

ACT 97

H.B. NO. 1741

A Bill for an Act Relating to Aviation Artifacts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that Hawaii has the third highest number of aviation crash sites in the United States. The high number of crash sites is indicative of the intensity of aviation training that took place in the islands during World War II. These sites often include invaluable aviation artifacts such as actual aircraft, aircraft parts, military equipment, books, documents, and other artifacts.

The purpose of this Act is to protect the integrity and historical value of aviation artifacts in Hawaii.

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

“§6E- Consultation. The department shall consult with appropriate organizations on all matters relating to aviation artifacts.”

SECTION 3. Section 6E-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Aviation artifact” means airplanes, fallen aircraft, crash sites, or any objects or materials associated with the history of aerospace in Hawaii which are

over fifty years old, or determined to be of exceptional historic significance by the department. This term includes but is not limited to actual aircraft, aircraft parts, military equipment, books, documents, and other related items.”

SECTION 4. Section 6E-3, Hawaii Revised Statutes, is amended to read as follows:

“§6E-3 Historic preservation program. There is established within the department a division to administer a comprehensive historic preservation program, which shall include, but not be limited to, the following:

- (1) Development of an on-going program of historical, architectural, and archaeological research and development, including surveys, excavations, scientific recording, interpretation, and publications on the State’s historical and cultural resources;
- (2) Acquisition of historic or cultural properties, real or personal, in fee or in any lesser interest, by gift, purchase, condemnation, devise, bequest, land exchange, or other means; preservation, restoration, administration, or transference of the property; and the charging of reasonable admissions to that property;
- (3) Development of a statewide survey and inventory to identify and document historic properties, aviation artifacts, and burial sites, including all those owned by the State and the counties;
- (4) Preparation of information for the Hawaii register of historic places and listing on the national register of historic places;
- (5) Preparation, review, and revisions of a state historic preservation plan, including budget requirements and land use recommendations;
- (6) Application for and receipt of gifts, grants, technical assistance, and other funding from public and private sources for the purposes of this chapter;
- (7) Provision of technical and financial assistance to the counties and public and private agencies involved in historic preservation activities;
- (8) Coordination of activities of the counties in accordance with the state plan for historic preservation;
- (9) Stimulation of public interest in historic preservation, including the development and implementation of interpretive programs for historic properties listed on or eligible for the Hawaii register of historic places;
- (10) Coordination of the evaluation and management of burial sites as provided in section 6E-43;
- (11) Acquisition of burial sites in fee or in any lesser interest, by gift, purchase, condemnation, devise, bequest, land exchange, or other means, to be held in trust;
- (12) Submittal of an annual report to the governor and legislature detailing the accomplishments of the year and recommendations for changes in the state plan or future programs relating to historic preservation;
- (13) Regulation of archaeological activities throughout the State;
- (14) Employment of sufficient professional and technical staff for the purposes of this chapter without regard to chapters 76 and 77;
- (15) Adoption of rules in accordance with chapter 91, necessary to carry out the purposes of this chapter; and
- (16) Development and adoption, in consultation with the Office of Hawaiian Affairs native historic preservation council, of rules governing permits for access by native Hawaiians and Hawaiians to cultural, historic, and pre-contact sites and monuments.”

SECTION 5. Section 6E-6, Hawaii Revised Statutes, is amended to read as follows:

“[[§6E-6]] Depositories for certain specimens and objects. The department shall serve as or shall determine the depository for all field notes, photographs, negatives, maps, artifacts, or other materials generated or recovered through historic preservation projects supported in whole or in part by the State or taking place on state lands.

