

JAN 19 2007

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# A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

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

12           The legislature further finds that in other jurisdictions  
13 in the United States, in Canada, in Europe, and in other  
14 countries throughout the world, a technological innovation--  
15 namely, photo red light imaging detector systems--has already  
16 demonstrated its reliability, efficiency, and effectiveness in  
17 identifying 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. For 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 run 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 and  
10 the traffic light is red, the camera takes a telephoto color  
11 picture of the rear of the car, capturing the license plate. A  
12 second 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 freed from time-consuming  
16 traffic enforcement activities and have more time to respond to  
17 priority calls. A violator is less likely to go to court, since  
18 the color photograph of the violation, imprinted with the time,  
19 date, and location of the violation, and the number of seconds  
20 the light had been red before the violator entered the  
21 intersection, can be used as evidence in court. Few cases are



1 contested in other jurisdictions using this system, and officers  
2 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 the number of personnel required for traffic accident clean-up,  
10 investigation, 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 January 2002, generated intense public opposition  
14 to this program. As a result of this opposition, the  
15 legislature repealed Act 234 in its entirety. However, the  
16 majority of the opposition to this program resulted from the  
17 method in which the program was implemented. The public  
18 perceived that the program was operated more to maximize revenue  
19 for the vendor administering the program than to improve traffic  
20 safety. In particular, vans in which the cameras were mounted  
21 were often placed at locations that did not necessarily have a  
22 history of speed-related accidents and instead were used to



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

6 The purpose of this Act is to:

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

18 SECTION 2. **Definitions.** As used in this Act, unless the  
19 context otherwise requires:

20 "County" means the counties of Hawaii, Kauai, and Maui, and  
21 the city and county of Honolulu.



1 "County highway" has the same meaning as used in section  
2 264-1, Hawaii Revised Statutes.

3 "Department" means the department of transportation.

4 "Motor vehicle" has the same meaning as defined in section  
5 291C-1, Hawaii Revised Statutes.

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

14 "State highway" has the same meaning as used in section  
15 264-1, Hawaii Revised Statutes.

16 "Traffic-control signal" has the same meaning as defined in  
17 section 291C-1, Hawaii Revised Statutes.

18 PART I

19 SECTION 3. **Photo red light imaging detector program;**  
20 **established.** There is established the photo red light imaging  
21 detector program, which may be implemented by any county on



1 state or county highways within the respective county to enforce  
2 the traffic-control signal laws of the State.

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

14       SECTION 5. **Photo red light imaging detector system**  
15 **requirements.** (a) Photo red light imaging detector equipment  
16 shall be operated from a fixed pole, post, or other fixed  
17 structure on a state or county highway.

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



1 practicable, notice to drivers of the existence and operation of  
2 the system.

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

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

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



1           SECTION 6. **Summons or citations.** (a) Notwithstanding any  
2 law to the contrary, whenever any motor vehicle is determined to  
3 have disregarded a steady red signal in violation of section  
4 291C-32(a)(3), Hawaii Revised Statutes, by a photo red light  
5 imaging detector system, the county shall send a summons or  
6 citation, as described in this section, to the registered owner  
7 of the vehicle at the address on record at the vehicle licensing  
8 division, by certified or registered mail with a return receipt  
9 that is postmarked within forty-eight-hours of the time of the  
10 incident. If the end of the forty-eight-hour period falls on a  
11 Saturday, Sunday, or holiday, then the ending period shall run  
12 until the end of the next day that is not a Saturday, Sunday, or  
13 holiday.

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





1 driver of the motor vehicle that is to be used as evidence of  
2 the violation.

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

6 (d) Upon receipt of the summons or citation, the  
7 registered owner shall respond as provided for in chapter 291D,  
8 Hawaii Revised Statutes. A mail receipt signed by the  
9 registered owner is prima facie evidence of notification. The  
10 registered owner shall be determined by the identification of  
11 the vehicle's registration plates.

