
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 violent activity in
2 and around illegal gambling houses has grown rampant in recent
3 years, with reports of armed robberies, stabbings, and shootings
4 becoming all too common. There have been reports of "turf wars"
5 between factions, vying for security work at these
6 establishments, which have resulted in multiple killings.

7 The legislature further finds that aside from physical
8 violence, illegal gambling houses are known for being drug and
9 sex trafficking establishments, as reflected by a report
10 published on February 1, 2021, by the Hawaii state commission on
11 the status of women. Citing a 2019 study conducted jointly with
12 Arizona State University, the report found that twenty-two per
13 cent of twenty-two sex trafficking victims were exploited in
14 illegal game rooms in the State. A first-hand account stated
15 that they would go to illegal game rooms around town and find
16 drug dealers present. Another first-hand account stated they
17 were responsible for moving young sex-trafficking victims, all



1 under twenty-five years of age, who were on heroin and living in
2 illegal game rooms as runaways from abusive homes. Due to these
3 testimonies, the legislature believes that illegal gambling
4 houses have a profoundly negative impact on communities across
5 the State, particularly in residential neighborhoods.

6 The legislature further finds that existing law makes it
7 nearly impossible for law enforcement to prosecute property
8 owners whose properties are used as illegal gambling houses.
9 Even if the same property owner repeatedly leases their property
10 to individuals who use it as an illegal gambling house, there is
11 practically no way to establish a property owner's knowing state
12 of mind if they do not visit the property and purportedly has no
13 inclination of illegal gambling activities happening on their
14 property. Individuals who work at illegal gambling
15 establishments as cashiers, security, or similarly culpable jobs
16 are typically charged under promoting gambling in the second
17 degree, which is a misdemeanor. In comparison, promoting
18 prostitution is a class B felony and applies to those with
19 arguably less involvement in the business enterprise, such as
20 drivers who refer passengers to a commercial sex worker for
21 "kickbacks". The legislature believes that a misdemeanor level



1 offense is inconsistent with the dangerous effects that illegal
2 gambling houses have on the surrounding communities.

3 In order to guard the safety and welfare of the State's
4 citizens, and particularly residential neighborhoods, illegal
5 gambling houses cannot be tolerated any longer and existing laws
6 relating to the promotion of gambling need to be strengthened to
7 deter and punish those who put the State's citizens at risk.

8 While the legislature believes that existing laws need to
9 be strengthened, it is not the intent to affect the significant
10 exception that currently exists for social gambling as provided
11 under section 712-1231, Hawaii Revised Statutes; and existing
12 exceptions for trading securities or commodities, selling or
13 purchasing insurance, and any other exceptions provided under
14 section 712-1220, Hawaii Revised Statutes. It is the intent of
15 the legislature to only affect the promotion of illegal
16 gambling.

17 Accordingly, the purpose of this Act is to:

- 18 (1) Amend the definition of "advance gambling activity" to
19 repeal playing or participating in any form of
20 gambling activity;



(2) Amend the requisite state of mind for promoting gambling in the first and second degree to recklessness and negligence, respectively;

(3) Amend the offenses of promoting gambling in the first and second degree to a class B felony and class C felony, respectively;

(4) Amend the offense of gambling to repeal advancing any gambling activity; and

(5) Exclude the offenses of promoting gambling in the first and second degree from qualifying for deferred acceptance of guilty plea or nolo contendere plea.

