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

12 The legislature further finds that in other jurisdictions
13 in the United States, Canada, Europe, and other countries
14 throughout the world, photo red light imaging detector systems
15 have been proven reliable, efficient, and effective in
16 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. 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 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.

§ 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 or 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) 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 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) 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 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 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 vehicle license plate and 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 record of the mailing of the summonses 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. 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).

§ -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) and a photocopy of the registered owner's driver's license;

(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) 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;
(7) Identifying the actual driver of the vehicle at the
time of the alleged violation; or
(8) At the direction of a law enforcement officer.
§ -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 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.
§ -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 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.

§ -10 Reissuance of summons or citation. A summons or
citation will be reissued to the person who the registered owner
identifies as the driver of the vehicle or the lessor identifies
as the lessee of the vehicle at the time of the infraction.

§ -11 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.

§ -12 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.

§ -13 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.

§ -14 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 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 -13 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) 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 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 [\{\{\}\}] (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 on July 1, 2021.
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. (SD2)

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