
A BILL FOR AN ACT

RELATING TO GAMBLING.

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

1 SECTION 1. The legislature finds that gambling is now
2 legal in forty-eight out of fifty states. For the people of
3 Hawaii, gambling is as popular as it is in the rest of the
4 country, but it remains illegal within its borders. With no
5 local venues or tax for gambling, Hawaii remains a target market
6 for a growing number of jurisdictions where gambling is legal.
7 Hawaii residents generate hundreds of millions of dollars,
8 perhaps billions, in economic activity in other jurisdictions
9 related to gambling, and in return, Hawaii receives no benefit.
10 Hawaii residents take an estimated three hundred thousand
11 trips to Las Vegas and other gambling destinations each year,
12 with many residents making multiple trips per year. In 2011, it
13 was reported that Boyd Gaming, a Nevada-based gaming
14 corporation, earned about \$600,000,000 from Hawaii annually.
15 Further, in a 2021 annual investor report, Boyd Gaming
16 highlighted that customers from the Hawaiian market comprised
17 more than half of the room nights sold at the California Hotel



1 and Casino, Fremont Hotel and Casino, and Main Street Station,
2 and that decreases in Hawaiian market spending could adversely
3 affect their business and financial condition. As testified to
4 the house of representatives committee on tourism in 2012 by a
5 longtime lobbyist for gambling interests in Hawaii, the
6 "prohibition of that which is legal nearly everywhere else costs
7 Hawaii \$1,000,000,000 each year in outgoing dollars and returns
8 none".

9 Despite its prohibition, Hawaii carries an economic burden
10 from gambling. A 2009 study by the National Council on Problem
11 Gambling estimated that the social costs of gambling addiction
12 in Hawaii from twenty thousand problem gamblers and ten thousand
13 pathological gamblers was \$26,300,000; however, no public
14 funding was provided for gambling treatment and prevention. A
15 2016 survey update by the National Council on Problem Gambling
16 indicated that the number of problem gamblers had risen to
17 nearly twenty-five thousand, and that Hawaii remained one of ten
18 states that did not set aside funds to specifically address
19 problem gambling.

20 Accordingly, the purpose of this Act is to:



- 1 (1) Establish a gambling addiction special fund within the
2 department of human services for the treatment of
3 gambling addiction for Hawaii residents to be funded
4 by a general excise tax on the sale of vacation
5 packages that promote gambling or gambling devices;
6 and
- 7 (2) Impose a general excise tax on persons engaged in the
8 arrangement, provision, or sale within the State of
9 vacation packages or other recreational services that
10 promote gambling or gambling devices that is not
11 prohibited by state law of per cent of gross
12 income due to that activity.

13 SECTION 2. Chapter 346, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§346- Gambling addiction special fund. (a) There is
17 established within the state treasury a special fund to be known
18 as the "gambling addiction special fund", and to be administered
19 and expended by the department of human services.

20 (b) The proceeds of the special fund shall be reserved for
21 use by the department of human services for staff programs and



1 grants consistent with chapter 42F that support or provide
2 gambling addiction intervention or prevention for residents of
3 the State. These proceeds shall be used for new or existing
4 programs and shall not supplant any other funds previously
5 allocated to these programs.

6 (c) The special fund shall consist of general tax
7 remittances pursuant to section 237-13(9) and allocated under
8 section 237-31. All realizations of the special fund shall be
9 subject to the conditions specified in subsection (b).

10 (d) The department of human services shall submit an
11 annual report to the legislature, prior to the convening of each
12 regular session, providing an accounting of the receipts of and
13 expenditures from the special fund."

14 SECTION 3. Section 237-13, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§237-13 Imposition of tax.** There is hereby levied and
17 shall be assessed and collected annually privilege taxes against
18 persons on account of their business and other activities in the
19 State measured by the application of rates against values of
20 products, gross proceeds of sales, or gross income, whichever is
21 specified, as follows:



1 (1) Tax on manufacturers.

