
A BILL FOR AN ACT

RELATING TO GAMBLING ENFORCEMENT.

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

1 SECTION 1. The legislature finds that illegal electronic
2 gambling devices commonly known as "fish games", "fish tables",
3 or "fishing games", along with sweepstakes gambling machines and
4 similar devices, have proliferated across communities in the
5 State. These devices operate outside any lawful gambling
6 framework and generate significant concerns about public safety,
7 consumer protection, and organized crime.

8 The legislature also finds that these devices are
9 frequently misrepresented as games of skill or amusement but
10 actually function as gambling devices. The devices award items
11 of value based on chance, or a combination of chance and skill,
12 and are often associated with money laundering, narcotics
13 trafficking, and other criminal enterprises.

14 The legislature recognizes that illegal electronic gambling
15 operations frequently resume following any enforcement actions
16 unless the operations are subjected to ongoing compliance
17 monitoring or closed. Post-violation monitoring, padlock



1 orders, and extended closure remedies are necessary to prevent
2 recurrence and to protect public safety.

3 The legislature believes that there is a need for the State
4 to safeguard communities against illegal electronic gambling
5 devices, impose duties on operators and complicit property
6 owners, and to protect the constitutional property rights of
7 noncomplicit owners of premises on which illegal electronic
8 gambling devices have allegedly been used.

9 Accordingly, the purpose of this Act is to:

- 10 (1) Establish the criminal offense of promoting an illegal
11 electronic gambling device;
- 12 (2) Authorize civil penalties and actions relating to the
13 premises on which illegal electronic gambling devices
14 have been used; and
- 15 (3) Allow the attorney general, any county prosecuting
16 attorney, any county police chief, or the director of
17 law enforcement to take certain actions against places
18 used to commit certain offenses that qualify as a
19 nuisance.



1 SECTION 2. Chapter 712, Hawaii Revised Statutes, is
2 amended by adding a new section to part III to be appropriately
3 designated and to read as follows:

4 **"§712-A Promoting an illegal electronic gambling device.**

5 (1) A person commits the offense of promoting an illegal
6 electronic gambling device if the person possesses, operates,
7 displays, manufactures, sells, leases, distributes, or permits
8 on the person's premises the operation of any illegal electronic
9 gambling device.

10 (2) A device shall not be excluded from the application of
11 this section solely because the device includes an element of
12 skill, requires user interaction, or does not directly dispense
13 cash.

14 (3) Promoting an illegal electronic gambling device is a
15 class C felony.

16 (4) For the purposes of this section, "illegal electronic
17 gambling device" means any machine; table; device commonly known
18 as a fish game, fish table, or fishing game; sweepstakes gaming
19 machine; or a similar electronic gambling device that awards or
20 allows the exchange of points, credits, tokens, prizes,
21 merchandise, gift cards, cash equivalents, or anything of value



1 based in whole or in part upon chance or a combination of chance
2 and skill."

3 SECTION 3. Chapter 712, Hawaii Revised Statutes, is
4 amended by adding three new sections to part V to be
5 appropriately designated and to read as follows:

6 "§712-B Illegal electronic gambling devices; public
7 nuisance. (1) Any building, structure, or premises that is
8 knowingly used for the operation of an illegal electronic
9 gambling device is a public nuisance.

10 (2) The attorney general, any county prosecuting attorney,
11 any county police chief, or the director of law enforcement may
12 bring a civil action in circuit court to abate the nuisance and
13 seek:

- 14 (a) An injunction;
15 (b) Closure of the building, structure, or premises for up
16 to one year;
17 (c) Prohibitions on illegal gambling;
18 (d) Civil penalties; and
19 (e) Recovery of enforcement costs.



1 (3) For the purposes of this section, "illegal electronic
2 gambling device" has the same meaning as defined in
3 section 712-A(4).

4 §712-C Illegal electronic gambling devices; owner, lessor,
5 sublessor, or property manager liability. (1) No owner,
6 lessor, sublessor, or property manager of any premises shall
7 knowingly allow the operation of an illegal electronic gambling
8 device on the premises.

9 (2) Upon receiving from law enforcement any notice of the
10 use of an illegal electronic gambling device on the premises,
11 the owner, lessor, sublessor, or property manager shall:

12 (a) Issue a written demand to cease the illegal activity;

13 (b) Terminate the lease for the premises or commence
14 eviction proceedings, if applicable and to the extent
15 permitted by law;

16 (c) Deny access to the premises for any purpose relating
17 to the use of an illegal electronic gambling device;
18 and

19 (d) Cooperate with any law enforcement investigation.



1 (3) Any person subject to subsection (2) shall be deemed
2 in compliance with the requirements of this section if, within
3 ten business days after the receipt of notice, the person:

4 (a) Provides written demand to the operator or occupant to
5 cease the prohibited activity; and

6 (b) Commences reasonable abatement actions, including but
7 not limited to initiating lawful lease termination or
8 evictions to the extent permitted by law, or other
9 measures reasonably calculated to stop the activity.

10 (4) The attorney general, any county prosecuting attorney,
11 any county police chief, or the director of law enforcement may
12 bring a civil action in circuit court to enforce this section
13 and may seek injunctive relief, civil penalties, and any other
14 relief authorized by law.

15 (5) Any person that fails to take the actions required
16 pursuant to subsection (2) shall:

17 (a) Pay a civil penalty of not more than \$25,000 per
18 violation; provided that the court may impose
19 additional penalties upon a finding of continued
20 noncompliance after issuance of a compliance order.



1 For the purposes of this paragraph, "per violation"
2 means per premises and per written notice period; and

3 (b) Be subject to an action for nuisance abatement.

4 In determining the amount of any civil penalty under this
5 subsection, the court shall consider the person's knowledge,
6 degree of control, promptness of abatement, cooperation with law
7 enforcement, and whether the person made good-faith efforts to
8 prevent recurrence.