SECTION 2. Section 706-606.5, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) Notwithstanding section 706-669 and any other law to the contrary, any person convicted of murder in the second degree, any class A felony, any class B felony, or any of the following class C felonies:

(a) Section 134-7 relating to persons prohibited from owning, possessing, or controlling firearms or ammunition;



- 1 (b) Section 134-8 relating to ownership, etc., of certain
2 prohibited weapons;
- 3 (c) Section 134-17 only as it relates to providing false
4 information or evidence to obtain a permit under
5 section 134-9;
- 6 (d) Section 188-23 relating to possession or use of
7 explosives, electrofishing devices, and poisonous
8 substances in state waters;
- 9 (e) Section 386-98(d) (1) relating to fraud violations and
10 penalties;
- 11 (f) Section 431:2-403(b) (2) relating to insurance fraud;
- 12 (g) Section 707-703 relating to negligent homicide in the
13 second degree;
- 14 (h) Section 707-711 relating to assault in the second
15 degree;
- 16 (i) Section 707-713 relating to reckless endangering in
17 the first degree;
- 18 (j) Section 707-716 relating to terroristic threatening in
19 the first degree;
- 20 (k) Section 707-721 relating to unlawful imprisonment in
21 the first degree;



- 1 (l) Section 707-732 relating to sexual assault in the
2 third degree;
- 3 (m) Section 707-752 relating to promoting child abuse in
4 the third degree;
- 5 (n) Section 707-757 relating to electronic enticement of a
6 child in the second degree;
- 7 (o) Section 707-766 relating to extortion in the second
8 degree;
- 9 (p) Section 708-811 relating to burglary in the second
10 degree;
- 11 (q) Section 708-821 relating to criminal property damage
12 in the second degree;
- 13 (r) Section 708-831 relating to theft in the second
14 degree;
- 15 (s) Section 708-835.5 relating to theft of livestock;
- 16 (t) Section 708-836 relating to unauthorized control of
17 propelled vehicle;
- 18 (u) Section 708-839.55 relating to unauthorized possession
19 of confidential personal information;
- 20 (v) Section 708-839.8 relating to identity theft in the
21 third degree;



1 (w) Section 708-852 relating to forgery in the second
2 degree;
3 (x) Section 708-854 relating to criminal possession of a
4 forgery device;
5 (y) Section 708-875 relating to trademark counterfeiting;
6 (z) Section 710-1071 relating to intimidating a witness;
7 (aa) Section 711-1103 relating to riot;
8 ~~[(bb) Section 712-1221 relating to promoting gambling in the~~
9 ~~first degree;~~
10 ~~+(ee)]~~ (bb) Section 712-1224 relating to possession of
11 gambling records in the first degree;
12 ~~[(dd)]~~ (cc) Section 712-1247 relating to promoting a
13 detrimental drug in the first degree; or
14 ~~[(ee)]~~ (dd) Section 846E-9 relating to failure to comply with
15 covered offender registration requirements,
16 or who is convicted of attempting to commit murder in the second
17 degree, any class A felony, any class B felony, or any of the
18 class C felony offenses enumerated above and who has a prior
19 conviction or prior convictions for the following felonies,
20 including an attempt to commit the same: murder, murder in the
21 first or second degree, a class A felony, a class B felony, any



1 of the class C felony offenses enumerated above, or any felony
2 conviction of another jurisdiction, shall be sentenced to a
3 mandatory minimum period of imprisonment without possibility of
4 parole as provided in subsection (2)."

5 SECTION 3. Section 712-1220, Hawaii Revised Statutes, is
6 amended by amending the definition of "advance gambling
7 activity" to read as follows:

8 ""Advance gambling activity". A person "advances gambling
9 activity" if ~~[he engages]~~ the person:

10 (1) Engages in conduct that materially aids any form of
11 gambling activity. Conduct of this nature includes
12 but is not limited to conduct directed toward ~~[the]~~:

13 (A) The creation or establishment of the particular
14 game, contest, scheme, device, or activity
15 involved~~[, toward the]~~;

16 (B) The acquisition or maintenance of premises,
17 paraphernalia, equipment, or apparatus therefor~~[, toward the]~~;

18 (C) The solicitation or inducement of persons to
19 participate therein~~[, toward the]~~;



(D) The actual conduct of the playing phases thereof[, ~~toward the~~];

(E) The arrangement of any of its financial or recording phases[~~, or toward any~~]; or

(F) Any other phase of its operation[~~— A person advances gambling activity if, having~~]; or

