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 those in 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 using this system, and officers make fewer court appearances, thus saving 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 by Act 58, Session Laws of Hawaii 2002. However, opposition to these programs was directed primarily toward the photo speed imaging detector system and the method by which that program was implemented.
The public perceived that the program was operated to maximize revenue for the vendor running the program rather than to 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 pilot 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 three-year pilot program in major arterial zones on state or county highways within a specified area to provide for the implementation of photo red light imaging detector systems to improve traffic enforcement;

(2) Authorize any impacted county to implement the photo red light imaging detector system pilot program; and
(3) Appropriate funds for the establishment of a photo red light imaging detector systems pilot program.

PART II

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

"County" means a county with a resident population of greater than five hundred thousand.

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

"Department" means the department of transportation.

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

"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, Hawaii Revised Statutes, 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, Hawaii Revised Statutes.

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

SECTION 3. Photo red light imaging detector systems pilot program; established. There is established the photo red light imaging detector systems pilot program to enforce the traffic-control signal laws of the State, which may be implemented in the major arterial zones on state or county highways within the area designated in section 4 of this Act.

SECTION 4. Pilot program designated area; boundaries. The photo red light imaging detector systems pilot program district is established. The district shall include all major arterial zones in that area in the city and county of Honolulu bounded by McCully Street from South King Street to its intersection with Kapiolani Boulevard; Kapiolani Boulevard from McCully Street to its intersection with Piikoi Street; Piikoi Street from Kapiolani Boulevard to its intersection with Ala Moana Boulevard; Ala Moana Boulevard from Piikoi Street to its intersection with Fort Street; Nimitz Highway from Fort Street to its intersection with Nuuanu Avenue; Nuuanu Avenue from
Nimitz Highway to its intersection with Vineyard Boulevard;
Vineyard Boulevard from Nuuanu Avenue to its intersection with
Lusitana Street; Lusitana Street from Vineyard Boulevard to its
intersection with Kinau Street; Kinau Street from Lusitana
Street to its intersection with Pensacola Street; Pensacola
Street from Kinau Street to its intersection with South King
Street; and South King Street from Pensacola Street to its
intersection with McCully Street.

SECTION 5. County powers and duties. Each impacted county
may establish and implement, in accordance with this Act, a
photo red light imaging detector system imposing 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 Act.
SECTION 6. **Photo red light imaging detector system requirements.** (a) Photo red light imaging detector equipment shall be positioned within the pilot program designated area established in section 4 at the ten intersections with the highest motor vehicle accident rates during the time period commencing January 1, 2018, and ending on March 15, 2019. 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 the area designated by section 4 of this Act 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 as evidenced by information obtained from the photo red light imaging detector system authorized pursuant to this Act. A certificate, sworn to or affirmed by the county's agent or employee, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded
images produced by the system, shall be prima facie evidence of
the facts contained therein. Any photographs, microphotographs,
videotape, or other recorded images evidencing a violation shall
be available for inspection in any proceeding to adjudicate the
liability for that violation.

(d) No notice of traffic infraction pursuant to the photo
red light imaging detector systems program shall 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.

SECTION 7. Notice of traffic infraction. (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), Hawaii Revised Statutes, the
county shall cause a notice of traffic infraction, as described
in this section, to be sent by certified or registered mail with
a return receipt, which is postmarked within seventy-two hours
of the time of the incident, to the registered owner of the
vehicle at the address on record at the vehicle licensing
division. If the end of the seventy-two-hour period falls on a
Saturday, Sunday, federal holiday, or state holiday, then the
ending period shall run until the end of the next day that is
not a Saturday, Sunday, federal holiday, or state holiday.

(b) The form and content of the notice of traffic
infraction 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 notice of traffic
infraction valid within the laws of the State; provided that any
notice of traffic infraction pursuant to the photo red light
imaging detector systems program shall contain:

(1) The date, time, and location of the violation;

(2) The license number of the vehicle; and

(3) A clear and unobstructed photographic, digital, or
other visual image of the operator of the motor
vehicle that is to be used as evidence of the violation.

(c) Every notice of traffic infraction shall be consecutively numbered and each copy thereof shall bear the number of its respective original.

(d) Upon receipt of the notice of traffic infraction, the registered owner shall respond as provided for in section 291D-6, Hawaii Revised Statutes. A mail receipt signed by the registered owner shall be prima facie evidence of notification. The registered owner shall be determined by the identification of the motor 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.

