
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 has become intolerable,
3 particularly drivers who violate the speed limit. These
4 violations endanger the lives of motorists and pedestrians and
5 compound the already hazardous conditions on Hawaii's roads and
6 highways. It has become increasingly common to hear reports of
7 speeding hit-and-run drivers who have run over children or the
8 elderly. Speeding has also been the common denominator in many
9 recent, highly publicized motor vehicle crashes that have
10 claimed a number of lives.

11 The legislature further finds that in other jurisdictions
12 in the United States, Canada, Europe, and other countries
13 throughout the world, two technological innovations--namely,
14 photo red light imaging and photo speed imaging detector
15 systems--have already demonstrated their reliability,
16 efficiency, and effectiveness in identifying and deterring those
17 who speed.



1 Photo speed imaging detector systems are safe, quick, cost-
2 effective, and efficient. No traffic stop is involved, thus
3 police officers are not at risk from passing traffic or armed
4 violators. Moreover, while a motivated traffic officer may
5 average fifteen or twenty tickets per shift, the photo speed
6 imaging detector system can write two tickets per second.

7 These systems provide numerous benefits. Not only are
8 streets safer, but police officers are also freed from time-
9 consuming traffic enforcement duties and have more time to
10 respond to priority calls. A violator is less likely to go to
11 court, since the color photograph of the violation, imprinted
12 with the time, date, and location of the violation and the
13 violator's speed, can be used as evidence in court. Few cases
14 are contested in other jurisdictions using this system, and
15 officers make fewer court appearances, saving court costs.

16 The system may also result in lower insurance costs for
17 safe drivers through an overall reduction in crashes and
18 injuries and places system costs on the violators who have
19 created the need for the program, not on law-abiding taxpayers.
20 Traffic laws are enforced without partiality, and safety and
21 efficiency are increased by reducing the number of high-speed



1 chases and the number of personnel required for traffic accident
2 clean-up, investigation, and court testimony.

3 The legislature finds that the photo speed imaging detector
4 system created by Act 234, Session Laws of Hawaii 1998, and
5 implemented in January 2002, generated intense public
6 opposition. As a result of this opposition, the legislature
7 repealed Act 234 in its entirety. However, the majority of the
8 opposition to this program resulted largely from the method of
9 implementing the program. The public perceived that the program
10 was operated more to maximize revenue for the vendor running the
11 program than to improve traffic safety. In particular, vans in
12 which the cameras were mounted were often placed at locations
13 that did not necessarily have a history of speed-related
14 accidents and instead were used to monitor locations with a
15 heavy traffic flow traveling at lower speeds. This arrangement
16 permitted the vendor to issue the maximum number of citations in
17 the shortest period of time and at the least cost, thereby
18 maximizing the potential return to the vendor without improving
19 traffic safety.

20 Speeding, whether on a highway or through a red light,
21 frequently causes injury and death. When speeding occurs, the
22 accidents involved are almost always more serious. More



1 recently, a number of cases of fatal crashes involved vehicles
2 traveling at speeds far exceeding the posted speed limit. The
3 legislature finds that there is an immediate need to remedy the
4 steadily worsening traffic conditions in Hawaii and that the
5 implementation of a photo speed imaging detector system program
6 will help to protect the health, safety, and welfare of the
7 people of this state, while at the same time offering
8 substantial cost savings.

9 The purpose of this Act is to:

- 10 (1) Establish a photo speed imaging detector system
11 program to improve enforcement of the speed limits;
- 12 (2) Allow counties to implement the photo speed imaging
13 detector system program in areas where excessive
14 speeding has been found to be a problem;
- 15 (3) Authorize fines collected under county programs to be
16 deposited into a general fund account; and
- 17 (4) Authorize funds from this general fund account to be
18 expended in the county in which the fine was collected
19 for the establishment, operation, management, and
20 maintenance of a photo speed imaging detector systems
21 program.



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PART I

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

"CHAPTER

PHOTO SPEED IMAGING DETECTOR SYSTEM PROGRAM

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

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

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

"Department" means the department of transportation.

"Excessive speeding" has the same meaning as used in section 291C-105.

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

"Photo speed imaging detector" means a device used for traffic enforcement that includes a vehicle sensor that works in conjunction with a camera or similar device designed to automatically produce a photographic, digital, or other visual image of a vehicle traveling in excess of the legal speed limit



1 and of the vehicle's license plate, and a photographic, digital,
2 or other visual image of the driver of the motor vehicle.