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

15 SECTION 7. **Registered owner's responsibility for a summons**  
16 **or citation.** In any proceeding for a violation of this Act, the  
17 information contained in the summons or citation mailed in  
18 accordance with section 6 shall be deemed evidence that the  
19 registered vehicle violated section 291C-32(a)(3), Hawaii  
20 Revised Statutes.

21 SECTION 8. **Prima facie evidence.** (a) Whenever the photo  
22 red light imaging detector system determines a motor vehicle to



1 be in violation of section 291C-32(a)(3), Hawaii Revised  
2 Statutes, evidence that the motor vehicle described in the  
3 citations or summons issued pursuant to this Act was operated in  
4 violation of the section, together with proof that the person to  
5 whom the summons or citation was sent was the operator of the  
6 motor vehicle at the time of the violation, shall constitute  
7 prima facie evidence that the operator of the motor vehicle was  
8 the person who committed the violation.

9 (b) The registered owner of the vehicle may rebut the  
10 evidence in subsection (a) by:

- 11 (1) Submitting a written statement as provided in section  
12 291D-6(b)(2), Hawaii Revised Statutes;
- 13 (2) Testifying in open court under oath that the person  
14 was not the operator of the vehicle at the time of the  
15 alleged violation;
- 16 (3) Calling witnesses to testify in open court under oath  
17 that the person was not the operator of the vehicle at  
18 the time of the alleged violation;
- 19 (4) Extrinsic evidence that the person was not the  
20 operator of the vehicle at the time of the alleged  
21 violation; or



1           (5) Presenting, prior to the return date established on  
2           the citation or summons issued pursuant to this Act, a  
3           letter of verification of loss from the police  
4           department indicating that the vehicle had been  
5           reported stolen, to the court adjudicating the alleged  
6           violation.

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

14          **SECTION 10. Liability for rental or U-drive vehicle.**  
15          Notwithstanding any law to the contrary, if the registered owner  
16          of record is the lessor of a rental or U-drive motor vehicle, as  
17          defined in section 286-2, Hawaii Revised Statutes, pursuant to a  
18          written lease agreement, the lessee at the time of the violation  
19          shall be responsible for the summons or citation; provided that:

20               (1) The lessor shall be responsible for the summons or  
21               citation if the lessor does not provide the court  
22               having jurisdiction over the summons or citation with



1 the name and address of the lessee within thirty days  
2 after a notice containing the date, time, and location  
3 of the violation and the license number of the vehicle  
4 is sent to the lessor; and

5 (2) The administrative judge of the court having  
6 jurisdiction over the summons or citation may waive  
7 the requirement of providing the name and address of  
8 the lessee and impose on the lessor an administrative  
9 fee of \$50 per citation.

10 SECTION 11. **Penalty.** The penalties for all consequences  
11 of a violation for disregarding a steady red signal initiated by  
12 the use of a photo red light imaging detector system shall be as  
13 provided in section 291C-161, Hawaii Revised Statutes.

14 SECTION 12. **Fines for unauthorized disclosure.** Any  
15 officer, employee, or agent of a county who intentionally  
16 discloses or provides a copy of personal and confidential  
17 information obtained from a photo red light imaging to any  
18 person or agency, with actual knowledge that disclosure is  
19 prohibited by the statutory provisions set forth in this Act,  
20 shall be fined up to \$1,000; provided that the fine shall not  
21 preclude the application of penalties or fines otherwise  
22 provided for by law.



1 SECTION 13. **Photo red light imaging detector program**  
 2 **account established.** (a) There is established, as a special  
 3 account within the general fund, a photo red light imaging  
 4 detector program account, into which shall be paid revenues  
 5 collected pursuant to this Act.

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

12 SECTION 14. **Rules.** The department shall adopt rules  
 13 pursuant to chapter 91, Hawaii Revised Statutes, as may be  
 14 necessary to implement this Act.