(2) Having substantial proprietary control or other authoritative control over premises being used with ~~[his]~~ the person's knowledge for purposes of gambling activity, ~~[he]~~ permits that activity to occur or continue or makes no effort to prevent its occurrence or continuation. ~~[A person advances gambling activity if he plays or participates in any form of gambling activity.] "~~

SECTION 4. Section 712-1221, Hawaii Revised Statutes, is amended to read as follows:

"§712-1221 Promoting gambling in the first degree. (1) A person commits the offense of promoting gambling in the first degree if the person [~~knowingly~~] recklessly advances or profits from gambling activity by:



1 (a) Engaging in bookmaking to the extent that the person
2 receives or accepts in any seven-day period more than
3 five bets totaling more than \$500;

4 (b) Receiving in connection with a lottery, or mutuel
5 scheme or enterprise, money or written records from a
6 person other than a player whose chances or plays are
7 represented by such money or records; or

8 (c) Receiving or having become due and payable in
9 connection with a lottery, mutuel, or other gambling
10 scheme or enterprise, more than \$1,000 in any seven-
11 day period played in the scheme or enterprise.

12 (2) Promoting gambling in the first degree is a class

13 [E] B felony."

14 SECTION 5. Section 712-1222, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§712-1222 Promoting gambling in the second degree. (1)**

17 A person commits the offense of promoting gambling in the second
18 degree if the person [~~knowingly~~] negligently advances or profits
19 from gambling activity.

20 (2) Promoting gambling in the second degree is a

21 [~~misdemeanor~~] class C felony."



1 SECTION 6. Section 712-1223, Hawaii Revised Statutes, is
2 amended by amending subsection (1) to read as follows:

3 "(1) A person commits the offense of gambling if the
4 person knowingly [~~advances or~~] participates in any gambling
5 activity."

6 SECTION 7. Section 853-4, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) This chapter shall not apply when:

9 (1) The offense charged involves the intentional, knowing,
10 reckless, or negligent killing of another person;

11 (2) The offense charged is:

12 (A) A felony that involves the intentional, knowing,
13 or reckless bodily injury, substantial bodily
14 injury, or serious bodily injury of another
15 person; or

16 (B) A misdemeanor or petty misdemeanor that carries a
17 mandatory minimum sentence and that involves the
18 intentional, knowing, or reckless bodily injury,
19 substantial bodily injury, or serious bodily
20 injury of another person;



1 provided that the prohibition in this paragraph shall
2 not apply to offenses described in section 709-
3 906(18);

4 (3) The offense charged involves a conspiracy or
5 solicitation to intentionally, knowingly, or
6 recklessly kill another person or to cause serious
7 bodily injury to another person;

8 (4) The offense charged is a class A felony;

9 (5) The offense charged is nonprobationable;

10 (6) The defendant has been convicted of any offense
11 defined as a felony by the Hawaii Penal Code or has
12 been convicted for any conduct that if perpetrated in
13 this State would be punishable as a felony;

14 (7) The defendant is found to be a law violator or
15 delinquent child for the commission of any offense
16 defined as a felony by the Hawaii Penal Code or for
17 any conduct that if perpetrated in this State would
18 constitute a felony;

19 (8) The defendant has a prior conviction for a felony
20 committed in any state, federal, or foreign
21 jurisdiction;



- 1 (9) A firearm was used in the commission of the offense
- 2 charged;
- 3 (10) The defendant is charged with the distribution of a
- 4 dangerous, harmful, or detrimental drug to a minor;
- 5 (11) The defendant has been charged with a felony offense
- 6 and has been previously granted deferred acceptance of
- 7 guilty plea or no contest plea for a prior offense,
- 8 regardless of whether the period of deferral has
- 9 already expired;
- 10 (12) The defendant has been charged with a misdemeanor
- 11 offense and has been previously granted deferred
- 12 acceptance of guilty plea or no contest plea for a
- 13 prior felony, misdemeanor, or petty misdemeanor for
- 14 which the period of deferral has not yet expired;
- 15 (13) The offense charged is:
- 16 (A) Escape in the first degree;
- 17 (B) Escape in the second degree;
- 18 (C) Promoting prison contraband in the first degree;
- 19 (D) Promoting prison contraband in the second degree;
- 20 (E) Bail jumping in the first degree;
- 21 (F) Bail jumping in the second degree;



