
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
13 no 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 needs 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 amend:

- 18 (1) The offenses of promoting gambling in the first and
19 second degree to a class B felony and class C felony,
20 respectively;



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

4 (3) The definition of "advance gambling activity" to no
5 longer include simple gambling.

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

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

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

15 (b) Section 134-8 relating to ownership, etc., of certain
16 prohibited weapons;

17 (c) Section 134-17 only as it relates to providing false
18 information or evidence to obtain a permit under
19 section 134-9;



- 1 (d) Section 188-23 relating to possession or use of
2 explosives, electrofishing devices, and poisonous
3 substances in state waters;
- 4 (e) Section 386-98(d)(1) relating to fraud violations and
5 penalties;
- 6 (f) Section 431:2-403(b)(2) relating to insurance fraud;
- 7 (g) Section 707-703 relating to negligent homicide in the
8 second degree;
- 9 (h) Section 707-711 relating to assault in the second
10 degree;
- 11 (i) Section 707-713 relating to reckless endangering in
12 the first degree;
- 13 (j) Section 707-716 relating to terroristic threatening in
14 the first degree;
- 15 (k) Section 707-721 relating to unlawful imprisonment in
16 the first degree;
- 17 (l) Section 707-732 relating to sexual assault in the
18 third degree;
- 19 (m) Section 707-752 relating to promoting child abuse in
20 the third degree;



- 1 (n) Section 707-757 relating to electronic enticement of a
2 child in the second degree;
- 3 (o) Section 707-766 relating to extortion in the second
4 degree;
- 5 (p) Section 708-811 relating to burglary in the second
6 degree;
- 7 (q) Section 708-821 relating to criminal property damage
8 in the second degree;
- 9 (r) Section 708-831 relating to theft in the second
10 degree;
- 11 (s) Section 708-835.5 relating to theft of livestock;
- 12 (t) Section 708-836 relating to unauthorized control of
13 propelled vehicle;
- 14 (u) Section 708-839.55 relating to unauthorized possession
15 of confidential personal information;
- 16 (v) Section 708-839.8 relating to identity theft in the
17 third degree;
- 18 (w) Section 708-852 relating to forgery in the second
19 degree;
- 20 (x) Section 708-854 relating to criminal possession of a
21 forgery device;



1 (y) Section 708-875 relating to trademark counterfeiting;
2 (z) Section 710-1071 relating to intimidating a witness;
3 (aa) Section 711-1103 relating to riot;
4 (bb) Section [~~712-1221~~] 712-1222 relating to promoting
5 gambling in the [~~first~~] second degree;
6 (cc) Section 712-1224 relating to possession of gambling
7 records in the first degree;
8 (dd) Section 712-1247 relating to promoting a detrimental
9 drug in the first degree; or
10 (ee) Section 846E-9 relating to failure to comply with
11 covered offender registration requirements,
12 or who is convicted of attempting to commit murder in the second
13 degree, any class A felony, any class B felony, or any of the
14 class C felony offenses enumerated above and who has a prior
15 conviction or prior convictions for the following felonies,
16 including an attempt to commit the same: murder, murder in the
17 first or second degree, a class A felony, a class B felony, any
18 of the class C felony offenses enumerated above, or any felony
19 conviction of another jurisdiction, shall be sentenced to a
20 mandatory minimum period of imprisonment without possibility of
21 parole as provided in subsection (2)."



SECTION 3. 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:

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

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

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

(2) Promoting gambling in the first degree is a class [E] B felony."

SECTION 4. Section 712-1222, Hawaii Revised Statutes, is amended to read as follows:



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

2 A person commits the offense of promoting gambling in the second
3 degree if the person [~~knowingly~~] negligently advances or profits
4 from gambling activity.

5 (2) Promoting gambling in the second degree is a
6 [~~misdemeanor~~.] class C felony."

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

10 "Advance gambling activity". A person "advances gambling
11 activity" if [~~he~~] the person engages in conduct that materially
12 aids any form of gambling activity. Conduct of this nature
13 includes but is not limited to conduct directed toward the
14 creation or establishment of the particular game, contest,
15 scheme, device, or activity involved, toward the acquisition or
16 maintenance of premises, paraphernalia, equipment, or apparatus
17 therefor, toward the solicitation or inducement of persons to
18 participate therein, toward the actual conduct of the playing
19 phases thereof, toward the arrangement of any of its financial
20 or recording phases, or toward any other phase of its operation.
21 A person advances gambling activity if, having substantial



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

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

10 SECTION 7. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 8. This Act shall take effect upon its approval.



Report Title:

Criminal Offense; Promoting Gambling; Criminal Procedure

Description:

Amends the offenses of promoting gambling in the first and second degree to a class B felony and class C felony, respectively. Amends the requisite state of mind for promoting gambling in the first and second degree to recklessness and criminal negligence, respectively. Amends the definition of advance gambling activity to no longer include simple gambling. (SD1)

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