15 PART II

16 SECTION 15. Section 291C-161, Hawaii Revised Statutes, is  
 17 amended to read as follows:

18 "~~§291C-161 Penalties[-];~~ photo red light imaging detector  
 19 system fines. (a) It is a violation for any person to violate  
 20 any of the provisions of this chapter, except as otherwise  
 21 specified in subsections (c) and (d) and unless the violation is



1 by other law of this State declared to be a felony, misdemeanor,  
2 or petty misdemeanor.

3 (b) Except as provided in subsections (c) and (d), every  
4 person who violates any provision of this chapter for which  
5 another penalty is not provided shall be fined:

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

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

10 (3) Not more than \$500 for conviction of a third or  
11 subsequent offense committed within one year after the  
12 date of the first offense[-];

13 provided that upon a conviction for a violation of section  
14 291C-12, 291C-12.5, 291C-12.6, or 291C-95, the person shall be  
15 sentenced in accordance with that section.

16 (c) Every person convicted of violating section 291C-12,  
17 291C-12.5, 291C-12.6, 291C-95, or 291C-105 shall be sentenced in  
18 accordance with [~~these sections.~~] that section.

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

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



1           (2) Be fined not more than \$300 or 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 or 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           (e) 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          (f) 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          (g) Fines collected for violation of section 291C-32  
18          pursuant to the photo red light imaging detector system  
19          established pursuant to Act \_\_\_\_\_, Session Laws of Hawaii 2007,  
20          shall be deposited into the photo red light imaging detector  
21          system program account and shall be expended by the county in  
22          which the fine was imposed, for purposes including the



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

3 SECTION 16. 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 Act , Session Laws of Hawaii 2007; or
- 15 [+25+] (26) Adopting [~~such~~] other traffic regulations as
- 16 [~~are~~] specifically authorized by this chapter."

17 SECTION 17. 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; or

10 (3) In the case of a motor vehicle determined by a photo  
11 red light imaging detector system established pursuant  
12 to Act \_\_\_\_\_, Session Laws of Hawaii 2007, to have  
13 disregarded a steady red signal in violation of  
14 section 291C-32(a)(3);

15 the original of the citation shall be sent by certified or  
16 registered mail, with a return receipt that is postmarked within  
17 forty-eight hours of the time of the incident, as provided in  
18 section 291C-223 for vehicles illegally utilizing the high  
19 occupancy vehicle lane, or to the registered owner of the  
20 vehicle at the address on record at the vehicle licensing  
21 division for vehicles disregarding a steady red signal in  
22 violation of section 291C-32(a)(3), as determined by means of a



1 photo red light imaging detector system, or within seventy-two  
2 hours of the time of the incident for vehicles illegally  
3 utilizing a parking space reserved for persons with  
4 disabilities, to the registered owner of the vehicle at the  
5 address on record at the vehicle licensing division. If the end  
6 of the applicable forty-eight or seventy-two hour period falls  
7 on a Saturday, Sunday, or holiday, then the ending period shall  
8 run until the end of the next day which is not a Saturday,  
9 Sunday, or holiday; provided that the administrative judge of  
10 the district courts may allow a carbon copy of the citation to  
11 be given to the violator or affixed to the vehicle and provide  
12 for the disposition of the original and any other copies of the  
13 citation."

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



1 SECTION 19. 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 20. This Act does not affect rights and duties  
 8 that matured, penalties that were incurred, and proceedings that  
 9 were begun, before its effective date.

10 SECTION 21. Upon enactment, the revisor of statutes shall  
 11 insert the number of this Act into sections 291C-161, 291C-163,  
 12 and 291C-165, where indicated in sections 15, 16, and 17 of this  
 13 Act, respectively.

14 SECTION 22. Statutory material to be repealed is bracketed  
 15 and stricken. New statutory material is underscored.

16 SECTION 23. This Act shall take effect July 1, 2007.

17

INTRODUCED BY: Will Lopez  
 Clarence K. Dickerson  
 Suzanne Chen Oakland



**Report Title:**

Highway Safety

**Description:**

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