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

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

7 **§ -2 Photo speed imaging detector system program;**
8 **established.** There is established the photo speed imaging
9 detector system program, which may be implemented by any county
10 on state or county highways within the respective county to
11 enforce the excessive speeding law of the State under section
12 291C-105 in areas where excessive speeding occurs on a regular
13 basis as determined by the county.

14 **§ -3 County powers and duties.** Each county may
15 establish and implement, in accordance with this chapter, a
16 photo speed imaging detector system program that imposes
17 monetary liability on the driver of a motor vehicle for failure
18 to comply with section 291C-105. Each county may provide for
19 the procurement, location, installation, operation, maintenance,
20 and repair of photo speed imaging detector systems within the
21 program. Where a photo speed imaging detector system affects
22 state property, the department shall cooperate with and assist



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

3 § -4 Photo speed imaging detector system program

4 requirements. (a) Photo speed imaging detector system program
5 equipment shall be operated from a fixed pole, post, or other
6 fixed structure on a state or county highway in areas where
7 excessive speeding occurs on a regular basis as determined by
8 the county.

9 (b) Signs and other official traffic-control devices
10 indicating that excessive speeding laws are enforced by a photo
11 speed imaging detector system shall be posted on all major
12 routes entering the area where the system is installed to
13 provide, as far as practicable, notice to drivers of the
14 existence and operation of the system.

15 (c) Proof of a violation of section 291C-105 shall be as
16 evidenced by information obtained from a photo speed imaging
17 detector system. A certificate, sworn to or affirmed by the
18 county's agent or employee, or a facsimile thereof, based upon
19 inspection of photographs, microphotographs, videotape, or other
20 recorded images produced by the system, shall be prima facie
21 evidence of the facts contained therein. Any photographs,
22 microphotographs, videotape, or other recorded images evidencing



1 a violation shall be available for inspection in any proceeding
2 to adjudicate the liability for that violation.

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

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

11 **§ -5 Summons or citations.** (a) Notwithstanding any
12 law to the contrary, whenever any motor vehicle is determined by
13 means of a photo speed imaging detector system to be in excess
14 of the legal speed limit in violation of section 291C-105, the
15 county shall cause a summons or citation, as described in this
16 section, and which is postmarked within seventy-two hours of the
17 time of the incident, to be sent by certified or registered mail
18 to the registered owner of the vehicle at the address on record
19 at the vehicle licensing division. The registered owner shall
20 be determined by the identification of the vehicle's license
21 plates. If the end of the seventy-two-hour period falls on a
22 Saturday, Sunday, or state holiday, then the ending period shall



1 run until the end of the next day that is not a Saturday,
2 Sunday, or state holiday.

3 (b) There shall be a form of summons or citation for use
4 in citing violators as specified in subsection (a) that shall
5 not mandate the physical arrest of those violators. The form
6 and content of the summons or citation shall be as adopted or
7 prescribed by the administrative judge of the district courts
8 and shall be printed on a form commensurate with the form of
9 other summonses or citations used in modern methods of arrest,
10 so designed to include all necessary information to make the
11 summons or citation valid within the laws of the State; provided
12 that any summons or citation issued under this chapter shall
13 contain a clear and unobstructed photographic, digital, or other
14 visual image of the driver of the motor vehicle that is to be
15 used as evidence of the violation.

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

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



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

4 § -6 Registered owner's responsibility for a summons or
5 citation. In any proceeding for a violation of this chapter,
6 the information contained in the summons or citation mailed in
7 accordance with section -5 shall be deemed prima facie
8 evidence that the registered owner of the vehicle violated
9 section 291C-105.

10 § -7 Prima facie evidence. (a) Whenever the photo
11 speed imaging detector system determines a motor vehicle to be
12 in violation of section 291C-105, evidence that the motor
13 vehicle described in the citations or summons issued pursuant to
14 this chapter was operated in violation of section 291C-105,
15 together with proof that the person to whom the summons or
16 citation was sent was the registered owner of the motor vehicle
17 at the time of the violation, shall constitute prima facie
18 evidence that the registered owner of the motor vehicle was the
19 person who committed the violation.

