



1 "Collegiate sports or athletic event" means an athletic or  
2 sporting event in which at least one participant is a team or  
3 contestant competing on behalf or under the sponsorship of a  
4 public or private institution of higher education, regardless of  
5 where the institution is located.

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

8 "Fantasy sports contest" means a contest in which:

9 (1) There are no fewer than two participants; provided  
10 that all participants are natural persons and a  
11 fantasy sports contest operator shall not be construed  
12 to be a participant;

13 (2) Participants own, manage, or coach imaginary teams;

14 (3) All prizes and awards offered to winning participants  
15 are established and made known to participants in  
16 advance of the game or contest;

17 (4) The winning outcome of the game or contest reflects  
18 the relative skill of the participants and is  
19 determined by statistics generated by actual  
20 individuals, including athletes in the case of a  
21 sporting event; and



1 (5) No winning outcome is based solely on the performance  
2 of an individual athlete or on the score, point  
3 spread, or any performance of any single real-world  
4 team or any combination of real-world teams.

5 "Gross sports wagering receipts" means the total of all  
6 cash paid by patrons as wagers.

7 "License" means any license applied for or issued by the  
8 department under this chapter, including but not limited to:

9 (1) A sports wagering operator license under section -5  
10 to permit a sports wagering operator to operate sports  
11 wagering through an approved mobile application or  
12 other digital platform that involves, at least in  
13 part, the use of the Internet; and

14 (2) A sports wagering supplier license under section -6  
15 to sell goods and services to be used in connection  
16 with sports wagering but not to directly accept  
17 wagers.

18 "National criminal history background check system" means  
19 the criminal history record system maintained by the Federal  
20 Bureau of Investigation based on fingerprint identification or  
21 any other method of positive identification.



1 "Professional sports or athletic event" means an event at  
2 which two or more contestants participate in a sports event or  
3 athletic event and one or more participants receive  
4 compensation. "Professional sports or athletic event" shall not  
5 include events in which the majority of participants are under  
6 eighteen years of age.

7 "Qualified gaming entity" means an entity that offers  
8 sports wagering through computers, mobile applications, or  
9 digital platforms in no fewer than three jurisdictions in the  
10 United States pursuant to a state regulatory structure.

11 "Sports wagering" means the business of accepting wagers on  
12 wagering events or portions of wagering events, the individual  
13 performance statistics of individuals in wagering events, or a  
14 combination of any of the same by any system or method of  
15 wagering approved by the department via a sports wagering  
16 operator licensee's mobile applications and digital platforms  
17 that use communications technology to accept wagers. "Sports  
18 wagering" includes but is not limited to single-game bets,  
19 teaser bets, parlays, over-under, moneyline, pools, exchange  
20 wagering, in-game wagering, in-play bets, proposition bets, and



1 straight bets. "Sports wagering" shall not include fantasy  
2 sports contests.

3 "Sports wagering account" means a financial record  
4 established by a sports wagering operator for an individual  
5 patron in which the patron may deposit and withdraw funds for  
6 sports wagering and other authorized purchases and to which the  
7 licensed sports wagering operator may credit winnings or other  
8 amounts due to that patron or authorized by that patron. A  
9 sports wagering account may be established electronically  
10 through an approved mobile application or digital platform.

11 "Sports wagering operator" means a sports wagering operator  
12 licensee pursuant to section -5.

13 "Sports wagering supplier" means a person that provides  
14 geolocation and age verification services to a sports wagering  
15 operator.

16 "Wager" means a sum of money or thing of value risked on an  
17 uncertain occurrence.

18 "Wagering event" means any professional sports or athletic  
19 event, collegiate sports or athletic event, or amateur sports or  
20 athletic event, including but not limited to an Olympic or  
21 international sports or athletic event; a motor vehicle race;



1 electronic sports event, also known as e-sports; and any other  
2 event as permitted by the department, provided the majority of  
3 participants in the event are not under age eighteen.

4 "Winnings" means the total of all sums actually paid out,  
5 including the monetary value of any merchandise of value awarded  
6 as a prize.

7 "Youth sports" means an athletic event:

8 (1) Involving a majority of participants under eighteen  
9 years of age; or

10 (2) In which at least one participant is a team from a  
11 public or private elementary, middle, or secondary  
12 school, regardless of where the school is located;

13 provided that if an athletic event meets the definition of  
14 college sports or professional sports, the event shall not be  
15 considered youth sports regardless of the age of the

16 participants. An international athletic event organized by the  
17 International Olympic Committee shall not be considered to be  
18 youth sports, regardless of the age of the participants.

19 § -2 **Authorization of sports wagering; license required;**  
20 **emergency rules.** (a) Notwithstanding any law to the contrary,  
21 sports wagering and ancillary activities shall be lawful when



1 conducted under this chapter and rules adopted under this  
2 chapter.

3 (b) No person or entity shall engage in any activities in  
4 the State that require a license under this chapter unless all  
5 necessary licenses have been obtained under this chapter and  
6 rules adopted under this chapter.

