
A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

1 PART I

2 SECTION 1. The legislature finds that the prevalence of
3 drivers violating Hawaii's traffic laws, especially on the
4 island of Oahu, has become intolerable. Of particular concern
5 are drivers who run red lights. These violations endanger the
6 lives of motorists and pedestrians and compound the already
7 hazardous conditions on Hawaii's roads and highways. It has
8 become increasingly common to hear reports of hit-and-run
9 drivers who have run over children or the elderly. Disregarding
10 traffic signals has also been the common denominator in many
11 recent, highly-publicized motor vehicle crashes that have
12 claimed a number of lives.

13 The legislature further finds that in other jurisdictions
14 in the United States, Canada, Europe, and other countries
15 throughout the world, photo red light imaging detector systems
16 have been proven reliable, efficient, and effective in
17 identifying and deterring those who run red lights.



1 Photo red light imaging detector systems are safe, quick,
2 cost-effective, and efficient. No traffic stop is involved, and
3 a police officer is not at risk from passing traffic or armed
4 violators. With photo red light imaging detector systems, a
5 camera is positioned at intersections where red light violations
6 are a major cause of collisions and serves as a twenty-four-hour
7 deterrent to running a red light. Sensors are buried under a
8 crosswalk and lead to a self-contained camera system mounted on
9 a nearby structure. When a vehicle enters the intersection
10 against a red light, the camera takes a telephoto color picture
11 of the rear of the car, capturing the license plate. A second
12 wide-angle photograph takes in the entire intersection,
13 including other traffic.

14 These systems provide numerous benefits. Not only are
15 streets safer, but police officers are also freed from the time-
16 consuming duties of traffic enforcement and have more time to
17 respond to priority calls. A violator is less likely to go to
18 court because the color photograph of the violation, imprinted
19 with the time, date, and location of the violation, and the
20 number of seconds the light had been red before the violator
21 entered the intersection, can be used as evidence in court. Few



1 cases are contested in other jurisdictions using this system,
2 and officers make fewer court appearances, saving court costs.

3 The system may also result in lower insurance costs for
4 safe drivers through an overall reduction in crashes and
5 injuries and by placing system costs on the violators who have
6 created the need for the program, not on law-abiding taxpayers.
7 Traffic laws are impartially enforced, and safety and efficiency
8 are increased by reducing the number of chases and personnel
9 required for traffic accident clean-up, investigation, and court
10 testimony.

11 The legislature finds that the photo speed imaging detector
12 system also created by Act 234, Session Laws of Hawaii 1998, and
13 implemented in January 2002, generated intense public
14 opposition. As a result of this opposition, the legislature
15 repealed Act 234 in its entirety. However, the majority of the
16 opposition to this program resulted from the method by which it
17 was implemented. The public perceived that the program was
18 operated more to maximize revenue for the vendor running the
19 program than to improve traffic safety. In particular, vans in
20 which the cameras were mounted were often placed at locations
21 that did not necessarily have a history of speed-related
22 accidents and instead were used to monitor locations with heavy



1 traffic flow at lower speeds. This permitted the vendor to
2 issue the maximum number of citations in the shortest period of
3 time and at the least cost, thereby maximizing the potential
4 return to the vendor without improving traffic safety.

5 The purpose of this Act is to protect the public health,
6 safety, and welfare by:

- 7 (1) Establishing a photo red light imaging detector
8 systems program to improve enforcement of the traffic
9 signal laws;
- 10 (2) Allowing counties to implement the photo red light
11 imaging detector systems program;
- 12 (3) Authorizing the deposit of fines collected under
13 county programs to be deposited into a general fund
14 account; and
- 15 (4) Authorizing the expenditure of funds from this general
16 fund account in the county in which the fine was
17 collected for the establishment, operation,
18 management, and maintenance of the photo red light
19 imaging detector systems program.

20 PART II

21 SECTION 2. **Definitions.** As used in this Act, unless the
22 context otherwise requires:



1 "County" means the counties of Hawaii, Kauai, and Maui, and
2 the city and county of Honolulu.

3 "County highway" has the same meaning as used in section
4 264-1, Hawaii Revised Statutes.

5 "Department" means the department of transportation.

6 "Motor vehicle" has the same meaning as defined in section
7 291C-1, Hawaii Revised Statutes.

