
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 Act 234, Session Laws of Hawaii
12 1998, established both a photo red light and photo speed imaging
13 detector demonstration project. Although the photo red light
14 imaging detector project had not been implemented, the photo
15 speed imaging detector project was implemented in December 2001
16 and generated intense public opposition. As a result of this
17 opposition, the legislature repealed Act 234 in its entirety,
18 resulting in the photo red light imaging detector project also
19 being repealed.

20 Opposition to the photo speed imaging detector project
21 resulted largely from the implementation method of the project.
22 The public perceived that the project was operated more to



1 maximize revenue for the vendor administering the project than
2 to improve traffic safety. In particular, camera vans were
3 stationed at locations that did not necessarily have a history
4 of speed-related accidents. They were used to monitor locations
5 with heavy traffic flow at lower speeds. This situation
6 permitted the vendor to issue the maximum number of citations in
7 the shortest period of time and at the least cost, thereby
8 maximizing the return to the vendor without improving traffic
9 safety. The legislature finds that the photo red light imaging
10 detector system program established by this Act does not contain
11 the same implementation flaws.

12 The purpose of this Act is to:

- 13 (1) Establish a photo red light imaging detector system
14 program to improve enforcement of the traffic signal
15 laws;
- 16 (2) Allow counties to implement the photo red light
17 imaging detector system program;
- 18 (3) Require fines collected under county programs to be
19 deposited into a photo red light imaging detector
20 system program account within the general fund;
- 21 (4) Require funds from this account to be expended in the
22 county in which the fine was collected for the



1 establishment, operation, management, and maintenance
2 of the photo red light imaging detector system
3 program; and

4 (5) Increase the time from forty-eight hours to seventy-
5 two hours by which a citation must be mailed to the
6 registered owner of a vehicle that illegally used a
7 high occupancy lane.

8 PART I

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

12 "CHAPTER

13 PHOTO RED LIGHT IMAGING DETECTOR SYSTEM PROGRAM

14 § -1 Definitions. As used in this chapter, unless the
15 context otherwise requires:

16 "County highway" has the same meaning as used in section
17 264-1.

18 "Department" means the department of transportation.

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

20 "Motor vehicle" has the same meaning as defined in section
21 291C-1.



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

10 "State highway" has the same meaning as used in section
11 264-1.

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

14 **§ -2 Photo red light imaging detector system program;**
15 **established.** There is established the photo red light imaging
16 detector system program, which may be implemented by any county
17 on state or county highways within the respective county to
18 enforce section 291C-32(a)(3).

19 **§ -3 County powers and duties.** Each county may
20 establish and implement, in accordance with this chapter, a
21 photo red light imaging detector system program imposing
22 monetary liability on the driver of a motor vehicle for failure



1 to comply with section 291C-32(a)(3). Each county may provide
2 for the procurement, location, installation, operation,
3 maintenance, and repair of photo red light imaging detector
4 systems within the program. Where a photo red light imaging
5 detector system affects state property, the department shall
6 cooperate with and assist the county as needed to install,
7 maintain, and repair the system.

8 **§ -4 Photo red light imaging detector system program**

9 **requirements.** (a) Photo red light imaging detector system
10 program equipment shall be operated from a fixed pole, post, or
11 other fixed structure on a state or county highway.

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

18 (c) Proof of a violation of section 291C-32(a)(3) shall be
19 as evidenced by information obtained from a photo red light
20 imaging detector system. A certificate, sworn to or affirmed by
21 the county's agent or employee, or a facsimile thereof, based
22 upon inspection of photographs, microphotographs, videotape, or



1 other recorded images produced by the system, shall be prima
2 facie evidence of the facts contained therein. Any photographs,
3 microphotographs, videotape, or other recorded images evidencing
4 a violation shall be available for inspection in any proceeding
5 to adjudicate the liability for that violation.

