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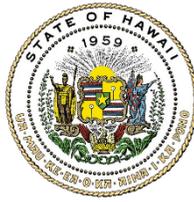
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March 16, 2026

SB 3281, SD1: RELATING TO GAMBLING ENFORCEMENT

**Chair Tarnas, Vice-Chair Poepoe, and Members of the Committee on
Judiciary and Hawaiian Affairs:**

The Office of the Public Defender (OPD) **opposes** SB 3281 SD1, particularly Section 2, which makes the offense of “Promoting an Illegal Electronic Gambling Device” a class C felony. While the OPD appreciates the Legislature’s efforts to address illegal gambling operations, we remain concerned that the bill, as currently drafted, is overly broad and creates significant risks of unintended criminal and civil consequences.

The Definition of “Illegal Electronic Gambling Device” Is Overbroad

Section 2(4) defines “illegal electronic gambling device” as: “any machine; table; device commonly known as a fish game...; sweepstakes gaming machine; or a similar electronic gambling device that awards or allows the exchange of points, credits, tokens, prizes, merchandise, gift cards, cash equivalents, or anything of value based in whole or in part upon chance or a combination of chance and skill.”

This definition raises substantial concerns:

“In Whole or in Part Upon Chance” Is Extremely Broad

Nearly all amusement-based games contain some element of chance. The phrase “in whole or in part upon chance or a combination of chance and skill” could sweep in devices that have traditionally been viewed as legal amusement games.

Inclusion of “Anything of Value”

The definition includes the awarding or exchange of “points, credits, tokens,

prizes, merchandise, gift cards, cash equivalents, or anything of value.” Without careful limitation, this language could encompass:

- Arcade-style redemption games;
- Promotional sweepstakes with consumer products;
- Skill-based competitive gaming devices; and
- Entertainment venues awarding merchandise based on accumulated points.

If even arguable ambiguity exists as to whether a device falls within the definition, the bill converts that uncertainty into felony exposure.

Express Rejection of Skill-Based Distinctions

Section 2(2) explicitly provides that a device is not excluded “solely because the device includes an element of skill, requires user interaction, or does not directly dispense cash.” This removes an important limiting principle. By expressly disregarding the presence of skill, the bill broadens liability in a way that risks criminalizing conduct that operators may reasonably believe to be lawful.

Risk of Felony Prosecution for Property Owners and Peripheral Actors

The statute criminalizes not only operation, but possession, display, manufacture, sale, lease, distribution, or permitting operation on one’s premises. Because the definition of the device itself is broad, peripheral actors including landlords, business owners, or distributors, could face felony prosecution based on disputes about whether a device qualifies under this statute.

Expansion of Nuisance-Based Property Penalties Raises Significant Concerns

The SD1 version of this measure substantially expands the bill beyond the creation of a criminal offense by incorporating illegal electronic gambling devices into Hawai‘i’s nuisance statute (HRS §712-1270) and authorizing significant property-based remedies.

These remedies include:

- Closure of premises for extended periods;
- Lock orders restricting access to property;
- Appointment of receivers; and
- Other enhanced enforcement mechanisms.

These sanctions may be imposed based on repeated alleged violations and may have far-reaching consequences not only for property owners, but also for tenants, employees, and surrounding communities. In effect, the bill authorizes severe penalties that operate similarly to criminal sanctions but are imposed through civil proceedings.

Blurring of Civil and Criminal Enforcement Frameworks

The bill creates a parallel civil enforcement structure that allows the State to impose significant penalties, including property closure and financial sanctions, without the procedural protections typically afforded in criminal cases.

This overlap raises concerns where:

- The underlying conduct is defined broadly;
- Enforcement may be based on allegations rather than convictions; and
- The consequences (loss of property use, financial penalties) are substantial.

The use of nuisance abatement tools in this context risks imposing quasi-criminal penalties without corresponding safeguards.