2 (A) Upon every person engaging or continuing within
3 the State in the business of manufacturing,
4 including compounding, canning, preserving,
5 packing, printing, publishing, milling,
6 processing, refining, or preparing for sale,
7 profit, or commercial use, either directly or
8 through the activity of others, in whole or in
9 part, any article or articles, substance or
10 substances, commodity or commodities, the amount
11 of the tax to be equal to the value of the
12 articles, substances, or commodities,
13 manufactured, compounded, canned, preserved,
14 packed, printed, milled, processed, refined, or
15 prepared for sale, as shown by the gross proceeds
16 derived from the sale thereof by the manufacturer
17 or person compounding, preparing, or printing
18 them, multiplied by one-half of one per cent.

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



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



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

15 (C) No manufacturer or producer, engaged in such
16 business in the State and selling the
17 manufacturer's or producer's products for
18 delivery outside of the State (for example,
19 consigned to a mainland purchaser via common
20 carrier f.o.b. Honolulu), shall be required to
21 pay the tax imposed in this chapter for the



1 privilege of so selling the products, and the
2 value or gross proceeds of sales of the products
3 shall be included only in determining the measure
4 of the tax imposed upon the manufacturer or
5 producer.

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



- 1 (E) A taxpayer selling to a federal cost-plus
- 2 contractor may make the election provided for by
- 3 paragraph (3) (C), and in that case the tax shall
- 4 be computed pursuant to the election,
- 5 notwithstanding this paragraph or paragraph (1)
- 6 to the contrary.
- 7 (F) The department, by rule, may require that a
- 8 seller take from the purchaser of tangible
- 9 personal property a certificate, in a form
- 10 prescribed by the department, certifying that the
- 11 sale is a sale at wholesale; provided that:
- 12 (i) Any purchaser who furnishes a certificate
- 13 shall be obligated to pay to the seller,
- 14 upon demand, the amount of the additional
- 15 tax that is imposed upon the seller whenever
- 16 the sale in fact is not at wholesale; and
- 17 (ii) The absence of a certificate in itself shall
- 18 give rise to the presumption that the sale
- 19 is not at wholesale unless the sales of the
- 20 business are exclusively at wholesale.
- 21 (3) Tax upon contractors.



- 1 (A) Upon every person engaging or continuing within
2 the State in the business of contracting, the tax
3 shall be equal to four per cent of the gross
4 income of the business.
- 5 (B) In computing the tax levied under this paragraph,
6 there shall be deducted from the gross income of
7 the taxpayer so much thereof as has been included
8 in the measure of the tax levied under
9 subparagraph (A), on another taxpayer who is a
10 contractor, as defined in section 237-6; provided
11 that any person claiming a deduction under this
12 paragraph shall be required to show in the
13 person's return the name and general excise
14 number of the person paying the tax on the amount
15 deducted by the person.
- 16 (C) In computing the tax levied under this paragraph
17 against any federal cost-plus contractor, there
18 shall be excluded from the gross income of the
19 contractor so much thereof as fulfills the
20 following requirements:



- 1 (i) The gross income exempted shall constitute
- 2 reimbursement of costs incurred for
- 3 materials, plant, or equipment purchased
- 4 from a taxpayer licensed under this chapter,
- 5 not exceeding the gross proceeds of sale of
- 6 the taxpayer on account of the transaction;
- 7 and
- 8 (ii) The taxpayer making the sale shall have
- 9 certified to the department that the
- 10 taxpayer is taxable with respect to the
- 11 gross proceeds of the sale, and that the
- 12 taxpayer elects to have the tax on gross
- 13 income computed the same as upon a sale to
- 14 the state government.
- 15 (D) A person who, as a business or as a part of a
- 16 business in which the person is engaged, erects,
- 17 constructs, or improves any building or
- 18 structure, of any kind or description, or makes,
- 19 constructs, or improves any road, street,
- 20 sidewalk, sewer, or water system, or other
- 21 improvements on land held by the person (whether



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



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

17 (4) Tax upon theaters, amusements, radio broadcasting
18 stations, etc.

