

JAN 24 2019

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 remains a serious
4 problem, particularly drivers who run red lights. These
5 violations endanger the lives of motorists and pedestrians and
6 compound the already hazardous conditions on Hawaii's roads and
7 highways. Disregard for traffic signals is a common denominator
8 in many motor vehicle crashes that have claimed numerous lives.

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

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



1 court because the color photograph of the violation, imprinted
2 with the time, date, and location of the violation, and the
3 number of seconds the light had been red before the violator
4 entered the intersection, can be used as evidence in court. Few
5 cases are contested in other jurisdictions using this system,
6 and officers make fewer court appearances, saving court costs.

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

15 The purpose of this Act is to:

- 16 (1) Establish a photo red light imaging detector systems
17 program to improve enforcement of the traffic signal
18 laws;
- 19 (2) Allow counties to implement the photo red light
20 imaging detector systems program;



- 1 (3) Authorize the deposit of fines collected under county
- 2 programs a special fund; and
- 3 (4) Authorize the expenditure of funds from this special
- 4 fund by the department of transportation in the county
- 5 in which the fine was collected for the establishment,
- 6 operation, management, and maintenance of the photo
- 7 red light imaging detector systems program.

8 **PART II**

9 SECTION 2. The Hawaii Revised Statutes is amended by
10 adding a new chapter to be appropriately designated and to read
11 as follows:

12 **"CHAPTER**

13 **PHOTO RED LIGHT IMAGING DETECTOR SYSTEMS**

14 § -1 **Definitions.** As used in this chapter, unless the
15 context otherwise requires:

16 "County" means the counties of Hawaii, Kauai, and Maui, and
17 the city and county of Honolulu.

18 "County highway" has the same meaning as used in section
19 264-1.

20 "Department" means the department of transportation.



1 "Motor vehicle" has the same meaning as defined in section
2 291C-1.

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

11 "State highway" has the same meaning as used in section
12 264-1.

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

15 **§ -2 Photo red light imaging detector systems program;**
16 **established.** There is established the photo red light imaging
17 detector systems program, which may be implemented by any county
18 on state or county highways within the respective county, to
19 enforce the traffic-control signal laws of the State.

20 **§ -3 County powers and duties.** (a) Each county may
21 establish and implement, in accordance with this chapter, a



1 photo red light imaging detector system imposing monetary
2 liability on the operator of a motor vehicle for failure to
3 comply with traffic-control signal laws. Each county may
4 provide for the procurement, location, installation, operation,
5 maintenance, and repair of the photo red light imaging detector
6 system. Where the photo red light imaging detector system
7 affects state property, the department shall cooperate with and
8 assist the county as needed to install, maintain, and repair the
9 photo red light imaging detector system established pursuant to
10 this chapter.

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

16 § -4 Photo red light imaging detector system
17 requirements. (a) Photo red light imaging detector equipment
18 shall be operated from a fixed pole, post, or other fixed
19 structure on a state or county highway.

20 (b) Signs and other official traffic-control devices
21 indicating that traffic signal laws are enforced by a photo red



1 light imaging detector system shall be posted on all major
2 routes entering the area in question to provide, as far as
3 practicable, notice to drivers of the existence and operation of
4 the system.

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

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

20 (e) The conditions specified in this section shall not
21 apply when the information gathered is used for highway safety



1 research or to issue warning citations not involving a fine,
2 court appearance, or a person's driving record.

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

16 (b) The form and content of the summons or citation shall
17 be as adopted or prescribed by the administrative judge of the
18 district courts and shall be printed on a form commensurate with
19 the form of other summonses or citations used in modern methods
20 of arrest, so designed to include all necessary information to
21 make the summons or citation valid within the laws of the State;



1 provided that any summons or citation pursuant to the photo red
2 light imaging detector systems program shall contain a clear and
3 unobstructed photographic, digital, or other visual image of the
4 driver of the motor vehicle, which shall be used as evidence of
5 the violation.

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

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

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

18 § -6 Registered owner's responsibility for a summons or
19 citation. In any proceeding for a violation of this chapter,
20 the information contained in the summons or citation mailed in
21 accordance with section -5 shall be deemed prima facie



1 evidence that the registered vehicle violated section
2 291C-32(a)(3).

