

---

---

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

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

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



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

3 (d) It shall be a civil and administrative violation for  
4 any person to violate or fail to carry out any agreed upon  
5 mitigation condition or commitment.

6 [~~d~~] (e) It shall be a civil and administrative violation  
7 for any person who inadvertently discovers a burial site to fail  
8 to stop work in the immediate area and report the discovery, as  
9 required by section 6E-43.6.

10 [~~e~~] (f) It shall be a civil and administrative violation  
11 for any person to knowingly glue together any human skeletal  
12 remains, label any human skeletal remains with any type of  
13 marking pen, or conduct any tests that destroy human skeletal  
14 remains, as defined in section 6E-2, except as permitted by the  
15 department.

16 [~~f~~] (g) Any person who violates this section shall be  
17 fined not more than \$10,000 for each separate violation. If the  
18 violator directly or indirectly has caused the loss of, or  
19 damage to, any historic property or burial site, the violator  
20 shall be fined an additional amount determined by the  
21 environmental court or an administrative adjudicative authority



1 to be equivalent to the value of the lost or damaged historic  
 2 property or burial site. Each day of continued violation of  
 3 this provision shall constitute a distinct and separate  
 4 violation for which the violator may be punished. Equipment  
 5 used by a violator for the taking, appropriation, excavation,  
 6 injury, destruction, or alteration of any historic property or  
 7 burial site, or for the transportation of the violator to or  
 8 from the historic property or burial site, shall be subject to  
 9 seizure and disposition by the State without compensation to its  
 10 owner or owners.

11 ~~[(g)]~~ (h) Any person who knowingly violates this chapter  
 12 with respect to burial sites shall also be prohibited from  
 13 participating in the construction of any state or county funded  
 14 project for ten years.

15 ~~[(h)]~~ (i) Nothing in this section shall apply to land  
 16 altering activities relating to family burial plots under  
 17 section 441-5.5.

18 ~~[(i)]~~ (j) The civil and administrative penalties imposed  
 19 pursuant to this chapter shall be in addition to the criminal  
 20 penalties provided by this chapter and any other penalties that  
 21 may be imposed pursuant to law."



1 SECTION 2. 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 3. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect on July 1, 2050.



**Report Title:**

Historic Preservation; Civil and Administrative Violation;  
Archaeological Activities

**Description:**

Makes it a civil and administrative violation for any person to knowingly and intentionally engage in certain archaeological activities without obtaining the required permission or approval from the department of land and natural resources, use explosives in land development or alteration activities subject to historic review, and violate or fail to carry out any agreed upon mitigation condition or commitment. Effective 7/1/2050.  
(HD1)

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

