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# A BILL FOR AN ACT

RELATED TO SHIPBOARD GAMING.

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

1           SECTION 1. The legislature finds that tourism is still the  
2 foremost industry in Hawaii in terms of the capacity to generate  
3 continuing revenue. But Hawaii's struggle in recent years to  
4 remain competitive with other "sun and sand" resort destinations  
5 has challenged the legislature to look beyond traditional means  
6 to attract mainland and global visitors. It is imperative that  
7 Hawaii aggressively compete in the world market in order to, at  
8 the very least, maintain its tourism market share.

9           In order to be competitive in the international market  
10 place, Hawaii must offer some type of gaming entertainment.  
11 Shipboard gaming would create a viable and unique visitor  
12 experience while providing thousands of local jobs. In  
13 addition, studies have shown that shipboard gaming would  
14 generate hundreds of millions of dollars, thereby expanding the  
15 State's economy.

16           The purpose of this Act is to establish a regulatory  
17 framework for the conduct of legal shipboard gaming in Hawaii.



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

4 "CHAPTER

5 SHIPBOARD GAMING

6 § -1 Legislative intent. This chapter is intended to  
7 benefit the people of the State of Hawaii by creating a new  
8 revenue source, shipboard gaming, that will enhance investment,  
9 development, and tourism in Hawaii. Because shipboard gaming  
10 can be successful only if public confidence and trust in the  
11 credibility and integrity of the gaming operations and the  
12 regulatory process is maintained, this chapter strictly  
13 regulates the facilities, persons, associations, and practices  
14 related to gaming operations.

15 § -2 Shipboard gaming authorized. (a) Shipboard gaming  
16 operations and the system of wagering incorporated therein, as  
17 defined in this chapter, are authorized to the extent that they  
18 are carried out in accordance with this chapter.

19 (b) Shipboard gaming pursuant to this chapter may be  
20 conducted upon any territorial and archipelagic waters within  
21 the State.



1           §   -3   Definitions.  As used in this chapter unless the  
2 context otherwise requires:

3           "Adjusted gross receipts" means the gross receipts less  
4 winnings paid to wagerers.

5           "Board" means the Hawaii shipboard gaming board.

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

8           "Director" means the director of business, economic  
9 development, and tourism.

10          "Dock" means the location where a gaming ship moors for the  
11 purpose of embarking passengers for, and disembarking passengers  
12 from, a gaming excursion.

13          "Gaming excursion" means an outing during which gaming may  
14 be operated on a ship licensed under this chapter.

15          "Gaming ship" means a vessel licensed under this chapter  
16 that is of sufficient size to safely accommodate, in accordance  
17 with state, federal, and international law, no fewer than one  
18 thousand persons and shall be able to provide, at minimum, one  
19 overnight accommodation per person, for the purpose of gaming  
20 activity within the territorial and archipelagic waters of the  
21 State.



1 "Gross receipts" means the total amount of money wagered or  
2 exchanged for the purchase of chips, tokens, or electronic cards  
3 by shipboard gaming patrons.

4 "Occupational license" means a license issued by the board  
5 to a person or entity to perform an occupation that the board  
6 has identified as requiring a license to engage in shipboard  
7 gaming in Hawaii.

8 "Shipboard gaming" means the operation of games aboard a  
9 ship licensed under this chapter, including but not limited to,  
10 baccarat, twenty-one, poker, craps, slot machine, video game of  
11 chance, roulette wheel, klondike table, punch-board, faro  
12 layout, keno layout, numbers ticket, push card, jar ticket, pull  
13 tab, or other game of chance that is authorized by the board as  
14 a wagering device.

15 § -4 Hawaii shipboard gaming board; membership;  
16 appointment; chairperson. (a) There is established within the  
17 department, for administrative purposes only, the Hawaii  
18 shipboard gaming board that shall administer, regulate, and  
19 enforce the system of shipboard gaming established by this  
20 chapter. The board shall have jurisdiction over every person,



1 association, corporation, partnership, and trust involved in  
2 shipboard gaming operations in the State.

3 (b) The board shall consist of three members to be  
4 appointed by the governor with the advice and consent of the  
5 senate under section 26-34. Of the three members, one shall be  
6 appointed from a list of nominees submitted by the president of  
7 the senate and one shall be appointed from a list of nominees  
8 submitted by the speaker of the house of representatives. The  
9 members shall elect a chairperson from the board membership.

10 (c) The term of office of a board member shall be four  
11 years. Vacancies in the board shall be filled for the unexpired  
12 term in the same manner as the original appointments.

13 (d) Each member of the board shall receive \$300 for each  
14 day the board meets, and for each day the member conducts any  
15 hearing pursuant to this chapter. Each member shall also be  
16 reimbursed for all actual and necessary expenses incurred in the  
17 execution of official duties.

18 (e) No person shall be appointed a member of the board or  
19 continue to be a member of the board if:

20 (1) The person or the person's spouse, child, or parent is  
21 an official of, or a person financially interested in,



1 or has a financial relationship with, any gaming  
2 operation subject to the jurisdiction of the board; or

3 (2) The person has been convicted of, or is under  
4 indictment for, a felony under the laws of Hawaii or  
5 any other state, or the United States.

6 (f) No board member shall hold any other public office.

7 Any member of the board may be removed by the governor for  
8 neglect of duty, misfeasance, malfeasance, or nonfeasance in  
9 office.

10 § -5 Board members; bond requirement. Before assuming  
11 the duties of office, each member of the board shall take an  
12 oath that the member shall faithfully execute the duties of  
13 office according to the laws of the State and shall file and  
14 maintain with the director a bond in the sum of \$25,000 with  
15 good and sufficient sureties. The cost of any bond for any  
16 member of the board under this section shall be considered a  
17 part of the necessary expenses of the board.

18 § -6 Staff. (a) The board shall appoint, without  
19 regard to chapter 76, an administrator who shall perform any and  
20 all duties that the board shall assign. The salary of the  
21 administrator shall be determined by the board. The



1 administrator shall keep records of all proceedings of the board  
2 and shall preserve all records, books, documents, and other  
3 papers belonging to the board or entrusted to its care. The  
4 administrator shall devote full time to the duties of the office  
5 and shall not hold any other office or employment.