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

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

15 (1) Submitting a written statement as provided in section
16 291D-6(b)(2);

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



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

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

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

13 (6) Identifying the actual driver of the vehicle at the
14 time of the alleged violation.

15 § -8 Failure to comply with summons or citation. If the
16 registered owner of the vehicle does not return an answer in
17 response to a summons or citation within a period of twenty-one
18 days upon receipt of the summons or citation, the district court
19 shall issue, pursuant to section 291D-7(e), a notice of entry of
20 default judgment to the registered owner of the vehicle.



1 § -9 Liability for rental or U-drive vehicle.

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

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

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

19 § -10 Penalty. The penalties for all consequences of a
20 violation for disregarding a steady red signal initiated by the



1 use of a photo red light imaging detector system shall be as
2 provided in section 291C-161.

3 **§ -11 Fines for unauthorized disclosure.** All personal
4 and confidential information made available by any government
5 agency to an agent of any county for the photo red light imaging
6 detector systems program shall be kept confidential and shall be
7 used only for the purposes for which the information was
8 furnished. Any officer, employee, or agent of a county who
9 intentionally discloses or provides a copy of personal and
10 confidential information obtained from a photo red light imaging
11 detector system to any person or agency without authorization
12 shall be fined not more than \$; provided that the fine
13 shall not preclude the application of penalties or fines
14 otherwise provided for by law.

15 **§ -12 Photo red light imaging detector systems program**
16 **special fund established.** (a) There is established a photo red
17 light imaging detector systems special fund to be administered
18 by the department, into which shall be paid revenues collected
19 pursuant to this chapter.

20 (b) All fines collected under this chapter shall be
21 deposited into the photo red light imaging detector systems



1 program special fund. Moneys in the fund shall be expended by
2 the department of transportation in the county in which the fine
3 was imposed, for purposes that include the establishment,
4 operation, management, and maintenance of a photo red light
5 imaging detector system.

6 § -13 Rules. The department shall adopt rules pursuant
7 to chapter 91, as may be necessary to implement this chapter."

8 PART III

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

11 "§291C-161 Penalties[-]; photo red light imaging detector
12 system fines. (a) It is a violation for any person to violate
13 any of the provisions of this chapter, except as otherwise
14 specified in subsections (c) and (d) and unless the violation is
15 by other law of this State declared to be a felony, misdemeanor,
16 or petty misdemeanor.

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



1 (1) Not more than [~~\$200~~] \$ _____ for a first violation
2 thereof;

3 (2) Not more than [~~\$300~~] \$ _____ for a second
4 violation committed within one year after the date of
5 the first violation; and

6 (3) Not more than [~~\$500~~] \$ _____ for a third or
7 subsequent violation committed within one year after
8 the date of the first violation.

9 (c) Every person convicted under or found in violation of
10 section 291C-12, 291C-12.5, 291C-12.6, 291C-13, 291C-14,
11 291C-15, 291C-16, 291C-72, 291C-73, 291C-95, 291C-102, 291C-103,
12 291C-104, or 291C-105 shall be sentenced or fined in accordance
13 with those sections.

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

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

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



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

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

9 (f) Fines collected for a violation of section 291C-32
10 pursuant to the photo red light imaging detector system
11 established pursuant to chapter shall be deposited into
12 the photo red light imaging detector systems program special
13 fund established under section -12 and shall be expended in
14 the county in which the fine was imposed, for purposes that
15 include the establishment, operation, management, and
16 maintenance of a photo red light imaging detector system.

