

JAN 27 2021

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# A BILL FOR AN ACT

RELATING TO MAUNA KEA.

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

1       SECTION 1. The legislature finds that the approximately  
2       eleven thousand acres of the Mauna Kea summit in the  
3       conservation district, an area spanning from the six thousand  
4       foot elevation to 13,796-foot elevation above sea level at the  
5       summit, is worthy of additional protections due to its religious  
6       significance and important cultural and natural resources.

7       Native Hawaiians consider Mauna Kea to be an ancestor, a  
8       living family member, born of *Wākea* (Sky Father) and *Papa* (Earth  
9       Mother), progenitors of the native Hawaiian people. Mauna Kea  
10      is the home of *Nā Akua* (the Divine Deities), *Nā 'Aumākua* (the  
11      Divine Ancestors), and is where sky and earth separated to form  
12      the Great-Expanse-of-Space and the Heavenly Realms. Many native  
13      Hawaiian traditional and customary religious practitioners  
14      consider the summit a place dedicated to the Supreme Being and  
15      perform temple ceremonies including those that honor the time of  
16      the *Mauiki'iki'i* (solstice) and *Māuiili* (equinox) throughout the



## S.B. NO. 1299

1 year. Mauna Kea, therefore, represents the zenith of the native  
2 Hawaiian people's ancestral ties to Creation itself.

3 The Mauna Kea summit area is a *wahi pana* (sacred place) and  
4 *wao akua* (the place where spirits reside), and the realm of  
5 ancestral *akua* (gods, goddesses, spirits). These *akua* take  
6 earthly form as the *pu'u* (hill, peak), the waters of Lake Waiau,  
7 and other significant landscape features. According to *Native*  
8 *Hawaiian Environment* by Kumu Hula Pualani Kanaka'ole Kanahale,  
9 "Mauna Kea is also the piko, or navel, of the island, and this  
10 is another reason the mountain and the area around it is  
11 considered sacred" by native Hawaiians. The large number of  
12 *ho'okupu* (gift offering) on and near the summit of Mauna Kea  
13 indicate that the summit was and continues to be used as a place  
14 of worship for the snow goddess Poli'ahu and other *akua* and  
15 'aumakua, such as Kūkahau, Līlinoe, and Waiau. Native Hawaiian  
16 traditional and customary practices are derived from these  
17 beliefs. For these reasons, any further development would  
18 impede native Hawaiian rights to access the Mauna Kea summit for  
19 traditional, customary, and subsistence purposes. Article XII,  
20 section 7 of the Hawaii Constitution requires the State to



## S.B. NO. 1299

1 "protect all rights, customarily and traditionally exercised for  
2 subsistence, cultural and religious purposes."

3       The legislature further finds that current department of  
4 land and natural resources administrative rules prohibit any  
5 proposed land use in the conservation district that will cause a  
6 substantial adverse impact to cultural resources. Development  
7 on the Mauna Kea summit, especially in the five hundred twenty-  
8 five acres of the astronomy precinct located on the summit, will  
9 cause further substantial adverse impacts to cultural resources.  
10 The State has created a management framework that protects  
11 conservation land against further degradation regardless of  
12 whether the lands have already been adversely affected in the  
13 past. However, this has not protected the summit of Mauna Kea  
14 from the threat of future adverse impacts consequent to new  
15 development.

16       The legislature further finds that the Mauna Kea summit  
17 area is comprised of Hawaiian kingdom crown and government  
18 lands, also known as ceded lands, which are now part of the  
19 public land trust. Native Hawaiians have an unrelinquished and  
20 undivided ownership interest in the summit of Mauna Kea and as



1 such have additional special customary and traditional rights to  
2 cultural practices and access to the summit.

3       The legislature further finds that within the Mauna Kea  
4 conservation district live a number of rare, threatened, or  
5 endangered plants, animals, and arthropods found nowhere else on  
6 the planet. Many of these species, like the palila (*Loxioides*  
7 *bailleui*) rely on the resources and environment Mauna Kea  
8 provides. Adult palila feed almost exclusively on māmane seed  
9 pods and also nest primarily in the māmane. Roughly ninety-six  
10 per cent of the entire palila population occurs on the  
11 southwestern slope of Mauna Kea where the widest and most intact  
12 belt of māmane forest exists. Palila survival relies on the  
13 māmane-naio forest itself. The establishment of a small palila  
14 population, which has less than twenty birds, in a māmane-naio  
15 forest remnant on the northern slope of Mauna Kea near Pu'u Mali  
16 may help to grow the population. In 2006, several successful  
17 nests were observed there.

18       The legislature finds that any future development or  
19 construction on the Mauna Kea summit will put rare and  
20 endangered plants, animals, arthropods, and fragile ecological  
21 environments on Mauna Kea at risk. Destruction of specific and



1 subtle features of the terrestrial environment, found on the  
2 Mauna Kea summit, may lead to reduced populations of any one of  
3 these unique, rare, or endangered organisms. Continued research  
4 leading to a detailed understanding of these life forms is  
5 necessary to establish meaningful conservation standards.

6 The purpose of this Act is to prohibit development,  
7 construction, and other use of ground-disturbing machines,  
8 except for the decommissioning of telescopes and for native  
9 Hawaiian traditional and cultural purposes, on the Mauna Kea  
10 summit.

11 SECTION 2. Chapter 304A, Hawaii Revised Statutes, is  
12 amended by adding a new section to be appropriately designated  
13 and to read as follows:

14 "§304A- Mauna Kea conservation district lands;  
15 development; prohibition. Notwithstanding any law to the  
16 contrary, no new construction or ground-disturbing development  
17 on conservation lands on the Mauna Kea summit located at six  
18 thousand feet above sea level and higher shall take place after  
19 December 31, 2021, except for the decommissioning of telescopes  
20 and for native Hawaiian traditional and cultural purposes."



# S.B. NO. 1299

SECTION 3. Chapter 183C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§183C- Mauna Kea conservation district lands; development; prohibition.** Notwithstanding any law to the contrary, no new construction or ground-disturbing development on conservations lands on the Mauna Kea summit located at six thousand feet above sea level and higher shall take place after December 31, 2021, except for the decommissioning of telescopes and for native Hawaiian traditional and cultural purposes."

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY: \_\_\_\_\_

*Jan Acasio*



# S.B. NO. 1299

**Report Title:**

Mauna Kea; Development; Prohibition

**Description:**

Prohibits any new or ground-disturbing development, except for the decommissioning of telescopes or for native Hawaiian traditional and cultural purposes, on conservation lands of the Mauna Kea summit at 6,000 feet above sea level and higher.

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