20 (b) The registered owner of the vehicle may rebut such
21 evidence in subsection (a) by any one of the following:



- 1 (1) Submitting a written statement as provided in section
- 2 291D-6(b)(2);
- 3 (2) Testifying in open court under oath that the person
- 4 was not the driver of the vehicle at the time of the
- 5 alleged violation;
- 6 (3) Calling witnesses to testify in open court under oath
- 7 that the person was not the driver of the vehicle at
- 8 the time of the alleged violation;
- 9 (4) Presenting extrinsic evidence that the person was not
- 10 the driver of the vehicle at the time of the alleged
- 11 violation;
- 12 (5) Presenting, prior to the return date established on
- 13 the citation or summons issued pursuant to this
- 14 chapter, a letter of verification of loss from the
- 15 police department indicating that the motor vehicle
- 16 has been reported stolen prior to the time of the
- 17 violation, to the court adjudicating the alleged
- 18 violation; and
- 19 (6) Identifying the driver of the vehicle at the time of
- 20 the offense.

21 § -8 Failure to comply with summons or citation. If

22 the registered owner of the vehicle does not return an answer in



1 response to a summons or citation within a period of twenty-one
2 days upon receipt of the summons or citation, the district court
3 shall issue, pursuant to section 291D-7(e), a notice of entry of
4 judgment of default to the registered owner of the motor
5 vehicle.

6 **§ -9 Liability for rental or U-drive vehicle.**

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

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

19 (2) If requested by the lessor in writing within thirty
20 days of such notice of violation, the administrative
21 judge of the court having jurisdiction over the
22 summons or citation may waive the requirement of



1 providing the name and address of the lessee and
2 impose on the lessor an administrative fee of \$5 per
3 citation plus costs and fees not to exceed \$10
4 notwithstanding any other law to the contrary.

5 § -10 **Personal and confidential information; fines for**
6 **unauthorized disclosure.** All personal and confidential
7 information made available by any government agency to an agent
8 of any county for the photo speed imaging detector system
9 program shall be kept confidential and shall be used only for
10 the purposes for which the information was furnished. Any agent
11 receiving government records pursuant to this section shall be
12 subject to the same restrictions on disclosure of the records as
13 the originating agency. Any agent, or officer or employee of
14 any agent, who intentionally discloses or provides a copy or
15 personal and confidential information obtained from a photo
16 speed imaging detector system to any person or agency with
17 actual knowledge that disclosure is prohibited, shall be fined
18 not more than \$; provided that the fine shall not
19 preclude the application of penalties or fines otherwise
20 provided for by law.

21 § -11 **Photo speed imaging detector system program**
22 **account established.** (a) There is established, as a special



1 account within the general fund, a photo speed imaging detector
2 system program account, into which shall be paid revenues
3 collected pursuant to this chapter.

4 (b) All fines collected under this chapter shall be
5 deposited into the photo speed imaging detector system program
6 account. Moneys in the account shall be expended in the county
7 in which the fine was imposed, for purposes that include the
8 establishment, operation, management, and maintenance of a photo
9 speed imaging detector system program.

10 § -12 Rules. The department shall adopt rules pursuant
11 to chapter 91 as may be necessary to implement this Act."

12 PART II

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

15 "(a) This chapter shall not be deemed to prevent counties
16 with respect to streets and highways under their jurisdiction
17 from:

- 18 (1) Regulating or prohibiting stopping, standing, or
19 parking except as provided in section 291C-111;
20 (2) Regulating traffic by means of police officers or
21 official traffic-control devices;



- 1 (3) Regulating or prohibiting processions or assemblages
- 2 on the highways;
- 3 (4) Designating particular highways or roadways for use by
- 4 traffic moving in one direction;
- 5 (5) Establishing speed limits for vehicles in public
- 6 parks;
- 7 (6) Designating any highway as a through highway or
- 8 designating any intersection as a stop or yield
- 9 intersection;
- 10 (7) Restricting the use of highways;
- 11 (8) Regulating the operation and equipment of and
- 12 requiring the registration and inspection of bicycles,
- 13 including the requirement of a registration fee;
- 14 (9) Regulating or prohibiting the turning of vehicles or
- 15 specified types of vehicles;
- 16 (10) Altering or establishing speed limits;
- 17 (11) Requiring written accident reports;
- 18 (12) Designating no-passing zones;
- 19 (13) Prohibiting or regulating the use of controlled-access
- 20 roadways by any class or kind of traffic;
- 21 (14) Prohibiting or regulating the use of heavily traveled
- 22 streets by any class or kind of traffic found to be