8 "Photo red light imaging detector" means a device used for
9 traffic enforcement that includes a vehicle sensor that works in
10 conjunction with a traffic-control signal and a camera or
11 similar device to automatically produce a photographic, digital,
12 or other visual image of a vehicle that has disregarded a steady
13 red traffic-control signal in violation of section 291C-32,
14 Hawaii Revised Statutes, and a photographic, digital, or other
15 visual image of the driver of the motor vehicle.

16 "State highway" has the same meaning as used in section
17 264-1, Hawaii Revised Statutes.

18 "Traffic-control signal" has the same meaning as defined in
19 section 291C-1, Hawaii Revised Statutes.

20 SECTION 3. **Photo red light imaging detector systems**
21 **program; established.** There is established the photo red light
22 imaging detector systems program, which may be implemented by



1 any county on state or county highways within the respective
2 county, to enforce the traffic-control signal laws of the State.

3 SECTION 4. **County powers and duties.** Each county may
4 establish and implement, in accordance with this Act, a photo
5 red light imaging detector system imposing monetary liability on
6 the operator of a motor vehicle for failure to comply with
7 traffic-control signal laws. Each county may provide for the
8 procurement, location, installation, operation, maintenance, and
9 repair of the photo red light imaging detector system. Where
10 the photo red light imaging detector system affects state
11 property, the department shall cooperate with and assist the
12 county as needed to install, maintain, and repair the photo red
13 light imaging detector system established pursuant to this Act.

14 SECTION 5. **Photo red light imaging detector system**
15 **requirements.** (a) Photo red light imaging detector equipment
16 shall be operated from a fixed pole, post, or other fixed
17 structure on a state or county highway.

18 (b) Signs and other official traffic-control devices
19 indicating that traffic signal laws are enforced by a photo red
20 light imaging detector system shall be posted on all major
21 routes entering the area in question to provide, as far as



1 practicable, notice to drivers of the existence and operation of
2 the system.

3 (c) Proof of a traffic-control signal violation shall be
4 as evidenced by information obtained from the photo red light
5 imaging detector system authorized pursuant to this Act. A
6 certificate, sworn to or affirmed by the county's agent or
7 employee, or a facsimile thereof, based upon inspection of
8 photographs, microphotographs, videotape, or other recorded
9 images produced by the system, shall be prima facie evidence of
10 the facts contained therein. Any photographs, microphotographs,
11 videotape, or other recorded images evidencing a violation shall
12 be available for inspection in any proceeding to adjudicate the
13 liability for that violation.

14 (d) No summons or citation pursuant to the photo red light
15 imaging detector systems program shall be issued unless it
16 contains a clear and unobstructed photographic, digital, or
17 other visual image of the driver of the motor vehicle.

18 (e) The conditions specified in this section shall not
19 apply when the information gathered is used for highway safety
20 research or to issue warning citations not involving a fine,
21 court appearance, or a person's driving record.



1 SECTION 6. **Summons or citations.** (a) Notwithstanding any
2 law to the contrary, whenever any motor vehicle is determined,
3 by means of a photo red light imaging detector system, to have
4 disregarded both a steady red signal in violation of section
5 291C-32(a)(3), Hawaii Revised Statutes, and the requirements of
6 section 5(d) of this Act, the county shall cause a summons or
7 citation, as described in this section, to be sent by certified
8 or registered mail with a return receipt, which is postmarked
9 within seventy-two hours of the time of the incident, to the
10 registered owner of the vehicle at the address on record at the
11 vehicle licensing division. If the end of the seventy-two-hour
12 period falls on a Saturday, Sunday, or state holiday, then the
13 ending period shall run until the end of the next day that is
14 not a Saturday, Sunday, or state holiday.

15 (b) The form and content of the summons or citation shall
16 be as adopted or prescribed by the administrative judge of the
17 district courts and shall be printed on a form commensurate with
18 the form of other summonses or citations used in modern methods
19 of arrest, so designed to include all necessary information to
20 make the summons or citation valid within the laws of the State;
21 provided that any summons or citation pursuant to the photo red
22 light imaging detector systems program shall contain a clear and



1 unobstructed photographic, digital, or other visual image of the
2 driver of the motor vehicle that is to be used as evidence of
3 the violation.

4 (c) Every citation shall be consecutively numbered and
5 each copy thereof shall bear the number of its respective
6 original.