7 (c) In regard to rulemaking:

8 (1) The department may adopt emergency rules pursuant to  
9 the requirements of sections 91-3 and 91-4;

10 (2) The department's determination that there is imminent  
11 peril and the reasons therefor shall be stated in, and  
12 as a part of the emergency rule; and

13 (3) The authority shall make the emergency rule known to  
14 the public by publishing the rule, at least once, in a  
15 newspaper of general circulation in the State, within  
16 five days from the date the rule is filed with the  
17 lieutenant governor.

18 § -3 **Application; criminal history record check.** (a)

19 An application for a license or renewal of a license required  
20 under this chapter shall be submitted on an application form as



1 prescribed by the department. An application submitted to the  
2 department shall include the following:

- 3 (1) The full name, current address, and contact  
4 information of the applicant;
- 5 (2) Disclosure of each person that has control of the  
6 applicant as described in subsection (b);
- 7 (3) Consent to permit the department to conduct a criminal  
8 history record check under subsection (c) of the  
9 applicant and each person disclosed under subsection  
10 (b) (2);
- 11 (4) For the applicant and each person disclosed under  
12 subsection (b) (2), a record of previous issuances and  
13 denials of a gambling-related license or application  
14 in the State or in any other jurisdiction;
- 15 (5) For a sports wagering operator applicant, proof that  
16 the sports wagering system has been tested and  
17 certified for use in another United States  
18 jurisdiction by an independent testing laboratory  
19 within the last six months; and
- 20 (6) Any other information that the department may require  
21 by rule.



1 (b) The following persons shall be considered to have  
2 control of an applicant or a licensee:

3 (1) Each corporate holding company, parent company, or  
4 subsidiary company of a corporate applicant or  
5 licensee and each person who owns fifteen per cent or  
6 more of the corporate applicant or licensee and who  
7 has the ability to control the activities of the  
8 corporate applicant or licensee or elect a majority of  
9 the board of directors of that corporate applicant or  
10 licensee, except for a bank or other licensed lending  
11 institution that holds a mortgage or other lien  
12 acquired in the ordinary course of business;

13 (2) Each person associated with a noncorporate applicant  
14 or licensee that directly or indirectly holds a  
15 beneficial or proprietary interest in the noncorporate  
16 applicant's or licensee's business operation or that  
17 the department otherwise determines has the ability to  
18 control the noncorporate applicant or licensee; and

19 (3) Any executive, employee, or agent of an applicant or  
20 licensee who has ultimate decision-making authority



1 over the conduct of the applicant's or licensee's  
2 sports wagering operations in the State.

3 (c) The department shall request a criminal history record  
4 check in the form the department requires and submit  
5 fingerprints for a national criminal records check against the  
6 national criminal history background check system. The  
7 fingerprints shall be furnished by all persons required to be  
8 named in the application and shall be accompanied by a signed  
9 authorization for the release of information by a law  
10 enforcement agency in the State and the Federal Bureau of  
11 Investigation; provided that an individual who has submitted to  
12 a criminal history record check in the State or any other state  
13 within the previous twelve months shall not be required to  
14 submit to another criminal history record check; provided  
15 further that the person shall submit the results of the previous  
16 criminal history record check to the department and affirm that  
17 there has been no material change in the individual's criminal  
18 history since the time of the previous criminal history record  
19 check.

20 (d) A person licensed under this chapter shall give the  
21 department written notice within thirty days of any material



1 change to any information provided in the licensee's application  
2 for a license or renewal, including any change in the identity  
3 of persons considered to have control of the licensee under  
4 subsection (b).

5 (e) The department shall keep all information, records,  
6 interviews, reports, statements, memoranda, or other data  
7 supplied to or used by the department in the course of its  
8 review or investigation of an applicant for a sports wagering  
9 operator license confidential. The department shall also keep  
10 confidential any trade secret, proprietary information,  
11 confidential commercial information, or confidential financial  
12 information pertaining to any applicant or licensee.

13 § -4 Denial of license; reprimand, suspension, and  
14 revocation. The department may deny a license to any applicant,  
15 reprimand any licensee, or suspend or revoke a license if:

16 (1) The applicant or licensee has knowingly made a false  
17 statement of material fact to the department;

18 (2) The applicant or licensee has intentionally not  
19 disclosed the existence or identity of other persons  
20 that have control of the applicant or licensee as  
21 required by section -3;



1 (3) The applicant or licensee has had a license revoked by  
2 any government authority responsible for the  
3 regulation of gambling or gaming activities;

4 (4) The applicant has been convicted of a crime of moral  
5 turpitude, gambling-related offense, theft or fraud  
6 offense, or has otherwise demonstrated, either by a  
7 police record or other satisfactory evidence, a lack  
8 of respect for law and order;

9 (5) The applicant or licensee has not demonstrated to the  
10 satisfaction of the department financial  
11 responsibility sufficient to adequately meet the  
12 requirements of the licensed business or proposed  
13 business; or

14 (6) An applicant has not met the requirements of this  
15 section or any other provision of this chapter.

16 § -5 **Sports wagering operator license; issuance; fees;**  
17 **term of license; temporary license.** (a) The department shall  
18 issue a minimum of four sports wagering operator licenses to  
19 applicants that meet all requirements of this section,  
20 section -3, and rules adopted under this chapter and that  
21 have not violated any provision of this chapter; provided that



1 this section shall not be interpreted to direct the department  
2 to license an unqualified applicant. The department shall  
3 establish a universal start date for mobile sports wagering  
4 operators that is not later than one hundred eighty days  
5 following the enactment of this section. No person shall offer  
6 sports wagering in this state prior to the universal start date.