6 (b) The board may employ personnel, including personnel  
7 with law enforcement authority, as may be necessary to carry out  
8 its duties. No person shall be employed by the board who is, or  
9 whose spouse, parent, or child is, an official of, or has a  
10 financial interest in or financial relation with, any operator  
11 engaged in gaming operations within this State. The employment  
12 of any employee violating these prohibitions shall be  
13 terminated.

14 § -7 Powers of the board. The board shall have all  
15 powers necessary and proper to fully and effectively supervise  
16 all shipboard gaming operations, including but not limited to  
17 the following:

18 (1) To determine the types and numbers of shipboard gaming  
19 licenses to be permitted and the types and numbers of  
20 ships a licensee may own under this chapter; provided  
21 that the total number of ships operating under each



1 owner's license granted under this chapter shall not  
2 exceed two;

3 (2) To adopt standards for the licensing of all persons  
4 under this chapter, to issue licenses, and to  
5 establish and collect fees for licenses;

6 (3) To provide for the collection of all fees and taxes  
7 imposed pursuant to this chapter;

8 (4) To enter the office, gaming ships, facilities, or  
9 other places of business of a licensee, where evidence  
10 of the compliance or noncompliance with this chapter  
11 is likely to be found;

12 (5) To investigate alleged violations of this chapter and  
13 to take appropriate disciplinary action against a  
14 licensee or a holder of an occupational license for a  
15 violation, or institute appropriate legal action for  
16 enforcement, or both;

17 (6) To be present through its inspectors and agents any  
18 time gaming operations are conducted on any gaming  
19 ship for the purpose of certifying the revenue  
20 thereof, receiving complaints from the public, and  
21 conducting such other investigations into the conduct



- 1 of the shipboard gaming and the maintenance of the  
2 equipment as from time to time the board may deem  
3 necessary and proper;
- 4 (7) To adopt appropriate standards for all gaming ships  
5 and facilities, as well as for electronic or  
6 mechanical gaming devices;
- 7 (8) To require that the records of any licensee under this  
8 chapter, including financial or other statements, be  
9 kept in a manner as prescribed by the board and that  
10 any licensee involved in the ownership or management  
11 of gaming operations submit to the board an annual  
12 balance sheet and profit and loss statement, a list of  
13 the stockholders or other persons having a ten per  
14 cent or greater beneficial interest in the gaming  
15 activities of each licensee, and any other information  
16 the board deems necessary in order to effectively  
17 administer this chapter;
- 18 (9) To conduct hearings, issue subpoenas for the  
19 attendance of witnesses and subpoenas duces tecum for  
20 the production of books, records, and other pertinent  
21 documents, and to administer oaths and affirmations to



- 1           the witnesses, when, in the judgment of the board, it  
2           is necessary to administer or enforce this chapter;
- 3       (10) To prescribe an employment application criteria to be  
4           used by any licensee involved in the ownership or  
5           management of shipboard gaming operations for hiring  
6           purposes;
- 7       (11) To eject or exclude, or authorize the ejection or  
8           exclusion of, any person from shipboard gaming  
9           facilities where the person is in violation of this  
10          chapter or where the person's conduct or reputation is  
11          such that the person's presence within the gaming ship  
12          facilities, in the opinion of the board, may call into  
13          question the honesty and integrity of the shipboard  
14          gaming operation or interfere with the orderly conduct  
15          thereof; provided that the propriety of that ejection  
16          or exclusion is subject to subsequent hearing by the  
17          board;
- 18       (12) To permit licensees of gaming operations to utilize a  
19          wagering system whereby gamers' money may be converted  
20          to tokens, electronic cards, or chips that shall be  
21          used only for wagering aboard the gaming ship;



- 1           (13) To approve the routes of a gaming ship and the stops a  
2                   gaming ship may make within the territorial and  
3                   archipelagic waters of the State;
- 4           (14) To suspend, revoke, or restrict licenses, or to  
5                   require the removal of a licensee or an employee of a  
6                   licensee, for a violation of this chapter or a board  
7                   rule or for engaging in a fraudulent practice;
- 8           (15) To impose and collect fines of up to \$5,000 against  
9                   individuals and up to \$10,000 or an amount equal to  
10                  the daily gross receipts, whichever is larger, against  
11                  licensees for each violation of this chapter, any  
12                  rules adopted by the board, any order of the board, or  
13                  any other action which, in the board's discretion, is  
14                  a detriment or impediment to shipboard gaming  
15                  operations;
- 16          (16) To hire employees to gather information, conduct  
17                  investigations, and carry out any other tasks  
18                  contemplated under this chapter;
- 19          (17) To establish minimum levels of insurance to be  
20                  maintained by licensees;



- 1           (18) To establish, after consultation with the United  
2           States Army Corps of Engineers or the United States  
3           Coast Guard, whichever is appropriate, binding  
4           emergency orders upon the concurrence of a majority of  
5           the members of the board regarding the navigability of  
6           the territorial and archipelagic waters of the State  
7           in the event of extreme weather conditions, acts of  
8           God, or other extreme circumstances;
- 9           (19) To delegate the execution of any of its powers for the  
10          purpose of administering and enforcing this chapter  
11          and rules adopted under this chapter;
- 12          (20) To adopt necessary rules under chapter 91 to implement  
13          this chapter; and
- 14          (21) To take any other action as may be reasonable or  
15          appropriate to enforce this chapter and rules adopted  
16          under this chapter.

17          § -8 **Meetings of the board.** The board shall hold at  
18          least one meeting each quarter of the State's fiscal year. In  
19          addition, special meetings may be called by the chairperson or  
20          any two board members upon seventy-two hours written notice to  
21          each member. All regular board meetings shall be subject to



1 chapter 92. Three members of the board shall constitute a  
2 quorum, and a majority vote of the members present and  
3 constituting a quorum shall be required for any final  
4 determination by the board. The board shall keep a complete and  
5 accurate record of all its meetings.

6 § -9 **Annual report.** The board shall file a written  
7 annual report with the governor and the legislature on or before  
8 sixty days following the close of each fiscal year and make any  
9 additional reports as the governor or the legislature may  
10 request. The annual report shall include a statement of  
11 receipts and disbursements by the board, actions taken by the  
12 board, and any additional information and recommendations that  
13 the board may deem valuable or that the governor or the  
14 legislature may request.