7 (d) Upon receipt of the summons or citation, the
8 registered owner shall respond as provided for in chapter 291D,
9 Hawaii Revised Statutes. A mail receipt signed by the
10 registered owner is prima facie evidence of notification. The
11 registered owner shall be determined by the identification of
12 the vehicle's registration plates.

13 (e) The county, or the county's agent or employee, shall
14 be available to testify as to the authenticity of the
15 information provided pursuant to this section.

16 **SECTION 7. Registered owner's responsibility for a summons**
17 **or citation.** In any proceeding for a violation of this Act, the
18 information contained in the summons or citation mailed in
19 accordance with section 6 shall be deemed evidence that the
20 registered vehicle violated section 291C-32(a)(3), Hawaii
21 Revised Statutes.



1 SECTION 8. **Prima facie evidence.** (a) Whenever the photo
2 red light imaging detector system determines a motor vehicle to
3 be in violation of section 291C-32(a)(3), Hawaii Revised
4 Statutes, evidence that the motor vehicle described in the
5 citations or summons issued pursuant to this Act was operated in
6 violation of that section, together with proof that the person
7 to whom the summons or citation was sent was the registered
8 owner of the motor vehicle at the time of the violation, shall
9 constitute prima facie evidence that the registered owner of the
10 motor vehicle was the person who committed the violation.

11 (b) The registered owner of the vehicle may rebut the
12 evidence in subsection (a) by any one of the following,
13 including:

- 14 (1) Submitting a written statement as provided in section
15 291D-6(b)(2), Hawaii Revised Statutes;
- 16 (2) Testifying in open court under oath that the person
17 was not the operator of the vehicle at the time of the
18 alleged violation;
- 19 (3) Calling witnesses to testify in open court under oath
20 that the person was not the operator of the vehicle at
21 the time of the alleged violation;



- 1 (4) Extrinsic evidence that the person was not the
- 2 operator of the vehicle at the time of the alleged
- 3 violation;
- 4 (5) Presenting, prior to the return date established on
- 5 the citation or summons issued pursuant to this Act, a
- 6 letter of verification of loss from the police
- 7 department indicating that the vehicle had been
- 8 reported stolen, to the court adjudicating the alleged
- 9 violation; or
- 10 (6) Identifying the driver of the vehicle at the time of
- 11 the offense.

12 SECTION 9. **Failure to comply with summons or citation.** If

13 the registered owner of the vehicle does not return an answer in

14 response to a summons or citation within a period of twenty-one

15 days upon receipt of the summons or citation, the district court

16 shall issue, pursuant to section 291D-7(e), Hawaii Revised

17 Statutes, a notice of entry of judgment of default to the

18 registered owner of the vehicle.

19 SECTION 10. **Liability for rental or U-drive vehicle.**

20 Notwithstanding any law to the contrary, if the registered owner

21 of record is the lessor of a rental or U-drive motor vehicle, as

22 defined in section 286-2, Hawaii Revised Statutes, pursuant to a



1 written lease agreement, the lessee at the time of the violation
2 shall be responsible for the summons or citation; provided that:

3 (1) The lessor shall be responsible for the summons or
4 citation if the lessor does not provide the court
5 having jurisdiction over the summons or citation with
6 the name and address of the lessee within thirty days
7 after a notice containing the date, time, and location
8 of the violation and the license number of the vehicle
9 is sent to the lessor; and

10 (2) The administrative judge of the court having
11 jurisdiction over the summons or citation may waive
12 the requirement of providing the name and address of
13 the lessee and impose on the lessor an administrative
14 fee of \$ per citation.

15 SECTION 11. **Penalty.** The penalties for all consequences
16 of a violation for disregarding a steady red signal initiated by
17 the use of a photo red light imaging detector system shall be as
18 provided in section 291C-161, Hawaii Revised Statutes.

19 SECTION 12. **Fines for unauthorized disclosure.** All
20 personal and confidential information made available by any
21 government agency to an agent of any county for the photo red
22 light imaging detector system program shall be kept confidential



1 and shall be used only for the purposes for which the
2 information was furnished. Any officer, employee, or agent of a
3 county who intentionally discloses or provides a copy of
4 personal and confidential information obtained from a photo red
5 light imaging detector system to any person or agency without
6 authorization shall be fined not more than \$; provided
7 that the fine shall not preclude the application of penalties or
8 fines otherwise provided for by law.