- 1 (G) Bribery;
- 2 (H) Bribery of or by a witness;
- 3 (I) Intimidating a witness;
- 4 (J) Bribery of or by a juror;
- 5 (K) Intimidating a juror;
- 6 (L) Jury tampering;
- 7 (M) Promoting prostitution;
- 8 (N) Abuse of family or household member except as
- 9 provided in paragraph (2) and section 709-
- 10 906(18);
- 11 (O) Sexual assault in the second degree;
- 12 (P) Sexual assault in the third degree;
- 13 (Q) A violation of an order issued pursuant to
- 14 chapter 586;
- 15 (R) Promoting child abuse in the second degree;
- 16 (S) Promoting child abuse in the third degree;
- 17 (T) Electronic enticement of a child in the first
- 18 degree;
- 19 (U) Electronic enticement of a child in the second
- 20 degree;



- 1 (V) Commercial sexual exploitation pursuant to
2 section 712-1200.5;
- 3 (W) Street prostitution and commercial sexual
4 exploitation under section 712-1207(1)(b) or
5 (2)(b);
- 6 (X) Commercial sexual exploitation near schools or
7 public parks under section 712-1209;
- 8 (Y) Commercial sexual exploitation of a minor under
9 section 712-1209.1; [~~or~~]
- 10 (Z) Habitual commercial sexual exploitation under
11 section 712-1209.5;
- 12 (AA) Violation of privacy in the first degree under
13 section 711-1110.9;
- 14 (BB) Violation of privacy in the second degree under
15 section 711-1111(1)(d), (e), (f), (g), or (h);
16 [~~or~~]
- 17 [~~+~~] (CC) [~~+~~] Habitually operating a vehicle under the
18 influence of an intoxicant under section 291E-
19 61.5(a);
- 20 (DD) Promoting gambling in the first degree; or
- 21 (EE) Promoting gambling in the second degree;



1 (14) The defendant has been charged with:

2 (A) Knowingly or intentionally falsifying any report

3 required under part XIII of chapter 11, with the

4 intent to circumvent the law or deceive the

5 campaign spending commission; or

6 (B) Violating section 11-352 or 11-353; or

7 (15) The defendant holds a commercial driver's license and

8 has been charged with violating a traffic control law,

9 other than a parking law, in connection with the

10 operation of any type of motor vehicle."

11 SECTION 8. This Act does not affect rights and duties that

12 matured, penalties that were incurred, and proceedings that were

13 begun before its effective date.

14 SECTION 9. Statutory material to be repealed is bracketed

15 and stricken. New statutory material is underscored.

16 SECTION 10. This Act shall take effect upon its approval;

17 provided that the amendments made to section 853-4, Hawaii

18 Revised Statutes, by section 7 of this Act shall not be repealed

19 when that section is reenacted on June 30, 2026, pursuant to

20 section 15 of Act 19, Session Laws of Hawaii 2020.



Report Title:

Criminal Offense; Gambling; Criminal Procedure

Description:

Amends the definition of "advance gambling activity" to repeal playing or participating in any form of gambling activity. Amends the requisite state of mind for promoting gambling in the first and second degree to recklessness and criminal negligence, respectively. Amends the offenses of promoting gambling in the first and second degree to a class B felony and class C felony, respectively. Amends the offense of gambling to repeal advancing any gambling activity. Excludes the offenses of promoting gambling in the first and second degree from qualifying for deferred acceptance of guilty plea or nolo contendere plea. (CD1)

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