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# A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION.

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

1           SECTION 1. The legislature finds that the native Hawaiian  
2 culture is an important facet and integral component of our  
3 collective state history. Because the pre-contact Hawaiians had  
4 no written documents, their artifacts, antiquities, and material  
5 culture are doubly precious as clues that provide important  
6 insight to their daily lives and history. Native Hawaiian  
7 antiquities have been increasingly looted from archeological and  
8 cultural sites and are easily found on auction websites, thus  
9 increasing their monetary value, desirability, and transfer out  
10 of the State. Due to these various external factors, much of  
11 the native Hawaiian material culture has been destroyed, traded,  
12 sold, or lost, leaving fewer examples of these most precious  
13 resources, which are important to the citizenry of this State  
14 and especially important to native Hawaiian children as a legacy  
15 and link to their past.

16           The legislature further finds that much of the material  
17 culture of the native Hawaiian people, even utilitarian objects  
18 used on a daily basis, hold much artistic and cultural



1 significance to modern-day descendants, having been produced by  
2 often unparalleled skill and through laborious methods by the  
3 hands of kupuna. These antiquities should not be classified as  
4 abandoned or lost property, but held in trust by the State of  
5 Hawaii for the descendants and people of Hawaii.

6 The purpose of this Act is to confine the sale of native  
7 Hawaiian antiquities, found after the effective date of this  
8 Act, exclusively to qualified museums and repositories.

9 SECTION 2. Chapter 6E, Hawaii Revised Statutes, is amended  
10 by adding two new sections to be appropriately designated and to  
11 read as follows:

12 "§6E-A Sale of antiquities restricted. (a) No person may  
13 sell or purchase any antiquity after the effective date of this  
14 Act, except for sale to, or purchase by, a qualified museum.

15 (b) Any person selling or purchasing an antiquity in  
16 violation of this section shall be subject to a civil fine equal  
17 to the amount paid for the antiquity or \$10,000, whichever is  
18 greater. The antiquity shall be forfeited to the State. The  
19 attorney general shall enforce this section.

20 (c) Any person selling or purchasing an antiquity in  
21 violation of this section shall be guilty of a:



- 1        (1) Class B felony, if the value of the item exceeds
- 2            \$20,000;
- 3        (2) Class C felony, if the value of the item is between
- 4            \$300 and \$20,000; or
- 5        (3) Misdemeanor, if the value of the item is less than
- 6            \$300.

7        (d) As used in this section, "antiquity" means any  
8 artifact:

- 9            (1) That is over fifty years old; and
- 10          (2) Is native Hawaiian in origin.

11        "Artifact" means any object produced or shaped by human  
12 craft, especially a tool, weapon, ornament, or utensil of  
13 cultural, archaeological, or historical interest.

14        "Qualified museum" means a museum or repository recognized  
15 by the state historic preservation officer as a nonprofit entity  
16 open to the public, the primary mission of which is the  
17 preservation of items of cultural and historic significance.

18        **§6E-B Registry of antiquities.**    (a) Each person who owns  
19 a native Hawaiian antiquity shall register it under this  
20 section. The state historic preservation officer shall maintain  
21 a registry of antiquities, in consultation with the University

1 of Hawaii, the Bishop Museum, and office of Hawaiian affairs,  
2 which shall contain, at a minimum:

3 (1) The name, address, and phone number of the person who  
4 owns the antiquity;

5 (2) A description of the antiquity, with a photograph; and

6 (3) The source and, if known, provenance of the item.

7 There shall be no charge for registering the antiquity.

8 (b) The state historic preservation officer shall widely  
9 publicize the existence of the registry. Two years after the  
10 effective date of this Act, all antiquities not registered shall  
11 be presumed to have been obtained in violation of section 6E-A  
12 and subject to the prohibition on sale in section 6E-A."

13 SECTION 3. In codifying the new sections added by section  
14 2 of this Act, the revisor of statutes shall substitute  
15 appropriate section numbers for the letters used in designating  
16 the new sections in this Act.

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

20 SECTION 5. New statutory material is underscored.



1 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

Calvin K. N. King

BY REQUEST

JAN 23 2006



**Report Title:**

Antiquities; Prohibited Transfer

**Description:**

Prohibits the sale of native Hawaiian antiquities except to qualified museums and repositories. Establishes civil and criminal penalties for selling or purchasing an antiquity in violation of the law. Establishes a registry of antiquities acquired before prohibition takes effect. Presumes unregistered antiquities were acquired in violation of prohibition.