7 (b) Only a qualified gaming entity shall be eligible to  
8 apply for a sports wagering operator license.

9 (c) A sports wagering operator license granted by the  
10 department pursuant to this section shall grant a licensee the  
11 lawful authority to conduct sports wagering through a mobile  
12 application or digital platform approved by the department and  
13 any rules adopted under this chapter.

14 (d) The fee for an initial or renewal sports wagering  
15 operator license shall be \$250,000; provided that the fee shall  
16 be retained by the department for the costs of administering  
17 this chapter. In addition to the license fee, the department  
18 may charge a processing fee for an initial or renewal sports  
19 wagering operator license in an amount equal to the projected  
20 cost of processing the application and performing any background  
21 investigations. If the actual cost exceeds the projected cost,



1 an additional fee may be charged to meet the actual cost;  
2 provided that if the projected cost exceeds the actual cost, the  
3 difference may be refunded to the applicant or licensee.

4 (e) Except as provided in subsection (f), a license  
5 granted or renewed under this section shall be valid for five  
6 years, unless sooner revoked by the department pursuant to  
7 section -4.

8 (f) An applicant for a sports wagering operator license  
9 may submit with the application a request to the department to  
10 commence sports wagering through a temporary license subject to  
11 the universal start date in subsection (a); provided that this  
12 request shall include the initial license fee of \$250,000  
13 payable to the department. Upon receiving a request for a  
14 temporary license, the department shall review the request. If  
15 the department determines that the entity requesting the  
16 temporary license is a qualified gaming entity, has paid the  
17 initial license fee for a temporary license, and has submitted  
18 an application for a sports wagering operator license, the  
19 department shall authorize the qualified gaming entity to  
20 conduct sports wagering for three years under a temporary  
21 license or until a final determination on the sports wagering



1 operator's license application is made. Sports wagering  
2 conducted under the authority of a temporary license shall  
3 comply with the sports wagering operator's house rules adopted  
4 pursuant to section -7.

5 § -6 Sports wagering supplier license; issuance; fees;  
6 term of license; temporary license. (a) The department shall  
7 issue a sports wagering supplier license upon finding that the  
8 applicant meets all the requirements of this section,  
9 section -3, and rules adopted under this chapter.

10 (b) An applicant for a sports wagering supplier license  
11 shall demonstrate that the equipment, systems, or services that  
12 the applicant plans to offer to a sports wagering operator  
13 conform to standards established by the department by rule. The  
14 department may accept approval by another jurisdiction that is  
15 specifically determined by the department to have similar  
16 equipment standards as evidence the applicant meets the  
17 standards established by the department.

18 (c) A sports wagering supplier license granted by the  
19 department pursuant to this section shall grant a licensee  
20 lawful authority to sell or lease sports wagering equipment,  
21 systems, or services to sports wagering operators in the State



1 within the terms and conditions of the license and any rules  
2 adopted under this chapter.

3 (d) The fee for an initial or renewal sports wagering  
4 supplier license shall be \$10,000; provided that the fee shall  
5 be retained by the department for the costs of administering  
6 this chapter. In addition to the license fee, the department  
7 may charge a processing fee for an initial or renewed license in  
8 an amount equal to the projected cost of processing the  
9 application and performing any background investigations. If  
10 the actual cost exceeds the projected cost, an additional fee  
11 may be charged to meet the actual cost; provided that if the  
12 projected cost exceeds the actual cost, the difference may be  
13 refunded to the applicant or licensee.

14 (e) Except as provided in subsection (f), a license  
15 granted or renewed under this section shall be valid for five  
16 years unless sooner revoked by the department under  
17 section -4.

18 (f) An applicant for a sports wagering supplier license  
19 may submit with the application a request for a temporary  
20 license; provided that the request for a temporary license shall  
21 include the initial license fee of \$10,000. If the department



1 determines that the applicant is qualified under subsection (b),  
2 meets the requirements established by rule for a temporary  
3 license, and has paid the initial license fee for a temporary  
4 license and the department is not aware of any reason the  
5 applicant is ineligible for a license under this section, the  
6 department shall issue a temporary sports wagering supplier  
7 license. A temporary sports wagering supplier license issued  
8 under this subsection shall be valid for three years or until a  
9 final determination on the sports wagering supplier license  
10 application is made, whichever is sooner. If after  
11 investigation the department determines that the applicant is  
12 eligible for a sports wagering supplier license under this  
13 chapter, the department shall issue the initial sports wagering  
14 supplier license, at which time the temporary license shall be  
15 terminated.

16 § -7 **Sports wagering; house rules.** (a) A sports  
17 wagering operator shall adopt comprehensive house rules for game  
18 play governing sports wagering transactions with its patrons.  
19 The rules shall specify the amounts to be paid on winning  
20 wagers, the circumstances under which the sports wagering  
21 operator will void a bet, treatment of errors, late bets, and



1 related contingencies, and the effect of schedule changes. The  
2 department shall approve house rules before implementation by a  
3 sports wagering operator.

4 (b) The house rules, together with any other information  
5 the department determines to be appropriate, shall be available  
6 in the sports wagering system.