Expanded Liability and Burdens on Property Owners

SD1 imposes affirmative obligations on property owners, lessors, sublessors, and property managers to take specific actions upon receiving notice from law enforcement, including issuing demands to cease activity, initiating eviction proceedings, and cooperating with investigations.

Although the bill introduces a limited compliance framework, property owners may still face substantial penalties if their response is deemed insufficient. These provisions raise concerns where:

- Owners may not have direct control over the alleged conduct;
- Eviction and lease enforcement involve legal and procedural constraints; and
- Good-faith efforts may not be sufficient to avoid liability.

Practical Constraints on Compliance

The requirement that property owners take “reasonable abatement actions” within a limited timeframe does not fully account for the legal and practical realities of eviction proceedings, contractual obligations, and investigation of disputed conduct. Property owners may be exposed to liability despite acting diligently and in good faith, particularly where the legality of the underlying device is unclear.

Escalating Penalties Based on Repeated Violations

The bill establishes an escalating enforcement framework, including designation of premises as a “chronic nuisance” based on repeated violations within a defined period. These provisions may trigger severe consequences, including extended closures and additional remedies, based on relatively low thresholds.

Given the breadth of the underlying definitions, this escalation framework raises concerns about disproportionate penalties.

Vagueness and Due Process Concerns

Criminal statutes must provide clear notice of prohibited conduct. This measure:

- Covers devices involving any combination of chance and skill;
- Broadly defines “anything of value”;
- Applies regardless of whether cash is dispensed; and
- Now extends into civil nuisance enforcement with significant property consequences.

The vague and overbroad definitions increase the risk of arbitrary or inconsistent enforcement, particularly when combined with expanded civil remedies and penalties.

The OPD acknowledges that SD1 introduces certain procedural safeguards, including notice requirements and a clear and convincing evidence standard for certain nuisance-based remedies. However, these additions do not fully mitigate the broader concerns regarding overbreadth, expanded liability, and the significant consequences authorized under this measure.

For these reasons, the OPD **opposes** SD 3281 SD1.

Thank you for the opportunity to comment.

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GOVERNOR
KE KIA'ĀINA



MIKE LAMBERT
Director

ERNEST J. ROBELLO
Deputy Director
Administration

SYLVIA LUKE
LT GOVERNOR
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TESTIMONY ON SENATE BILL 3281, SENATE DRAFT 1

RELATING TO GAMBLING ENFORCEMENT

Before the House Committee on

JUDICIARY & HAWAIIAN AFFAIRS

Wednesday, March 18, 2026, 2:00 PM

State Capitol Conference Room 325

Testifier: Mike Lambert

Chair Tarnas, Vice Chair Poepoe, and members of the Committee:

The Department of Law Enforcement (DLE) supports Senate Bill 3281, Senate Draft 1. This bill 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, and 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.

The proliferation of illegal electronic gambling devices, including so-called 'fish games' and sweepstakes machines, has become a growing concern across Hawaii. These devices operate in a legal gray area that has made enforcement under existing statutes difficult, and their presence in our communities has been linked to increased criminal activity, exploitation of vulnerable populations, and the undermining of regulated gaming frameworks. The DLE has witnessed firsthand the challenges law enforcement faces when attempting to address these illegal operations without clear and defined statutory

authority. Senate Bill 3281, Senate Draft 1, directly addresses this gap by creating a specific criminal offense for promoting such devices and by equipping law enforcement with the civil and nuisance-abatement tools necessary to act decisively against establishments that facilitate illegal gambling.

The authorization granted to the Attorney General, county prosecuting attorneys, county police chiefs, and the Director of Law Enforcement to pursue nuisance actions against premises used for these offenses is particularly significant. This multi-agency approach ensures that enforcement efforts are not limited to a single point of authority and allows for coordinated action at both the state and county levels. By targeting not only the individual operators but also the physical locations where these devices are used, the bill creates meaningful deterrents against the continued spread of illegal electronic gambling throughout the state.

