
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. As a result of this opposition, the legislature
15 repealed Act 234 in its entirety. However, the opposition
16 resulted largely from the method of implementing the program.
17 The public perceived that the program was operated more to
18 maximize revenue for the vendor running the program than to
19 improve traffic safety. In particular, camera vans were
20 stationed at locations that did not necessarily have a history
21 of speed-related accidents. They were used to monitor locations
22 with heavy traffic flow at lower speeds. This permitted the



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

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

17 The purpose of this Act is to:

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



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

10 PART I

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

14 "CHAPTER

15 PHOTO RED LIGHT IMAGING DETECTOR SYSTEMS PROGRAM

16 § -1 **Definitions.** As used in this chapter, unless the
17 context otherwise requires:

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

20 "Department" means the department of transportation.

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



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

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

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

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

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

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



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

11 § -4 **Photo red light imaging detector system**

12 **requirements.** (a) Photo red light imaging detector equipment
13 shall be operated from a fixed pole, post, or other fixed
14 structure on a state or county highway.

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

21 (c) Proof of a traffic-control signal violation shall be
22 as evidenced by information obtained from the photo red light



1 imaging detector system authorized pursuant to this chapter. A
2 certificate, sworn to or affirmed by the county's agent or
3 employee, or a facsimile thereof, based upon inspection of
4 photographs, microphotographs, videotape, or other recorded
5 images produced by the system, shall be prima facie evidence of
6 the facts contained therein. Any photographs, microphotographs,
7 videotape, or other recorded images evidencing a violation shall
8 be available for inspection in any proceeding to adjudicate the
9 liability for that violation.

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

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

18 § -5 **Summons or citations.** (a) Notwithstanding any
19 law to the contrary, whenever any motor vehicle driver is
20 determined by means of a photo red light imaging detector system
21 to have disregarded a steady red signal in violation of section
22 291C-32(a)(3), the county shall cause a summons or citation, as



1 described in this section, and which is postmarked within
2 seventy-two hours of the time of the incident, to be sent by
3 certified or registered mail to the registered owner of the
4 vehicle at the address on record at the vehicle licensing
5 division. If the end of the seventy-two-hour period falls on a
6 Saturday, Sunday, or state holiday, then the ending period shall
7 run until the end of the next day that is not a Saturday,
8 Sunday, or state holiday.

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

20 (c) Every citation shall be consecutively numbered and
21 each copy thereof shall bear the number of its respective
22 original.



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

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

9 § -6 **Registered owner's responsibility for a summons or**
10 **citation.** In any proceeding for a violation of this chapter,
11 the information contained in the summons or citation issued in
12 accordance with section -5 shall be deemed prima facie
13 evidence that the registered owner of the vehicle operated the
14 vehicle in violation of section 291C-32(a)(3).

15 § -7 **Prima facie evidence.** (a) Whenever the photo red
16 light imaging detector system determines a motor vehicle to be
17 in violation of section 291C-32(a)(3), evidence that the motor
18 vehicle described in the citations or summons issued pursuant to
19 this chapter was operated in violation of section 291C-32(a)(3),
20 together with proof that the person to whom the summons or
21 citation was sent was the registered owner of the motor vehicle
22 at the time of the violation, shall constitute prima facie



1 evidence that the registered owner of the motor vehicle was the
2 person who committed the violation.

3 (b) The registered owner of the vehicle may rebut the
4 evidence in subsection (a) by any one of the following,
5 including:

6 (1) Submitting a written statement as provided in section
7 291D-6(b) (2);

8 (2) Testifying in open court under oath that the person
9 was not the driver of the motor vehicle at the time of
10 the alleged violation;

11 (3) Calling witnesses to testify in open court under oath
12 that the person was not the driver of the motor
13 vehicle at the time of the alleged violation;

14 (4) Extrinsic evidence that the person was not the driver
15 of the motor vehicle at the time of the alleged
16 violation;

17 (5) Presenting, prior to the return date established on
18 the citation or summons issued pursuant to this
19 chapter, a letter of verification of loss from the
20 police department indicating that the motor vehicle
21 had been reported stolen, to the court adjudicating
22 the alleged violation; or

1 (6) Identifying the driver of the vehicle at the time of
2 the offense.

