
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, photo red
15 light imaging detector systems, have already demonstrated their
16 reliability, efficiency, and effectiveness in identifying and
17 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 Pedestrian safety is also a concern for the legislature.
6 While the red light imaging detector system may provide some
7 assurances against certain types of pedestrian accidents by
8 curtailing red light running, pedestrians at intersections that
9 are not signalized are also impacted by motor vehicle
10 collisions. In 2005, the legislature passed Act 73, Session
11 Laws of Hawaii 2005, to clarify when a motorist has a duty to
12 come to a complete stop for a pedestrian in a crosswalk.
13 However, this has not resulted in a decrease in the number of
14 traffic fatalities involving individuals in crosswalks, despite
15 the new law being highly publicized. Increasing the fines
16 associated with this new law should act as a deterrent to these
17 violations.

18 The purpose of this Act is to:

19 (1) Establish a photo red light imaging detector systems
20 program to improve enforcement of the traffic signal
21 laws;



- 1 (2) Allow counties to implement the photo red light
2 imaging detector systems program;
- 3 (3) Authorize that fines collected under county programs
4 are to be deposited into a general fund account;
- 5 (4) Authorize that funds from this general fund account
6 may only be expended by the county and in the county
7 in which the fine was collected for the establishment,
8 operation, management, and maintenance of the photo
9 red light imaging detector systems program; and
- 10 (5) Increase fines for violations of Hawaii's crosswalk
11 law.

12 PART I

13 SECTION 2. The Hawaii Revised Statutes is amended by
14 adding a new chapter to be appropriately designated and to read
15 as follows:

16 "CHAPTER

17 PHOTO RED LIGHT IMAGING DETECTOR SYSTEMS PROGRAM

18 § -1 **Definitions.** As used in this chapter, unless the
19 context otherwise requires:

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

22 "Department" means the department of transportation.



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

2 "Motor vehicle" has the same meaning as defined in section
3 291C-1.

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

13 "State highway" has the same meaning as used in section
14 264-1.

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

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



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

13 § -4 **Photo red light imaging detector system**
14 **requirements.** (a) Photo red light imaging detector equipment
15 shall be operated from a fixed pole, post, or other fixed
16 structure on a state or county highway.
17 (b) Signs and other official traffic-control devices
18 indicating that traffic signal laws are enforced by a photo red
19 light imaging detector system shall be posted on all major
20 routes entering the area in question to provide, as far as
21 practicable, notice to drivers of the existence and operation of
22 the system.



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

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

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

20 § -5 **Summons or citations.** (a) Notwithstanding any
21 law to the contrary, whenever any motor vehicle driver is
22 determined by means of a photo red light imaging detector system



1 to have disregarded a steady red signal in violation of section
2 291C-32(a)(3), the county shall cause a summons or citation, as
3 described in this section, and which is postmarked within
4 seventy-two hours of the time of the incident, to be sent by
5 certified or registered mail to the registered owner of the
6 vehicle at the address on record at the vehicle licensing
7 division. If the end of the seventy-two-hour period falls on a
8 Saturday, Sunday, or state holiday, then the ending period shall
9 run until the end of the next day that is not a Saturday,
10 Sunday, or state holiday.

11 (b) The form and content of the summons or citation shall
12 be as adopted or prescribed by the administrative judge of the
13 district courts and shall be printed on a form commensurate with
14 the form of other summonses or citations used in modern methods
15 of arrest, so designed to include all necessary information to
16 make the summons or citation valid within the laws of the State;
17 provided that any summons or citation pursuant to the photo red
18 light imaging detector systems program shall contain a clear and
19 unobstructed photographic, digital, or other visual image of the
20 driver of the motor vehicle that is to be used as evidence of
21 the violation.



1 (c) Every citation shall be consecutively numbered and
2 each copy thereof shall bear the number of its respective
3 original.

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

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

12 § -6 **Registered owner's responsibility for a summons or**
13 **citation.** In any proceeding for a violation of this chapter,
14 the information contained in the summons or citation mailed in
15 accordance with section -5 shall be deemed prima facie
16 evidence that the registered owner of the vehicle violated
17 section 291C-32(a)(3).

18 § -7 **Prima facie evidence.** (a) Whenever the photo red
19 light imaging detector system determines a motor vehicle to be
20 in violation of section 291C-32(a)(3), evidence that the motor
21 vehicle described in the citations or summons issued pursuant to
22 this chapter was operated in violation of section 291C-32(a)(3),



1 together with proof that the person to whom the summons or
2 citation was sent was the registered owner of the motor vehicle
3 at the time of the violation, shall constitute prima facie
4 evidence that the registered owner of the motor vehicle was the
5 person who committed the violation.

6 (b) The registered owner of the vehicle may rebut the
7 evidence in subsection (a) by any one of the following,
8 including:

- 9 (1) Submitting a written statement as provided in section
10 291D-6(b) (2);
- 11 (2) Testifying in open court under oath that the person
12 was not the driver of the motor vehicle at the time of
13 the alleged violation;
- 14 (3) Calling witnesses to testify in open court under oath
15 that the person was not the driver of the motor
16 vehicle at the time of the alleged violation;
- 17 (4) Extrinsic evidence that the person was not the driver
18 of the motor vehicle at the time of the alleged
19 violation;
- 20 (5) Presenting, prior to the return date established on
21 the citation or summons issued pursuant to this
22 chapter, a letter of verification of loss from the



1 police department indicating that the motor vehicle
2 had been reported stolen, to the court adjudicating
3 the alleged violation; or

4 (6) Identifying the driver of the vehicle at the time of
5 the offense.