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

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

14 § -5 **Summons or citations.** (a) Notwithstanding any
15 law to the contrary, whenever any motor vehicle is determined by
16 means of a photo red light imaging detector system to have
17 disregarded a steady red signal in violation of section
18 291C-32(a)(3), the county shall cause a summons or citation, as
19 described in this section, and which is postmarked within
20 seventy-two hours of the time of the incident, to be sent by
21 certified or registered mail to the registered owner of the
22 vehicle at the address on record at the vehicle licensing



1 division. If the end of the seventy-two-hour period falls on a
2 Saturday, Sunday, or state holiday, then the ending period shall
3 run until the end of the next day that is not a Saturday,
4 Sunday, or state holiday.

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

15 (c) Every citation shall be consecutively numbered and
16 each copy thereof shall bear the number of its respective
17 original.

18 (d) Upon receipt of the summons or citation, the
19 registered owner shall respond as provided for in chapter 291D.
20 A mail receipt from the post office is prima facie evidence of
21 the registered owner's receipt of notification. The registered



1 owner shall be identified through the motor vehicle's
2 registration plates.

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

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

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



1 (b) The registered owner of the vehicle may rebut the
2 evidence in subsection (a) by means that include:

3 (1) Submitting a written statement as provided in section
4 291D-6(b)(2);

5 (2) Testifying in open court under oath that the person
6 was not the driver of the motor vehicle at the time of
7 the alleged violation;

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

11 (4) Submitting extrinsic evidence that the person was not
12 the driver of the motor vehicle at the time of the
13 alleged violation;

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

20 (6) Identifying the driver of the vehicle at the time of
21 the offense.



1 § -8 Failure to comply with summons or citation. If
2 the registered owner of the motor vehicle does not return an
3 answer in response to a summons or citation within a period of
4 twenty-one days upon receipt of the summons or citation, the
5 district court shall issue, pursuant to section 291D-7(e), a
6 notice of entry of judgment of default to the registered owner
7 of the motor vehicle.

8 § -9 Liability for rental or U-drive vehicle.

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

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

21 (2) If requested by the lessor in writing within thirty
22 days of such notice of violation, the administrative



1 judge of the court having jurisdiction over the
2 summons or citation shall waive the requirement of
3 providing the name and address of the lessee and
4 impose on the lessor an administrative fee of \$5 per
5 citation plus costs and fees not to exceed \$10 in
6 total per violation notwithstanding any such law to
7 the contrary.

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

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

20 (b) All fines collected under this chapter shall be
21 deposited into the photo red light imaging detector system
22 program account. Moneys in the account shall be expended by and



1 in the county in which the fine was imposed, for purposes that
 2 include the establishment, operation, management, and
 3 maintenance of the photo red light imaging detector system
 4 program.

5 § -12 Rules. The department shall adopt rules pursuant
 6 to chapter 91 as may be necessary to implement this chapter."

7 PART II

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

10 "(a) This chapter shall not be deemed to prevent counties
 11 with respect to streets and highways under their jurisdiction
 12 from:

- 13 (1) Regulating or prohibiting stopping, standing, or
- 14 parking except as provided in section 291C-111;
- 15 (2) Regulating traffic by means of police officers or
- 16 official traffic-control devices;
- 17 (3) Regulating or prohibiting processions or assemblages
- 18 on the highways;
- 19 (4) Designating particular highways or roadways for use by
- 20 traffic moving in one direction;
- 21 (5) Establishing speed limits for vehicles in public
- 22 parks;



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



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- 1 (18) Prohibiting pedestrians from crossing a roadway in a
2 business district or any designated highway except in
3 a crosswalk;
- 4 (19) Restricting pedestrian crossing at unmarked
5 crosswalks;
- 6 (20) Regulating persons propelling push carts;
- 7 (21) Regulating persons upon skates, coasters, sleds, and
8 other toy vehicles;
- 9 (22) Adopting and enforcing such temporary or experimental
10 regulations as may be necessary to cover emergencies
11 or special conditions;
- 12 (23) Adopting maximum and minimum speed limits on streets
13 and highways within their respective jurisdictions;
- 14 (24) Adopting requirements on stopping, standing, and
15 parking on streets and highways within their
16 respective jurisdictions except as provided in section
17 291C-111;
- 18 (25) Implementing a photo red light imaging detector system
19 program pursuant to chapter _____ ; or
- 20 ~~[(25)]~~ (26) Adopting such other traffic regulations as are
21 specifically authorized by this chapter."