The DLE believes that clear legal definitions and robust enforcement mechanisms are essential to protecting Hawaii's communities from the harm associated with illegal gambling. Senate Bill 3281, Senate Draft 1, provides exactly that — a comprehensive legislative framework that strengthens the ability of law enforcement to combat this problem effectively and holds accountable those who promote or facilitate illegal electronic gambling activity.

Thank you for the opportunity to testify in support of this bill.

**DEPARTMENT OF THE PROSECUTING ATTORNEY
KA 'OIHANA O KA LOIO HO'OPI'I
CITY AND COUNTY OF HONOLULU**

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**THE HONORABLE DAVID TARNAS, CHAIR
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
Thirty-Third State Legislature
Regular Session of 2026
State of Hawai'i**

March 18, 2026

RE: S.B. 3281, S.D. 1 -- RELATING TO GAMBLING ENFORCEMENT.

Chair Tarnas, Vice Chair Poepoe, and members of the House Committee on Judiciary and Hawaiian Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) submits the following testimony providing **comments and proposing language** regarding S.B. 3281, S.D. 1.

As the Committee is aware, the Department has intensified efforts in cooperation with the Honolulu Police Department (“HPD”) to enforce gambling laws to close illegal gambling rooms. The Department and HPD have employed the new tools provided by the Hawai'i State Legislature to approach this issue from new angles. However, we have concerns that certain provisions of S.B. 3281, S.D. 1 as currently drafted, may inadvertently complicate existing prosecutions.

The Department takes the position that “illegal electronic gambling device[s]” identified by S.B. 3281, S.D. 1 are already criminalized as a “Gambling device” defined by Section 712-1220 of the Hawaii Revised Statutes (“HRS”). Indeed, all of the Department’s current gambling prosecutions under Chapter 712, Part III of the HRS involve the operation of *fish games*.

By specifically adding a separate definition to include *fish games*, the Legislature may inadvertently provide a defense argument that these devices were legal prior to this enactment. The key task at trial is proving these devices are *contests of chance* that are used for *gambling*, and this new definition will not lower the Department’s burden. If the Legislature intends to specifically identify *fish games*, the Department has provided language to codify these devices in a manner that avoids jeopardizing active prosecutions and eases future prosecutions. See Attachment.

As to the changes to nuisance abatement sections contained in Chapter 712, Part V of the HRS, the Department appreciates the Legislature’s intent to improve nuisance abatement. The Department has used the nuisance abatement section to successfully close illegal game rooms.¹ Part V as written, however, does not specify procedures and precise mechanisms for enforcement.

The Department asks that improvements not be limited “illegal electronic gambling device” enforcement but to apply to all nuisances as defined by Section 712-1270 of the HRS. The Department has received information that illegal operators are shifting to prostitution instead of gambling due to increased enforcement of gambling laws. Nuisance abatement can be an effective tool against prostitution nuisance. The addition of a civil penalty will serve as an effective deterrent, but the Department requests a mandatory minimum penalty of \$5,000 to compel compliance. The Department has provided statutory language to improve the operation of nuisance abatement and avoiding some potential constitutional taking issues. See Attachment.

As S.B. 3281, S.D. 1 is intended to improve gambling enforcement, the Department wishes to raise an issue for the Committee’s consideration. The Department seeks an efficient mechanism to promptly dispose of seized illegal gambling devices. Currently, the City of Honolulu (“City”) is spending over \$1 million annually to store seized illegal gambling devices. Last year, HPD seized an estimated 600 illegal gambling devices.² A recent United States District Court District of Hawaii ruling held such devices are “contraband as used” limiting the use of summary forfeiture under Section 712A-5 of the HRS. The City faces litigation risk if machines are destroyed without a definitive determination that they are in fact contraband.

