A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

PART I

SECTION 1. The legislature finds that the prevalence of drivers violating Hawaii's traffic laws, particularly drivers who fail to stop at red lights, has become intolerable. These violations endanger the lives of motorists, pedestrians, and other highway users and compound the already hazardous conditions on Hawaii's roads and highways. In recent years, it has become increasingly common to hear reports of hit-and-run drivers who have struck children or the elderly.

The increasing number of reports of drivers who fail to stop at red lights is a particularly concerning trend in traffic violations that could be remedied easily and quickly through the use of simple, yet efficient technology. In other jurisdictions in the United States and in countries throughout the world, including Canada and Europe, photo red light imaging detector systems have proven reliable, efficient, and effective in identifying and deterring drivers who run red lights.
The legislature finds that photo red light imaging detector systems are safe, quick, cost-effective, and efficient. No traffic stop is involved, and a police officer is not at risk from passing traffic or armed violators. Photo red light imaging detector systems use cameras positioned at intersections where red light violations are a major cause of collisions, serving as a twenty-four hour deterrent to red light violations. Sensors are buried under a crosswalk and lead to a self-contained camera system mounted on a nearby structure. When a vehicle enters the intersection against a red light, the camera takes a telephoto color picture of the rear of the car, capturing an image of the license plate. A second wide-angle photograph records the entire intersection, including other traffic.

The legislature finds that these systems provide numerous benefits. Not only are streets safer, but police officers, freed from the time-consuming duties of traffic enforcement, have more time to respond to priority calls. A violator is less likely to go to court because the color photograph of the violation, imprinted with the time, date, and location of the violation, and the number of seconds the light had been red
before the violator entered the intersection, can be used as
evidence in court. Few cases are contested in other
jurisdictions using this system, and officers make fewer court
appearances, thus saving court costs.
The system may also result in lower insurance costs for
safe drivers through an overall reduction in crashes and
injuries and by placing system costs on violators instead of
law-abiding taxpayers. This system ensures that traffic laws
are impartially enforced, and safety and efficiency are
increased by reducing the number of chases and personnel
required for traffic accident clean-up, investigation, and court
testimony.
While the legislature established photo speed imaging
detector and photo red light imaging detector systems to improve
traffic safety and enforcement through the passage of Act 234,
Session Laws of Hawaii 1998, implementation of these systems as
traffic enforcement tools in January 2002 generated intense
public opposition. As a result of this opposition, the
legislature repealed Act 234 in its entirety. However, the
majority of the opposition to these programs was directed toward
the photo speed imaging detector system and the method by which
the program was implemented. The public perceived that the
program was operated to maximize revenue for the vendor running
the program rather than improve traffic safety.

Though many of the concerns raised regarding photo speed
imaging detector systems were and continue to be valid, the use
of photo red light imaging detector systems appears to be a more
acceptable method of traffic enforcement, as a motorist's
disregard of a steady red traffic signal is evident. The
legislature finds that establishing a photo red light imaging
detector systems program will serve as a useful traffic
enforcement tool and is in the best interest of public safety on
Hawaii's roadways.

Accordingly, the purpose of this Act is to:

(1) Establish a red light violation task force to make
recommendations relating to the implementation of a
photo red light imaging detector systems program;

(2) Establish a photo red light imaging detector systems
program to improve enforcement of the State's traffic
signal laws;

(3) Establish the photo red light imaging detector systems
program special fund and authorize expenditures from
the fund for the establishment, operation, management, and maintenance of the photo red light imaging detector systems program;

(4) Authorize counties to implement the photo red light imaging detector systems program;

(5) Amend the amounts of the fines for various violations of the statewide traffic code; and

(6) Appropriate funds for the establishment of a photo red light imaging detector systems program in the counties of Hawaii, Kauai, and Maui, and in the city and county of Honolulu

PART II

SECTION 2. (a) The department of transportation shall establish a red light violation task force to review this Act and recommend any necessary amendments, including any proposed legislation, for consideration by the legislature during the regular session of 2020.

(b) The department of transportation shall invite the following to participate on the red light violation task force:

(1) The deputy administrative director of the courts, or the deputy administrative director's designee;
(2) The state public defender, or the state public
defender's designee; and

(3) A representative from the counties of Hawaii, Kauai,
and Maui, and of the city and county of Honolulu from
each of the respective following agencies:

(A) The county police department;

(B) The county prosecutor's office; and

(C) The county department with jurisdiction over
transportation.

(c) The red light violation task force shall submit a
report to the legislature of its findings and recommendations,
including any proposed legislation, no later than twenty days
prior to the convening of the regular session of 2020.

