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# A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the prevalence of  
2 drivers violating Hawaii's traffic laws, especially on the  
3 island of Oahu, has become intolerable, particularly drivers who  
4 run red lights. These violations endanger the lives of  
5 motorists and pedestrians and compound the already hazardous  
6 conditions on Hawaii's roads and highways. It has become  
7 increasingly common to hear reports of hit-and-run drivers who  
8 have run over children or the elderly. Disregarding traffic  
9 signals has also been the common denominator in many recent,  
10 highly-publicized motor vehicle crashes that have claimed a  
11 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, a technological innovation namely, photo  
15 red light imaging detector systems, have already demonstrated  
16 their reliability, efficiency, and effectiveness in identifying  
17 and deterring those who run red lights.



1 Photo red light imaging detector systems are safe, quick,  
2 cost-effective, and efficient. No traffic stop is involved, and  
3 a police officer is not at risk from passing traffic or armed  
4 violators. In photo red light imaging detector systems, a  
5 camera is positioned at intersections where red light violations  
6 are a major cause of collisions and serves as a twenty-four-hour  
7 deterrent to running a red light. Sensors are buried under a  
8 crosswalk and lead to a self-contained camera system mounted on  
9 a nearby structure. When a vehicle enters the intersection  
10 against a red light, the camera takes a telephoto color picture  
11 of the rear of the car, capturing the license plate. A second  
12 wide-angle photograph takes in the entire intersection,  
13 including other traffic.

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  
18 court, since the color photograph of the violation, imprinted  
19 with the time, date, and location of the violation, and the  
20 number of seconds the light had been red before the violator  
21 entered the intersection, can be used as evidence in court. Few



1 cases are contested in other jurisdictions using this system,  
2 and officers make fewer court appearances, saving court costs.

3 The system may also result in lower insurance costs for  
4 safe drivers through an overall reduction in crashes and  
5 injuries and places system costs on the violators who have  
6 created the need for the program, not on law-abiding taxpayers.  
7 Traffic laws are enforced without partiality, and safety and  
8 efficiency are increased by reducing the number of chases and  
9 personnel required for traffic accident clean-up, investigation,  
10 and court testimony.

11 The legislature finds that the photo speed imaging detector  
12 system created by Act 234, Session Laws of Hawaii 1998, and  
13 implemented in December 2001, generated intense public  
14 opposition to this program. As a result of this opposition, the  
15 legislature repealed Act 234 in its entirety. However, the  
16 opposition to this program resulted largely from the  
17 implementation method of the program. The public perceived that  
18 the program was operated more to maximize revenue for the vendor  
19 running the program than to improve traffic safety. In  
20 particular, camera vans were stationed at locations that did not  
21 necessarily have a history of speed-related accidents. They  
22 were used to monitor locations with heavy traffic flow at lower



1 speeds. This permitted the vendor to issue the maximum number  
2 of citations in the shortest period of time and at the least  
3 cost, thereby maximizing the potential return to the vendor  
4 without improving traffic safety.

5 The purpose of this Act is to:

- 6 (1) Establish a photo red light imaging detector systems  
7 program to improve enforcement of the traffic signal  
8 laws;
- 9 (2) Allow counties to implement the photo red light  
10 imaging detector systems program;
- 11 (3) Authorize fines collected under county programs to be  
12 deposited into a general fund account; and
- 13 (4) Authorize funds from this general fund account to be  
14 expended in the county in which the fine was collected  
15 for the establishment, operation, management, and  
16 maintenance of the photo red light imaging detector  
17 systems program.

18 PART I

19 SECTION 2. The Hawaii Revised Statutes is amended by  
20 adding a new chapter to be appropriately designated and to read  
21 as follows:



1 "CHAPTER

2 PHOTO RED LIGHT IMAGING DETECTOR SYSTEMS PROGRAM

3 § -1 Definitions. As used in this chapter, unless the  
4 context otherwise requires:

5 "County highway" has the same meaning as used in section  
6 264-1.