9 (6) For the purposes of this section:

10 "Illegal electronic gambling device" has the same meaning
11 as defined in section 712-A(4).

12 "Notice" has the same meaning as defined in 712-1270.

13 "Violation" means a final judgment or court finding that
14 the premises was used for the operation of an illegal electronic
15 gambling device, including a criminal conviction.

16 **§712-D Compliance inspections following illegal electronic**
17 **gambling device violations.** (1) Upon a finding that the use of
18 an illegal electronic gambling device has occurred on any
19 premises:



1 (a) The court may require the premises be subjected to
2 compliance inspections, for no longer than twelve
3 months;

4 (b) Authorities may conduct reasonable inspections of
5 areas related to illegal gaming; provided that the
6 inspections shall be:

7 (i) Limited in scope and consistent with
8 constitutional law; and

9 (ii) Conducted pursuant to court order and shall not
10 require a separate warrant.

11 (2) If any person refuses to permit the inspections
12 authorized pursuant to subsection (1)(b):

13 (a) The person shall be subject to contempt proceedings;
14 and

15 (b) The attorney general, any county prosecuting attorney,
16 any county police chief, or the director of law
17 enforcement may pursue enhanced remedies.

18 (3) For the purposes of this section, "illegal electronic
19 gambling device" has the same meaning as defined in
20 section 712-A(4)."



1 SECTION 4. Section 712-1270, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§712-1270 Places used to commit offenses against public**
4 **health and morals or other offenses, a nuisance. (1) Every**
5 building, premises, or place used for the purpose of violating:

6 [~~1~~] (a) Those laws pertaining to offenses against public
7 health and morals contained in this chapter, except
8 offenses under part IV that do not involve the
9 manufacture or distribution of drugs and activities
10 under part III that involve only social gambling as
11 defined in section 712-1231(a);

12 [~~2~~] (b) Section 132D-14(a)(1);

13 [~~3~~] (c) Any offense under part II of chapter 708 that
14 involves a person unlawfully residing on or otherwise
15 occupying real property to which the person has no
16 title, lease, or other legal claim; [~~or~~

17 ~~4~~] (d) Section 328G-10[~~7~~]; or

18 (e) Section 712-C where a violation has occurred on the
19 premises more than once in any twelve-month period.

20 For the purposes of this paragraph, "violation" has
21 the same meaning as defined in 712-C,



1 and every building, premises, or place in or upon which
2 violations of any of the laws set forth in paragraph [~~(1)~~, ~~(2)~~,
3 ~~(3)~~, or ~~(4)~~] (a), (b), (c), (d), or (e) are held or occur, is a
4 nuisance that shall be [~~enjoined, abated, and prevented,~~]
5 subject to the proceedings set forth in subsection (2),
6 regardless of whether it is a public or private nuisance.

7 (2) For any building, premises, or place in or upon which
8 violations of any of the laws set forth in subsection (1)(a)
9 through (e) are held or occur, the attorney general, any county
10 prosecuting attorney, any county police chief, or the director
11 of law enforcement may seek:

12 (a) A judicial order requiring the premises to be locked
13 for any duration that does not constitute a taking
14 under constitutional law; provided that the duration
15 shall not exceed twenty months; provided further that
16 if the court determines that the premises are a
17 chronic nuisance the duration shall not exceed thirty-
18 six months;

19 (b) A receivership;

20 (c) An extended closure; or

21 (d) Other enhanced remedies.



1 (3) A court shall only issue a closure order, lock order,
2 or appoint a receiver pursuant to subsection (2) upon:

3 (a) Providing notice and an opportunity to be heard to all
4 known owners, lessors, property managers, and lawful
5 occupants;

6 (b) A finding by clear and convincing evidence that the
7 premises constitutes a nuisance under this part;

8 (c) Written findings that less restrictive measures are
9 insufficient to abate the nuisance; and

10 (d) Written finding specifying the duration, scope, and
11 conditions for reopening.

12 (4) For the purposes of this section:

13 "Chronic nuisance" means three or more violations within
14 any twelve-month period, or a violation occurring while an
15 abatement, closure, or compliance-inspection order is in effect.

16 "Illegal electronic gambling device" has the same meaning
17 as defined in section 712-A(4).

18 "More than once in any twelve-month period" means two or
19 more violations occurring within any twelve-month period,
20 measured from the date of the first violation to the date of the
21 second violation.



1 "Notice" means written notice issued by a law enforcement
2 agency that:

3 (a) Is served personally by certified mail, or by
4 electronic mail, to an address designated for notice
5 in the lease or management agreement;

6 (b) Identifies the premises;

7 (c) States the date and general nature of the observed
8 conduct; and

9 (d) States the basis for believing:

10 (i) The building, premises, or place is being used
11 for the purpose of violating any of the laws set
12 forth in subsection (1)(a) through (e); or

13 (ii) Violations of any of the laws set forth in
14 subsection (1)(a) through (e) are occurring on
15 the building, premises, or place."

16 SECTION 5. In codifying the new sections added by sections
17 2 and 3 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.



1 SECTION 6. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 7. New statutory material is underscored.

5 SECTION 8. This Act shall take effect on March 22, 2075.

6



Report Title:

Hawaii Penal Code; Gambling; Illegal Electronic Gambling
Devices; Nuisances

Description:

Establishes the criminal offense of promoting an illegal electronic gambling device. Authorizes civil penalties and actions relating to premises on which an illegal electronic gambling device has been used. Allows the Attorney General, any county prosecuting attorney, any county police chief, or the Director of Law Enforcement to take certain actions against places used to commit certain offenses that qualify as a nuisance. Effective 3/22/2075. (SD1)

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