, as defined in section 237-6; provided
2 that any person claiming a deduction under this
3 paragraph shall be required to show in the
4 person's return the name and general excise
5 number of the person paying the tax on the amount
6 deducted by the person.

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

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

19 (ii) The taxpayer making the sale shall have
20 certified to the department that the
21 taxpayer is taxable with respect to the



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1 gross proceeds of the sale, and that the
2 taxpayer elects to have the tax on gross
3 income computed the same as upon a sale to
4 the state government.

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



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



1 proceeds that constitute or are in the nature of
2 rent, which shall be taxable under paragraph (9);
3 provided that insofar as the business of renting
4 or leasing real property under a lease is taxed
5 under section 237-16.5, the tax shall be levied
6 by section 237-16.5.

7 (4) Tax upon theaters, amusements, radio broadcasting
8 stations, etc.

9 (A) Upon every person engaging or continuing within
10 the State in the business of operating a theater,
11 opera house, moving picture show, vaudeville,
12 amusement park, dance hall, skating rink, radio
13 broadcasting station, or any other place at which
14 amusements are offered to the public, the tax
15 shall be equal to four per cent of the gross
16 income of the business, and in the case of a sale
17 of an amusement at wholesale under section
18 237-4(a)(13); the tax shall be one-half of one
19 per cent of the gross income.

20 (B) The department may require that the person
21 rendering an amusement at wholesale take from the



1 licensed seller a certificate, in a form
2 prescribed by the department, certifying that the
3 sale is a sale at wholesale; provided that:

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

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

15 (5) Tax upon sales representatives, etc. Upon every
16 person classified as a representative or purchasing
17 agent under section 237-1, engaging or continuing
18 within the State in the business of performing
19 services for another, other than as an employee, there
20 is likewise hereby levied and shall be assessed and
21 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



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 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
18 levied and shall be assessed and collected a tax equal
19 to _____ per cent of the adjusted gross sports
20 wagering receipts. For purposes of this paragraph



1 "adjusted gross sports wagering receipts" shall have
2 the same meaning 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 pursuant to
4 chapter _____.

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] a 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~~] "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 [~~-~~]; and

20 (3) Sports wagering activities authorized pursuant to
21 chapter _____."



S.B. NO. 1109

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

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

6 SECTION 6. This Act shall take effect on July 1, 2023.

7

INTRODUCED BY:





S.B. NO. 1109

Report Title:

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

Description:

Allows for the regulation of sports wagering by the Department of Business, Economic Development, and Tourism. Establishes licensing requirements for sports wagering operators and sports wagering suppliers. Specifies that sports wagering shall not be considered games of chance or gambling.

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