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 has become intolerable, particularly drivers who run red lights. These violations endanger the lives of motorists and pedestrians and compound the already hazardous conditions on Hawaii's roads and highways. It has become increasingly common to hear reports of hit-and-run drivers who have struck children or the elderly. Disregarding traffic signals has also been the common denominator in many recent, highly-publicized motor vehicle crashes that have claimed a number of lives.

The legislature further finds that in other jurisdictions in the United States, Canada, Europe, and other countries throughout the world, photo red light imaging detector systems have proven reliable, efficient, and effective in identifying and deterring those who run red lights.
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. With photo red light imaging detector systems, a camera is positioned at intersections where red light violations are a major cause of collisions and serves as a twenty-four-hour deterrent to running a red light. When a vehicle enters the intersection against a red light, the camera takes a telephoto color picture of the rear of the car, capturing the license plate. A second wide-angle photograph takes in the entire intersection, including other traffic.

These systems provide numerous benefits. Not only are streets safer, but police officers are also freed from the time-consuming duties of traffic enforcement and 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, 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 the violators who have created the need for the program, not on law-abiding taxpayers. 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.

The legislature further finds that the photo speed imaging detector system created by Act 234, Session Laws of Hawaii 1998, and implemented 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 this program resulted from the method by which the program was implemented. The public perceived that the program was operated more to maximize revenue for the vendor running the program than to improve traffic safety. In particular, vans in which the cameras were mounted were often placed at locations that did not necessarily have a history of speed-related
accidents and instead were used to monitor locations with heavy traffic flow at lower speeds. This permitted the vendor to issue the maximum number of citations in the shortest period of time and at the least cost, thereby maximizing the potential return to the vendor without improving traffic safety.

The legislature further finds that Act 131, Session Laws of Hawaii 2019, created the red light running committee, whose purpose was to "develop policy recommendations for red light running programs in the city and county of Honolulu, and the counties of Maui, Kauai, and Hawaii." After examining the red light running programs of Washington, Illinois, New York, and Florida, the red light running committee found that red light photo enforcement programs are a promising tool that, when implemented properly, can save lives and reduce injuries by changing drivers' behaviors and lead to safer driving habits. Based on their findings, the red light running committee made a number of policy recommendations, which are reflected in this Act.

The purpose of this Act is to:
(1) Establish a photo red light imaging detector systems program to improve enforcement of the traffic signal laws;

(2) Allow counties to implement the photo red light imaging detector systems program;

(3) Authorize the deposit of fines collected under county programs into a special fund; and

(4) Authorize the expenditure of funds from this special fund by the department of transportation in the county in which the fine was collected for the establishment, operation, management, and maintenance of the photo red light imaging detector systems program.

PART II

SECTION 2. 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 the counties of Hawaii, Kauai, and Maui, and 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 defined 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 synchronized to automatically record one or more sequenced photographs, microphotographs, or electronic images of the rear and front of the motor vehicle, the motor vehicle license plate, and driver of the motor vehicle at the time the vehicle fails to stop when facing a steady red traffic-control signal in violation of section 291C-32.

"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, which 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. Nothing in this chapter shall be deemed to supersede or override any provision of chapter 291D.

§ -3 County powers and duties. (a) Each county may establish and implement, in accordance with this chapter, a photo red light imaging detector system imposing monetary liability on the registered owner 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) The State or a county that establishes a red light imaging detector system under this chapter, the compensation
paid by the State or a county to a manufacturer or vendor of the
equipment used shall be based upon the value of the equipment
and services provided or rendered in support of the photo red
light imaging detector system, and shall not be based upon a
portion of the fine or civil penalty imposed or the revenue
generated by the equipment.

§ 4-4 Photo red light imaging detector system
requirements. (a) Photo red light imaging detector equipment
may 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 in question 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 chapter. 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) 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's vendor shall cause a summons or citation, as described in this section, to be sent by first class mail, which is postmarked within ten calendar days of the date 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 ten calendar day period falls on a Saturday, Sunday,
or holiday, then the ending period shall run until the end of
the next day that is not a Saturday, Sunday, or 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 pursuant to the photo red
light imaging detector systems program shall contain a clear and
unobstructed photographic, digital, or other visual image of the
vehicle license plate, which 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 record of the mailing of the summons or citations prepared in
the ordinary course of business 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. (a) 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 owner of the motor vehicle
violated section 291C-32(a)(3). If the registered owner does
not rebut the evidence presented in this subsection by
presenting one or more of the defenses listed in subsection (b),
the registered owner shall be strictly liable for a violation of
section 291C-32(c)(3).