15 § -10 **Hearings by the board.** (a) Upon order of the  
16 board, one of the board members or a hearings officer designated  
17 by the board may conduct any hearing provided for under this  
18 chapter or by board rule and may recommend findings and  
19 decisions to the board. The board member or hearings officer  
20 conducting the hearing shall have all powers and rights granted  
21 to the board in this chapter. The record made at the time of



1 the hearing shall be reviewed by the board, or a majority  
2 thereof, and the findings and decision of the majority of the  
3 board shall constitute the order of the board in that case.

4 (b) Any party aggrieved by an action of the board denying,  
5 suspending, revoking, restricting, or refusing to renew a  
6 license may request a hearing before the board. A request for a  
7 hearing shall be made to the board in writing within five days  
8 after service of notice of the action of the board. Notice of  
9 the action of the board shall be served either by personal  
10 delivery or by certified mail, postage prepaid, to the aggrieved  
11 party. Notice served by certified mail shall be deemed complete  
12 on the business day following the date of the mailing. The  
13 board shall conduct all requested hearings as required by  
14 chapter 91.

15 § -11 Disclosure of records. (a) Notwithstanding any  
16 other law to the contrary, the board, on written request from  
17 any person, shall provide information furnished by an applicant  
18 or licensee under this chapter concerning the applicant or  
19 licensee, or the applicant's or licensee's products, services,  
20 or gaming enterprises, and business holdings, as follows:



- 1           (1) The name, business address, and business telephone  
2                   number of any applicant or licensee;
- 3           (2) An identification of any applicant or licensee  
4                   including, if an applicant or licensee is not an  
5                   individual or partnership, the state of incorporation  
6                   or registration, the corporate officers, and the  
7                   identity of all shareholders or participants;
- 8           (3) An identification of any business, including, if  
9                   applicable, the state of incorporation or  
10                  registration, in which an applicant or licensee or an  
11                  applicant's or licensee's spouse or children has an  
12                  equity interest of more than five per cent. If an  
13                  applicant or licensee is a corporation, partnership,  
14                  or other business entity, the applicant or licensee  
15                  shall identify any other corporation, partnership, or  
16                  business entity in which it has an equity interest of  
17                  five per cent or more, including, if applicable, the  
18                  state of incorporation or registration;
- 19           (4) Whether an applicant or licensee has been convicted,  
20                  pleaded guilty or nolo contendere, or forfeited bail  
21                  concerning any criminal offense under the laws of any



1 jurisdiction, either felony or misdemeanor but  
2 excluding traffic violations, including the date; the  
3 name and location of the court, arresting agency, and  
4 prosecuting agency; the case number, offense, and  
5 disposition; and the location and length of any  
6 incarceration;

7 (5) Whether an applicant or licensee has had any license  
8 or certificate issued by a licensing authority in  
9 Hawaii or any other jurisdiction denied, restricted,  
10 suspended, revoked, or not renewed and a statement  
11 describing the facts and circumstances concerning the  
12 denial, restriction, suspension, revocation, or  
13 nonrenewal, including the licensing authority, the  
14 date each action was taken, and the reason for each  
15 action;

16 (6) Whether an applicant or licensee has ever filed or had  
17 filed against it a proceeding in bankruptcy or has  
18 ever been involved in any formal process to adjust,  
19 defer, suspend, or otherwise work out the payment of  
20 any debt including the date of filing, the name and



1 location of the court, and the case and number of the  
2 disposition;

3 (7) Whether an applicant or licensee has filed or been  
4 served with a complaint, or other notice filed with  
5 any public body, regarding the delinquency in the  
6 payment of, or a dispute over the filings concerning  
7 the payment of, any tax required under federal, state,  
8 or county law, including the amount, type of tax, the  
9 taxing agency, and time periods involved;

10 (8) A statement listing the names and titles of all public  
11 officials or officers of any unit of government and  
12 relatives of those public officials or officers who,  
13 directly or indirectly, own any financial interest in,  
14 have any beneficial interest in, are the creditors of  
15 or hold any debt instrument issued by, or hold or have  
16 any interest in any contractual or service  
17 relationship with, an applicant or licensee;

18 (9) Whether an applicant or licensee has made any  
19 political contribution or any loans, donations, or  
20 other payments to any candidate for public office or  
21 public office holder, within five years from the date



1 of filing the application, including the amount and  
2 the method of payment;

3 (10) The name and business telephone number of any attorney  
4 representing an applicant or licensee in matters  
5 before the board;

6 (11) A description of any proposed or approved shipboard  
7 gaming operation, including the type of ship, home  
8 dock location, expected economic benefit to the  
9 community, anticipated or actual number of employees,  
10 statement from an applicant or licensee stating the  
11 applicant or licensee is in compliance with federal  
12 and state hiring and employment practices, projected  
13 or actual admissions, and projected or actual adjusted  
14 gross gaming receipts; and

15 (12) A description of the product or service to be supplied  
16 by an applicant for a supplier's license.

17 (b) Notwithstanding any provision of law to the contrary,  
18 the board, on written request from any person, shall also  
19 provide the following information:



- 1           (1) The amount of the wagering tax and admission tax paid
- 2                   daily to the State by the holder of an owner's
- 3                   license;
- 4           (2) Whenever the board finds an applicant for an owner's
- 5                   license unsuitable for licensing, a written
- 6                   explanation of the reasons for the denial; and
- 7           (3) Whenever the board has refused to grant leave for an
- 8                   applicant to withdraw an application, a copy of the
- 9                   letter outlining the reasons for the refusal.
- 10          (c) Notwithstanding subsections (a) and (b), the board
- 11 shall not disclose any information that would be barred by:
- 12           (1) Chapter 92F; or
- 13           (2) The statutes, rules, regulations, or intergovernmental
- 14                   agreements of any jurisdiction.
- 15          (d) The board may assess fees for the copying of
- 16 information in accordance with chapter 92F.
- 17          **§ -12 Application for owner's license.** (a) A qualified
- 18 person may apply to the board for an owner's license to conduct
- 19 a shipboard gaming operation. The application shall be made on
- 20 forms provided by the board and shall contain information as the
- 21 board prescribes, including but not limited to:



- 1           (1) The identity of the ship on which the gaming operation  
2                   is to be conducted;
- 3           (2) The exact location where the ship will be docked or  
4                   anchored off-shore within the territorial and  
5                   archipelagic waters of the State;
- 6           (3) A certification that the ship will be registered under  
7                   this chapter at all times during which gaming  
8                   operations are conducted on board;
- 9           (4) Detailed information regarding the ownership and  
10                  management of the applicant; and
- 11          (5) Detailed personal information regarding the applicant,  
12                  including two sets of the applicant's fingerprints.