PART III

SECTION 3. The Hawaii Revised Statutes is amended by
adding a new chapter to be appropriately designated and to read
as follows:

"CHAPTER

PHOTO RED LIGHT IMAGING DETECTOR SYSTEMS

§ 1 Definitions. As used in this chapter, unless the
context otherwise requires:
"County" means one of the counties of Hawaii, Kauai, or Maui, or the city and county of Honolulu.

"County highway" has the same meaning as used in section 264-1.

"Department" means the department of transportation.

"Motor vehicle" has the same meaning as used in section 291C-1.

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

"State highway" has the same meaning as used in section 264-1.

"Traffic-control signal" has the same meaning as defined in section 291C-1.

§ 2 Photo red light imaging detector systems program; established. There is established the photo red light imaging
detector systems program that may be implemented by any county on state or county highways within the respective county to enforce the traffic-control signal laws of the State.

§ -3 County powers and duties. (a) In accordance with this chapter, each county may establish and implement a photo red light imaging detector system that imposes monetary liability on the operator of a motor vehicle for failure to comply with traffic-control signal laws. Each county may provide for the procurement, location, installation, operation, maintenance, and repair of the photo red light imaging detector system. Where the photo red light imaging detector system affects state property, the department shall cooperate with and assist the county as needed to install, maintain, and repair the photo red light imaging detector system established pursuant to this chapter.

(b) Each county shall pay the vendor that installs a photo red light imaging detector system a negotiated lump sum regardless of the number of citations issued or expected to be issued through the use of the installed photo red light imaging detector system.
§ 4 Photo red light imaging detector system

requirements.  (a) Photo red light imaging detector equipment shall be operated from a fixed pole, post, or other fixed structure on a state or county highway.

(b) Signs and other official traffic-control devices indicating that traffic signal laws are enforced by a photo red light imaging detector system shall be posted on all major routes entering an area utilizing a photo red light imaging detector system to provide, as far as practicable, notice to drivers of the existence and operation of the system.

(c) Proof of a traffic-control signal violation shall be evidenced by information obtained from a photo red light imaging detector system established pursuant to this chapter. A certificate, sworn to or affirmed by the county's agent or employee, or a facsimile thereof, based upon inspection of any photograph, microphotograph, videotape, or other recorded image produced by the system, shall be prima facie evidence of the facts contained therein. Any photograph, microphotograph, videotape, or other recorded image evidencing a violation shall be available for inspection in any proceeding to adjudicate liability for the violation.
(d) A summons or citation based on the photo red light imaging detector systems program shall not be issued unless it contains a clear and unobstructed photographic, digital, or other visual image of the driver of the motor vehicle.

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

§ 5 Summons or citations. (a) Notwithstanding any law to the contrary, whenever any motor vehicle is determined, by means of a photo red light imaging detector system, to have disregarded a steady red signal in violation of section 291C-32(a)(3), the county shall issue a summons or citation to the registered owner of the vehicle at the address on record at the vehicle licensing division. The summons or citation shall be:

(1) Sent by certified or registered mail;

(2) Sent with a return receipt; and

(3) Postmarked within seventy-two hours of the time of the incident.
If the end of the seventy-two hour period falls on a Saturday, Sunday, or state holiday, then the ending period shall run until the end of the next day that is not a Saturday, Sunday, or state holiday.

(b) The form and content of the summons or citation shall be as adopted or prescribed by the administrative judge of the district courts and shall be printed on a form commensurate with the form of other summonses or citations used in modern methods of arrest, so designed to include all necessary information to make the summons or citation valid within the laws of the State; provided that any summons or citation issued pursuant to the photo red light imaging detector systems program shall contain a clear and unobstructed photographic, digital, or other visual image of the driver of the motor vehicle, that shall be used as evidence of the violation.

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

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

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

§ -6 Registered owner's responsibility for a summons or
citation. In any proceeding for a violation of this chapter,
the information contained in the summons or citation mailed in
accordance with section -5 shall be deemed prima facie
evidence that the registered vehicle violated section
291C-32(a)(3).

§ -7 Prima facie evidence. (a) Whenever a photo red
light imaging detector system determines a motor vehicle to be
in violation of section 291C-32(a)(3), evidence that the motor
vehicle described in the summons or citation issued pursuant to
this chapter was operated in violation of that section, together
with proof that the person to whom the summons or citation was
sent was the registered owner of the motor vehicle at the time
of the violation, shall constitute prima facie evidence that the
registered owner of the motor vehicle was the person who
committed the violation.

