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# A BILL FOR AN ACT

RELATING TO REGULATION OF ARCHAEOLOGICAL ACTIVITIES.

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

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

3           "§6E-11 Civil and administrative violations. (a) It  
4 shall be a civil and administrative violation for any person to  
5 take, appropriate, excavate, injure, destroy, or alter any  
6 historic property or aviation artifact located upon the private  
7 lands of any owner thereof without the owner's written  
8 permission being first obtained. It shall be a civil and  
9 administrative violation for any person to take, appropriate,  
10 excavate, injure, destroy, or alter any historic property or  
11 aviation artifact located upon lands owned or controlled by the  
12 State or any of its political subdivisions, except as permitted  
13 by the department, or to knowingly violate the conditions set  
14 forth in an approved mitigation plan that includes monitoring  
15 and preservation plans.

16           (b) It shall be a civil and administrative violation for  
17 any person to knowingly take, appropriate, excavate, injure,  
18 destroy, or alter any burial site, or the contents thereof,



1 located on private lands or lands owned or controlled by the  
2 State or any of its political subdivisions, except as permitted  
3 by the department, to knowingly fail to re-inter human remains  
4 discovered on the lands in a reasonable period of time as  
5 determined by the department, or to knowingly violate the  
6 conditions set forth in an approved mitigation plan that  
7 includes monitoring and preservation plans.

8 (c) It shall be a civil and administrative violation for  
9 any person to take, appropriate, excavate, injure, destroy, or  
10 alter any historic property or burial site during the course of  
11 land development or land alteration activities to which section  
12 6E-42 applies, without obtaining the required approval.

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

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

19 (1) Fail to comply with agreed upon archaeological  
20 mitigation commitments;



- 1       (2) Fail to conduct an archaeological inventory survey as  
2       specified in an archaeological inventory survey plan  
3       or archaeological monitoring plan approved by the  
4       department;
- 5       (3) Alter an approved archaeological inventory survey plan  
6       or archaeological monitoring plan without prior  
7       written approval of the department;
- 8       (4) Carry out project development activities within a  
9       preservation area or burial preserve approved by the  
10      department without prior written approval of the  
11      department, including project equipment transiting  
12      through, within, or across a preservation area or  
13      burial preserve; or
- 14      (5) Fail to complete and submit required reports.
- 15      [~~e~~] (f) It shall be a civil and administrative violation  
16      for any person to knowingly glue together any human skeletal  
17      remains, label any human skeletal remains with any type of  
18      marking pen, or conduct any tests that destroy human skeletal  
19      remains, as defined in section 6E-2, except as permitted by the  
20      department.



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



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

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

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

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

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

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



**Report Title:**

Archaeological Activities; Penalties

**Description:**

Clarifies that failure to comply with approved mitigation commitments, conduct an archaeological inventory survey, or comply with other administrative requirements pertaining to archaeology approved by the Department of Land and Natural Resources shall result in civil and administrative violations.  
(CD1)

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