Last year, the Legislature enacted 2025 Haw. Sess. Laws Act 288 requiring criminal charges against the owner of property before it can be subject to asset forfeiture. Act 288 had the unintended effect of closing off an alternative mechanism for taking title from the anonymous owners of illegal gambling devices. The Department proposes adding a narrow exception to Act 288’s ownership requirement within Section 712-1230 of the HRS. This would allow the disposal of gambling devices and forfeiture of cash found in illegal game rooms, while ensuring such an exception could not be used to forfeit real property without charges. The Department has submitted language, and can propose alternative mechanisms. See Attachment.

For the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the intent of S.B. 3281, S.D. 1 but respectfully requests the Committee consider **proposed language** to address the Department’s concerns. Thank you for the opportunity to testify on this matter.

¹ The Department has shifted away from using nuisance abatement to target illegal game rooms because the 2024 Haw. Sess. Laws Act 249 provides a criminal mechanism to reach property owners. Recently, the Department initiated its first prosecution using this statute and has already received information from HPD that it is having a deterrent effect on other property owners.

² Revised Ordinances of Honolulu (ROH) § 34-18.1 to 34-18.15 enacted by the Honolulu City Council will allow HPD to increase those seizures.

ATTACHMENT: PROPOSED STATUTORY LANGUAGE FOR S.B. 3281

1. Language to explicitly include specific types of machines in the definition of “gambling device”:

Section 712–1220, Hawaii Revised Statutes, is amended by amending the definition of “Gambling device” to read as follows:

“Gambling device” means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. However, lottery tickets and other items used in the playing phases of lottery schemes are not gambling devices within this definition. **Machines qualifying as gambling devices include but are not limited: reel and video based slot machines, video poker machines; video keno machines; electronic bingo terminals; electronic roulette machines; electronic craps machines; multi-game gambling terminals; skill-stop slot machines; server-based gaming terminals; fish game or fish table type machines, Pot-O-Gold type multi-game terminals, and sweepstakes arcade machines.**

2. Language to modernize Nuisance Abatement Chapter 712, Part V, Sections 712-1270 to 712-1281:

Section 712–1271, Hawaii Revised Statutes, is amended to read as follows:

Suit to abate. (1) [~~Whenever there is reason to believe that a nuisance as defined in this chapter is in existence, kept, or maintained in any county, the attorney general of the State or the prosecutor or prosecuting attorney of the respective counties shall, or any citizen of the State residing within such county may in the citizen's own name, or any organization, including, but not limited to a tenant organization within such county may in the organization's own name, maintain a suit to abate and prevent the nuisance and to perpetually enjoin the person or persons causing, maintaining, aiding, abetting, or permitting the nuisance, or the owner, lessee, or agent of the building, premises, or place in or upon which the nuisance exists from directly or indirectly causing, maintaining, aiding, abetting, or permitting the nuisance~~]

The attorney general, any county prosecuting attorney, any county police chief, the director of law enforcement, or any citizen of the State resident of the county may bring a civil action in the circuit court to abate the nuisance and seek:

(a) An injunction;

(b) Closure of the building, premises, or place for up to one year;

(c) An order to a public utility, as defined in section 269-1, to disconnect or terminate utility services to the building, premises, or place to facilitate closure;

(d) Civil penalties of no more than \$25,000, with a minimum penalty of \$5,000;

(e) Recovery of reasonable enforcement costs, including the costs of salaried personnel; and

(f) Suspension or revocation of any relevant business, professional, operational, or liquor licenses.

(2) An action brought under this section may be brought against any party knowingly causing, maintaining, aiding, abetting, or permitting the nuisance.

(3) No action authorized under this part that seeks to abate or prevent a nuisance shall be filed or maintained against the State or any political subdivision thereof.