7 § -8 **Sports wagering operator; duties.** A sports  
8 wagering operator shall:

- 9 (1) Employ a monitoring system using software to identify  
10 irregularities in volume or odds swings that could  
11 signal suspicious activity that requires further  
12 investigation; provided that the suspicious activity  
13 shall be promptly reported to and investigated by the  
14 department; provided further that monitoring system  
15 requirements and specifications shall be under  
16 industry standards;
- 17 (2) Promptly report to the department any facts or  
18 circumstances related to the operation of a licensee  
19 that constitute a violation of state or federal law  
20 and immediately report any suspicious betting over a



- 1 threshold amount, to be set by the sports wagering  
2 operator and approved by the department;
- 3 (3) Conduct all sports wagering activities and functions  
4 in a manner that does not pose a threat to the public  
5 health, safety, or welfare of the residents of the  
6 State;
- 7 (4) Keep current in all payments and obligations to the  
8 department;
- 9 (5) Prevent any person from tampering with or interfering  
10 with any sports wagering;
- 11 (6) Ensure that sports wagering occurs using only a mobile  
12 application or digital platform approved by the  
13 department that uses communications technology to  
14 accept wagers originating in the State or in a state  
15 or jurisdiction approved by the department and  
16 consistent with federal law;
- 17 (7) Conspicuously display in all advertising for sports  
18 wagering the availability of the toll-free helpline  
19 "1-800-GAMBLER" or a successor phone number;
- 20 (8) At all times, maintain sufficient cash and other  
21 supplies to conduct sports wagering;



1 (9) Maintain daily records showing the gross sports  
2 wagering receipts and adjusted gross sports wagering  
3 receipts of the licensee; and

4 (10) Timely file with the department any additional reports  
5 required by this chapter or by rule adopted under this  
6 chapter.

7 § -9 **Sports wagering agreements.** (a) The department  
8 may:

9 (1) Enter into sports wagering agreements with other  
10 states, territories, nations, jurisdictions,  
11 governments, or other entities to accept wagers from  
12 individuals located outside the State; provided that  
13 entering into the sports wagering agreement shall not  
14 violate state or federal law; and

15 (2) Take all necessary actions to ensure that any sports  
16 wagering agreement entered into pursuant to this  
17 section becomes effective.

18 (b) The department may adopt rules pursuant to chapter 91  
19 to implement this section.

20 § -10 **Acceptance of wagers; excluded persons.** (a) A  
21 sports wagering operator shall accept wagers on wagering events



1 only through mobile applications or digital platforms approved  
2 by the department or a patron's sports wagering account using a  
3 mobile application or digital platform approved by the  
4 department. The branding for each mobile application or digital  
5 platform shall be determined by the sports wagering operator.

6 (b) A sports wagering operator shall allow patrons to fund  
7 a sports wagering account using:

8 (1) A credit or debit card;

9 (2) Bonuses or promotions;

10 (3) Electronic bank transfer;

11 (4) An online or mobile payment system that supports  
12 online money transfers; and

13 (5) Any other means approved by the department.

14 (c) A person placing a wager shall be twenty-one years of  
15 age or older and be physically located in the State. No person  
16 shall offer sports wagering at a physical location via kiosks,  
17 computer terminals, or other means established for that purpose.

18 (d) A sports wagering operator may accept layoff wagers  
19 placed by other sports wagering operators and may place layoff  
20 wagers with other sports wagering operators as long as a sports  
21 wagering operator that places a wager with another sports



1   wagering operator informs the sports wagering operator accepting  
2   the wager that the wager is being placed by a sports wagering  
3   operator and discloses the wagering operator's identity.

4       (e)   The department shall establish a voluntary exclusion  
5   program for any individual to voluntarily exclude themselves  
6   from sports wagering. Sports wagering operators shall use  
7   reasonable means to comply with the exclusion of individuals  
8   participating in the voluntary exclusion program by the  
9   department.

10       (f)   The department shall adopt rules to establish the  
11   voluntary exclusion program, including the following:

12       (1)   Verification of the individual's request to be placed  
13             in the voluntary exclusion program, and for how long,  
14             up to and including that individual's lifetime;

15       (2)   How information regarding the identity of individuals  
16             who are in the voluntary exclusion program shall be  
17             disseminated to sports wagering operators;

18       (3)   How an individual in the voluntary exclusion program  
19             may petition the department for removal from the  
20             voluntary exclusion program;



1           (4) The means by which sports wagering operators and their  
2                   agents shall make all reasonable efforts to cease  
3                   direct marketing efforts to individuals participating  
4                   in the voluntary exclusion program; and

5           (5) The means by which the department shall make available  
6                   to all sports wagering operators the names of the  
7                   individuals participating in the voluntary exclusion  
8                   program; provided that the names shall be made  
9                   available at least quarterly.

10          (g) The names of the individuals participating in the  
11          voluntary exclusion program shall be treated as confidential by  
12          each sports wagering operator. Sports wagering operators  
13          conducting sports wagering in another state may share the  
14          information provided under this section with its agents and  
15          affiliates in other states for excluding individuals  
16          participating in the voluntary exclusion program.

17          (h) No employee of a sports wagering operator shall place  
18          a wager on any wagering event through a mobile application or  
19          digital platform of that employee's employer.