1 SECTION 4. Section 291C-165, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

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

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

8 (2) In the case of [~~+~~

9 ~~(A)~~ A] a vehicle [~~utilizing~~] using the high
10 occupancy vehicle lane illegally [~~+~~~~or~~], the
11 original of the citation shall be sent to the
12 registered owner of the vehicle at the address on
13 record at the vehicle licensing division within
14 seventy-two hours of the time of the incident for
15 vehicles using the high occupancy lane;

16 [~~(B)~~ A] (3) In case of a vehicle illegally
17 [~~utilizing~~] using a parking space reserved for
18 persons with disabilities, where the violator
19 refuses the citation [~~+~~], the original of the
20 citation shall be sent to the registered owner of
21 the vehicle at the address on record at the



1 vehicle licensing division within seventy-two
2 hours of the time of the incident; or

3 (4) In the case of a motor vehicle determined by
4 means of a photo red light imaging detector
5 system established pursuant to chapter _____, to
6 have disregarded a steady red signal in violation
7 of section 291C-32(a)(3), the original of the
8 citation shall be sent to the registered owner of
9 the vehicle at the address on record at the
10 vehicle licensing division within seventy-two
11 hours of the time of the incident.

12 ~~[the original of the citation shall be sent by certified or~~
13 ~~registered mail, with a return receipt that is postmarked within~~
14 ~~forty eight hours of the time of the incident, as provided in~~
15 ~~section 291C-223 for vehicles illegally utilizing the high~~
16 ~~occupancy vehicle lane, or within seventy two hours of the time~~
17 ~~of the incident for vehicles illegally utilizing a parking space~~
18 ~~reserved for persons with disabilities, to the registered owner~~
19 ~~of the vehicle at the address on record at the vehicle licensing~~
20 ~~division.] If the end of the applicable [forty eight or~~
21 ~~seventy two hour] seventy-two-hour period falls on a Saturday,~~
22 ~~Sunday, or state holiday, then the ending period shall run until~~



1 the end of the next day which is not a Saturday, Sunday, or
 2 state holiday; provided that the administrative judge of the
 3 district courts may allow a carbon copy of the citation to be
 4 given to the violator or affixed to the vehicle and provide for
 5 the disposition of the original and any other copies of the
 6 citation."

7 PART III

8 SECTION 5. There is appropriated out of the general
 9 revenues of the State of Hawaii the sum of \$ or so much
 10 thereof as may be necessary for fiscal year 2009-2010 for the
 11 purposes of establishing the photo red light imaging detector
 12 system program to be allocated as follows:

- 13 \$ to the city and county of Honolulu;
- 14 \$ to the county of Maui;
- 15 \$ to the county of Hawaii; and
- 16 \$ to the county of Kauai.

17 The sum appropriated shall be expended by the counties for
 18 the purposes of this Act.

19 PART IV

20 SECTION 6. It is the intent of this Act neither to
 21 jeopardize the receipt of any federal aid nor to impair the
 22 obligation of the State or any agency thereof to the holders of



1 any bond issued by the State or by any such agency, and to the
 2 extent, and only to the extent, necessary to effectuate this
 3 intent, the governor may modify the strict provisions of this
 4 Act, but shall promptly report any such modification with
 5 reasons therefore to the legislature at its next session
 6 thereafter for review by the legislature.

7 SECTION 7. If any provision of this Act, or the
 8 application thereof to any person or circumstance is held
 9 invalid, the invalidity does not affect other provisions or
 10 applications of the Act which can be given effect without the
 11 invalid provision or application, and to this end, the
 12 provisions of this Act are severable.

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

16 SECTION 9. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

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

19

INTRODUCED BY:

[Handwritten signatures and names over the text]
Shawn E. DeLoach
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HB HMS 2009-1245



JAN 22 2009

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.

