PART I

SECTION 1. The legislature finds that the prevalence of drivers violating Hawaii’s traffic laws remains a serious problem, 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. Disregard for traffic signals is a common denominator in many motor vehicle crashes that have claimed numerous lives.

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

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 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 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 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, 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.

§ -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 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.

§ 4-4 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 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) No summons or citation 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.

§ -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 cause a summons or citation, 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, 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 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, 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 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 the 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 citation or summons 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 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, 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, to the court adjudicating the alleged violation; or

(6) Identifying 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 return an answer in response to a summons or citation within a period of twenty-one days upon receipt of the summons or citation, the district court shall issue, pursuant to section 291D-7(e), a notice of entry of default judgment to the registered owner of the vehicle.
§ 9 Liability for rental or U-drive 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. 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.

§ -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 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 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, 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[1]; 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] $ \underline{_________} \text{ for a first violation thereof;}

(2) Not more than [\$300] $ \underline{_________} \text{ for a second violation committed within one year after the date of the first violation; and}

(3) Not more than [\$500] $ \underline{_________} \text{ 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 -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.

[(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
(27) Adopting such other traffic regulations as are
specifically authorized by this chapter."
SECTION 5. 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; [ex]

(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 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 certified or registered mail, with a return receipt that is postmarked within forty-eight hours of the time of the incident, as provided in

2019-0852 SB SMA-1.doc
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\(\tau\) or for vehicles
disregarding a steady red signal in violation of section
291C-32(a)(3), as determined by means of 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 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 [\{\{\{\}\}] (g)."
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
promptly report any such modification with reasons therefor to
the legislature at its next session thereafter for review by the
legislature.

SECTION 9. 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 10. This Act does not affect rights and duties
that matured, penalties that were incurred, and proceedings that
were begun before its effective date.

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

SECTION 12. This Act shall take effect on July 1, 2019.
S.B. NO. 1391

[Signature]

[Signature]

[Signature]
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.