- 1 incompatible with the normal and safe movement of
2 traffic;
- 3 (15) Establishing minimum speed limits;
- 4 (16) Designating hazardous railroad grade [~~crossing,~~
5 crossings;
- 6 (17) Designating and regulating traffic on play streets;
- 7 (18) Prohibiting pedestrians from crossing a roadway in a
8 business district or any designated highway except in
9 a crosswalk;
- 10 (19) Restricting [~~pedestrian~~] pedestrians from crossing at
11 unmarked crosswalks;
- 12 (20) Regulating persons propelling push carts;
- 13 (21) Regulating persons upon skates, coasters, sleds, and
14 other toy vehicles;
- 15 (22) Adopting and enforcing such temporary or experimental
16 regulations as may be necessary to cover emergencies
17 or special conditions;
- 18 (23) Adopting maximum and minimum speed limits on streets
19 and highways within their respective jurisdictions;
- 20 (24) Adopting requirements on stopping, standing, and
21 parking on streets and highways within their



1 respective jurisdictions except as provided in section
2 291C-111;

3 (25) Implementing a photo speed imaging detector system
4 program pursuant to chapter ; or

5 [~~25~~] (26) Adopting such other traffic regulations as are
6 specifically authorized by this chapter."

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

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

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

14 (2) In the case of ~~+~~

15 ~~(A)~~ A] a vehicle [utilizing] using the high occupancy
16 vehicle lane illegally [~~+~~], the original of the
17 citation shall be sent by certified or registered
18 mail, with a return receipt that is postmarked
19 within forty-eight hours of the time of the
20 incident, as provided in section 291C-223; or

21 [~~B)~~ A] (3) In the case of a vehicle illegally
22 [utilizing] using a parking space reserved for



1 persons with disabilities, where the violator
2 refuses the citation[+
3 ~~the original of the citation shall be sent by certified or~~
4 ~~registered mail, with a return receipt that is postmarked within~~
5 ~~forty eight hours of the time of the incident, as provided in~~
6 ~~section 291C-223 for vehicles illegally utilizing the high~~
7 ~~occupancy vehicle lane, or within seventy two hours of the time~~
8 ~~of the incident for vehicles illegally utilizing a parking space~~
9 ~~reserved for persons with disabilities, to the registered owner~~
10 ~~of the vehicle at the address on record at the vehicle licensing~~
11 ~~division.]~~

12 , the original of the citation shall be sent to
13 the registered owner of the vehicle at the
14 address on record at the vehicle licensing
15 division within seventy-two hours of the time of
16 the incident;

17 or

18 (4) In the case of a motor vehicle determined under the
19 photo speed imaging detector system program
20 established pursuant to chapter _____ to be
21 excessively speeding in violation of section 291C-105,
22 the original of the citation shall be sent to the



1 registered owner of the vehicle at the address on
 2 record at the vehicle licensing division within
 3 seventy-two hours of the time of the incident.

4 If the end of the applicable forty-eight or seventy-two
 5 hour period falls on a Saturday, Sunday, or state holiday, then
 6 the ending period shall run until the end of the next day which
 7 is not a Saturday, Sunday, or state holiday; provided that the
 8 administrative judge of the district courts may allow a carbon
 9 copy of the citation to be given to the violator or affixed to
 10 the vehicle and provide for the disposition of the original and
 11 any other copies of the citation."

12 SECTION 5. There is appropriated out of the general
 13 revenues of the State of Hawaii the sum of \$ or so much
 14 thereof as may be necessary for fiscal year 2009-2010 for the
 15 purposes of establishing the photo speed imaging detector system
 16 program to be allocated as follows:

- 17 \$ to the city and county of Honolulu;
- 18 \$ to the county of Maui;
- 19 \$ to the county of Hawaii; and
- 20 \$ to the county of Kauai.

21 The sum appropriated shall be expended by the counties for
 22 the purposes of this Act.



1 SECTION 6. It is the intent of this Act neither to
2 jeopardize the receipt of any federal aid nor to impair the
3 obligation of the State or any agency thereof to the holders of
4 any bond issued by the State or by any such agency, and to the
5 extent, and only to the extent, necessary to effectuate this
6 intent, the governor may modify the strict provisions of this
7 Act, but shall promptly report any such modification with
8 reasons therefor to the legislature at its next session
9 thereafter for review by the legislature.

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

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



H.B. NO. 388

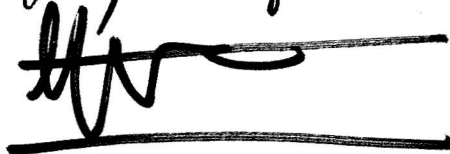
1 SECTION 9. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 10. This Act shall take effect on July 1, 2009.
4

INTRODUCED BY:











JAN 23 2009



Report Title:

Highway Safety

Description:

Establishes the photo speed imaging detector system program.
Authorizes counties to administer the program.