3 § -8 **Failure to comply with summons or citation.** If
4 the registered owner of the motor vehicle does not return an
5 answer in response to a summons or citation within a period of
6 twenty-one days upon receipt of the summons or citation, the
7 district court shall issue, pursuant to section 291D-7(e), a
8 notice of entry of judgment of default to the registered owner
9 of the motor vehicle.

10 § -9 **Liability for rental or U-drive vehicle.**

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

16 (1) The lessor shall be responsible for the summons or
17 citation if the lessor does not provide the court
18 having jurisdiction over the summons or citation with
19 the name and address of the lessee within thirty days
20 after a notice containing the date, time, and location
21 of the violation and the license number of the vehicle
22 is sent to the lessor; and



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

6 § -10 **Fines for unauthorized disclosure.** Any officer,
7 employee, or agent of a county who intentionally discloses or
8 intentionally provides a copy of personal and confidential
9 information obtained from a photo red light imaging detector
10 system to any unauthorized person or unauthorized agency shall
11 be fined not more than \$; provided that the fine shall not
12 preclude the application of penalties or fines otherwise
13 provided for by law.

14 § -11 **Photo red light imaging detector systems program**
15 **account established.** (a) There is established, as a special
16 account within the general fund, a photo red light imaging
17 detector systems program account, into which shall be paid
18 revenues collected pursuant to this chapter.

19 (b) All fines collected under this chapter shall be
20 deposited into the photo red light imaging detector systems
21 program account. Moneys in the account shall be expended by and
22 in the county in which the fine was imposed, for purposes that



1 include the establishment, operation, management, and
2 maintenance of a photo red light imaging detector system.

3 § -12 Rules. The department shall adopt rules pursuant
4 to chapter 91 as may be necessary to implement this chapter."

5 PART II

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

8 "§291C-161 Penalties [-]; photo red light imaging detector
9 system fines. (a) It is a violation for any person to violate
10 any of the provisions of this chapter, except as otherwise
11 specified in [subsection] subsections (c) and (d) [of this
12 section and] or unless the violation is by other law of this
13 State declared to be a felony, misdemeanor, or petty
14 misdemeanor.

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

- 18 (1) Not more than \$200 for a first conviction thereof;
19 (2) Not more than \$300 for conviction of a second offense
20 committed within one year after the date of the first
21 offense; and



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

4 provided that upon a conviction for a violation of section 291C-
5 12, 291C-12.5, 291C-12.6, or 291C-95, the person shall be
6 sentenced in accordance with that section.

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

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

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

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

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



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

5 (2) For a conviction of a second offense committed within
6 one year of the date of a conviction for a first
7 offense, to a fine of not less than \$300 and
8 revocation of license and privilege to operate a
9 vehicle for a period not less than one-hundred and
10 eighty days; and

11 (3) For a conviction of a third or subsequent offense
12 committed within one year of the date of conviction
13 for a second offense, to a fine of not less than
14 \$1,000, revocation of license and privilege to operate
15 a vehicle for a period of one year, and thirty days
16 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 -11 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 disregarding a steady
8 red signal in violation of section 291C-32(a)(3), as determined
9 by means of a photo red light imaging detector system, to the
10 registered owner of the vehicle at the address on record at the
11 vehicle licensing division. If the end of the applicable forty-
12 eight or seventy-two hour period falls on a Saturday, Sunday, or
13 state holiday, then the ending period shall run until the end of
14 the next day which is not a Saturday, Sunday, or state holiday;
15 provided that the administrative judge of the district courts
16 may allow a carbon copy of the citation to be given to the
17 violator or affixed to the vehicle and provide for the
18 disposition of the original and any other copies of the
19 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;
4 provided that section 6 shall take effect on July 1, 2006.



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 HD2)