13           Information provided on the application shall be used as  
14 the basis for a thorough background investigation that the board  
15 shall conduct for each applicant. An incomplete application  
16 shall be cause for denial of a license by the board.

17           (b) Applicants shall submit with their application all  
18 documents, resolutions, and letters of support from the  
19 governing body that represents the county wherein the licensee  
20 will dock or anchor off-shore.



1           (c) Each applicant shall disclose the identity of every  
2 person, association, trust, or corporation having a greater than  
3 five per cent direct or indirect pecuniary interest in the  
4 shipboard gaming operation for that which the license is sought.  
5 If the disclosed entity is a trust, the application shall  
6 disclose the names and addresses of the beneficiaries; if a  
7 corporation, the names and addresses of all stockholders and  
8 directors; if a partnership, the names and addresses of all  
9 partners, both general and limited.

10           (d) An application fee of \$25,000 shall be paid at the  
11 time of filing to defray the costs associated with the  
12 background investigation conducted by the board and the search  
13 and classification of fingerprints obtained by the board with  
14 respect to the application. If the costs of the investigation  
15 exceed \$25,000, the applicant shall pay the additional amount to  
16 the board. If the costs of the investigation are less than  
17 \$25,000, the applicant shall receive a refund of the remaining  
18 amount. All information, records, interviews, reports,  
19 statements, memoranda, or other data supplied to or used by the  
20 board in the course of its review or investigation of an  
21 application for a license shall be privileged, strictly



1 confidential, and used only for the purpose of evaluating an  
2 applicant. The information, records, interviews, reports,  
3 statements, memoranda, or other data shall not be admissible as  
4 evidence, nor discoverable in any action of any kind in any  
5 court or before any tribunal, board, agency, or person, except  
6 for any action deemed necessary by the board.

7 (e) The licensed owner shall be the person primarily  
8 responsible for the gaming ship itself. Only one shipboard  
9 gaming operation may be authorized by the board on any gaming  
10 ship. The applicant shall identify each ship that it intends to  
11 use and certify that the gaming ship:

- 12 (1) Has the capacity required in this chapter;  
13 (2) Is accessible to persons with disabilities; and  
14 (3) Is fully registered and licensed in accordance with  
15 any applicable laws.

16 (f) A person who knowingly makes a false statement on an  
17 application shall be guilty of a petty misdemeanor.

18 § -13 Owner's licenses. (a) No person shall operate  
19 and maintain a gaming ship in this State unless the person has  
20 first obtained an owner's license from the board pursuant to  
21 this section. If the board finds that the applicant meets the



1 eligibility requirements, the board shall issue an owner's  
2 license upon payment by the applicant of a \$15,000 license fee  
3 for the first year of operation. An applicant shall be  
4 ineligible to receive an owner's license if:

5 (1) The applicant; an officer, director, or managerial  
6 employee of the applicant; or an employee who  
7 participates in the management or gaming operations of  
8 the applicant:

9 (A) Has been convicted of a felony under the laws of  
10 this State, any other state, or the United  
11 States;

12 (B) Has been convicted of any violation under part  
13 III, chapter 712, or substantially similar laws  
14 of another jurisdiction;

15 (C) Has submitted an application for a license under  
16 this chapter that contains false information; or

17 (D) Is a member of the board;

18 (2) The applicant owns more than ten per cent of an entity  
19 holding an owner's license issued under this chapter;  
20 or



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

4           (b) In determining whether to grant an owner's license to  
5 an applicant, the board shall consider:

6           (1) The character, reputation, experience, and financial  
7                    integrity of the applicant and of any other or  
8                    separate person that either:

9                   (A) Controls, directly or indirectly, the applicant;  
10                    or

11                   (B) Is controlled, directly or indirectly, by the  
12                    applicant or by a person that controls, directly  
13                    or indirectly, the applicant;

14           (2) The facilities or proposed facilities for the conduct  
15                    of shipboard gaming;

16           (3) The highest prospective total revenue to be derived by  
17                    the State from the conduct of shipboard gaming;

18           (4) The financial ability of the applicant to purchase and  
19                    maintain adequate liability and casualty insurance;



1           (5) Whether the applicant has adequate capitalization to  
2           provide and maintain, for the duration of a license, a  
3           shipboard gaming operation; and

4           (6) The extent to which the applicant meets or exceeds  
5           other standards that the board may adopt by rule for  
6           the issuance of an owner's license.

7           (c) In the application for an owner's license, the  
8           applicant shall specify the dock at which the applicant's gaming  
9           ship will be based, including but not limited to the pier at the  
10          Aloha Tower Complex, and the area within the territorial and  
11          archipelagic waters of the State on which the gaming ship will  
12          operate. In determining the territorial and archipelagic waters  
13          upon which an applicant's gaming ship will operate with  
14          licenses, the board shall consider the economic benefit that  
15          shipboard gaming confers on the State and shall seek to ensure  
16          that all counties of the State share in the economic benefits of  
17          shipboard gaming.

18          (d) In granting licenses, the board may give favorable  
19          consideration to:



- 1           (1) Economically depressed areas of the State, including
- 2                   but not limited to the area surrounding the Aloha
- 3                   Tower Complex;
- 4           (2) Applicants presenting plans that provide for
- 5                   significant economic development;
- 6           (3) Applicants currently licensed in other United States
- 7                   jurisdictions; and
- 8           (4) Applicants who operated nongaming ships in Hawaii
- 9                   prior to the enactment of this chapter.

10 The board shall promptly review and determine whether to grant  
11 all applications for owner's licenses and shall promptly inform  
12 each applicant of the board's decision.