19 (A) Upon every person engaging or continuing within
20 the State in the business of operating a theater,
21 opera house, moving picture show, vaudeville,



1 amusement park, dance hall, skating rink, radio
2 broadcasting station, or any other place at which
3 amusements are offered to the public, the tax
4 shall be equal to four per cent of the gross
5 income of the business, and in the case of a sale
6 of an amusement at wholesale under section
7 237-4(a)(13); the tax shall be one-half of one
8 per cent of the gross income.

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

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

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



1 is not at wholesale unless the person
2 rendering the sale is exclusively rendering
3 the amusement at wholesale.

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

13 (6) Tax on service business.
14 (A) Upon every person engaging or continuing within
15 the State in any service business or calling
16 including professional services not otherwise
17 specifically taxed under this chapter, there is
18 likewise hereby levied and shall be assessed and
19 collected a tax equal to four per cent of the
20 gross income of the business, and in the case of
21 a wholesaler under section 237-4(a)(10), the tax



1 shall be equal to one-half of one per cent of the
2 gross income of the business.

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

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

14 (ii) The absence of a certificate in itself shall
15 give rise to the presumption that the sale
16 is not at wholesale unless the person
17 rendering the sale is exclusively rendering
18 services at wholesale.

19 (C) Where any person is engaged in the business of
20 selling interstate or foreign common carrier
21 telecommunication services within and without the



1 State, other than as a home service provider, the
2 tax shall be imposed on that portion of gross
3 income received by a person from service which is
4 originated or terminated in this State and is
5 charged to a telephone number, customer, or
6 account in this State notwithstanding any other
7 state law (except for the exemption under section
8 237-23(a)(1)) to the contrary. If, under the
9 Constitution and laws of the United States, the
10 entire gross income as determined under this
11 paragraph of a business selling interstate or
12 foreign common carrier telecommunication services
13 cannot be included in the measure of the tax, the
14 gross income shall be apportioned as provided in
15 section 237-21; provided that the apportionment
16 factor and formula shall be the same for all
17 persons providing those services in the State.

18 (D) Where any person is engaged in the business of a
19 home service provider, the tax shall be imposed
20 on the gross income received or derived from
21 providing interstate or foreign mobile



1 telecommunications services to a customer with a
2 place of primary use in this State when the
3 services originate in one state and terminate in
4 another state, territory, or foreign country;
5 provided that all charges for mobile
6 telecommunications services which are billed by
7 or for the home service provider are deemed to be
8 provided by the home service provider at the
9 customer's place of primary use, regardless of
10 where the mobile telecommunications originate,
11 terminate, or pass through; provided further that
12 the income from charges specifically derived from
13 interstate or foreign mobile telecommunications
14 services, as determined by books and records that
15 are kept in the regular course of business by the
16 home service provider in accordance with section
17 239-24, shall be apportioned under any
18 apportionment factor or formula adopted under
19 subparagraph (C). Gross income shall not
20 include:



- 1 (i) Gross receipts from mobile
- 2 telecommunications services provided to a
- 3 customer with a place of primary use outside
- 4 this State;
- 5 (ii) Gross receipts from mobile
- 6 telecommunications services that are subject
- 7 to the tax imposed by chapter 239;
- 8 (iii) Gross receipts from mobile
- 9 telecommunications services taxed under
- 10 section 237-13.8; and
- 11 (iv) Gross receipts of a home service provider
- 12 acting as a serving carrier providing mobile
- 13 telecommunications services to another home
- 14 service provider's customer.