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

(1) Submitting a written statement as provided in section
291D-6(b)(2) and a photocopy of the registered owner's
driver's license;
(2) Testifying in open court under oath that the person was not the registered owner 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 registered owner of the vehicle at the time of the alleged violation;

(4) Submitting evidence that the driver passed through the intersection when the traffic light was red in order to yield the right-of-way to an emergency vehicle;

(5) Submitting evidence that the motor vehicle was part of a funeral procession escorted by the police;

(6) Presenting, 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 or the vehicle license plates had been reported stolen, to the court adjudicating the alleged violation; or

(7) Submitting evidence that the driver passed through the intersection at the direction of a law enforcement officer.
§ -7 Failure to comply with summons or citation. If the registered owner of the vehicle does not return an answer in response to a summons or citation within a period of thirty days from the date of the mailing of the summons or citation, the district court shall issue, pursuant to section 291D-7(e), a notice of entry of judgment of default to the registered owner of the vehicle.

§ -8 Reissuance of summons or citation. A summons or citation will be reissued to the person a lessor identifies as the lessee of the vehicle at the time of the infraction.

§ -9 Penalty. (a) The penalties for all consequences of a violation for disregarding a steady red signal initiated by the use of a photo red light imaging detector system shall be as provided in section 291C-161.

(b) Any summons or citations issues, or convictions resulting from this chapter, shall not be recorded on a person's traffic abstract.

§ -10 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 $97; provided that the fine shall not preclude the application of penalties or fines otherwise provided for by law.

§ -11 Photo red light imaging detector systems program special fund established. (a) There is established a photo red light imaging detector systems special fund to be administered by the department, into which shall be paid revenues collected pursuant to this chapter.

(b) All fines collected under this chapter shall be deposited into the photo red light imaging detector systems program special fund. Moneys in the fund shall be expended by the department 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.

§ -12 Rules. The department shall adopt rules pursuant to chapter 91, as may be necessary to implement this chapter."
PART III

SECTION 3. 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] shall be 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 thereof;

(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) Fines collected for a violation of section 291C-32 pursuant to the photo red light imaging detector system established pursuant to chapter shall be deposited into the photo red light imaging detector systems program special fund established under section 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.

[(f)] (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 4. 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;

(16) Designating hazardous railroad grade crossing;

(17) Designating and regulating traffic on play streets;

(18) Prohibiting pedestrians from crossing a roadway in a business district or any designated highway except in a crosswalk;

(19) Restricting pedestrian crossing at unmarked crosswalks;

(20) Regulating persons propelling push carts;

(21) Regulating persons upon skates, coasters, sleds, and other toy vehicles;

(22) Adopting and enforcing such temporary or experimental regulations as may be necessary to cover emergencies or special conditions;

(23) Adopting maximum and minimum speed limits on streets and highways within their respective jurisdictions;
(24) Adopting requirements on stopping, standing, and
parking on streets and highways within their
respective jurisdictions except as provided in section
291C-111;

(25) Prohibiting or regulating electric personal assistive
mobility devices on sidewalks and bicycle paths; [and]

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

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

SECTION 5. Section 291C-165, Hawaii Revised Statutes, is
amended to read as follows:

"§291C-165 Summons or citation. (a) There shall be
provided for use by authorized police officers, a form of
summons or citation for use in citing violators of those traffic
laws which do not mandate the physical arrest of such violators.
The form and content of such 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 same valid within the laws and regulations of the
State.

(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; or

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

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, 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 holiday, then the ending period shall run until the end of the next day which is not a Saturday, Sunday, or 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.

(c) In the case of a motor vehicle determined by means of 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 first class mail within ten calendar days from the time of the incident for vehicles disregarding a steady red light signal in violation of section 291C-32(a)(3), as determined by means of a photo red light imaging system, to the registered owner of the vehicle at the address on record at the vehicle licensing division. If the end of the applicable ten calendar day period falls on a Saturday, Sunday, or holiday, then the ending period shall run until the end of the next day which is not a Saturday, Sunday, or holiday.
Every citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original."

SECTION 6. 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 [(e)] (g)."

PART IV

SECTION 7. 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 to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 8. 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 9. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 10. This Act shall take effect upon its approval.
Report Title:
Highway Safety; Photo Red Light Imaging

Description:
Establishes the Photo Red Light Imaging Detector Systems Program (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. (SD1)

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