Section 712–1272, Hawaii Revised Statutes, is amended to read as follows:

Temporary writ. ~~[Whenever the existence of a nuisance is shown in a suit brought under this part to the satisfaction of the court or the judge thereof, either by verified petition or affidavit, or both, the court or judge thereof shall allow a temporary writ of injunction to abate and prevent the continuance or recurrence of such nuisance, which injunction may include a provision prohibiting the person or persons causing, maintaining, aiding, abetting, or permitting the nuisance from residing in or entering into the building, premises, or place in or upon which the nuisance exists. The petition in such suit need not be verified, except in those suits brought by a citizen in the citizen's own name, or those suits brought by an organization in its own name, but shall be signed by the party bringing the same and shall include a certification that the complainant believes the allegations of the petition to be true]~~

(1) In any action brought under this part, a showing of the existence of a public nuisance with a party's knowledge shall constitute a finding of immediate and irreparable injury, loss, or damage for purposes of issuing temporary injunctive relief.

(2) The attorney general, any county prosecuting attorney, any county police chief, or the director of law enforcement may file a civil action in the circuit court showing the existence of a public nuisance based on specific facts shown by affidavit or by verified complaint.

(3) A citizen of the State resident of the county may bring a civil action in the circuit court showing the existence of a public nuisance based on specific facts shown by verified complaint.

Section 712–1275, Hawaii Revised Statutes, is amended to read as follows:

Order of abatement. ~~[If the existence of a nuisance is established in a suit as provided herein, an order of abatement shall be entered as a part of the judgment in the case, which order shall include a provision permanently prohibiting the person or persons causing, maintaining, aiding, abetting, or permitting the nuisance, if said person or persons are a party to the proceeding, from residing in or entering into the building, premises, or place in or upon which the nuisance exists. The court, on the application of the person, may suspend the prohibition if the person is~~

~~participating in a court-approved treatment and monitoring program which addresses the person's conduct which caused the nuisance. If the court determines that the person has successfully completed the program and that the person is not likely to again create a nuisance, the court may dissolve the injunction against the person. In the event that the court determines that an injunction against the person or persons causing, maintaining, aiding, abetting, or permitting the nuisance will not completely abate the nuisance or that one or more of the persons causing, maintaining, aiding, abetting, or permitting the nuisance are not parties to the proceeding, the court shall also direct the effectual closing of the building, premises, or place, against its use for any purpose, and that it be kept closed for a period not exceeding one year, unless sooner released, as provided by section 712-1277. While the order remains in effect as to closing, the building, premises, or place shall remain in the custody of the court. The court's orders may also include, but are not limited to, an order suspending or revoking any business, professional, operational, or liquor license]~~

(1) In any action brought under this part, upon proof of the existence of a public nuisance, the court shall enter an order of abatement to abate the nuisance.

(a) The order of abatement shall provide:

(i) The party or parties to whom the order applies;

(ii) The date or dates for compliance with the order;

(iii) Whether physical closure of the building, premises, or place is necessary to abate the nuisance;

(iv) A date or dates for inspection to confirm compliance with the order;

(v) Any sanctions or penalties for non-compliance under section 712-1271 and/or 712-1277.5; and

(vi) Liability for reasonable enforcement costs.

(b) The court shall retain jurisdiction over the action and may, upon a showing of continued nuisance or non-compliance, enter escalating orders of abatement. These orders may include any relief authorized under section 712-1271 and/or 712-1277.5.

(c) The court shall consider the following in determining sanctions or penalties:

(i) The party's prior history of violations or warnings at the subject building, premises, or place, or at other locations;

(ii) Actions or omissions by the party to abate the nuisance through available legal process;

(iii) Actions or omissions by the party to abate the nuisance through cooperation with law enforcement; and

(iv) Actions or omissions by the party regarding participation in a court-approved treatment and monitoring program to abate the nuisance.

(2) The court may vacate or lift any injunctions or abatement orders upon a showing by a party that the nuisance has been removed or abated and is unlikely to recur.

3. Language to enable forfeiture and/or destruction of gambling devices:

Section 712–1230, Hawaii Revised Statutes, is amended read as follows:

Forfeiture of property used in illegal gambling.