9 SECTION 13. **Photo red light imaging detector systems**
10 **program account established.** (a) There is established, as a
11 special account within the general fund, a photo red light
12 imaging detector systems program account, into which shall be
13 paid revenues collected pursuant to this Act.

14 (b) All fines collected under this Act shall be deposited
15 into the photo red light imaging detector program account.
16 Moneys in the account shall be expended in the county in which
17 the fine was imposed, for purposes that include the
18 establishment, operation, management, and maintenance of a photo
19 red light imaging detector system.

20 SECTION 14. **Rules.** The department shall adopt rules
21 pursuant to chapter 91, Hawaii Revised Statutes, as may be
22 necessary to implement this Act.



1 PART III

2 SECTION 15. Section 291C-161, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "~~§291C-161 Penalties[-];~~ photo red light imaging detector
5 system fines. (a) It is a violation for any person to violate
6 any of the provisions of this chapter, except as otherwise
7 specified in subsections (c) and (d) and unless the violation is
8 by other law of this State declared to be a felony, misdemeanor,
9 or petty misdemeanor.

10 (b) Except as provided in subsections (c) and (d), every
11 person who is determined to have violated any provision of this
12 chapter for which another penalty is not provided shall be
13 fined:

14 (1) Not more than \$200 for a first violation thereof;

15 (2) Not more than \$300 for a second violation committed
16 within one year after the date of the first violation;
17 and

18 (3) Not more than \$500 for a third or subsequent violation
19 committed within one year after the date of the first
20 violation.

21 (c) Every person convicted under or found in violation of
22 section 291C-12, 291C-12.5, 291C-12.6, 291C-13, 291C-14, 291C-



1 15, 291C-16, 291C-72, 291C-73, 291C-95, 291C-102, 291C-103,
2 291C-104, or 291C-105 shall be sentenced or fined in accordance
3 with those sections.

4 (d) Every person who violates section 291C-13 or 291C-18
5 shall:

6 (1) Be fined not more than \$200 or imprisoned not more
7 than ten days for a first conviction thereof;

8 (2) Be fined not more than \$300 or imprisoned not more
9 than twenty days or both for conviction of a second
10 offense committed within one year after the date of
11 the first offense; and

12 (3) Be fined not more than \$500 or imprisoned not more
13 than six months or both for conviction of a third or
14 subsequent offense committed within one year after the
15 date of the first offense.

16 (e) The court may assess a sum not to exceed \$50 for the
17 cost of issuing a penal summons upon any person who fails to
18 appear at the place within the time specified in the citation
19 issued to the person for any traffic violation.

20 (f) Fines collected for a violation of section 291C-32
21 adjudicated pursuant to the photo red light imaging detector
22 systems program established pursuant to Act _____, Session Laws of



1 Hawaii 2012, shall be deposited into the photo red light imaging
2 detector systems program account and shall be expended in the
3 county in which the fine was imposed for purposes that include
4 the establishment, operation, management, and maintenance of the
5 county's photo red light imaging detector system.

6 [~~f~~] (g) The court may require a person who violates any
7 of the provisions of this chapter to attend a course of
8 instruction in driver retraining as deemed appropriate by the
9 court, in addition to any other penalties imposed."

10 SECTION 16. Section 291C-163, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) This chapter shall not be deemed to prevent counties
13 with respect to streets and highways under their jurisdiction
14 from:

- 15 (1) Regulating or prohibiting stopping, standing, or
16 parking except as provided in section 291C-111;
17 (2) Regulating traffic by means of police officers or
18 official traffic-control devices;
19 (3) Regulating or prohibiting processions or assemblages
20 on the highways;
21 (4) Designating particular highways or roadways for use by
22 traffic moving in one direction;



- 1 (5) Establishing speed limits for vehicles in public
- 2 parks;
- 3 (6) Designating any highway as a through highway or
- 4 designating any intersection as a stop or yield
- 5 intersection;
- 6 (7) Restricting the use of highways;
- 7 (8) Regulating the operation and equipment of and
- 8 requiring the registration and inspection of bicycles,
- 9 including the requirement of a registration fee;
- 10 (9) Regulating or prohibiting the turning of vehicles or
- 11 specified types of vehicles;
- 12 (10) Altering or establishing speed limits;
- 13 (11) Requiring written accident reports;
- 14 (12) Designating no-passing zones;
- 15 (13) Prohibiting or regulating the use of controlled-access
- 16 roadways by any class or kind of traffic;
- 17 (14) Prohibiting or regulating the use of heavily traveled
- 18 streets by any class or kind of traffic found to be
- 19 incompatible with the normal and safe movement of
- 20 traffic;
- 21 (15) Establishing minimum speed limits;
- 22 (16) Designating hazardous railroad grade crossing;



