

JAN 17 2020

A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION.

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

1 SECTION 1. Section 6E-11, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§6E-11~~ **Civil and administrative violations.** (a) It
4 shall be a civil and administrative violation for any person to
5 ~~[take,~~]:

6 (1) Take, appropriate, excavate, injure, destroy, or alter
7 any historic property or aviation artifact located
8 upon the private lands of any owner thereof without
9 the owner's written permission being first obtained~~[-~~
10 ~~It shall be a civil and administrative violation for~~
11 ~~any person to take,~~]; or

12 (2) Take, appropriate, excavate, injure, destroy, or alter
13 any historic property or aviation artifact located
14 upon lands owned or controlled by the State or any of
15 its political subdivisions, except as permitted by the
16 department [~~, or to knowingly violate the conditions~~



1 ~~set forth in an approved mitigation plan that includes~~
2 ~~monitoring and preservation plans].~~

3 (b) It shall be a civil and administrative violation for
4 any person to [knowingly]:

5 (1) Knowingly take, appropriate, excavate, injure,
6 destroy, or alter any burial site, or the contents
7 thereof, located on private lands or lands owned or
8 controlled by the State or any of its political
9 subdivisions, except as permitted by the department [~~7~~
10 ~~to knowingly]~~; or

11 (2) Knowingly fail to re-inter human remains discovered on
12 the lands in a reasonable period of time as determined
13 by the department [~~7~~ ~~or to knowingly violate the~~
14 ~~conditions set forth in an approved mitigation plan~~
15 ~~that includes monitoring and preservation plans].~~

16 (c) It shall be a civil and administrative violation for
17 any person to take, appropriate, excavate, injure, destroy, or
18 alter any historic property or burial site, or to use
19 explosives, during the course of land development or land
20 alteration activities to which [~~section 6E-42 applies,~~] sections



1 6E-8 or 6E-42 apply, without obtaining the required approval [-]
2 from the department.

3 (d) It shall be a civil and administrative violation for
4 any person to:

5 (1) Conduct archeological monitoring prior to approval of
6 an archeological monitoring plan by the department;

7 (2) Fail to carry out the terms of an archeological
8 monitoring plan approved by the department;

9 (3) Violate any of the terms or conditions of a
10 preservation plan approved by the department;

11 (4) Carry out data recovery activities without a data
12 recovery plan approved by the department; or

13 (5) Violate or fail to carry out any agree upon mitigation
14 condition or commitment.

15 (e) It shall be a civil and administrative violation for
16 any person to carry out any archeological activities without
17 first obtaining a permit from the department, or written
18 approval of any plan required by the department or its rules.

19 ~~[(d)]~~ (f) It shall be a civil and administrative violation
20 for any person who inadvertently discovers a burial site to fail



1 to stop work in the immediate area and report the discovery, as
2 required by section 6E-43.6.

3 ~~[(e)]~~ (g) It shall be a civil and administrative violation
4 for any person to knowingly glue together any human skeletal
5 remains, label any human skeletal remains with any type of
6 marking pen, or conduct any tests that destroy human skeletal
7 remains, as defined in section 6E-2, except as permitted by the
8 department.

9 ~~[(f)]~~ (h) Any person who violates this section shall be
10 fined not more than \$10,000 for each separate violation. If the
11 violator directly or indirectly has caused the loss of, or
12 damage to, any historic property or burial site, the violator
13 shall be fined an additional amount determined by the
14 environmental court or an administrative adjudicative authority
15 to be equivalent to the value of the lost or damaged historic
16 property or burial site. Each day of continued violation of
17 this provision shall constitute a distinct and separate
18 violation for which the violator may be punished. Equipment
19 used by a violator for the taking, appropriation, excavation,
20 injury, destruction, or alteration of any historic property or
21 burial site, or for the transportation of the violator to or



1 from the historic property or burial site, shall be subject to
2 seizure and disposition by the State without compensation to its
3 owner or owners.

4 [~~g~~] (i) Any person who knowingly violates this chapter
5 with respect to burial sites shall also be prohibited from
6 participating in the construction of any state or county funded
7 project for ten years.

8 [~~h~~] (j) Nothing in this section shall apply to land
9 altering activities relating to family burial plots under
10 section 441-5.5.

11 [~~i~~] (k) The civil and administrative penalties imposed
12 pursuant to this chapter shall be in addition to the criminal
13 penalties provided by this chapter and any other penalties that
14 may be imposed pursuant to law."

15 SECTION 2. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 3. This Act shall take effect upon its approval.

18

INTRODUCED BY:

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S.B. NO. 2249

Report Title:

Historic Preservation; Civil and Administrative Violation;
Archeological Activities

Description:

Makes it a civil and administrative violation for any person to engage in certain archeological activities without obtaining the required permission or approval from the department of land and natural resources.

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

