A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION.

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]:

(1) 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[.]; or

(2) 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}
It shall be a civil and administrative violation for any person to [knowingly]:

(1) 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.

(2) Knowingly fail to re-inter human remains discovered on the lands in a reasonable period of time as determined by the department, or to knowingly 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, or to use explosives, during the course of land development or land alteration activities to which [section 6B-42 applies.]
6E-8 or 6E-42 apply, without obtaining the required approval from the department.

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

(1) Conduct archaeological work that is not consistent with the activities authorized by the permit or any permit stipulations;

(2) Conduct archaeological work without an archaeological permit;

(3) Conduct archaeological monitoring prior to approval by the department of an archaeological monitoring plan;

(4) Violate or fail to carry out any of the terms or conditions of an archaeological monitoring plan or a preservation plan approved by the department;

(5) Carry out data recovery activities without a data recovery plan approved by the department; or

(6) Violate or fail to carry out any agreed upon mitigation condition or commitment.

(e) 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\}] (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 $10,000 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. 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.

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.

Nothing in this section shall apply to land altering activities relating to family burial plots under section 441-5.5.

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."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.
Report Title:
Historic Preservation; Civil and Administrative Violation; Archaeological Activities

Description:
Makes it a civil and administrative violation for any person to engage in certain archaeological activities without obtaining the required permission or approval from the department of land and natural resources. (SD1)

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