(b) The registered owner of the vehicle may rebut the
evidence of a violation in subsection (a) by any one of the
following:

(1) Submitting a written statement as provided in section
291D-6(b)(2);

(2) Testifying in open court under oath that the person
was not the operator of the vehicle at the time of the
alleged violation;

(3) Calling witnesses to testify in open court under oath
that the person was not the operator of the vehicle at
the time of the alleged violation;

(4) Extrinsic evidence that the person was not the
operator of the vehicle at the time of the alleged
violation;

(5) Presenting to the court adjudicating the alleged
violation, prior to the return date established on the
citation or summons issued pursuant to this chapter, a
letter of verification of loss from the police
department indicating that the vehicle had been
reported stolen; or

(6) Identifying the person who was the actual driver of
the vehicle at the time of the alleged violation.

§ -8 Failure to comply with summons or citation. If the
registered owner of the vehicle does not answer a summons or
citation within twenty-one days of receipt of the summons or
citation, the district court shall issue a notice of entry of
judgment by default to the registered owner of the vehicle
pursuant to section 291D-7(e).

§ -9 Liability for rental or U-drive motor vehicle.
Notwithstanding any law to the contrary, if the registered owner
of record is the lessor of a rental or U-drive motor vehicle, as
defined in section 286-2, pursuant to a written lease agreement,
the lessee at the time of the violation shall be responsible for
the summons or citation; provided that:

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

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

§ -10 Penalty; disposition of fines. The penalties for
a steady red signal violation determined by a photo red light
imaging detector system shall be as provided in section
291C-161.

§ -11 Fines for unauthorized disclosure. All personal
and confidential information made available by any government
agency to an agent of any county for the photo red light imaging
detector systems program shall be kept confidential and shall be
used only for the purposes for which the information was
furnished. Any officer, employee, or agent of a county who
intentionally discloses or provides a copy of personal and
confidential information obtained from a photo red light imaging
detector system to any person or agency without authorization
shall be fined not more than $; provided that the fine
shall not preclude the application of penalties or fines otherwise provided for by law.

§ -12 Photo red light imaging detector systems program special fund; established. (a) There is established the photo red light imaging detectors systems program special fund to be administered by the department.

(b) All fines collected pursuant to this chapter shall be deposited into the photo red light imaging detector systems program special fund. Any moneys in the fund shall be expended by the department of transportation in the county in which the fine was imposed, for purposes that include the establishment, operation, management, and maintenance of a photo red light imaging detector system.

§ -13 Rules. The department shall adopt rules pursuant to chapter 91 to effectuate the purposes of this chapter."

PART IV

SECTION 4. Section 291C-161, Hawaii Revised Statutes, is amended to read as follows:

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

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

(1) Not more than $200 for a first violation

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

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

(c) Every person convicted under or found in violation of
section 291C-12, 291C-12.5, 291C-12.6, 291C-13, 291C-14,
291C-15, 291C-16, 291C-72, 291C-73, 291C-95, 291C-102, 291C-103,
291C-104, or 291C-105 shall be sentenced or fined in accordance
with those sections.
(d) Every person who violates section 291C-13 or 291C-18 shall:

1. Be fined not more than [$200] or imprisoned not more than ten days for a first conviction thereof;
2. Be fined not more than [$300] or imprisoned not more than twenty days or both for conviction of a second offense committed within one year after the date of the first offense; and
3. Be fined not more than [$500] or imprisoned not more than six months or both for conviction of a third or subsequent offense committed within one year after the date of the first offense.

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

(f) All revenues from fines collected for a violation of section 291C-32 pursuant to a photo red light imaging detector system established by chapter shall be deposited into the photo red light imaging detector systems program special fund established under section -12 and shall be expended in the
county in which the fine was imposed, for purposes that include
the establishment, operation, management, and maintenance of a
photo red light imaging detector system in that county.