20          §   -11   **Sports wagering revenues; tax.** (a) For the  
21          privilege of holding a license to engage in sports wagering as a



1 sports wagering operator, the tax imposed by section 237-13(9)  
2 shall be levied on the licensee. The accrual method of  
3 accounting shall be used for purposes of calculating the amount  
4 of the tax owed by the licensee. The department shall adopt  
5 rules and develop any forms necessary to carry out enforcement  
6 of this section. This tax shall be in lieu of all other taxes  
7 imposed on the operation of sports wagering or on the proceeds  
8 from the operation of sports wagering in this state.

9 (b) per cent of all taxes collected in this section  
10 shall be deposited into the problem gambling prevention and  
11 treatment special fund established under section -12.

12 § -12 Problem gambling prevention and treatment fund.

13 (a) There is established the problem gambling prevention and  
14 treatment special fund into which shall be deposited:

15 (1) Appropriations by the legislature to the special fund;

16 and

17 (2) The portion of taxes collected under section -11  
18 for deposit into the problem gambling prevention and  
19 treatment special fund.

20 Any interest and moneys earned on the investments shall be  
21 credited to the problem gambling prevention and treatment



1 special fund. Notwithstanding any other provision of law to the  
2 contrary, any moneys remaining in the fund at the end of the  
3 biennium shall not revert to the credit of the general revenue  
4 fund.

5 (b) Subject to legislative appropriation, moneys in the  
6 problem gambling prevention and treatment special fund shall be  
7 expended by the department of health for:

8 (1) Counseling and other support services for disordered  
9 and problem gamers;

10 (2) Developing and implementing problem gaming treatment  
11 and prevention programs, and

12 (3) Creating and disseminating responsible gaming  
13 education and messages.

14 § -13 **Civil violation.** Except as provided in  
15 section 14, a violation of any provision of this chapter shall  
16 be a civil violation. The department may impose a fine of no  
17 more than \$5,000 on any person who violates this chapter or  
18 \$10,000 for all violations resulting from the same occurrence  
19 of events. Fines imposed under this chapter shall not be  
20 limited to persons licensed under this chapter.



1           §   -14   **Unlicensed sports wagering; penalties.**   (a)   Any  
2   person other than a licensee under this chapter who conducts  
3   sports wagering shall be subject to a fine of no more than  
4   \$10,000 or a term of imprisonment of no more than ninety days,  
5   or both.

6           (b)   A person convicted of a second violation of subsection  
7   (a) shall be subject to a fine of no more than \$50,000 or a term  
8   of imprisonment of no more than six months, or both.

9           (c)   A person convicted of a third or subsequent violation  
10   of subsection (a) shall be subject to a fine of no less than  
11   \$25,000 and no more than \$100,000, or a term of imprisonment of  
12   no less than one year and no more than five years, or both.

13          §   -15   **Exemption from gambling.**   Sports wagering operated  
14   by a sports wagering operator licensed under this chapter and in  
15   compliance with this chapter shall not constitute a gambling  
16   offense under part III of chapter 712."

17          SECTION 2.   Section 237-13, Hawaii Revised Statutes, is  
18   amended to read as follows:

19          "**§237-13   Imposition of tax.**   There is hereby levied and  
20   shall be assessed and collected annually privilege taxes against  
21   persons on account of their business and other activities in the



1 State measured by the application of rates against values of  
2 products, gross proceeds of sales, or gross income, whichever is  
3 specified, as follows:

4 (1) Tax on manufacturers.

5 (A) Upon every person engaging or continuing within  
6 the State in the business of manufacturing,  
7 including compounding, canning, preserving,  
8 packing, printing, publishing, milling,  
9 processing, refining, or preparing for sale,  
10 profit, or commercial use, either directly or  
11 through the activity of others, in whole or in  
12 part, any article or articles, substance or  
13 substances, commodity or commodities, the amount  
14 of the tax to be equal to the value of the  
15 articles, substances, or commodities,  
16 manufactured, compounded, canned, preserved,  
17 packed, printed, milled, processed, refined, or  
18 prepared for sale, as shown by the gross proceeds  
19 derived from the sale thereof by the manufacturer  
20 or person compounding, preparing, or printing  
21 them, multiplied by one-half of one per cent.



1 (B) The measure of the tax on manufacturers is the  
2 value of the entire product for sale.

3 (2) Tax on business of selling tangible personal property;  
4 producing.

5 (A) Upon every person engaging or continuing in the  
6 business of selling any tangible personal  
7 property whatsoever, there is likewise hereby  
8 levied, and shall be assessed and collected, a  
9 tax equivalent to four per cent of the gross  
10 proceeds of sales of the business; provided that,  
11 in the case of a wholesaler, the tax shall be  
12 equal to one-half of one per cent of the gross  
13 proceeds of sales of the business; and provided  
14 further that insofar as the sale of tangible  
15 personal property is a wholesale sale under  
16 section 237-4(a)(8), the tax shall be one-half of  
17 one per cent of the gross proceeds. Upon every  
18 person engaging or continuing within this State  
19 in the business of a producer, the tax shall be  
20 equal to one-half of one per cent of the gross



1           proceeds of sales of the business, or the value  
2           of the products, for sale.