13           (e) The board may revoke the owner's license if a licensee  
14 fails to begin regular shipboard gaming excursions within twelve  
15 months of receipt of the license upon a finding by the board  
16 that license revocation is in the best interest of the State.

17           (f) Licenses shall be issued for a one-year period and  
18 shall be renewable annually upon payment of a \$5,000 license  
19 renewal fee and a determination by the board that the licensee  
20 continues to meet all of the requirements of this chapter.



1           (g) The board may authorize a licensee to own and operate  
2 up to two gaming ships per owner's license.

3           (h) The board shall establish a process to facilitate and  
4 expedite the approval of any other necessary licenses or  
5 permits. The board may establish its own procedures for the  
6 issuance of liquor licenses for any holder of an owner's license  
7 under this chapter; provided that the applicant complies with  
8 all state laws and county ordinances relating to liquor.

9           (i) Nothing in this chapter shall be interpreted to  
10 prohibit a licensed owner from operating a school for the  
11 training of any occupational licensee.

12           § -14 **Bond of licensee.** Before an owner's license may  
13 be issued, the licensee shall file with the department a bond in  
14 the sum of \$200,000. The bond shall be used to guarantee that  
15 the licensee faithfully makes the payments, keeps books and  
16 records, makes reports, and conducts games of chance in  
17 conformity with this chapter and the rules adopted by the board.  
18 The bond shall not be canceled by a surety on less than thirty  
19 days notice in writing to the board. If a bond is canceled and  
20 the licensee fails to file a new bond with the board in the  
21 required amount on or before the effective date of cancellation,



1 the licensee's license shall be revoked. The total and  
2 aggregate liability of the surety on the bond is limited to the  
3 amount specified in the bond.

4 § -15 **Supplier's licenses.** (a) No person shall furnish  
5 any equipment, device, or supplies to a licensed shipboard  
6 gaming operation unless the person has first obtained a  
7 supplier's license pursuant to this section. The board may  
8 issue a supplier's license to any person, firm, or corporation  
9 who pays a nonrefundable application fee of \$50,000 upon a  
10 determination by the board that the applicant is eligible for a  
11 supplier's license and upon payment by the applicant of a \$1,000  
12 license fee. Supplier's licenses shall be renewable annually  
13 upon payment of the \$1,000 annual license renewal fee and a  
14 determination by the board that the licensee continues to meet  
15 all of the requirements of this chapter.

16 (b) The holder of a supplier's license may sell or lease,  
17 or contract to sell or lease, gaming equipment and supplies to  
18 any licensee involved in the ownership or management of gaming  
19 operations.



1           (c) Gaming supplies and equipment shall not be distributed  
2 unless the supplies and equipment conform to standards  
3 established in rules adopted by the board.

4           (d) An applicant shall be ineligible to receive a  
5 supplier's license if:

6           (1) The applicant; an officer, director, or managerial  
7 employee of the applicant; or an employee of the  
8 applicant who participates in the management or  
9 operation of shipboard gaming;

10           (A) Has been convicted of a felony under the laws of  
11 this State, any other state, or the United  
12 States;

13           (B) Has been convicted of any violation under part  
14 III, chapter 712, or substantially similar laws  
15 of another jurisdiction;

16           (C) Has submitted an application for a license under  
17 this chapter that contains false information; or

18           (D) Is a member of the board;

19 or



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

4           (e) A licensed supplier shall:

5           (1) Furnish to the board a list of all equipment, devices,  
6                    and supplies offered for sale or lease in connection  
7                    with games authorized under this chapter;

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

12           (3) File a quarterly return with the board listing all  
13                   sales and leases;

14           (4) Permanently affix its name to all its equipment,  
15                   devices, and supplies for gaming operations; and

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

18           (f) Any person who knowingly makes a false statement on an  
19                   application is guilty of a petty misdemeanor.

20           (g) Any gaming equipment, devices, or supplies provided by  
21                   any licensed supplier may either be repaired on the gaming ship



1 or removed from the gaming ship to a facility owned by the  
2 holder of an owner's license for repair. Any licensed  
3 supplier's equipment, devices, and supplies that are used by any  
4 person in an unauthorized gaming operation shall be forfeited to  
5 the State.

6 § -16 Occupational licenses. (a) The board may issue  
7 an occupational license to an applicant upon the payment of a  
8 nonrefundable application fee as set by the board, upon a  
9 determination by the board that the applicant is eligible for an  
10 occupational license, and upon payment of an annual license fee  
11 in an amount set by the board. To be eligible for an  
12 occupational license, an applicant shall:

- 13 (1) Be twenty-one years of age or older if the applicant  
14 will perform any function involved in gaming. Any  
15 applicant seeking an occupational license for a  
16 nongaming function shall be at least eighteen years of  
17 age;
- 18 (2) Not have been convicted of a felony, or a similar  
19 statute in any other jurisdiction, or a crime  
20 involving dishonesty or moral turpitude; and



1           (3) Meet standards for holding of an occupational license  
2           as provided by rules adopted by the board, including  
3           background inquiries and other requirements similar to  
4           those for an owner's license.

5           (b) Each application for an occupational license shall be  
6 on forms prescribed by the board and shall contain all  
7 information required by the board. The applicant shall set  
8 forth in the application whether the applicant:

9           (1) Has been issued prior gaming-related licenses in any  
10          other jurisdiction;

11          (2) Has been licensed in any other jurisdiction under any  
12          other name, and, if so, the name and the applicant's  
13          age at the time the license was issued; or

14          (3) Whether or not a permit or license issued to the  
15          applicant in any other jurisdiction has been  
16          suspended, restricted, or revoked and, if so, for what  
17          period of time.

18          (c) Each applicant shall submit with the application two  
19 sets of the applicant's fingerprints. The board shall charge  
20 each applicant a fee to defray the costs associated with the



1 search and classification of fingerprints obtained by the board  
2 with respect to the application.

3 (d) The board may refuse an occupational license to any  
4 person:

5 (1) Who is unqualified to perform the duties required of a  
6 licensee;

7 (2) Who fails to disclose or states falsely any  
8 information called for in the application;

9 (3) Who has been found guilty of a violation of this  
10 chapter or whose prior gaming-related license or  
11 application therefor has been suspended, restricted,  
12 revoked, or denied for just cause in any other  
13 jurisdiction; or

14 (4) For any other just cause.

