

ACT 129

S.B. NO. 3154

A Bill for an Act Relating to Regulation of Archaeological Activities.

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

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

“§6E-11 Civil and administrative violations. (a) It shall be a civil and administrative violation for any person 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 a civil and administrative violation for any person 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, or to knowingly violate the conditions set forth in an approved mitigation plan that includes monitoring and preservation plans.

(b) It shall be a civil and administrative violation for any person to knowingly take, appropriate, excavate, injure, destroy, or alter any burial site, or the contents thereof, located on private lands or lands owned or controlled by the State or any of its political subdivisions, except as permitted by the department, to knowingly fail to re-inter human remains discovered on the lands in a reasonable period of time as determined by the department, or to know-

ingly violate the conditions set forth in an approved mitigation plan that includes monitoring and preservation plans.

(c) It shall be a civil and administrative violation for any person to take, appropriate, excavate, injure, destroy, or alter any historic property or burial site during the course of land development or land alteration activities to which section 6E-42 applies, without obtaining the required approval.

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

(e) It shall be a civil and administrative violation for any person to:

- (1) Fail to comply with agreed upon archaeological mitigation commitments;
- (2) Fail to conduct an archaeological inventory survey as specified in an archaeological inventory survey plan or archaeological monitoring plan approved by the department;
- (3) Alter an approved archaeological inventory survey plan or archaeological monitoring plan without prior written approval of the department;
- (4) Carry out project development activities within a preservation area or burial preserve approved by the department without prior written approval of the department, including project equipment transiting through, within, or across a preservation area or burial preserve; or
- (5) Fail to complete and submit required reports.

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

~~(f)~~ (g) Any person who violates this section shall be fined not more than \$20,000 for each separate violation. If the violator directly or indirectly has caused the loss of, or damage to, any historic property or burial site, the violator shall be fined an additional amount determined by the environmental court or an administrative adjudicative authority to be equivalent to the value of the lost or damaged historic property or burial site. Each day of continued violation of this provision shall constitute a distinct and separate violation for which the violator may be punished. Any landowner or developer responsible for any project where violations are found to have occurred shall execute any mitigation and preservation measures ordered by the department and shall be jointly and severally liable for any costs of mitigation and preservation. Equipment used by a violator for the taking, appropriation, excavation, injury, destruction, or alteration of any historic property or burial site, or for the transportation of the violator to or from the historic property or burial site, shall be subject to seizure and disposition by the State without compensation to its owner or owners.

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

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

~~(i)~~ (j) The civil and administrative penalties imposed pursuant to this chapter shall be in addition to the criminal penalties provided by this chapter and any other penalties that may be imposed pursuant to law.”

ACT 129

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

SECTION 4. This Act shall take effect upon its approval.

(Approved June 28, 2024.)