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

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

18 § -4 **Photo red light imaging detector system**
19 **requirements.** (a) Photo red light imaging detector equipment
20 shall be operated from a fixed pole, post, or other fixed
21 structure on a state or county highway.



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

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

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



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

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

18 (b) The form and content of the summons or citation shall
19 be as adopted or prescribed by the administrative judge of the
20 district courts and shall be printed on a form commensurate with
21 the form of other summonses or citations used in modern methods
22 of arrest, so designed to include all necessary information to



1 make the summons or citation valid within the laws of the State;
2 provided that any summons or citation pursuant to the photo red
3 light imaging detector systems program shall contain a clear and
4 unobstructed photographic, digital, or other visual image of the
5 driver of the motor vehicle that is to be used as evidence of
6 the violation.

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

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

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

19 § -6 **Registered owner's responsibility for a summons or**
20 **citation.** In any proceeding for a violation of this chapter,
21 the information contained in the summons or citation mailed in



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

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

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

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

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

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.

13 § -8 **Failure to comply with summons or citation.** If
14 the registered owner of the motor vehicle does not return an
15 answer in response to a summons or citation within a period of
16 twenty-one days upon receipt of the summons or citation, the
17 district court shall issue, pursuant to section 291D-7(e), a
18 notice of entry of judgment of default to the registered owner
19 of the motor vehicle.

20 § -9 **Liability for rental or U-drive vehicle.**
21 Notwithstanding any law to the contrary, if the registered owner
22 of record is the lessor of a rental or U-drive motor vehicle, as

1 defined in section 286-2, pursuant to a written lease agreement,
2 the lessee at the time of the violation shall be responsible for
3 the summons or citation; provided that:

4 (1) The lessor shall be responsible for the summons or
5 citation if the lessor does not provide the court
6 having jurisdiction over the summons or citation with
7 the name and address of the lessee within thirty days
8 after a notice containing the date, time, and location
9 of the violation and the license number of the vehicle
10 is sent to the lessor; and

11 (2) The administrative judge of the court having
12 jurisdiction over the summons or citation may waive
13 the requirement of providing the name and address of
14 the lessee and impose on the lessor an administrative
15 fee of \$ per citation.

16 § -10 **Penalty.** Any person who violates any provision
17 of this chapter shall be punished as provided by section 291C-
18 161.

19 § -11 **Fines for unauthorized disclosure.** Any officer,
20 employee, or agent of a county who intentionally discloses or
21 provides a copy of personal and confidential information
22 obtained from a photo red light imaging detector system to any



1 person or agency shall be fined not more than \$; provided
2 that the fine shall not preclude the application of penalties or
3 fines otherwise provided for by law.

4 § -12 **Photo red light imaging detector systems program**
5 **account established.** (a) There is established, as a special
6 account within the general fund, a photo red light imaging
7 detector systems program account, into which shall be paid
8 revenues collected pursuant to this chapter.

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

15 § -13 **Rules.** The department shall adopt rules pursuant
16 to chapter 91, Hawaii Revised Statutes, as may be necessary to
17 implement this chapter."

18 PART II

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

21 "§291C-161 Penalties~~[-]~~; photo red light imaging detector
22 system fines. (a) It is a violation for any person to violate



1 any of the provisions of this chapter, except as otherwise
2 specified in subsection (c) of this section and unless the
3 violation is by other law of this State declared to be a felony,
4 misdemeanor, or petty misdemeanor.

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

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

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

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

15 provided that upon a conviction for a violation of section 291C-
16 12, 291C-12.5, 291C-12.6, or 291C-95, the person shall be
17 sentenced in accordance with that section.

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

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



1 (2) Be fined not more than \$300 [~~00~~], imprisoned not more
2 than twenty days, or both, for conviction of a second
3 offense committed within one year after the date of
4 the first offense; and

5 (3) Be fined not more than \$500 [~~00~~], imprisoned not more
6 than six months, or both, for conviction of a third or
7 subsequent offense committed within one year after the
8 date of the first offense.

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

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

17 (f) Fines collected for a violation of section 291C-32
18 pursuant to the photo red light imaging detector system
19 established pursuant to chapter , shall be deposited into
20 the photo red light imaging detector systems program account
21 established by section -12 and shall be expended in the county
22 in which the fine was imposed, for purposes that include the



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

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

5 "(a) This chapter shall not be deemed to prevent counties
6 with respect to streets and highways under their jurisdiction
7 from:

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



- 1 (8) Regulating the operation and equipment of and
- 2 requiring the registration and inspection of bicycles,
- 3 including the requirement of a registration fee;
- 4 (9) Regulating or prohibiting the turning of vehicles or
- 5 specified types of vehicles;
- 6 (10) Altering or establishing speed limits;
- 7 (11) Requiring written accident reports;
- 8 (12) Designating no-passing zones;
- 9 (13) Prohibiting or regulating the use of controlled-access
- 10 roadways by any class or kind of traffic;
- 11 (14) Prohibiting or regulating the use of heavily traveled
- 12 streets by any class or kind of traffic found to be
- 13 incompatible with the normal and safe movement of
- 14 traffic;
- 15 (15) Establishing minimum speed limits;
- 16 (16) Designating hazardous railroad grade crossing;
- 17 (17) Designating and regulating traffic on play streets;
- 18 (18) Prohibiting pedestrians from crossing a roadway in a
- 19 business district or any designated highway except in
- 20 a crosswalk;
- 21 (19) Restricting pedestrian crossing at unmarked
- 22 crosswalks;



- 1 (20) Regulating persons propelling push carts;
- 2 (21) Regulating persons upon skates, coasters, sleds, and
- 3 other toy vehicles;
- 4 (22) Adopting and enforcing such temporary or experimental
- 5 regulations as may be necessary to cover emergencies
- 6 or special conditions;
- 7 (23) Adopting maximum and minimum speed limits on streets
- 8 and highways within their respective jurisdictions;
- 9 (24) Adopting requirements on stopping, standing, and
- 10 parking on streets and highways within their
- 11 respective jurisdictions except as provided in section
- 12 291C-111;
- 13 (25) Implementing a photo red light imaging detector system
- 14 pursuant to chapter _____ ; or
- 15 [~~25~~] (26) Adopting such other traffic regulations as are
- 16 specifically authorized by this chapter."

17 SECTION 5. Section 291C-165, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) In every case when a citation is issued, the original
20 of the citation shall be given to the violator; provided that:



1 (1) In the case of an unattended vehicle, the original of
2 the citation shall be affixed to the vehicle as
3 provided for in section 291C-167; [~~or~~]

4 (2) In the case of:

5 (A) A vehicle utilizing the high occupancy vehicle
6 lane illegally; or

7 (B) A vehicle illegally utilizing a parking space
8 reserved for persons with disabilities, where the
9 violator refuses the citation;

10 or

11 (3) In the case of a motor vehicle determined by means of
12 a photo red light imaging detector system established
13 pursuant to chapter _____, to have disregarded a
14 steady red signal in violation of section 291C-
15 32(a)(3),

16 the original of the citation shall be sent by certified or
17 registered mail, with a return receipt that is postmarked within
18 forty-eight hours of the time of the incident, as provided in
19 section 291C-223 for vehicles illegally utilizing the high
20 occupancy vehicle lane, or within seventy-two hours of the time
21 of the incident for vehicles illegally utilizing a parking space
22 reserved for persons with disabilities, or for vehicles



1 disregarding a steady red signal in violation of section 291C-
2 32(a)(3), as determined by means of a photo red light imaging
3 detector system, to the registered owner of the vehicle at the
4 address on record at the vehicle licensing division. If the end
5 of the applicable forty-eight or seventy-two hour period falls
6 on a Saturday, Sunday, or state holiday, then the ending period
7 shall run until the end of the next day which is not a Saturday,
8 Sunday, or state holiday; provided that the administrative judge
9 of the district courts may allow a carbon copy of the citation
10 to be given to the violator or affixed to the vehicle and
11 provide for the disposition of the original and any other copies
12 of the citation."

13 SECTION 6. It is the intent of this Act not to jeopardize
14 the receipt of any federal aid nor to impair the obligation of
15 the State or any agency thereof to the holders of any bond
16 issued by the State or by any such agency, and to the extent,
17 and only to the extent, necessary to effectuate this intent, the
18 governor may modify the strict provisions of this Act, but shall
19 promptly report any such modification with reasons therefore to
20 the legislature at its next session thereafter for review by the
21 legislature.



1 SECTION 7. If any provision of this Act, or the
 2 application thereof to any person or circumstance is held
 3 invalid, the invalidity does not affect other provisions or
 4 applications of the Act which can be given effect without the
 5 invalid provision or application, and to this end the provisions
 6 of this Act are severable.

7 SECTION 8. This Act does not affect rights and duties that
 8 matured, penalties that were incurred, and proceedings that were
 9 begun, before its effective date.

10 SECTION 9. Statutory material to be repealed is bracketed
 11 and stricken. New statutory material is underscored.

12 SECTION 10. This Act shall take effect on July 1, 2010.
 13

INTRODUCED BY:

[Signature]
Marilyn B. Lee
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HB 1812

Report Title:
Highway Safety

Description:
Establishes the photo red light imaging detector systems program. Authorizes counties to administer the program.

HB HMS 2005-4612