15 (e) The board may suspend, revoke, or restrict any  
16 occupational licensee:

17 (1) For any violation of this chapter;

18 (2) For any violation of the rules of the board;

19 (3) For any cause which, if known to the board, would have  
20 disqualified the applicant from receiving the license;



1           (4) For default in the payment of any obligation or debt  
2                    due to the State; or

3           (5) For any other just cause.

4           (f) A person who knowingly makes a false statement on an  
5 application is guilty of a petty misdemeanor.

6           (g) Any license issued pursuant to this section shall be  
7 valid for a period of one year from the date of issuance and  
8 shall be renewable annually upon payment of the annual license  
9 renewal fee and a determination by the board that the licensee  
10 continues to meet all of the requirements of this chapter.

11           (h) Any training provided for occupational licensees may  
12 be conducted either on a licensed gaming ship or at a school  
13 with which a licensed owner has entered into an agreement.

14           § -17 **Conduct of gaming.** Gaming may be conducted by  
15 licensed owners aboard gaming ships, subject to the following  
16 standards:

17           (1) Gaming shall be permitted after a vessel departs and  
18                    no closer than one hundred yards from the dock;

19           (2) Minimum and maximum wagers on games shall be set by  
20                    the licensee;



- 1           (3) Agents of the board may board and inspect any gaming  
2           ship at any time for the purpose of determining  
3           compliance with this chapter. Every gaming ship, if  
4           under way and being hailed by a law enforcement  
5           officer or agent of the board, shall stop immediately  
6           and lay to;
- 7           (4) Employees of the board may be present on the gaming  
8           ship or on adjacent facilities under the control of  
9           the licensee;
- 10          (5) Gaming equipment and supplies customarily used in  
11          conducting shipboard gaming shall be purchased or  
12          leased only from suppliers licensed under this  
13          chapter;
- 14          (6) Persons licensed under this chapter shall permit no  
15          form of wagering on games except as permitted by this  
16          chapter;
- 17          (7) Wagers may be received only from a person present on a  
18          licensed gaming ship. No person present on a licensed  
19          gaming ship shall place or attempt to place a wager on  
20          behalf of another person who is not present on the  
21          gaming ship;



- 1           (8) Wagering shall not be conducted with money or other  
2 negotiable currency, except for wagering on slot  
3 machines;
- 4           (9) A person under age twenty-one shall not be permitted  
5 in an area of a gaming ship where gaming is being  
6 conducted, except for a person at least eighteen years  
7 of age who is an employee of the shipboard gaming  
8 operation. No gaming ship employee under age twenty-  
9 one shall perform any function involved in gaming by  
10 the patrons. No person under age twenty-one shall be  
11 permitted to make a wager under this chapter;
- 12          (10) Gaming excursions shall be permitted only when the  
13 territorial and archipelagic waters for which the ship  
14 is licensed are navigable, as determined by the board  
15 in consultation with the United States Army Corps of  
16 Engineers or the United States Coast Guard, as  
17 appropriate;
- 18          (11) All tokens, chips, or electronic cards used to make  
19 wagers shall be purchased from a licensed owner either  
20 aboard a gaming ship or at an onshore facility that  
21 has been approved by the board and that is located



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

7 (12) In addition to the provisions of this section, gaming  
 8 shall be conducted in accordance with all rules  
 9 adopted by the board pursuant to chapter 91.

10 § -18 Collection of amounts owing under credit  
 11 agreements. Notwithstanding any other law to the contrary, a  
 12 licensed owner who extends credit to a shipboard gaming patron  
 13 is expressly authorized to institute a cause of action to  
 14 collect any amounts due and owing under the extension of credit,  
 15 as well as the owner's costs, expenses, and reasonable  
 16 attorney's fees incurred in collection; provided that all  
 17 collections activity shall be subject to state and federal fair  
 18 debt collection practices.

19 § -19 Wagering tax; rate; distribution. A tax is  
 20 imposed on the adjusted gross receipts received from games  
 21 authorized under this chapter at the rate of per cent.



1 The tax imposed by this section shall be paid by the licensed  
2 owner to the board no later than seven days following the last  
3 day of each month in which the wagers were made and shall be  
4 deposited into the state gaming revolving fund pursuant to  
5 section -27. The wagering tax imposed by this section shall  
6 be in lieu of all other state taxes on gross or adjusted gross  
7 receipts including taxes levied under chapters 237 and 239,  
8 except income taxes.

9 § -20 Licensed owners; records; reports; supervision.

10 (a) A licensed owner shall keep books and records so as to  
11 clearly show:

- 12 (1) The daily number of admissions and the amount of  
13 admission tax payable each day;
- 14 (2) The total amount of gross receipts; and
- 15 (3) The total amount of adjusted gross receipts.

16 (b) The licensed owner shall furnish to the board on forms  
17 designed and supplied for such purpose by the board reports and  
18 information as the board may require with respect to its  
19 activities.

20 (c) The books and records kept by a licensed owner are  
21 government records and the examination, publication, and



1 dissemination of the books and records shall be subject to  
2 chapter 92F.

3       § -21 **Audit of licensee operations.** Within ninety days  
4 after the end of each quarter of each fiscal year, the licensed  
5 owner shall transmit to the board an audit of the financial  
6 transactions and condition of the licensed owner's total  
7 operations. All audits shall be conducted by certified public  
8 accountants that are registered and licensed to practice in this  
9 State and selected by the board. The compensation for each  
10 certified public accountant shall be paid directly by the  
11 licensed owner to the certified public accountant.

12       § -22 **Judicial review.** Jurisdiction and venue for the  
13 judicial review of a final order of the board relating to  
14 owner's, supplier's, occupational, shuttle service, or special  
15 event licenses is vested in the circuit court of the appropriate  
16 jurisdiction. A petition for judicial review of a final order  
17 of the board shall be filed within thirty days after entry of  
18 the final order.

19       § -23 **Prohibited activities; penalty.** (a) A person  
20 shall be guilty of a misdemeanor for any of the following:



1 (1) Intentionally operating a gaming ship where wagering  
2 is used or is to be used without a license issued by  
3 the board;

4 (2) Intentionally operating a gaming ship where wagering  
5 is permitted other than in the manner authorized under  
6 this chapter;

7 (3) Knowingly permitting a person under twenty-one years  
8 of age to make a wager; or

9 (4) Knowingly violating section -17.