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

SECTION 5. Section 291C-163, Hawaii Revised Statutes, is
amended by amending subsection (a) to read as follows:

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

(1) Regulating or prohibiting stopping, standing, or
    parking except as provided in section 291C-111;

(2) Regulating traffic by means of police officers or
    official traffic-control devices;

(3) Regulating or prohibiting processions or assemblages
    on the highways;

(4) Designating particular highways or roadways for use by
    traffic moving in one direction;
(5) Establishing speed limits for vehicles in public parks;

(6) Designating any highway as a through highway or designating any intersection as a stop or yield intersection;

(7) Restricting the use of highways;

(8) Regulating the operation and equipment of and requiring the registration and inspection of bicycles, including the requirement of a registration fee;

(9) Regulating or prohibiting the turning of vehicles or specified types of vehicles;

(10) Altering or establishing speed limits;

(11) Requiring written accident reports;

(12) Designating no-passing zones;

(13) Prohibiting or regulating the use of controlled-access roadways by any class or kind of traffic;

(14) Prohibiting or regulating the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic;

(15) Establishing minimum speed limits;
Designating hazardous railroad grade crossing;
Designating and regulating traffic on play streets;
Prohibiting pedestrians from crossing a roadway in a business district or any designated highway except in a crosswalk;
Restricting pedestrian crossing at unmarked crosswalks;
Regulating persons propelling push carts;
Regulating persons upon skates, coasters, sleds, and other toy vehicles;
Adopting and enforcing such temporary or experimental regulations as may be necessary to cover emergencies or special conditions;
Adopting maximum and minimum speed limits on streets and highways within their respective jurisdictions;
Adopting requirements on stopping, standing, and parking on streets and highways within their respective jurisdictions except as provided in section 291C-111;
Prohibiting or regulating electric personal assistive mobility devices on sidewalks and bicycle paths; [...]

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(26) Implementing a photo red light imaging detector system pursuant to chapter; and

[26] (27) Adopting [such] other traffic regulations [as are] specifically authorized by this chapter."

SECTION 6. Section 291C-165, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In every case when a citation is issued, the original of the citation shall be given to the violator; provided that:

(1) In the case of an unattended vehicle, the original of the citation shall be affixed to the vehicle as provided for in section 291C-167; or

(2) In the case of:

(A) A vehicle utilizing the high occupancy vehicle lane illegally; [er]

(B) A vehicle illegally utilizing a parking space reserved for persons with disabilities, where the violator refuses the citation; or

(C) A motor vehicle determined by a photo red light imaging detector system established pursuant to chapter to have disregarded a steady red signal in violation of section 291C-32(a)(3);
the original of the citation shall be sent by certified or
registered mail, with a return receipt that is postmarked within
forty-eight hours of the time of the incident, as provided in
section 291C-223 for vehicles illegally utilizing the high
occupancy vehicle lane, or within seventy-two hours of the time
of the incident for vehicles illegally utilizing a parking space
reserved for persons with disabilities or for vehicles
disregarding a steady red signal in violation of section 291C-
32(a)(3) as determined by a photo red light imaging detector
system, to the registered owner of the vehicle at the address on
record at the vehicle licensing division. If the end of the
applicable forty-eight or seventy-two hour period falls on a
Saturday, Sunday, or state holiday, then the ending period shall
run until the end of the next day which is not a Saturday,
Sunday, or state holiday; provided that the administrative judge
of the district courts may allow a carbon copy of the citation
to be given to the violator or affixed to the vehicle and
provide for the disposition of the original and any other copies
of the citation."

SECTION 7. Section 291C-194, Hawaii Revised Statutes, is
amended by amending subsection (c) to read as follows:
"(c) Any person who is convicted of violating this section shall be subject to penalties as provided under section 291C-161(b) and [(f)] (g)."

PART V

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of $ or so much thereof as may be necessary for fiscal year 2019-2020 and the same sum or so much thereof as may be necessary for fiscal year 2020-2021 for the purposes of establishing the photo red light imaging detector systems program to be allocated as follows:

(1) $ to the city and county of Honolulu department of transportation services;

(2) $ to the county of Maui department of public works;

(3) $ to the county of Hawaii department of public works; and

(4) $ to the county of Kauai department of public works.

The sums appropriated shall be expended by the department of transportation for the purposes of this Act.
PART VI

SECTION 9. It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any such agency, and the governor may modify the strict provisions of this Act only to the extent necessary to effectuate this intent; provided that the governor shall promptly report any modification with reasons therefor to the legislature at its next regular session thereafter.

SECTION 10. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 11. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.
SECTION 13. This Act shall take effect on July 1, 2019; provided that section 3 through section 7 shall take effect on July 1, 2020.

INTRODUCED BY: [Signature]

JAN 23 2019
Report Title:
Highway Safety; Photo Red Light Imaging; Counties; Special Fund; Established; Appropriation

Description:
Establishes the photo red light imaging detector systems program, effective 7/1/2020. Authorizes counties to administer the program. Establishes the photo red light imaging detector systems program special fund. Requires fines collected for violations on a county highway to be expended for the establishment, operation, management, and maintenance of the program in the county from which the fines were collected. Appropriates funds.

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