7 "Department" means the department of transportation.

8 "Driver" has the same meaning as defined in section 291C-1.

9 "Motor vehicle" has the same meaning as defined in section  
10 291C-1.

11 "Photo red light imaging detector" means a device used for  
12 traffic enforcement to detect red light running that includes a  
13 motor vehicle sensor that works in conjunction with a traffic-  
14 control signal and a camera or similar device to automatically  
15 produce a photographic, digital, or other visual image of a  
16 motor vehicle that has disregarded a steady red traffic-control  
17 signal in violation of section 291C-32, and a photographic,  
18 digital, or other visual image of the driver of the motor  
19 vehicle.

20 "State highway" has the same meaning as used in section  
21 264-1.



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

3 § -2 **Photo red light imaging detector systems program;**  
4 **established.** There is established the photo red light imaging  
5 detector systems program, which may be implemented by any county  
6 on state or county highways within the respective county to  
7 enforce the traffic-control signal laws of the State.

8 § -3 **County powers and duties.** Each county may  
9 establish and implement, in accordance with this chapter, a  
10 photo red light imaging detector system imposing monetary  
11 liability on the driver of a motor vehicle for failure to comply  
12 with traffic-control signal laws. Each county may provide for  
13 the procurement, location, installation, operation, maintenance,  
14 and repair of the photo red light imaging detector system.  
15 Where the photo red light imaging detector system affects state  
16 property, the department shall cooperate with and assist the  
17 county as needed to install, maintain, and repair the photo red  
18 light imaging detector system established pursuant to this  
19 chapter.

20 § -4 **Photo red light imaging detector system**  
21 **requirements.** (a) Photo red light imaging detector equipment



1 shall be operated from a fixed pole, post, or other fixed  
2 structure on a state or county highway.

3 (b) Signs and other official traffic-control devices  
4 indicating that traffic signal laws are enforced by a photo red  
5 light imaging detector system shall be posted on all major  
6 routes entering the area in question to provide, as far as  
7 practicable, notice to drivers of the existence and operation of  
8 the system.

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

20 (d) No summons or citation pursuant to the photo red light  
21 imaging detector systems program shall be issued unless it



1 contains a clear and unobstructed photographic, digital, or  
2 other visual image of the driver of the motor vehicle.

3 (e) The conditions specified in this section shall not  
4 apply when the information gathered is used for highway safety  
5 research or to issue warning citations not involving a fine,  
6 court appearance, or a person's driving record.

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

20 (b) The form and content of the summons or citation shall  
21 be as adopted or prescribed by the administrative judge of the  
22 district courts and shall be printed on a form commensurate with





1 the form of other summonses or citations used in modern methods  
2 of arrest, so designed to include all necessary information to  
3 make the summons or citation valid within the laws of the State;  
4 provided that any summons or citation pursuant to the photo red  
5 light imaging detector systems program shall contain a clear and  
6 unobstructed photographic, digital, or other visual image of the  
7 driver of the motor vehicle that is to be used as evidence of  
8 the violation.

9 (c) Every citation shall be consecutively numbered and  
10 each copy thereof shall bear the number of its respective  
11 original.

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

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

20 § -6 **Registered owner's responsibility for a summons or**  
21 **citation.** In any proceeding for a violation of this chapter,  
22 the information contained in the summons or citation mailed in



1 accordance with section -5 shall be deemed prima facie  
2 evidence that the registered owner of the vehicle violated  
3 section 291C-32(a)(3).

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

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

17 (1) Submitting a written statement as provided in section  
18 291D-6(b)(2);

19 (2) Testifying in open court under oath that the person  
20 was not the driver of the motor vehicle at the time of  
21 the alleged violation;



- 1 (3) Calling witnesses to testify in open court under oath  
2 that the person was not the driver of the motor  
3 vehicle at the time of the alleged violation;
- 4 (4) Extrinsic evidence that the person was not the driver  
5 of the motor 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 motor vehicle  
11 had been reported stolen, to the court adjudicating  
12 the alleged violation; or
- 13 (6) Identifying the driver of the vehicle at the time of  
14 the offense.