SECTION 8. Registered owner's responsibility for a notice of infraction. In any proceeding for a violation of this Act, the information contained in the notice of traffic infraction mailed in accordance with section 7 of this Act shall be deemed evidence that the registered motor vehicle violated section 291C-32(a)(3), Hawaii Revised Statutes.
SECTION 9. *Prima facie evidence.* (a) Whenever the photo red light imaging detector system determines that an operator of a motor vehicle has violated section 291C-32(a)(3), Hawaii Revised Statutes, evidence that the motor vehicle described in the notice of traffic infraction issued pursuant to this Act was operated in violation of that section, together with proof that the person to whom the notice of traffic infraction 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 that committed the violation.

(b) The registered owner of the vehicle may present evidence to rebut the evidence in subsection (a), including:

1. Submitting a written statement as provided in section 291D-6(b)(2), Hawaii Revised Statutes;
2. Testifying in open court under oath that the person was not the operator of the motor 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 motor vehicle at the time of the alleged violation;
(4) Providing extrinsic evidence that the person was not the operator of the motor vehicle at the time of the alleged violation;

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

(6) Identifying the driver of the motor vehicle at the time of the offense.

SECTION 10. **Failure to answer the notice of traffic infraction.** If the registered owner of the motor vehicle does not answer the notice of traffic infraction within twenty-one days of the issuance of the notice pursuant to section 291D-6(a), the district court shall mail, pursuant to section 291D-7(e), Hawaii Revised Statutes, a notice of entry of default judgment to the address in which the motor vehicle is registered.

SECTION 11. **Liability for rental or U-drive vehicle.** The liability for any notice of traffic infraction issued pursuant
to this Act of any registered owner of record who is the lessor of a rental or U-drive motor vehicle, as defined in section 286-2, Hawaii Revised Statutes, pursuant to a written lease agreement, shall be as provided in section 291C-226, Hawaii Revised Statutes.

SECTION 12. Penalty. The act of disregarding a steady red signal, as determined by means of a photo red light imaging detector system, shall be a violation of section 291C-32(a)(3), Hawaii Revised Statutes, and any penalty imposed for that violation shall be as provided in section 291C-161, Hawaii Revised Statutes.

SECTION 13. 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 system pilot 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.

SECTION 14. Photo red light imaging detector systems pilot program account established. (a) There is established, as a special account within the general fund, a photo red light imaging detector systems pilot program account, into which shall be paid revenues collected pursuant to this Act.

(b) All fines collected under this Act shall be deposited into the photo red light imaging detector system pilot program account. Moneys in the account 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.

SECTION 15. Annual report. The department, in consultation with any county that implements a photo red light imaging detector system pilot program pursuant to this Act, shall annually submit a report to the legislature not later than twenty days prior to the convening of the 2021, 2022, 2023, and 2024 regular sessions. The reports shall include, at a minimum, information on whether the implementation of the pilot program has resulted in any statistically significant reduction in motor
vehicle accidents, traffic infractions, and other traffic-related incidents. The reports shall also include recommendations on how to improve the pilot program, if it should be made permanent, and funding estimates.

SECTION 16. **Rules.** The department shall adopt rules pursuant to chapter 91, Hawaii Revised Statutes, as may be necessary to implement this Act.

PART III

SECTION 17. Notwithstanding any law to the contrary, any impacted county shall be authorized to implement a photo red light imaging system pursuant to this Act.

SECTION 18. 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 2020-2021 for purposes of establishing the photo red light imaging detector systems pilot program.

The sum appropriated shall be expended by the city and county of Honolulu for the purposes of this Act.

SECTION 19. 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 which can be given effect without the
invalid provision or application, and to this end the provisions
of this Act are severable.

SECTION 20. This Act does not affect rights and duties
that matured, penalties that were incurred, and proceedings that
were begun, before its effective date.

SECTION 21. Upon the repeal of this Act as provided in
section 23:

(1) All contracts, agreements, permits, or other documents
executed or entered into by any county pursuant to
this Act shall remain in full force and effect until
terminated pursuant to the terms of the relevant
contract, agreement, permit, or document; and

(2) All unexpended and unencumbered moneys remaining in an
account or fund established pursuant to section 14 and
deemed to be in excess of the moneys necessary to
carry out the purposes of this Act shall lapse to the
credit of the general fund.

SECTION 22. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.
SECTION 23. This Act shall take effect on July 1, 2020, and shall be repealed on June 30, 2023.

INTRODUCED BY: [Signature]

JAN 14 2020
Report Title:
Department of Transportation; Highway Safety; Photo Red Light Imaging Pilot Program; Appropriation

Description:
Establishes a three-year photo red light imaging detector system pilot program. Authorizes any impacted county to administer the photo red light imaging detector system pilot program. Establishes a photo red light imaging detector systems pilot program account as a special account within the general fund. Requires proceeds of fines expended in the county from which they were collected for operation of the photo red light imaging detector system pilot program. Appropriates funds. Sunsets 6/30/2023.

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