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

12           The legislature further finds that in other jurisdictions  
13 in the United States and in Canada, Europe, and other countries  
14 throughout the world, a technological innovation, namely, the  
15 photo red light imaging detector system, has already  
16 demonstrated its reliability, efficiency, and effectiveness in  
17 identifying and deterring those who disregard red lights.



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

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 personnel  
9 required for traffic accident clean-up, investigation, and court  
10 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 to  
16 this program resulted largely from the implementation method of  
17 the program. The public perceived that the program was operated  
18 more to maximize revenue for the vendor administering the  
19 program than to improve traffic safety. In particular, camera  
20 vans were stationed at locations that did not necessarily have a  
21 history of speed-related accidents. They were used to monitor  
22 locations with heavy traffic flow at lower speeds. This



1 situation permitted the vendor to issue the maximum number of  
2 citations in the shortest period of time and at the least cost,  
3 thereby maximizing the return to the vendor without improving  
4 traffic safety. The legislature finds that the photo red light  
5 imaging detector system program established by this Act does not  
6 contain the same implementation flaws.

7 The purpose of this Act is to:

- 8 (1) Establish a photo red light imaging detector system  
9 program to improve enforcement of the traffic signal  
10 laws;
- 11 (2) Allow counties to implement the photo red light  
12 imaging detector system program;
- 13 (3) Require fines collected under county programs to be  
14 deposited into a photo red light imaging detector  
15 system program account within the general fund;
- 16 (4) Require funds from this account to be expended in the  
17 county in which the fine was collected for the  
18 establishment, operation, management, and maintenance  
19 of the photo red light imaging detector system  
20 program; and
- 21 (5) Increase the time from forty-eight hours to seventy-  
22 two hours by which a citation must be mailed to the



1 registered owner of a vehicle that illegally used a  
2 high occupancy lane.

3 PART I

4 SECTION 2. The Hawaii Revised Statutes is amended by  
5 adding a new chapter to be appropriately designated and to read  
6 as follows:

7 "CHAPTER  
8 PHOTO RED LIGHT IMAGING DETECTOR SYSTEM PROGRAM

9 § -1 Definitions. As used in this chapter, unless the  
10 context otherwise requires:

11 "County highway" has the same meaning as used in section  
12 264-1.

13 "Department" means the department of transportation.

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

15 "Motor vehicle" has the same meaning as defined in section  
16 291C-1.

17 "Photo red light imaging detector system" or "system" means  
18 a device used for traffic enforcement to detect failure to stop  
19 at a red light that includes a motor vehicle sensor that works  
20 in conjunction with a traffic-control signal and a camera or  
21 similar device to automatically produce a photographic, digital,  
22 or other visual image of a motor vehicle that has disregarded a



1 steady red traffic-control signal in violation of section  
2 291C-32, and a photographic, digital, or other visual image of  
3 the driver of the motor vehicle.

4 "State highway" has the same meaning as used in section  
5 264-1.

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

8 § -2 **Photo red light imaging detector system program;**  
9 **established.** There is established the photo red light imaging  
10 detector system program, which may be implemented by any county  
11 on state or county highways within the respective county to  
12 enforce section 291C-32(a)(3).

13 § -3 **County powers and duties.** Each county may  
14 establish and implement, in accordance with this chapter, a  
15 photo red light imaging detector system program imposing  
16 monetary liability on the driver of a motor vehicle for failure  
17 to comply with section 291C-32(a)(3). Each county may provide  
18 for the procurement, location, installation, operation,  
19 maintenance, and repair of photo red light imaging detector  
20 systems within the program. Where a photo red light imaging  
21 detector system affects state property, the department shall



1 cooperate with and assist the county as needed to install,  
2 maintain, and repair the system.

3           §     -4 Photo red light imaging detector system program  
4 requirements. (a) Photo red light imaging detector system

5 program equipment shall be operated from a fixed pole, post, or  
6 other fixed structure on a state or county highway.

7           (b) Signs and other official traffic-control devices  
8 indicating that the traffic signal law is enforced by a photo  
9 red light imaging detector system shall be posted on all major  
10 routes entering the area where the system is installed to  
11 provide, as far as practicable, notice to drivers of the  
12 existence and operation of the system.

13           (c) Proof of a violation of section 291C-32(a)(3) shall be  
14 as evidenced by information obtained from a photo red light  
15 imaging detector system. A certificate, sworn to or affirmed by  
16 the county's agent or employee, or a facsimile thereof, based  
17 upon inspection of photographs, microphotographs, videotape, or  
18 other recorded images produced by the system, shall be prima  
19 facie evidence of the facts contained therein. Any photographs,  
20 microphotographs, videotape, or other recorded images evidencing  
21 a violation shall be available for inspection in any proceeding  
22 to adjudicate the liability for that violation.



1 (d) No summons or citation issued pursuant to the photo  
2 red light imaging detector system program shall be issued unless  
3 it contains a clear and unobstructed photographic, digital, or  
4 other visual image of the driver of the motor vehicle.

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

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



1           (b) The form and content of the summons or citation shall  
2 be as adopted or prescribed by the administrative judge of the  
3 district courts and shall be printed on a form commensurate with  
4 the form of other summonses or citations used in modern methods  
5 of arrest, so designed to include all necessary information to  
6 make the summons or citation valid within the laws of the State;  
7 provided that any summons or citation issued under this chapter  
8 shall contain a clear and unobstructed photographic, digital, or  
9 other visual image of the driver of the motor vehicle that is to  
10 be used as evidence of the violation.