15 § -8 **Failure to comply with summons or citation.** If  
16 the registered owner of the motor vehicle does not return an  
17 answer in response to a summons or citation within a period of  
18 twenty-one days upon receipt of the summons or citation, the  
19 district court shall issue, pursuant to section 291D-7(e), a  
20 notice of entry of judgment of default to the registered owner  
21 of the motor 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 violation and the license number of the vehicle  
13              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.** Any person who violates any provision  
20 of this chapter shall be punished as provided by section 291C-  
21 161.



1           §     **-11 Fines for unauthorized disclosure.** Any officer,  
2 employee, or agent of a county who intentionally discloses or  
3 provides a copy of personal and confidential information  
4 obtained from a photo red light imaging detector system to any  
5 unauthorized person or agency shall be fined not more than  
6 \$           ; provided that the fine shall not preclude the  
7 application of penalties or fines otherwise provided for by law.

8           §     **-12 Photo red light imaging detector systems program**  
9 **account established.** (a) There is established, as a special  
10 account within the general fund, a photo red light imaging  
11 detector systems program account, into which shall be paid  
12 revenues collected pursuant to this chapter.

13           (b) All fines collected under this chapter shall be  
14 deposited into the photo red light imaging detector program  
15 account. Moneys in the account shall be expended by and in the  
16 county in which the fine was imposed, for purposes that include  
17 the establishment, operation, management, and maintenance of a  
18 photo red light imaging detector system.

19           §     **-13 Rules.** The department shall adopt rules pursuant  
20 to chapter 91, Hawaii Revised Statutes, as may be necessary to  
21 implement this chapter."



## 1 PART II

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

4 "**§291C-161 Penalties [-]; photo red light imaging detector**

5 **system fines.** (a) It is a violation for any person to violate  
6 any of the provisions of this chapter, except as otherwise  
7 specified in subsection (c) of this section and unless the  
8 violation is by other law of this State declared to be a felony,  
9 misdemeanor, or petty misdemeanor.

10 (b) Except as provided in subsection (c), every person who  
11 violates any provision of this chapter for which another penalty  
12 is not provided shall be fined:

13 (1) Not more than \$200 for a first conviction thereof;

14 (2) Not more than \$300 for conviction of a second offense  
15 committed within one year after the date of the first  
16 offense; and

17 (3) Not more than \$500 for conviction of a third or  
18 subsequent offense committed within one year after the  
19 date of the first offense;

20 provided that upon a conviction for a violation of section 291C-  
21 12, 291C-12.5, 291C-12.6, or 291C-95, the person shall be  
22 sentenced in accordance with that section.



1 (c) Every person who violates section 291C-13 or 291C-18  
2 shall:

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

5 (2) Be fined not more than \$300 [~~or~~],    imprisoned not more  
6 than twenty days,    or both,    for conviction of a second  
7 offense committed within one year after the date of  
8 the first offense; and

9 (3) Be fined not more than \$500 [~~or~~],    imprisoned not more  
10 than six months,    or both,    for conviction of a third or  
11 subsequent offense committed within one year after the  
12 date of the first offense.

13 (d) The court may assess a sum not to exceed \$50 for the  
14 cost of issuing a penal summons upon any person who fails to  
15 appear at the place within the time specified in the citation  
16 issued to the person for any traffic violation.

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

21 (f) Fines collected for violation of section 291C-32  
22 pursuant to the photo red light imaging detector system

1 established pursuant to chapter , shall be deposited into  
 2 the photo red light imaging detector systems program account  
 3 established by section -12 and shall be expended in the county  
 4 in which the fine was imposed, for purposes that include the  
 5 establishment, operation, management, and maintenance of a photo  
 6 red light imaging detector system."