3           (B) Gross proceeds of sales of tangible property in  
4           interstate and foreign commerce shall constitute  
5           a part of the measure of the tax imposed on  
6           persons in the business of selling tangible  
7           personal property, to the extent, under the  
8           conditions, and under the provisions of the  
9           Constitution of the United States and the Acts of  
10          the Congress of the United States which may be  
11          now in force or may be hereafter adopted, and  
12          whenever there occurs in the State an activity to  
13          which, under the Constitution and Acts of  
14          Congress, there may be attributed gross proceeds  
15          of sales, the gross proceeds shall be so  
16          attributed.

17          (C) No manufacturer or producer, engaged in such  
18          business in the State and selling the  
19          manufacturer's or producer's products for  
20          delivery outside of the State (for example,  
21          consigned to a mainland purchaser via common



1 carrier f.o.b. Honolulu), shall be required to  
2 pay the tax imposed in this chapter for the  
3 privilege of so selling the products, and the  
4 value or gross proceeds of sales of the products  
5 shall be included only in determining the measure  
6 of the tax imposed upon the manufacturer or  
7 producer.

8 (D) A manufacturer or producer, engaged in such  
9 business in the State, shall pay the tax imposed  
10 in this chapter for the privilege of selling its  
11 products in the State, and the value or gross  
12 proceeds of sales of the products, thus subjected  
13 to tax, may be deducted insofar as duplicated as  
14 to the same products by the measure of the tax  
15 upon the manufacturer or producer for the  
16 privilege of manufacturing or producing in the  
17 State; provided that no producer of agricultural  
18 products who sells the products to a purchaser  
19 who will process the products outside the State  
20 shall be required to pay the tax imposed in this



1 chapter for the privilege of producing or selling  
2 those products.

3 (E) A taxpayer selling to a federal cost-plus  
4 contractor may make the election provided for by  
5 paragraph (3) (C), and in that case the tax shall  
6 be computed pursuant to the election,  
7 notwithstanding this paragraph or paragraph (1)  
8 to the contrary.

9 (F) The department, by rule, may require that a  
10 seller take from the purchaser of tangible  
11 personal property a certificate, in a form  
12 prescribed by the department, certifying that the  
13 sale is a sale at wholesale; provided that:

14 (i) Any purchaser who furnishes a certificate  
15 shall be obligated to pay to the seller,  
16 upon demand, the amount of the additional  
17 tax that is imposed upon the seller whenever  
18 the sale in fact is not at wholesale; and

19 (ii) The absence of a certificate in itself shall  
20 give rise to the presumption that the sale



1                   is not at wholesale unless the sales of the  
2                   business are exclusively at wholesale.

3       (3) Tax upon contractors.

4           (A) Upon every person engaging or continuing within  
5           the State in the business of contracting, the tax  
6           shall be equal to four per cent of the gross  
7           income of the business.

8           (B) In computing the tax levied under this paragraph,  
9           there shall be deducted from the gross income of  
10          the taxpayer so much thereof as has been included  
11          in the measure of the tax levied under  
12          subparagraph (A), on another taxpayer who is a  
13          contractor, as defined in section 237-6; provided  
14          that any person claiming a deduction under this  
15          paragraph shall be required to show in the  
16          person's return the name and general excise  
17          number of the person paying the tax on the amount  
18          deducted by the person.

19          (C) In computing the tax levied under this paragraph  
20          against any federal cost-plus contractor, there  
21          shall be excluded from the gross income of the



1 contractor so much thereof as fulfills the  
2 following requirements:

3 (i) The gross income exempted shall constitute  
4 reimbursement of costs incurred for  
5 materials, plant, or equipment purchased  
6 from a taxpayer licensed under this chapter,  
7 not exceeding the gross proceeds of sale of  
8 the taxpayer on account of the transaction;  
9 and

10 (ii) The taxpayer making the sale shall have  
11 certified to the department that the  
12 taxpayer is taxable with respect to the  
13 gross proceeds of the sale, and that the  
14 taxpayer elects to have the tax on gross  
15 income computed the same as upon a sale to  
16 the state government.

17 (D) A person who, as a business or as a part of a  
18 business in which the person is engaged, erects,  
19 constructs, or improves any building or  
20 structure, of any kind or description, or makes,  
21 constructs, or improves any road, street,



1 sidewalk, sewer, or water system, or other  
2 improvements on land held by the person (whether  
3 held as a leasehold, fee simple, or otherwise),  
4 upon the sale or other disposition of the land or  
5 improvements, even if the work was not done  
6 pursuant to a contract, shall be liable to the  
7 same tax as if engaged in the business of  
8 contracting, unless the person shows that at the  
9 time the person was engaged in making the  
10 improvements the person intended, and for the  
11 period of at least one year after completion of  
12 the building, structure, or other improvements  
13 the person continued to intend to hold and not  
14 sell or otherwise dispose of the land or  
15 improvements. The tax in respect of the  
16 improvements shall be measured by the amount of  
17 the proceeds of the sale or other disposition  
18 that is attributable to the erection,  
19 construction, or improvement of such building or  
20 structure, or the making, constructing, or  
21 improving of the road, street, sidewalk, sewer,



1 or water system, or other improvements. The  
2 measure of tax in respect of the improvements  
3 shall not exceed the amount which would have been  
4 taxable had the work been performed by another,  
5 subject as in other cases to the deductions  
6 allowed by subparagraph (B). Upon the election  
7 of the taxpayer, this paragraph may be applied  
8 notwithstanding that the improvements were not  
9 made by the taxpayer, or were not made as a  
10 business or as a part of a business, or were made  
11 with the intention of holding the same. However,  
12 this paragraph shall not apply in respect of any  
13 proceeds that constitute or are in the nature of  
14 rent, which shall be taxable under paragraph (9);  
15 provided that insofar as the business of renting  
16 or leasing real property under a lease is taxed  
17 under section 237-16.5, the tax shall be levied  
18 by section 237-16.5.