Any aviation artifact or any specimen and object of natural and of botanical, ethnological, architectural, historical, or archaeological value or interest, and any book, treatise, or pamphlet relating thereto in the possession of the University of Hawaii, or any other state agency or its political subdivisions, if and when the same is no longer needed for scientific investigation, for study, or for any other purpose, [may] at the request of the Bishop Museum or other qualified museums in this State, shall be transferred and delivered by and with the consent of such department, bureau, or board having possession thereof, to the Bishop Museum or other qualified museum, or exchanged with such museum, and whereupon, the title shall become vested in such museum and shall be held by them; provided that the aviation artifacts or any specimens and objects so transferred are made available at all reasonable times by the museum for study and examination by the officials of the university of such department, bureau, or board and to qualified scholars.”

SECTION 6. Section 6E-7, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The State shall not transfer any historic property or aviation artifact under its jurisdiction without the concurrence of the department, and shall not transfer any burial site under its jurisdiction without consulting the appropriate island burial council.”

SECTION 7. Section 6E-8, Hawaii Revised Statutes, is amended to read as follows:

“§6E-8 Review of effect of proposed state projects. (a) Before any agency or officer of the State or its political subdivisions commences any project which may affect historic property, aviation artifact, or a burial site, the agency or officer shall advise the department and allow the department an opportunity for review of the effect of the proposed project on historic properties, aviation artifacts, or burial sites, consistent with section 6E-43, especially those listed on the Hawaii register of historic places. The proposed project shall not be commenced, or in the event it has already begun, continued, until the department shall have given its written concurrence.

The department is to provide written concurrence or non-concurrence within ninety days after the filing of a request with the department. The agency or officer seeking to proceed with the project, or any person, may appeal the department’s concurrence or non-concurrence to the Hawaii historic places review board. An agency, officer, or other person who is dissatisfied with the decision of the review board may apply to the governor who may request the Hawaii advisory council on historic preservation to report or who may take action as the governor deems best in overruling or sustaining the department.”

SECTION 8. Section 6E-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) It shall be unlawful for any person, natural or corporate, to take, appropriate, excavate, injure, destroy, or alter any historic property or aviation artifact located upon the private lands of any owner thereof without the owner’s written permission being first obtained. It shall be unlawful for any person, natural or corporate, to take, appropriate, excavate, injure, destroy, or alter any historic property or aviation artifact located upon lands owned or controlled by the State or any of its political subdivisions, except as permitted by the department.”

SECTION 9. Section 6E-12, Hawaii Revised Statutes, is amended to read as follows:

“§6E-12 Reproductions, forgeries, and illegal sales. (a) It shall be unlawful to reproduce, retouch, rework, or forge any historic object and to represent it or offer it for trade or sale as an original and genuine object. It shall be unlawful for any person to offer for sale or exchange any historic object with the knowledge that it has been collected or excavated in violation of any of the terms of this chapter.

(b) It shall be unlawful for any person to:

- (1) Offer for sale or exchange any exhumed prehistoric or historic human skeletal remains or associated burial goods; or
- (2) Remove those goods or remains, except those remains fabricated into artifacts prehistorically, from the jurisdiction of the State without obtaining a permit from the department.

(c) It shall be unlawful for any person to remove aviation artifacts derived from state lands or agencies from the jurisdiction of the State without obtaining a permit from the department.

[(c)] (d) Any person violating this section shall be fined no more than \$10,000. Each object or part of a prehistoric or historic human skeleton or associated burial good offered for sale or trade or removed from the jurisdiction in violation of this section shall constitute a distinct and separate offense for which the offender may be punished.”

SECTION 10. Section 6E-42, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Before any agency or officer of the State or its political subdivisions approves any project involving a permit, license, certificate, land use change, subdivision, or other entitlement for use, which may affect historic property, aviation artifacts, or a burial site, the agency or office shall advise the department and prior to any approval allow the department an opportunity for review and comment on the effect of the proposed project on historic properties, aviation artifacts, or burial sites, consistent with section 6E-43, including those listed in the Hawaii register of historic places.”

SECTION 11. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 12. This Act shall take effect upon its approval.

(Approved June 12, 1996.)

Note

1. Edited pursuant to HRS §23G-16.5.