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## A BILL FOR AN ACT

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RELATING TO GAMBLING.

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

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

3       "(2)   Gambling is a misdemeanor.   For a second or  
4 subsequent offense that occurs within ten years of a prior  
5 conviction, the offense shall be a class C felony."

6       SECTION 2.   Section 712-1225, Hawaii Revised Statutes, is  
7 amended by amending subsection (2) to read as follows:

8       "(2)   Possession of gambling records in the second degree  
9 is a misdemeanor.   For a second or subsequent offense that  
10 occurs within ten years of a prior conviction, the offense shall  
11 be a class C felony."

12       SECTION 3.   Section 712-1226, Hawaii Revised Statutes, is  
13 amended by amending subsection (2) to read as follows:

14       "(2)   Possession of a gambling device is a [~~misdemeanor.~~]  
15 class C felony."

16       SECTION 4.   Section 712A-16, Hawaii Revised Statutes, is  
17 amended to read as follows:



1       **"§712A-16 Disposition of property forfeited.** (1) All  
2 property forfeited to the State under this chapter shall be  
3 transferred to the attorney general who:

4       (a) May transfer property, other than currency, which  
5       shall be distributed in accordance with subsection (2)  
6       to any local or state government entity, municipality,  
7       or law enforcement agency within the State;

8       (b) May sell forfeited property to the public by public  
9       sale; provided that for leasehold real property:

10       (i) The attorney general shall first offer the holder  
11       of the immediate reversionary interest the right  
12       to acquire the leasehold interest and any  
13       improvements built or paid for by the lessee for  
14       the then fair market value of the leasehold  
15       interest and improvements. The holder of the  
16       immediate reversionary interest shall have thirty  
17       days after receiving written notice within which  
18       to accept or reject the offer in writing;  
19       provided that the offer shall be deemed to be  
20       rejected if the holder of the immediate  
21       reversionary interest has not communicated



1 acceptance to the attorney general within the  
2 thirty-day period. The holder of the immediate  
3 reversionary interest shall have thirty days  
4 after acceptance to tender to the attorney  
5 general the purchase price for the leasehold  
6 interest and any improvements, upon which tender  
7 the leasehold interest and improvements shall be  
8 conveyed to the holder of the immediate  
9 reversionary interest.

10 (ii) If the holder of the immediate reversionary  
11 interest fails to exercise the right of first  
12 refusal provided in subparagraph (i), the  
13 attorney general may proceed to sell the  
14 leasehold interest and any improvements by public  
15 sale.

16 (iii) Any dispute between the attorney general and the  
17 holder of the immediate reversionary interest as  
18 to the fair market value of the leasehold  
19 interest and improvements shall be settled by  
20 arbitration pursuant to chapter 658A;



(c) May sell or destroy all raw materials, products, and equipment of any kind used or intended for use in manufacturing, compounding, or processing a controlled substance or any untaxed cigarettes in violation of chapter 245;

(d) May compromise and pay valid claims against property forfeited pursuant to this chapter; or

(e) May make any other disposition of forfeited property authorized by law.

(2) All forfeited property and the sale proceeds thereof, except as provided in subsection (3), up to a maximum of [three million dollars] \$3,000,000 per year, not previously transferred pursuant to [+]subsection[+] (1)(a) of this section, shall, after payment of expenses of administration and sale, be distributed as follows:

(a) One quarter shall be distributed to the unit or units of state or local government [+]whose[+] officers or employees conducted the investigation and caused the arrest of the person whose property was forfeited or seizure of the property for forfeiture;



(b) One quarter shall be distributed to the prosecuting attorney who instituted the action producing the forfeiture; and

(c) One half shall be deposited into the criminal forfeiture fund established by this chapter.

(3) All forfeited property and the sale proceeds thereof forfeited pursuant to section 712-1230 shall be distributed to units of state and local government that administer, manage, operate, or oversee programs addressing homelessness, substance abuse, or compulsive gambling.

~~[(+3)]~~ (4) Property and money distributed to units of state and local government, except as provided in subsection (3), shall be used for law enforcement purposes, and shall complement but not supplant the funds regularly appropriated for such purposes.

~~[(+4)]~~ (5) There is established in the department of the attorney general a special fund to be known as the criminal forfeiture fund, hereinafter referred to as the "fund" in which shall be deposited one-half of the proceeds of a forfeiture and any penalties paid pursuant to section 712A-10(6). All moneys



1 in the fund shall be expended by the attorney general and are  
2 appropriated for the following purposes:

3 (a) The payment of any expenses necessary to seize,  
4 detain, appraise, inventory, safeguard, maintain,  
5 advertise, or sell property seized, detained, or  
6 forfeited pursuant to this chapter or of any other  
7 necessary expenses incident to the seizure, detention,  
8 or forfeiture of such property and such contract  
9 services and payments to reimburse any federal, state,  
10 or county agency for any expenditures made to perform  
11 the foregoing functions;

12 (b) The payment of awards for information or assistance  
13 leading to a civil or criminal proceeding;

14 (c) The payment of supplemental sums to state and county  
15 agencies for law enforcement purposes;

16 (d) The payment of expenses arising in connection with  
17 programs for training and education of law enforcement  
18 officers;

19 (e) The payment of expenses arising in connection with  
20 enforcement pursuant to the drug nuisance abatement  
21 unit in the department of the attorney general; and



(f) The payment of expenses arising in connection with the law enforcement officer independent review board in the department of the attorney general.

~~[(5)]~~ (6) The attorney general may, without regard to the requirements of chapter 91, promulgate rules and regulations concerning the disposition of property, the use of the fund, and compromising and paying valid claims against property forfeited pursuant to this chapter.

~~[(6)]~~ (7) Not less than twenty days prior to the convening of each regular session, the attorney general shall provide to the legislature a report on the use of the Hawaii omnibus criminal forfeiture act during the fiscal year preceding the legislative session. The report shall include:

(a) The total amount and type of property seized by law enforcement agencies;

(b) The total number of administrative and judicial actions filed by prosecuting attorneys and the disposition thereof;

(c) The total number of claims or petitions for remission or mitigation filed in administrative actions and the dispositions thereof;



(d) The total amount and type of property forfeited and the sale proceeds thereof;

(e) The total amount and type of property distributed to units of state and local government;

(f) The amount of money deposited into the criminal forfeiture fund; and

(g) The amount of money expended by the attorney general from the criminal forfeiture fund under subsection (5) and the reason for the expenditures."

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

SECTION 7. This Act shall take effect upon its approval; provided that the amendments made to section 712A-16, Hawaii Revised Statutes, by section 4 of this Act shall not be repealed





H.B. NO. 2436

1 when that section is reenacted on June 30, 2022, pursuant to  
2 section 7 of Act 161, Session Laws of Hawaii 2016.

3

INTRODUCED BY:

  
JAN 26 2022



# H.B. NO. 2436

**Report Title:**

Hawaii Penal Code; Gambling; Property

**Description:**

Imposes a heightened penalty of a class C felony for persons who repeatedly commit the offenses of gambling or possession of gambling records in the second degree. Raises the criminal penalty to a class C felony for the offense of possession of gambling devices. Directs all forfeited property or proceeds from sales thereof to units of state or local government that administer, manage, operate, or oversee programs addressing homelessness, substance abuse, or compulsive gambling.

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