- 19 (4) Tax upon theaters, amusements, radio broadcasting  
20 stations, etc.



1           (A) Upon every person engaging or continuing within  
2           the State in the business of operating a theater,  
3           opera house, moving picture show, vaudeville,  
4           amusement park, dance hall, skating rink, radio  
5           broadcasting station, or any other place at which  
6           amusements are offered to the public, the tax  
7           shall be equal to four per cent of the gross  
8           income of the business, and in the case of a sale  
9           of an amusement at wholesale under section  
10          237-4(a)(13), the tax shall be one-half of one  
11          per cent of the gross income.

12          (B) The department may require that the person  
13          rendering an amusement at wholesale take from the  
14          licensed seller a certificate, in a form  
15          prescribed by the department, certifying that the  
16          sale is a sale at wholesale; provided that:

17           (i) Any licensed seller who furnishes a  
18           certificate shall be obligated to pay to the  
19           person rendering the amusement, upon demand,  
20           the amount of additional tax that is imposed



1                   upon the seller whenever the sale is not at  
2                   wholesale; and

3                   (ii) The absence of a certificate in itself shall  
4                   give rise to the presumption that the sale  
5                   is not at wholesale unless the person  
6                   rendering the sale is exclusively rendering  
7                   the amusement at wholesale.

8           (5) Tax upon sales representatives, etc. Upon every  
9           person classified as a representative or purchasing  
10          agent under section 237-1, engaging or continuing  
11          within the State in the business of performing  
12          services for another, other than as an employee, there  
13          is likewise hereby levied and shall be assessed and  
14          collected a tax equal to four per cent of the  
15          commissions and other compensation attributable to the  
16          services so rendered by the person.

17          (6) Tax on service business.

18                (A) Upon every person engaging or continuing within  
19                the State in any service business or calling  
20                including professional services not otherwise  
21                specifically taxed under this chapter, there is



1 likewise hereby levied and shall be assessed and  
2 collected a tax equal to four per cent of the  
3 gross income of the business, and in the case of  
4 a wholesaler under section 237-4(a)(10), the tax  
5 shall be equal to one-half of one per cent of the  
6 gross income of the business.

7 (B) The department may require that the person  
8 rendering a service at wholesale take from the  
9 licensed seller a certificate, in a form  
10 prescribed by the department, certifying that the  
11 sale is a sale at wholesale; provided that:

12 (i) Any licensed seller who furnishes a  
13 certificate shall be obligated to pay to the  
14 person rendering the service, upon demand,  
15 the amount of additional tax that is imposed  
16 upon the seller whenever the sale is not at  
17 wholesale; and

18 (ii) The absence of a certificate in itself shall  
19 give rise to the presumption that the sale  
20 is not at wholesale unless the person



1 rendering the sale is exclusively rendering  
2 services at wholesale.

3 (C) Where any person is engaged in the business of  
4 selling interstate or foreign common carrier  
5 telecommunication services within and without the  
6 State, other than as a home service provider, the  
7 tax shall be imposed on that portion of gross  
8 income received by a person from service which is  
9 originated or terminated in this State and is  
10 charged to a telephone number, customer, or  
11 account in this State notwithstanding any other  
12 state law (except for the exemption under  
13 section 237-23(a)(1)) to the contrary. If, under  
14 the Constitution and laws of the United States,  
15 the entire gross income as determined under this  
16 paragraph of a business selling interstate or  
17 foreign common carrier telecommunication services  
18 cannot be included in the measure of the tax, the  
19 gross income shall be apportioned as provided in  
20 section 237-21; provided that the apportionment



1 factor and formula shall be the same for all  
2 persons providing those services in the State.

3 (D) Where any person is engaged in the business of a  
4 home service provider, the tax shall be imposed  
5 on the gross income received or derived from  
6 providing interstate or foreign mobile  
7 telecommunications services to a customer with a  
8 place of primary use in this State when the  
9 services originate in one state and terminate in  
10 another state, territory, or foreign country;  
11 provided that all charges for mobile  
12 telecommunications services which are billed by  
13 or for the home service provider are deemed to be  
14 provided by the home service provider at the  
15 customer's place of primary use, regardless of  
16 where the mobile telecommunications originate,  
17 terminate, or pass through; provided further that  
18 the income from charges specifically derived from  
19 interstate or foreign mobile telecommunications  
20 services, as determined by books and records that  
21 are kept in the regular course of business by the



1 home service provider in accordance with  
2 section 239-24, shall be apportioned under any  
3 apportionment factor or formula adopted under  
4 subparagraph (C). Gross income shall not  
5 include:

6 (i) Gross receipts from mobile  
7 telecommunications services provided to a  
8 customer with a place of primary use outside  
9 this State;

10 (ii) Gross receipts from mobile  
11 telecommunications services that are subject  
12 to the tax imposed by chapter 239;

13 (iii) Gross receipts from mobile  
14 telecommunications services taxed under  
15 section 237-13.8; and

16 (iv) Gross receipts of a home service provider  
17 acting as a serving carrier providing mobile  
18 telecommunications services to another home  
19 service provider's customer.