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

14           (d) Upon receipt of the summons or citation, the  
15 registered owner shall respond as provided for in chapter 291D.  
16 A mail receipt from the post office is prima facie evidence of  
17 the registered owner's receipt of notification. The registered  
18 owner shall be identified through the motor vehicle's  
19 registration plates.

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



1           §     -6 Registered owner's responsibility for a summons or  
2 citation. In any proceeding for a violation of this chapter,  
3 the information contained in the summons or citation mailed in  
4 accordance with section -5 shall be deemed prima facie  
5 evidence that the registered owner of the vehicle violated  
6 section 291C-32(a)(3).

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

17           (b) The registered owner of the vehicle may rebut the  
18 evidence in subsection (a) by any one of the following ways,  
19 including:

20           (1) Submitting a written statement as provided in section  
21                291D-6(b)(2);



- 1           (2) Testifying in open court under oath that the person
- 2                   was not the driver of the motor vehicle at the time of
- 3                   the alleged violation;
- 4           (3) Calling witnesses to testify in open court under oath
- 5                   that the person was not the driver of the motor
- 6                   vehicle at the time of the alleged violation;
- 7           (4) Submitting extrinsic evidence that the person was not
- 8                   the driver of the motor vehicle at the time of the
- 9                   alleged violation;
- 10          (5) Presenting, prior to the return date established on
- 11                   the citation or summons issued pursuant to this
- 12                   chapter, a letter of verification of loss from the
- 13                   police department indicating that the motor vehicle
- 14                   had been reported stolen, to the court adjudicating
- 15                   the alleged violation; or
- 16          (6) Identifying the driver of the vehicle at the time of
- 17                   the offense.

18           **§ -8 Failure to comply with summons or citation.** If

19 the registered owner of the motor vehicle does not return an

20 answer in response to a summons or citation within a period of

21 twenty-one days upon receipt of the summons or citation, the

22 district court shall issue, pursuant to section 291D-7(e), a



1 notice of entry of judgment of default to the registered owner  
2 of the motor vehicle.

3 § -9 Liability for rental or U-drive vehicle.

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

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

16 (2) If requested by the lessor in writing within thirty  
17 days of such notice of violation, the administrative  
18 judge of the court having jurisdiction over the  
19 summons or citation shall waive the requirement of  
20 providing the name and address of the lessee and  
21 impose on the lessor an administrative fee of \$5 per  
22 citation plus costs and fees not to exceed \$10 in



1 total per violation notwithstanding any such law to  
2 the contrary.

3 § -10 Fines for unauthorized disclosure. Any officer,  
4 employee, or agent of a county who intentionally discloses or  
5 provides a copy of personal and confidential information  
6 obtained from a photo red light imaging detector system to any  
7 unauthorized person or agency shall be fined not more than  
8 \$ ; provided that the fine shall not preclude the  
9 application of penalties or fines otherwise provided for by law.

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

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





- 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 program pursuant to chapter \_\_\_\_\_ ; or
- 15 [~~25~~] (26) Adopting such other traffic regulations as are
- 16 specifically authorized by this chapter."

17 SECTION 4. 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 [~~+~~], the original of the  
7 citation shall be sent to the registered owner of  
8 the vehicle at the address on record at the  
9 vehicle licensing division within seventy-two  
10 hours of the time of the incident for vehicles  
11 using the high occupancy lane; or

12 (B) A vehicle illegally [~~utilizing~~] using a parking  
13 space reserved for persons with disabilities,  
14 where the violator refuses the citation [~~+~~], the  
15 original of the citation shall be sent to the  
16 registered owner of the vehicle at the address on  
17 record at the vehicle licensing division within  
18 seventy-two hours of the time of the incident;

19 or

20 (3) In the case of a motor vehicle determined by means of  
21 a photo red light imaging detector system established  
22 pursuant to chapter \_\_\_\_\_, to have disregarded a

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



1 PART III

2 SECTION 5. There is appropriated out of the general  
3 revenues of the State of Hawaii the sum of \$ or so much  
4 thereof as may be necessary for fiscal year 2008-2009 for the  
5 purposes of establishing the photo red light imaging detector  
6 system program to be allocated as follows:

- 7 \$ to the city and county of Honolulu;
- 8 \$ to the county of Maui;
- 9 \$ to the county of Hawaii; and
- 10 \$ to the county of Kauai.

11 The sum appropriated shall be expended by the counties for  
12 the purposes of this Act.

13 PART IV

14 SECTION 6. It is the intent of this Act neither to  
15 jeopardize the receipt of any federal aid nor to impair the  
16 obligation of the State or any agency thereof to the holders of  
17 any bond issued by the State or by any such agency, and to the  
18 extent, and only to the extent, necessary to effectuate this  
19 intent, the governor may modify the strict provisions of this  
20 Act, but shall promptly report any such modification with  
21 reasons therefore to the legislature at its next session  
22 thereafter for review by the 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  
 6 provisions 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, 2008.

13  
 14

INTRODUCED BY:

*[Handwritten signature: Bruce Weber]*  
*[Handwritten signature: Della A. Salath]*  
*[Handwritten signature: Karen Curran]*

JAN 11 2008



**Report Title:**  
Highway Safety

**Description:**  
Establishes the photo red light imaging detector system program. Authorizes counties to implement the program. Increases the time to mail a citation to the owner of the vehicle that used a high occupancy lane illegally.