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

9 "(a) This chapter shall not be deemed to prevent counties  
 10 with respect to streets and highways under their jurisdiction  
 11 from:

- 12 (1) Regulating or prohibiting stopping, standing, or
- 13 parking except as provided in section 291C-111;
- 14 (2) Regulating traffic by means of police officers or
- 15 official traffic-control devices;
- 16 (3) Regulating or prohibiting processions or assemblages
- 17 on the highways;
- 18 (4) Designating particular highways or roadways for use by
- 19 traffic moving in one direction;
- 20 (5) Establishing speed limits for vehicles in public
- 21 parks;



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



- 1 (18) Prohibiting pedestrians from crossing a roadway in a  
2 business district or any designated highway except in  
3 a crosswalk;
- 4 (19) Restricting pedestrian crossing at unmarked  
5 crosswalks;
- 6 (20) Regulating persons propelling push carts;
- 7 (21) Regulating persons upon skates, coasters, sleds, and  
8 other toy vehicles;
- 9 (22) Adopting and enforcing such temporary or experimental  
10 regulations as may be necessary to cover emergencies  
11 or special conditions;
- 12 (23) Adopting maximum and minimum speed limits on streets  
13 and highways within their respective jurisdictions;
- 14 (24) Adopting requirements on stopping, standing, and  
15 parking on streets and highways within their  
16 respective jurisdictions except as provided in section  
17 291C-111;
- 18 (25) Implementing a photo red light imaging detector system  
19 pursuant to chapter \_\_\_\_\_ ; or
- 20 [+25+] (26) Adopting such other traffic regulations as are  
21 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;

14 or

15 (3) In the case of a motor vehicle determined by means of  
16 a photo red light imaging detector system established  
17 pursuant to chapter \_\_\_\_\_, to have disregarded a  
18 steady red signal in violation of section 291C-  
19 32(a)(3),

20 the original of the citation shall be sent by certified or  
21 registered mail, with a return receipt that is postmarked within  
22 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, or for vehicles  
5 disregarding a steady red signal in violation of section 291C-  
6 32(a)(3), as determined by means of a photo red light imaging  
7 detector system, to the registered owner of the vehicle at the  
8 address on record at the vehicle licensing division. If the end  
9 of the applicable forty-eight or seventy-two hour period falls  
10 on a Saturday, Sunday, or state holiday, then the ending period  
11 shall run until the end of the next day which is not a Saturday,  
12 Sunday, or state holiday; provided that the administrative judge  
13 of the district courts may allow a carbon copy of the citation  
14 to be given to the violator or affixed to the vehicle and  
15 provide for the disposition of the original and any other copies  
16 of the citation."

17 SECTION 6. There is appropriated out of the general  
18 revenues of the State of Hawaii the sum of \$ or so much  
19 thereof as may be necessary for fiscal year 2006-2007 for the  
20 purposes of establishing the photo red light imaging system.

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



1 SECTION 7. It is the intent of this Act not to jeopardize  
2 the receipt of any federal aid nor to impair the obligation of  
3 the State or any agency thereof to the holders of any bond  
4 issued by the State or by any such agency, and to the extent,  
5 and only to the extent, necessary to effectuate this intent, the  
6 governor may modify the strict provisions of this Act, but shall  
7 promptly report any such modification with reasons therefore to  
8 the legislature at its next session thereafter for review by the  
9 legislature.

10 SECTION 8. If any provision of this Act, or the  
11 application thereof to any person or circumstance is held  
12 invalid, the invalidity does not affect other provisions or  
13 applications of the Act which can be given effect without the  
14 invalid provision or application, and to this end the provisions  
15 of this Act are severable.

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

19 SECTION 10. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 11. This Act shall take effect on July 1, 2008.



HB1812 HD1

**Report Title:**

Highway Safety

**Description:**

Establishes the photo red light imaging detector systems program. Authorizes counties to administer the program.  
(HB1812 HD1)

HB1812 HD1 HMS 2006-1649

