

---

# A BILL FOR AN ACT

RELATING TO CEMETERIES.

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

1           SECTION 1. The legislature finds that Sunset Memorial Park  
2 in Pearl City, Oahu, has been neglected for years and has been  
3 the focal point of numerous complaints by people who have family  
4 members buried there. The cemetery has been described as having  
5 a damaged mausoleum, sinking graves, and broken, missing, or  
6 obscured grave markers that are hidden by overgrown vegetation.

7           Since the death of its previous owner, Sunset Memorial Park  
8 has had no registered owner on record. Volunteers have tried to  
9 maintain the cemetery, but have reluctantly stopped because of  
10 state liability issues.

11           The dilapidated, unsightly state of Sunset Memorial Park is  
12 of great concern for the families whose loved ones are buried  
13 there and for the surrounding community. The park has fallen  
14 into such disrepair that public safety and health are at issue.  
15 A viable solution to this problem is long overdue.

16           Attempts to have the State add Sunset Memorial Park to its  
17 list of four currently state-owned cemeteries in Aiea, Kapalama,



1 Alewa Heights, and Makiki are ongoing. The last time the State  
2 took over a cemetery was in 1946.

3 It has been reported that the department of commerce and  
4 consumer affairs is actively looking for a long-term solution  
5 for Sunset Memorial Park and is considering all options.

6 The purpose of this Act is to:

- 7 (1) Limit liability for volunteers and nonprofit
- 8 organizations, nonprofit corporations, or other
- 9 entities that provide volunteers, who maintain or
- 10 repair cemetery grounds; and
- 11 (2) Require the director of commerce and consumer affairs,
- 12 in consultation with the comptroller, to develop
- 13 strategies for the upkeep, repair, and maintenance of
- 14 Sunset Memorial Park.

15 SECTION 2. Chapter 662D, Hawaii Revised Statutes, is  
16 amended by adding a new section to be appropriately designated  
17 and to read as follows:

18 "§662D- Limited liability for maintaining or repairing  
19 cemetery grounds. (a) An individual volunteer who maintains or  
20 repairs cemetery grounds located in the State without  
21 compensation, including cemeteries operated for profit pursuant



1 to chapter 441, shall not be liable to any person for injury or  
2 damage sustained as a result of the actions of the volunteer to  
3 maintain or repair the cemetery grounds, except for injury or  
4 damages resulting from gross negligence or intentional  
5 misconduct.

6 (b) A nonprofit organization, nonprofit corporation, or  
7 other entity that provides volunteers to maintain or repair  
8 cemetery grounds located in the State, including cemeteries  
9 operated for profit pursuant to chapter 441, shall not be liable  
10 to any person for injury or damages sustained as a result of the  
11 actions of a volunteer provided by the organization,  
12 corporation, or entity to maintain or repair the cemetery  
13 grounds, except for injury or damages resulting from gross  
14 negligence or intentional misconduct.

15 (c) This section does not relieve any cemetery property  
16 owner or cemetery authority from compliance with chapter 441, or  
17 from the duty to maintain their premises in a reasonably safe  
18 condition.

19 (d) A volunteer providing services under this section for  
20 a nonprofit organization, nonprofit corporation, or other entity  
21 may only receive reimbursement for actual expenses incurred that



1 have been authorized for payment by the nonprofit organization,  
2 nonprofit corporation, or other entity.

3 (e) Nothing in this section shall be construed to  
4 authorize or permit the use of perpetual care funds for the  
5 purposes of reimbursing costs incurred pursuant to this section.

6 (f) Notwithstanding any other law to the contrary, actions  
7 of a volunteer in conformance with this section shall not  
8 require licensure under chapter 441; provided that maintenance  
9 and repair activities covered under this section shall be  
10 limited to general maintenance, care, and preservation of  
11 cemeteries, including keeping sod or grass in repair and caring  
12 for trees and shrubs, but shall not include activities related  
13 to burials.

14 (g) For purposes of this section, a volunteer may provide  
15 maintenance and repair services as an individual and not as a  
16 member or affiliate of a cemetery authority, nonprofit  
17 corporation, nonprofit organization, or other entity, if the  
18 volunteer:

19 (1) First obtains written approval from the cemetery owner  
20 or cemetery authority, if one can be identified; and



1           (2) Does not receive compensation or reimbursement for any  
2           expenses other than actual expenses incurred for  
3           maintenance and repair of the cemetery grounds."

4           SECTION 3. (a) The director of commerce and consumer  
5 affairs, in consultation with the comptroller, shall develop  
6 short-term and long-term strategies for the upkeep, repair, and  
7 maintenance of Sunset Memorial Park in Pearl City, Oahu.

8           (b) The director of commerce and consumer affairs shall  
9 report findings and recommendations related to activities  
10 conducted pursuant to this section, including any proposed  
11 legislation, to the legislature no later than twenty days prior  
12 to the convening of the regular session of 2019.

13           SECTION 4. New statutory material is underscored.

14           SECTION 5. This Act shall take effect on July 1, 2018.



**Report Title:**

Sunset Memorial Park; Volunteers; Limited Liability; Repairs; Maintenance; Cemetery; Department of Commerce and Consumer Affairs

**Description:**

Limits liability for volunteers maintaining or repairing cemetery grounds. Requires the director of commerce and consumer affairs, in consultation with the comptroller, to develop strategies for the upkeep, repair, and maintenance of Sunset Memorial Park in Pearl City, Oahu. Requires report to legislature. (SD1)

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