(1) Any [~~gambling device;~~] paraphernalia used on fighting animals, or birds, implements, furniture, personal property, vehicles, vessels, aircraft, or gambling record possessed or used in violation of this part, [~~or any money~~] or personal property used as a bet or stake in gambling activity in violation of this part, may be ordered forfeited to the State, subject to the requirements of chapter 712A.

(2) Any gambling device or money used in violation of this part, may be ordered forfeited to the State, subject to the requirements of chapter 712A but not subject to the limitations contained in section 712A-5(3).

Section 712A–5(1), Hawaii Revised Statutes, is amended read as follows:

The following shall be subject to forfeiture:

- (a) Property described in a statute authorizing forfeiture;
- (b) Property used or intended for use in the commission of, attempt to commit, or conspiracy to commit a covered offense, or that facilitated or assisted the activity;
- (c) Any firearm that is subject to forfeiture under any other subsection of this section or that is carried during, visible, or used in furtherance of the commission, attempt to commit, or conspiracy to commit a covered offense, or any firearm found in proximity to contraband or to instrumentalities of an offense;
- (d) Contraband or untaxed cigarettes in violation of chapter 245, shall be seized and summarily forfeited to the State without regard to the procedures set forth in this chapter;
- (e) Any proceeds or other property acquired, maintained, or produced by means of or as a result of the commission of the covered offense;
- (f) Any property derived from any proceeds that were obtained directly or indirectly from the commission of a covered offense;
- (g) Any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise that has been established, participated in, operated, controlled, or conducted in order to commit a covered offense; [~~and~~]
- (h) All books, records, bank statements, accounting records, microfilms, tapes, computer data, or other data that are used, intended for use, or that facilitated or assisted in the commission of a covered offense, or that document the use of the proceeds of a covered offense[~~;~~]; **and**

(i) Any device, machine, paraphernalia, or equipment determined by the seizing agency to be a gambling device as defined in section 712-1220 shall be seized and summarily forfeited to the State without regard to the procedures set forth in this chapter unless a request for return is received within ninety days of seizure for evidence or seizure for forfeiture.

NATION OF HAWAI'I
IN SUPPORT OF SB3281 SD1
RELATING TO GAMBLING ENFORCEMENT

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

My name is Brandon Maka'awa'awa, and I submit this testimony on behalf of the Nation of Hawai'i in support of SB3281 SD1.

The Nation views this measure as an important step in strengthening the State's enforcement framework related to illegal electronic gambling devices. In particular, the bill begins to address a gap that communities continue to experience, where activity is cited or shut down, but then reappears in the same location shortly after.

One of the more practical aspects of SB3281 SD1 is its focus on the premises. By allowing for nuisance-based remedies and civil enforcement tied to a location, the bill recognizes that repeat activity cannot always be addressed through one-time enforcement actions alone. In practice, that has been one of the more consistent challenges raised at the community level.

The measure also establishes clearer expectations for property owners and operators once notice has been provided. From a policy standpoint, this helps close the gap between awareness and responsibility, while still allowing for a defined and reasonable path to come into compliance. That balance becomes especially relevant where ownership and operational control are not always the same.

At the same time, the structure of the bill maintains appropriate guardrails. The use of court oversight, defined notice, and a range of remedies helps ensure that enforcement is tied to demonstrated patterns of activity and carried out in a fair and consistent manner.

From the Nation's perspective, this is ultimately about how enforcement frameworks support the long-term well being of our communities and our 'āina. When issues can be addressed in a way that is clear, consistent, and sustained, it strengthens accountability and helps restore confidence that concerns raised at the community level will lead to real outcomes.

For these reasons, the Nation of Hawai'i respectfully supports SB3281 SD1.

Mahalo for the opportunity to testify.

Respectfully submitted,

Brandon Maka'awa'awa
Vice President
Nation of Hawai'i