- 1 (17) Designating and regulating traffic on play streets;
- 2 (18) Prohibiting pedestrians from crossing a roadway in a
- 3 business district or any designated highway except in
- 4 a crosswalk;
- 5 (19) Restricting pedestrian crossing at unmarked
- 6 crosswalks;
- 7 (20) Regulating persons propelling push carts;
- 8 (21) Regulating persons upon skates, coasters, sleds, and
- 9 other toy vehicles;
- 10 (22) Adopting and enforcing such temporary or experimental
- 11 regulations as may be necessary to cover emergencies
- 12 or special conditions;
- 13 (23) Adopting maximum and minimum speed limits on streets
- 14 and highways within their respective jurisdictions;
- 15 (24) Adopting requirements on stopping, standing, and
- 16 parking on streets and highways within their
- 17 respective jurisdictions except as provided in section
- 18 291C-111;
- 19 (25) Prohibiting or regulating electric personal assistive
- 20 mobility devices on sidewalks and bicycle paths; [~~and~~]
- 21 (26) Implementing a photo red light imaging detector system
- 22 pursuant to Act _____, Session Laws of Hawaii 2012; and



1 forty-eight hours of the time of the incident, as provided in
2 section 291C-223 for vehicles illegally utilizing the high
3 occupancy vehicle lane, or within seventy-two hours of the time
4 of the incident for vehicles illegally utilizing a parking space
5 reserved for persons with disabilities, or for vehicles
6 disregarding a steady red signal in violation of section 291C-
7 32(a)(3), as determined by means of a photo red light imaging
8 detector system, to the registered owner of the vehicle at the
9 address on record at the vehicle licensing division. If the end
10 of the applicable forty-eight or seventy-two hour period falls
11 on a Saturday, Sunday, or state holiday, then the ending period
12 shall run until the end of the next day which is not a Saturday,
13 Sunday, or state holiday; provided that the administrative judge
14 of the district courts may allow a carbon copy of the citation
15 to be given to the violator or affixed to the vehicle and
16 provide for the disposition of the original and any other copies
17 of the citation."

18 PART IV

19 SECTION 18. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so much
21 thereof as may be necessary for fiscal year 2012-2013 for the



1 purposes of establishing the photo red light imaging detector
2 systems program to be allocated as follows:

3 \$ to the city and county of Honolulu;

4 \$ to the county of Maui;

5 \$ to the county of Hawaii; and

6 \$ to the county of Kauai.

7 The sum appropriated shall be expended by the counties for
8 the purposes of this Act.

9 SECTION 19. It is the intent of this Act not to jeopardize
10 the receipt of any federal aid nor to impair the obligation of
11 the State or any agency thereof to the holders of any bond
12 issued by the State or by any such agency. To the extent, and
13 only to the extent, necessary to effectuate this intent, the
14 governor may modify the strict provisions of this Act, but shall
15 promptly report any such modification with reasons therefor to
16 the legislature at its next session thereafter for review by the
17 legislature.

18 SECTION 20. If any provision of this Act, or the
19 application thereof to any person or circumstance is held
20 invalid, the invalidity does not affect other provisions or
21 applications of the Act which can be given effect without the



1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 21. This Act does not affect rights and duties
4 that matured, penalties that were incurred, and proceedings that
5 were begun, before its effective date.

6 SECTION 22. Upon enactment, the revisor of statutes shall
7 insert the number of this Act into sections 291C-161, 291C-163,
8 and 291C-165, Hawaii Revised Statutes, where indicated in
9 sections 15, 16, and 17 of this Act, respectively.

10 SECTION 23. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 24. This Act shall take effect on July 1, 2013;
13 provided that section 18 shall take effect on January 7, 2059.



Report Title:

Highway Safety; Photo Red Light Imaging; Appropriation

Description:

Establishes the photo red light imaging detector systems program. Authorizes counties to administer the program. Requires proceeds of fines to be expended in the county from which they were collected for operation of the program. Makes an appropriation. Effective July 1, 2013. Appropriation effective on January 7, 2059. (HB2790 HD1)

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