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



1 SECTION 4. Section 291C-163, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

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

- 6 (1) Regulating or prohibiting stopping, standing, or
7 parking except as provided in section 291C-111;
- 8 (2) Regulating traffic by means of police officers or
9 official traffic-control devices;
- 10 (3) Regulating or prohibiting processions or assemblages
11 on the highways;
- 12 (4) Designating particular highways or roadways for use by
13 traffic moving in one direction;
- 14 (5) Establishing speed limits for vehicles in public
15 parks;
- 16 (6) Designating any highway as a through highway or
17 designating any intersection as a stop or yield
18 intersection;
- 19 (7) Restricting the use of highways;



- 1 (8) Regulating the operation and equipment of and
- 2 requiring the registration and inspection of bicycles,
- 3 including the requirement of a registration fee;
- 4 (9) Regulating or prohibiting the turning of vehicles or
- 5 specified types of vehicles;
- 6 (10) Altering or establishing speed limits;
- 7 (11) Requiring written accident reports;
- 8 (12) Designating no-passing zones;
- 9 (13) Prohibiting or regulating the use of controlled-access
- 10 roadways by any class or kind of traffic;
- 11 (14) Prohibiting or regulating the use of heavily traveled
- 12 streets by any class or kind of traffic found to be
- 13 incompatible with the normal and safe movement of
- 14 traffic;
- 15 (15) Establishing minimum speed limits;
- 16 (16) Designating hazardous railroad grade crossing;
- 17 (17) Designating and regulating traffic on play streets;
- 18 (18) Prohibiting pedestrians from crossing a roadway in a
- 19 business district or any designated highway except in
- 20 a crosswalk;



- 1 (19) Restricting pedestrian crossing at unmarked
2 crosswalks;
- 3 (20) Regulating persons propelling push carts;
- 4 (21) Regulating persons upon skates, coasters, sleds, and
5 other toy vehicles;
- 6 (22) Adopting and enforcing such temporary or experimental
7 regulations as may be necessary to cover emergencies
8 or special conditions;
- 9 (23) Adopting maximum and minimum speed limits on streets
10 and highways within their respective jurisdictions;
- 11 (24) Adopting requirements on stopping, standing, and
12 parking on streets and highways within their
13 respective jurisdictions except as provided in section
14 291C-111;
- 15 (25) Prohibiting or regulating electric personal assistive
16 mobility devices on sidewalks and bicycle paths; [~~and~~]
- 17 (26) Implementing a photo red light imaging detector system
18 pursuant to chapter _____ ; and
- 19 [~~(26)~~] (27) Adopting such other traffic regulations as are
20 specifically authorized by this chapter."



1 SECTION 5. Section 291C-165, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

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

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

8 (2) In the case of:

9 (A) A vehicle utilizing the high occupancy vehicle
10 lane illegally; [~~or~~]

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

14 (C) A motor vehicle determined by means of a photo
15 red light imaging detector system established
16 pursuant to chapter to have disregarded a
17 steady red signal in violation of section
18 291C-32(a)(3),

19 the original of the citation shall be sent by certified or
20 registered mail, with a return receipt that is postmarked within
21 forty-eight hours of the time of the incident, as provided in



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

17 SECTION 6. Section 291C-194, Hawaii Revised Statutes, is
18 amended by amending subsection (c) to read as follows:

19 "(c) Any person who is convicted of violating this section
20 shall be subject to penalties as provided under section
21 291C-161(b) and [~~+(f)+.~~] (g)."



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PART IV

SECTION 7. 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:

- \$ to the city and county of Honolulu;
- \$ to the county of Maui;
- \$ to the county of Hawaii; and
- \$ to the county of Kauai.

The sums appropriated shall be expended by the appropriate counties for the purposes of this Act.

PART V

SECTION 8. 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



1 promptly report any such modification with reasons therefor to
2 the legislature at its next session thereafter for review by the
3 legislature.

4 SECTION 9. If any provision of this Act, or the
5 application thereof to any person or circumstance, is held
6 invalid, the invalidity does not affect other provisions or
7 applications of the Act that can be given effect without the
8 invalid provision or application, and to this end the provisions
9 of this Act are severable.

10 SECTION 10. This Act does not affect rights and duties
11 that matured, penalties that were incurred, and proceedings that
12 were begun before its effective date.

13 SECTION 11. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 12. This Act shall take effect on July 1, 2019.

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INTRODUCED BY: Breene Hunt

Mike Gillard
Diviaee Shelani
Madeline J
Kal Rhee

Randy H. Beck
[Signature]
Cleena A. Fishkin
[Signature]
[Signature]



S.B. NO. 1391

DK
Mark
Harold R. Jones



S.B. NO. 1391

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.

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