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



- 1 (7) Tax on insurance producers. Upon every person engaged
2 as a licensed producer pursuant to chapter 431, there
3 is hereby levied and shall be assessed and collected a
4 tax equal to 0.15 per cent of the commissions due to
5 that activity.
- 6 (8) Tax on receipts of sugar benefit payments. Upon the
7 amounts received from the United States government by
8 any producer of sugar (or the producer's legal
9 representative or heirs), as defined under and by
10 virtue of the Sugar Act of 1948, as amended, or other
11 Acts of the Congress of the United States relating
12 thereto, there is hereby levied a tax of one-half of
13 one per cent of the gross amount received; provided
14 that the tax levied hereunder on any amount so
15 received and actually disbursed to another by a
16 producer in the form of a benefit payment shall be
17 paid by the person or persons to whom the amount is
18 actually disbursed, and the producer actually making a
19 benefit payment to another shall be entitled to claim
20 on the producer's return a deduction from the gross
21 amount taxable hereunder in the sum of the amount so



1 disbursed. The amounts taxed under this paragraph
2 shall not be taxable under any other paragraph,
3 subsection, or section of this chapter.

4 (9) Tax on vacation packages or other recreational
5 services promoting gambling. Upon every person
6 engaged in the arrangement, provision, or sale within
7 the State of vacation packages or other recreational
8 services that promote gambling or gambling devices
9 that is not prohibited by state law, there is hereby
10 levied and shall be assessed and collected a tax equal
11 to _____ per cent of the gross income or commissions
12 due to that activity.

13 [~~9~~] (10) Tax on other business. Upon every person
14 engaging or continuing within the State in any
15 business, trade, activity, occupation, or calling not
16 included in the preceding paragraphs or any other
17 provisions of this chapter, there is likewise hereby
18 levied and shall be assessed and collected, a tax
19 equal to four per cent of the gross income thereof.
20 In addition, the rate prescribed by this paragraph
21 shall apply to a business taxable under one or more of



1 the preceding paragraphs or other provisions of this
 2 chapter, as to any gross income thereof not taxed
 3 thereunder as gross income or gross proceeds of sales
 4 or by taxing an equivalent value of products, unless
 5 specifically exempted."

6 SECTION 4. Section 237-31, Hawaii Revised Statutes, is
 7 amended to read as follows:

8 "§237-31 Remittances. All remittances of taxes imposed by
 9 this chapter shall be made by money, bank draft, check,
 10 cashier's check, money order, or certificate of deposit to the
 11 office of the department of taxation to which the return was
 12 transmitted. The department shall issue its receipts therefor
 13 to the taxpayer and shall pay the moneys into the state treasury
 14 as a state realization, to be kept and accounted for as provided
 15 by law; provided that:

- 16 (1) A sum, not to exceed \$5,000,000, from all general
- 17 excise tax revenues realized by the State shall be
- 18 deposited in the state treasury in each fiscal year to
- 19 the credit of the compound interest bond reserve fund;
- 20 and



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

10 (3) A sum from all general excise tax revenues realized by
 11 the State under section 237-13(9) shall be deposited
 12 in the gambling addiction special fund established by
 13 section 346-11."

14 SECTION 5. If any provision of this Act, or the
 15 application thereof to any person or circumstance, is held
 16 invalid, the invalidity does not affect other provisions or
 17 applications of the Act that can be given effect without the
 18 invalid provision or application, and to this end the provisions
 19 of this Act are severable.

20 SECTION 6. Statutory material to be repealed is bracketed
 21 and stricken. New statutory material is underscored.



1 SECTION 7. This Act shall take effect on July 1, 2050.



Report Title:

Vacation Packages; General Excise Tax; Gambling Addiction
Special Fund

Description:

Establishes the Gambling Addiction Special Fund within the Department of Human Services for the treatment of gambling addiction for Hawaii residents. Imposes a general excise tax on persons engaged in the arrangement, provision, or sale within the State of vacation packages or other recreational services that promote gambling or gambling devices that is not prohibited by state law. Effective 7/1/2050. (SD1)

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