10 (b) A person wagering or accepting a wager at any location  
11 outside the gaming ship is subject to the penalties in part III  
12 of chapter 712.

13 (c) A person shall be guilty of a class C felony and, in  
14 addition, shall be barred for life from gaming ships under the  
15 jurisdiction of the board, if the person commits any of the  
16 following acts:

17 (1) Offers, promises, or gives anything of value or  
18 benefit to a person who is connected with a gaming  
19 ship owner, including but not limited to an officer or  
20 employee of a licensed owner or holder of an  
21 occupational license, pursuant to an agreement or



1 arrangement or with the intent that the promise or  
2 thing of value or benefit will influence the actions  
3 of the person to whom the offer, promise, or gift was  
4 made in order to affect or attempt to affect the  
5 outcome of a gaming activity or to influence official  
6 action of a member of the board;

7 (2) Solicits or knowingly accepts or receives a promise of  
8 anything of value or benefit while the person is  
9 connected with a gaming ship, including but not  
10 limited to an officer or employee of a licensed owner  
11 or holder of an occupational license, pursuant to an  
12 understanding or arrangement or with the intent that  
13 the promise or thing of value or benefit will  
14 influence the actions of the person to affect or  
15 attempt to affect the outcome of a gaming activity or  
16 to influence official action of a member of the board;

17 (3) Cheats at a gaming activity;

18 (4) Manufactures, sells, or distributes any cards, chips,  
19 dice, game, or device that is intended to be used to  
20 violate this chapter;



- 1           (5) Alters or misrepresents the outcome of a gaming  
2           activity on which wagers have been made after the  
3           outcome is made sure but before it is revealed to the  
4           players;
- 5           (6) Places a bet after acquiring knowledge, not available  
6           to all players, of the outcome of the gaming activity  
7           that is subject of the bet or to aid a person in  
8           acquiring the knowledge for the purpose of placing a  
9           bet contingent on that outcome;
- 10          (7) Claims, collects, or takes, or attempts to claim,  
11          collect, or take, money or anything of value in or  
12          from the games, with intent to defraud, without having  
13          made a wager contingent on winning a gaming activity,  
14          or claims, collects, or takes an amount of money or  
15          thing of value of greater value than the amount won;
- 16          (8) Uses counterfeit chips or tokens in a gaming activity;  
17          or
- 18          (9) Possesses any key or device designed for the purpose  
19          of opening, entering, or affecting the operation of a  
20          gaming activity, drop box, or an electronic or  
21          mechanical device connected with the gaming activity



1 or for removing coins, tokens, chips, or other  
2 contents of a gaming activity. This paragraph shall  
3 not apply to a gaming licensee or employee of a gaming  
4 licensee acting within the scope of the employee's  
5 employment.

6 (d) An action to prosecute any crime occurring during a  
7 gaming excursion shall be tried in the county of the dock at  
8 which the gaming ship is based.

9 § -24 Forfeiture of property. (a) Except as provided  
10 in subsection (b), any gaming ship used for the conduct of  
11 gaming in violation of section -17, shall be subject to  
12 section 712-1222.5. Every gaming device found on a ship  
13 operating games in violation of this chapter shall be subject to  
14 seizure, confiscation, and destruction.

15 (b) It is not a violation of this chapter for a vessel  
16 that is licensed for gaming by a foreign nation or another state  
17 or territory of the United States to dock in the State if the  
18 State has granted permission for docking; provided that no  
19 gaming is conducted on the vessel while it is docked in the  
20 State or traversing in the territorial and archipelagic waters  
21 of the State. No gaming device shall be subject to seizure,



1 confiscation, or destruction if the gaming device is located on  
2 such a vessel.

3       § -25 **Prohibited activities; civil penalties.** Any:

4       (1) Person who conducts a gaming operation without first  
5             obtaining an owner's license, or who continues to  
6             conduct gaming operations after revocation of the  
7             person's owner's license; or

8       (2) Licensee who conducts or allows to be conducted any  
9             unauthorized games on a ship where it is authorized to  
10            conduct its shipboard gaming,

11 in addition to other penalties provided, shall be subject to a  
12 civil penalty equal to the amount of gross receipts derived from  
13 wagering on games in violation of this section, as well as  
14 confiscation and forfeiture of all gaming equipment used in the  
15 conduct of games in violation of this section.

16       § -26 **Criminal history record information.** Whenever the  
17 board is authorized or required by law to consider a person's  
18 criminal history for the purpose of carrying out its statutory  
19 powers and responsibilities, upon request from the board, the  
20 Hawaii criminal justice data center shall furnish criminal  
21 history record information contained in its files.



1           §   -27   **State gaming revolving fund;** There is established  
2 in the state treasury the state gaming revolving fund into which  
3 shall be deposited all fees, taxes, and fines collected under  
4 this chapter, and all other moneys credited or transferred from  
5 any other fund or source pursuant to statute.

6           §   -28   **Use of moneys in state gaming revolving fund;**  
7 **report.** (a) The moneys in the state gaming revolving fund  
8 shall be expended by the board for expenses incurred for the  
9 administration and enforcement of this chapter.

10           (b) All unencumbered moneys in excess of \$           remaining  
11 in the state gaming revolving fund at the close of each fiscal  
12 year shall be transferred by the director of finance in equal  
13 amounts to the director of finance of each county that has  
14 established a county surcharge on state tax pursuant to section  
15 46-16.8, for deposit into an appropriate fund established by the  
16 county to receive the proceeds of the surcharge on state tax.

17           (c) A county receiving moneys pursuant to this section  
18 shall expend the moneys for the purposes established under  
19 section 46-16.8(e).

20           (d) In addition to the annual report required under  
21 section       -9, the board shall submit to the legislature no less



1 than twenty days prior to the convening of each regular session,  
2 a comprehensive financial report detailing:

3 (1) The revenues collected from the taxes, fees, and fines  
4 imposed under this chapter; and

5 (2) The amounts allocable to administrative and  
6 enforcement costs.

