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# A BILL FOR AN ACT

RELATING TO THE KAHOO LAWE ISLAND RESERVE.

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

1           SECTION 1. The Hawaii supreme court, in *Carlisle v. One*  
2     (1) *Boat*, 119 Hawaii 245, 195 P.3d 1177 (2008), overturned an  
3     intermediate court of appeals decision that allowed non-natural  
4     resource forfeiture in cases of natural resource destruction or  
5     degradation. According to the decision, the substantive offense  
6     provisions of administrative rules relating to resource  
7     protection, which would include those of the Kahoolawe island  
8     reserve commission, must specifically authorize forfeiture.

9           The purpose of this Act is to:

10          (1) Clarify the offenses for which property is subject to  
11          forfeiture under chapter 6K, Hawaii Revised Statutes,  
12          relating to the Kaho'olawe island reserve, including  
13          any activity prohibited by rules of the island reserve  
14          and any violation of rules regulating fishing in  
15          waters within the island reserve, except by persons or  
16          vessels within one nautical mile of the boundaries of  
17          the island reserve; and



1 (2) Clarify that property seized in accordance with  
2 section 199-7, Hawaii Revised Statutes, may be  
3 forfeited and disposed of as provided by law.

4 SECTION 2. Chapter 6K, Hawaii Revised Statutes, is amended  
5 by adding a new section to be appropriately designated and to  
6 read as follows:

7 "§6K- Offenses subject to forfeiture. (a) Offenses for  
8 which property is subject to forfeiture under this chapter are:

9 (1) Any prohibited activity as designated through the  
10 adoption of a rule in accordance with chapter 91; or

11 (2) Any violation of rules regulating fishing in waters  
12 within the island reserve adopted pursuant to chapter  
13 91;

14 provided that persons or vessels within one nautical mile of the  
15 boundaries of the island reserve shall not be subject to this  
16 subsection.

17 (b) Property seized in accordance with section 199-7 may  
18 be forfeited under section 712A-10 or 712A-12. Any natural  
19 resource seized in accordance with section 199-7 may be disposed  
20 of as provided by that section."

21 SECTION 3. Section 6K-6, Hawaii Revised Statutes, is  
22 amended to read as follows:

1           "§6K-6 Responsibilities and duties of the commission. The  
2 general administration of the island reserve shall rest with the  
3 commission. In carrying out its duties and responsibilities,  
4 the commission:

- 5           (1) Shall establish criteria, policies, and controls for  
6           permissible uses within the island reserve;
- 7           (2) Shall approve all contracts for services and rules  
8           pertaining to the island reserve;
- 9           (3) Shall provide advice to the governor, the department,  
10           and other departments and agencies on any matter  
11           relating to the island reserve;
- 12           (4) Shall provide advice to the office of planning and the  
13           department of the attorney general on any matter  
14           relating to the federal conveyance of Kaho'olawe;
- 15           (5) May enter into curator or stewardship agreements with  
16           appropriate Hawaiian cultural and spiritual community  
17           organizations for the perpetuation of native Hawaiian  
18           cultural, religious, and subsistence customs, beliefs,  
19           and practices for the purposes stated in section 6K-3;
- 20           (6) Shall carry out those powers and duties otherwise  
21           conferred upon the board of land and natural resources  
22           and the land use commission with regard to



1 dispositions and approvals pertaining to the island  
2 reserve. All powers and duties of the board of land  
3 and natural resources and the land use commission  
4 concerning dispositions and approvals pertaining to  
5 the island reserve are transferred to the commission;

6 (7) Shall carry out those powers and duties concerning the  
7 island reserve otherwise conferred upon the county of  
8 Maui by chapter 205A. The powers and duties of the  
9 county of Maui and its agencies concerning coastal  
10 zone dispositions and approvals pertaining to the  
11 island reserve are transferred to the commission;

12 (8) Shall carry out those powers and duties concerning the  
13 island reserve otherwise conferred upon the island  
14 burial councils and the department with regard to  
15 proper treatment of burial sites and human skeletal  
16 remains found in the island reserve;

17 (9) Shall adopt rules in accordance with chapter 91 that  
18 are necessary for the purposes of this chapter and  
19 [shall], as appropriate, provide for forfeiture  
20 pursuant to chapter 712A for violations that are  
21 subject to a penalty established under this chapter;



1        (10)    Shall maintain a record of its proceedings and  
2                    actions;  
3        [~~(10)~~] (11)    May delegate to the executive director or  
4                    employees of the commission, by formal commission  
5                    action, such power and authority vested in the  
6                    commission by this chapter as the commission deems  
7                    reasonable and proper for the effective administration  
8                    of this chapter; and  
9        [~~(11)~~] (12)    May solicit and accept grants, donations, and  
10                   contributions for deposit into the Kaho'olawe  
11                   rehabilitation trust fund to support the purposes of  
12                   this chapter."

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

15        SECTION 5.    This Act shall take effect on July 1, 2050.

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**Report Title:**

Kahoolawe Island Reserve; Asset Forfeiture

**Description:**

Clarifies the offenses for which property is subject to forfeiture under chapter 6K, Hawaii Revised Statutes, relating to the Kaho'olawe island reserve, including any activity prohibited by rules of the island reserve and any violation of rules regulating fishing in waters within the island reserve, except by persons or vessels within one nautical mile of the boundaries of the island reserve. Clarifies that property seized in accordance with section 199-7, Hawaii Revised Statutes, may be forfeited and any natural resource seized may be disposed of as provided by law. Effective 07/01/50. (SD2)

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