20 For the purposes of this paragraph, "charges for  
21 mobile telecommunications services", "customer",



1 "home service provider", "mobile  
2 telecommunications services", "place of primary  
3 use", and "serving carrier" have the same meaning  
4 as in section 239-22.

5 (7) Tax on insurance producers. Upon every person engaged  
6 as a licensed producer pursuant to chapter 431, there  
7 is hereby levied and shall be assessed and collected a  
8 tax equal to 0.15 per cent of the commissions due to  
9 that activity.

10 (8) Tax on receipts of sugar benefit payments. Upon the  
11 amounts received from the United States government by  
12 any producer of sugar (or the producer's legal  
13 representative or heirs), as defined under and by  
14 virtue of the Sugar Act of 1948, as amended, or other  
15 Acts of the Congress of the United States relating  
16 thereto, there is hereby levied a tax of one-half of  
17 one per cent of the gross amount received; provided  
18 that the tax levied hereunder on any amount so  
19 received and actually disbursed to another by a  
20 producer in the form of a benefit payment shall be  
21 paid by the person or persons to whom the amount is



1 actually disbursed, and the producer actually making a  
2 benefit payment to another shall be entitled to claim  
3 on the producer's return a deduction from the gross  
4 amount taxable hereunder in the sum of the amount so  
5 disbursed. The amounts taxed under this paragraph  
6 shall not be taxable under any other paragraph,  
7 subsection, or section of this chapter.

8 (9) Tax on licensed sports wagering. Upon every person  
9 engaged in sports wagering as a licensed sports  
10 wagering operator or sports wagering supplier in the  
11 State pursuant to chapter , there is hereby levied  
12 and shall be assessed and collected a tax equal to ten  
13 per cent of the adjusted gross sports wagering  
14 receipts. For purposes of this paragraph, "adjusted  
15 gross sports wagering receipts" has the same meaning  
16 as in section -1.

17 (10) Tax on other business. Upon every person engaging or  
18 continuing within the State in any business, trade,  
19 activity, occupation, or calling not included in the  
20 preceding paragraphs or any other provisions of this  
21 chapter, there is likewise hereby levied and shall be



1           assessed and collected, a tax equal to four per cent  
2           of the gross income thereof. In addition, the rate  
3           prescribed by this paragraph shall apply to a business  
4           taxable under one or more of the preceding paragraphs  
5           or other provisions of this chapter, as to any gross  
6           income thereof not taxed thereunder as gross income or  
7           gross proceeds of sales or by taxing an equivalent  
8           value of products, unless specifically exempted."

9           SECTION 3. Section 712-1220, Hawaii Revised Statutes, is  
10          amended by amending the definitions of "contest" and "gambling"  
11          to read as follows:

12            "Contest of chance" means any contest, game, gaming  
13          scheme, or gaming device in which the outcome depends in a  
14          material degree upon an element of chance, notwithstanding that  
15          skill of the contestants may also be a factor therein. "Contest  
16          of chance" does not include sports wagering under chapter        or  
17          fantasy sports contests as defined in section        -1.

18            "Gambling" [~~A person engages in gambling if he stakes or~~  
19          ~~risks~~] means taking or risking something of value upon the  
20          outcome of a contest of chance or a future contingent event not  
21          under [~~his~~] the person's control or influence, upon an agreement



1 or understanding that [~~he~~] the person or someone else will  
2 receive something of value in the event of a certain outcome.  
3 Gambling does not include [~~bona~~]:

4 (1) Bona fide business transactions valid under the law of  
5 contracts, including but not limited to contracts for  
6 the purchase or sale at a future date of securities or  
7 commodities[~~, and agreements~~];

8 (2) Agreements to compensate for loss caused by the  
9 happening of chance, including but not limited to  
10 contracts of indemnity or guaranty and life, health,  
11 or accident insurance[~~-~~];

12 (3) Sports wagering authorized under chapter \_\_\_\_\_ and  
13 placing wagers on wagering events or portions of  
14 wagering events, the individual performance statistics  
15 of individuals in wagering events, or a combination of  
16 any of the same by any system or method of wagering  
17 under chapter \_\_\_\_\_ ; and

18 (4) Fantasy sports contests as defined in section \_\_\_\_\_ -1."

19 SECTION 4. This Act does not affect rights and duties that  
20 matured, penalties that were incurred, and proceedings that were  
21 begun before its effective date.





# H.B. NO. 1308

**Report Title:**

Gambling; Sports Wagering; Fantasy Sports; DBEDT

**Description:**

Allows for the regulation of sports wagering by the Department of Business, Economic Development, and Tourism. Establishes licensing requirements for sports wagering operators and sports wagering suppliers. Specifies that sports wagering shall not be considered games of chance or gambling.

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