7 § -29 Legislative oversight. (a) Beginning with the  
8 second fiscal year after gaming activities commence pursuant to  
9 this chapter, the auditor shall conduct a biennial financial and  
10 social assessment of shipboard gaming operations. In conducting  
11 the assessment, the auditor shall identify the financial impacts  
12 of shipboard gaming on the State's economy and the social  
13 impacts of gaming upon persons in the State. The auditor shall  
14 submit a report of its findings and recommendations to the  
15 legislature no later than twenty days prior to the convening of  
16 the next regular session after the biennial assessment is  
17 completed.

18 (b) Beginning with the second fiscal year after gaming  
19 activities commence pursuant to this chapter, the auditor shall  
20 conduct a program and financial audit of the board. Thereafter,



1 the auditor shall conduct a program and financial audit every  
2 four years after the first audit is completed."

3 SECTION 3. Section 36-30, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) Each special fund, except the:

- 6 (1) Special out-of-school time instructional program fund  
7 under section 302A-1310;
- 8 (2) School cafeteria special funds of the department of  
9 education;
- 10 (3) Special funds of the University of Hawaii;
- 11 (4) State educational facilities improvement special fund;
- 12 (5) Special funds established by section 206E-6;
- 13 (6) Aloha Tower fund created by section 206J-17;
- 14 (7) Funds of the employees' retirement system created by  
15 section 88-109;
- 16 (8) Hawaii hurricane relief fund established under chapter  
17 431P;
- 18 (9) Convention center enterprise special fund established  
19 under section 201B-8;
- 20 (10) Hawaii health systems corporation special funds and  
21 the subaccounts of its regional system boards;



- 1       (11)    Tourism special fund established under section 201B-
- 2                11;
- 3       (12)    Universal service fund established under section 269-
- 4                42;
- 5       (13)    Emergency and budget reserve fund under section 328L-
- 6                3;
- 7       (14)    Public schools special fees and charges fund under
- 8                section 302A-1130;
- 9       (15)    Sport fish special fund under section 187A-9.5;
- 10    [+] (16) [+] Neurotrauma special fund under section 321H-4;
- 11    [+] (17) [+] Center for nursing special fund under section 304A-
- 12                2163;
- 13    [+] (18) [+] Passenger facility charge special fund established
- 14                by section 261-5.5;
- 15    [+] (19) [+] Court interpreting services revolving fund under
- 16                section 607-1.5;
- 17    [+] (20) [+] Trauma system special fund under section 321-22.5;
- 18    [+] (21) [+] Hawaii cancer research special fund;
- 19    [+] (22) [+] Community health centers special fund;
- 20    [+] (23) [+] Emergency medical services special fund;



1    [+] (24) [+]    Rental motor vehicle customer facility charge  
2                    special fund established under section 261-5.6;  
3    [+] (25) [+]    Shared services technology special fund under  
4                    section 27-43;  
5    [+] (26) [+]    Nursing facility sustainability program special fund  
6                    established pursuant to [section 346F-4];  
7    [+] (27) [+]    Automated victim information and notification system  
8                    special fund established under section 353-136;  
9    [+] (28) [+]    Hospital sustainability program special fund under  
10                   [section 346G-4]; [and]  
11   [+] (29) [+]    Civil monetary penalty special fund under section  
12                   321-30.2 [7]; and  
13    (30)   State gaming revolving fund under section            -27;  
14 shall be responsible for its pro rata share of the  
15 administrative expenses incurred by the department responsible  
16 for the operations supported by the special fund concerned."

17       SECTION 4.   Section 712-1222.5, Hawaii Revised Statutes, is  
18 amended by amending subsection (3) to read as follows:

19       "(3)   This section shall not apply to gambling activity  
20 conducted during travel from foreign nations or another state or  
21 territory of the United States to the point of first entry into



1 state waters or during travel to foreign nations or another  
2 state or territory of the United States from the point of final  
3 exit from state waters; provided that nothing herein shall  
4 preclude prosecution for any offense under this part.

5 This part shall not apply to gaming activity authorized on  
6 ships licensed under chapter ."

7 SECTION 5. If any person commences a proceeding in any  
8 court of competent jurisdiction to extend any provision of this  
9 Act to allow shipboard gaming as defined in this Act on any  
10 land, on or in any building, structure, or improvement attached  
11 to or on land within the jurisdiction of the State, or if any  
12 person contests, challenges, or defends against any prosecution  
13 or claim that no provision of this Act allows shipboard gaming  
14 as defined in this Act on any land, on or in any building,  
15 structure, or improvement attached to or on land within the  
16 jurisdiction of the State, the commencement of the proceeding,  
17 prosecution, or claim shall be deemed to be public notice that  
18 this Act shall be repealed on the date that a court of competent  
19 jurisdiction issues a final order that would allow shipboard  
20 gaming on land, on or in any building, structure, or improvement  
21 attached to or on land.



1 This Act shall be repealed on the date that a court of  
 2 competent jurisdiction issues a final order that would allow  
 3 shipboard gaming on land, on or in any building, structure, or  
 4 improvement attached to or on land, and, the underlying  
 5 provisions of sections 36-30(a) and 712-1222.5(3), Hawaii  
 6 Revised Statutes, shall be reenacted in the form in which those  
 7 sections read on the day before the effective date of this Act.

8 SECTION 6. There is appropriated out of the general  
 9 revenues of the State of Hawaii the sum of \$ or so much  
 10 thereof as may be necessary for fiscal year 2017-2018 and the  
 11 same sum or so much thereof as may be necessary for fiscal year  
 12 2018-2019 for the purposes of implementing this Act.

13 The sums appropriated shall be expended by the department  
 14 of business, economic development, and tourism for the purposes  
 15 of this Act.

16 SECTION 7. Statutory material to be repealed is bracketed  
 17 and stricken. New statutory material is underscored.

18 SECTION 8. This Act shall take effect on July 1, 2017.

19

INTRODUCED BY:

*John M. Burns*  
*John De Crite*  
*Paul S. King*

JAN 20 2017



# H.B. NO. 766

**Report Title:**

Shipboard Gaming, Appropriation

**Description:**

Establishes regulatory framework for licensed shipboard gaming in state waters. Makes an appropriation.

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