6 § -8 **Failure to comply with summons or citation.** If
7 the registered owner of the motor vehicle does not return an
8 answer in response to a summons or citation within a period of
9 twenty-one days upon receipt of the summons or citation, the
10 district court shall issue, pursuant to section 291D-7(e), a
11 notice of entry of judgment of default to the registered owner
12 of the motor vehicle.

13 § -9 **Liability for rental or U-drive vehicle.**
14 Notwithstanding any law to the contrary, if the registered owner
15 of record is the lessor of a rental or U-drive motor vehicle, as
16 defined in section 286-2, pursuant to a written lease agreement,
17 the lessee at the time of the violation shall be responsible for
18 the summons or citation; provided that:

19 (1) The lessor shall be responsible for the summons or
20 citation if the lessor does not provide the court
21 having jurisdiction over the summons or citation with
22 the name and address of the lessee within thirty days

1 after a notice containing the date, time, and location
2 of the violation and the license number of the vehicle
3 is sent to the lessor; and

4 (2) The administrative judge of the court having
5 jurisdiction over the summons or citation may waive
6 the requirement of providing the name and address of
7 the lessee and impose on the lessor an administrative
8 fee of \$ per citation.

9 § -10 **Penalty.** Any person who violates any provision
10 of this chapter shall be punished as provided by section 291C-
11 161.

12 § -11 **Fines for unauthorized disclosure.** Any officer,
13 employee, or agent of a county who intentionally discloses or
14 intentionally provides a copy of personal and confidential
15 information obtained from a photo red light imaging detector
16 system to any unauthorized person or unauthorized agency shall
17 be fined not more than \$; provided that the fine shall not
18 preclude the application of penalties or fines otherwise
19 provided for by law.

20 § -12 **Photo red light imaging detector systems program**
21 **account established.** (a) There is established, as a special
22 account within the general fund, a photo red light imaging



1 detector systems program account, into which shall be paid
2 revenues collected pursuant to this chapter.

3 (b) All fines collected under this chapter shall be
4 deposited into the photo red light imaging detector program
5 account. Moneys in the account shall be expended by and in the
6 county in which the fine was imposed, for purposes that include
7 the establishment, operation, management, and maintenance of a
8 photo red light imaging detector system.

9 § -13 Rules. The department shall adopt rules pursuant
10 to chapter 91 as may be necessary to implement this chapter."

11 PART II

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

14 "**§291C-161 Penalties** ~~[-]~~; **photo red light imaging detector**
15 **system fines.** (a) It is a violation for any person to violate

16 any of the provisions of this chapter, except as otherwise
17 specified in ~~[subsection]~~ subsections (c) and (d) of this
18 section and unless the violation is by other law of this State
19 declared to be a felony, misdemeanor, or petty misdemeanor.

20 (b) Except as provided in ~~[subsection]~~ subsections (c) and
21 (d), every person who violates any provision of this chapter for
22 which another penalty is not provided shall be fined:



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

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

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

8 provided that upon a conviction for a violation of section 291C-
9 12, 291C-12.5, 291C-12.6, or 291C-95, the person shall be
10 sentenced in accordance with that section.

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

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

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

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



1 (d) Every person who violates section 291C-72(a) or (d),
2 shall be sentenced as follows without the possibility of
3 probation or suspension of sentence:

4 (1) For a first conviction thereof, to a fine of not less
5 than \$150 and revocation of license and privilege to
6 operate a vehicle for a period not less than ninety
7 days;

8 (2) For a conviction of a second offense, to a fine of not
9 less than \$300 and revocation of license and privilege
10 to operate a vehicle for a period not less than one-
11 hundred and eighty days; and

12 (3) For a conviction of a third or subsequent offense
13 committed within one year of the date of the second
14 offense, to a fine of not less than \$1000, revocation
15 of license and privilege to operate a vehicle for a
16 period of one year, and thirty days imprisonment.

17 [~~d~~] (e) The court may assess a sum not to exceed \$50 for
18 the cost of issuing a penal summons upon any person who fails to
19 appear at the place within the time specified in the citation
20 issued to the person for any traffic violation.

21 [~~e~~] (f) The court may require a person who violates any
22 of the provisions of this chapter to attend a course of



1 instruction in driver retraining as deemed appropriate by the
2 court, in addition to any other penalties imposed.

3 (g) Fines collected for violation of section 291C-32
4 pursuant to the photo red light imaging detector system
5 established pursuant to chapter , shall be deposited into
6 the photo red light imaging detector systems program account
7 established by section -12 and shall be expended in the county
8 in which the fine was imposed, for purposes that include the
9 establishment, operation, management, and maintenance of a photo
10 red light imaging detector system."

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

13 "(a) This chapter shall not be deemed to prevent counties
14 with respect to streets and highways under their jurisdiction
15 from:

- 16 (1) Regulating or prohibiting stopping, standing, or
17 parking except as provided in section 291C-111;
- 18 (2) Regulating traffic by means of police officers or
19 official traffic-control devices;
- 20 (3) Regulating or prohibiting processions or assemblages
21 on the highways;



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



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



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

20 PART III

21 SECTION 6. There is appropriated out of the general
22 revenues of the State of Hawaii the sum of \$ or so much



1 thereof as may be necessary for fiscal year 2006-2007 for the
2 purposes of establishing the photo red light imaging system.

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

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

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

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



1 SECTION 10. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 11. This Act shall take effect upon its approval.



Report Title:

Pedestrian Safety

Description:

Increases the penalties for motorists who violate Hawaii's crosswalk law. Establishes the photo red light imaging detector systems program and authorizes counties to administer the program. (SB2385 HD1)

