

JAN 19 2024

A BILL FOR AN ACT

RELATING TO BURIAL SITES.

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

1 SECTION 1. The legislature finds that the current
2 definitions of "inadvertent discovery" and "previously
3 identified" in section 13-300-2, Hawaii Administrative Rules,
4 are too narrow to adequately protect burial sites.

5 Therefore, the purpose of this Act is to direct the
6 department of land and natural resources to amend the
7 definitions of "inadvertent discovery" and "previously
8 identified" in section 13-300-2, Hawaii Administrative Rules, to
9 cover the broad range of situations involving burial sites and
10 to better protect burial sites.

11 SECTION 2. (a) The department of land and natural
12 resources shall amend the definitions of "inadvertent discovery"
13 and "previously identified" as defined in section 13-300-2,
14 Hawaii Administrative Rules as follows:

15 (1) "Inadvertent discovery" means the unanticipated
16 finding of human skeletal remains and any burial goods
17 resulting from unintentional disturbance, erosion, or



1 other ground disturbing activity. Subsequent human
2 skeletal remains found in close proximity to
3 inadvertently discovered human skeletal remains shall
4 not be considered an unanticipated finding, given the
5 initial discovery. These burial sites shall be
6 classified as previously identified for which the
7 Council shall have jurisdiction to consider treatment,
8 if deemed Native Hawaiian, and the Department shall
9 have jurisdiction to consider treatment if non-Native
10 Hawaiian."

11 (2) "Previously identified" means burial sites containing
12 human skeletal remains and any burial goods identified
13 during archaeological inventory survey and data
14 recovery of possible burial sites including:

15 (A) Sites known to contain burials through oral or
16 written records, discoverable by diligent search
17 of the applicable recorded literature and
18 archaeological reports, subsurface investigation,
19 or referenced generally or specifically in
20 kama'āina testimony;




1 (B) Burial sites identified in proximity to other
2 earlier discovered burials, whether inadvertently
3 or previously discovered;

4 (C) Burial sites discovered in a similar type of
5 sedimentary matrix as other burials within the
6 same project area; or

7 (D) Burial sites discovered in sedimentary contexts,
8 including sand and sand mixtures.

9 (b) Without prior resort to the foregoing information
10 sources, any subsequently discovered burials associated with
11 other earlier discovered burials shall not be deemed
12 "inadvertently discovered" nor an "unanticipated finding" of
13 human skeletal remains.

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

15 INTRODUCED BY:  _____



S.B. NO. 2590

Report Title:

DLNR; State Historic Preservation Division; Hawaii
Administrative Rules; Burial Sites; Native Hawaiians

Description:

Requires the Department of Land and Natural Resources to amend the definitions of "inadvertent discovery" and "previously identified" in the HAR, to better protect burial sites.

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