
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 social gambling may
2 be harmful to residential neighborhoods in which it takes place.
3 For example, gambling activities in private homes may lead
4 neighbors to complain about excess noise. The legislature
5 believes that the affirmative defense of social gambling should
6 not be available to a defendant if the defendant's gambling
7 activities cause repeated noise complaints that disturb
8 neighbors and monopolize police resources.

9 Accordingly, the purpose of this Act is to provide that a
10 defendant may not assert social gambling as an affirmative
11 defense if the gambling activity occurred at the defendant's
12 residence and gambling activities have resulted in multiple
13 recent documented noise complaints.

14 SECTION 2. Section 712-1231, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§712-1231 Social gambling; definition and specific**
17 **conditions, affirmative defense.** (a) Definition. "Social



1 gambling" means gambling in which all of the following
2 conditions are [~~present:~~] met:

3 (1) Players compete on equal terms with each other; [~~and~~]

4 (2) No player receives, or becomes entitled to receive,
5 anything of value or any profit, directly or
6 indirectly, other than the player's personal gambling
7 winnings; [~~and~~]

8 (3) No other person, corporation, unincorporated
9 association, or entity receives or becomes entitled to
10 receive, anything of value or any profit, directly or
11 indirectly, from any source, including [~~but not~~
12 ~~limited to permitting~~] value or profit for providing
13 the use of premises, [~~supplying refreshments,~~] food[~~,~~]
14 or drinks, [~~service,~~ services, lodging, or
15 entertainment; [~~and~~]

16 (4) It is not conducted or played in or at a hotel, motel,
17 bar, nightclub, cocktail lounge, restaurant, massage
18 parlor, billiard parlor, or any business establishment
19 of any kind, public parks, public buildings, public
20 beaches, school grounds, churches or any other public
21 area; [~~and~~]



- 1 (5) None of the players is below the age of majority; and
- 2 (6) The gambling activity is not bookmaking.
- 3 (b) Affirmative defense:
- 4 (1) In any prosecution for an offense described in
- 5 ~~[+]section[+]~~ 712-1223, 712-1224, 712-1225 or
- 6 712-1226, a defendant may assert the affirmative
- 7 defense that the gambling activity in question was [a]
- 8 social gambling ~~[game]~~ as defined in ~~[+]section[+]~~
- 9 ~~712-1231(a)-.]~~ subsection (a); provided that a
- 10 defendant may not assert the affirmative defense of
- 11 social gambling if:
- 12 (A) The gambling activities occurred at the
- 13 defendant's residence; and
- 14 (B) Gambling activities at the defendant's residence
- 15 have resulted in _____ or more prior noise
- 16 complaints to police, as documented by police
- 17 reports, within the preceding _____ months.
- 18 (2) If the defendant asserts ~~[the]~~ social gambling as an
- 19 affirmative defense, the defendant shall have the
- 20 burden of ~~[going forward with]~~ providing evidence to
- 21 prove the facts constituting ~~[such]~~ the defense by a



1 preponderance of the evidence [~~unless such facts are~~
 2 ~~supplied by the testimony of the prosecuting witness~~
 3 ~~or circumstance in such testimony, and of proving such~~
 4 ~~facts by a preponderance of evidence].~~

5 (c) [~~In any~~] No prosecution for an offense described in
 6 this part [~~the fact~~] shall be required to prove in its prima
 7 facie case that the gambling activity involved was other than
 8 [a] social gambling [~~game shall not be an element of the offense~~
 9 ~~to be proved by the prosecution in making out its prima facie~~
 10 ~~case]."~~

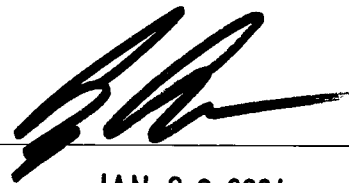
11 SECTION 3. This Act does not affect rights and duties that
 12 matured, penalties that were incurred, and proceedings that were
 13 begun before its effective date.

14 SECTION 4. Statutory material to be repealed is bracketed
 15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect upon its approval.

17

INTRODUCED BY: _____



JAN 22 2024



H.B. NO. 2220

Report Title:

Gambling; Social Gambling; Affirmative Defense; Noise Complaints

Description:

Provides that a defendant may not assert social gambling as an affirmative defense if the gambling activity occurred at the defendant's residence and gambling activities have resulted in multiple recent documented noise complaints.

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