

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

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

5 "Department" means the department of transportation.

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

7 "Motor vehicle" has the same meaning as defined in section
8 291C-1.

9 "Photo red light imaging detector system" or "system" means
10 a device used for traffic enforcement to detect failure to stop
11 at a red light that includes a motor vehicle sensor that works
12 in conjunction with a traffic-control signal and one or more
13 cameras or similar devices to automatically produce a
14 photographic, digital, or other visual image of a motor vehicle
15 that has disregarded a steady red traffic-control signal in
16 violation of section 291C-32, and optionally a photographic,
17 digital, or other visual image of the driver of the motor
18 vehicle.

19 "State highway" has the same meaning as used in section
20 264-1.

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

1 **§ -2 Photo red light imaging detector system program;**
2 **established.** There is established the photo red light imaging
3 detector system program, which may be implemented by any county
4 on state or county highways within the respective county to
5 enforce section 291C-32(a)(3).

6 **§ -3 County powers and duties.** Each county may
7 establish and implement, in accordance with this chapter, a
8 photo red light imaging detector system program imposing
9 monetary liability on the driver of a motor vehicle for failure
10 to comply with section 291C-32(a)(3). Each county may provide
11 for the procurement, location, installation, operation,
12 maintenance, and repair of photo red light imaging detector
13 systems within the program. Where a photo red light imaging
14 detector system affects state property, the department shall
15 cooperate with and assist the county as needed to install
16 (without adding a separate electrical meter), maintain, and
17 repair the system.

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

1 (b) Signs or other official traffic-control devices
2 indicating that the traffic signal law is enforced by a photo
3 red light imaging detector system shall be posted at the photo
4 enforcement intersections to notify drivers of the existence and
5 operation of the system.

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

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

20 (e) The conditions specified in this section shall not
21 apply when the information gathered is used for highway safety

1 research or to issue warning citations that do not involve a
2 fine or court appearance, or affect a person's driving record.

3 **§ -5 Summons or citations.** (a) Notwithstanding any
4 law to the contrary, whenever the driver of any motor vehicle is
5 determined by means of a photo red light imaging detector system
6 to have disregarded a steady red signal in violation of section
7 291C-32(a)(3), the county shall issue a notice of infraction in
8 accordance with 291D-5.

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

19 (c) Every citation shall be consecutively numbered and
20 each copy thereof shall bear the number of its respective
21 original.

1 (d) Upon receipt of the summons or citation, the
2 registered owner shall respond as provided for in chapter 291D.
3 A mail receipt from the post office is prima facie evidence of
4 the registered owner's receipt of notification. The registered
5 owner shall be identified through the motor vehicle's
6 registration plates.

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

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

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

1 at the time of the violation, shall constitute prima facie
2 evidence that the registered owner of the motor vehicle was the
3 person who committed the violation.

4 (b) The registered owner of the vehicle may rebut the
5 evidence in subsection (a) by any one of the following ways,
6 including:

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

1 had been reported stolen, to the court adjudicating
2 the alleged violation; or

3 (6) Identifying the driver of the vehicle at the time of
4 the offense.

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

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

18 (1) The lessor shall be responsible for the summons or
19 citation if the lessor does not provide the court
20 having jurisdiction over the summons or citation with
21 the name and address of the lessee within thirty days
22 after a notice containing the date, time, and location

1 of the violation and the license number of the vehicle
2 is sent to the lessor; or

3 (2) If requested by the lessor in writing within thirty
4 days of such notice of violation, the administrative
5 judge of the court having jurisdiction over the
6 summons or citation shall waive the requirement of
7 providing the name and address of the lessee and
8 impose on the lessor an administrative fee of \$5 per
9 citation plus costs and fees not to exceed \$10 in
10 total per violation notwithstanding any such law to
11 the contrary.

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

19 **§ -11 Photo red light imaging detector system program**
20 **account established.** (a) There is established as a special
21 account within the general fund, a photo red light imaging

1 detector system program account into which shall be paid
2 revenues collected pursuant to this chapter.

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

10 PART II

11 SECTION 3. Section 286-51, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) Every certificate of registration issued under this
14 part shall expire at midnight on December 31 of each year and
15 shall be renewed annually before April 1 of each year upon
16 application by the registered owner by presentation of the last
17 issued certificate of registration or the last issued
18 application for renewal, such renewal to take effect as of
19 January 1 of each year; provided that the certificate of
20 registration for each motor vehicle in the counties of the State
21 may be renewed on a staggered basis, if a county elects to do
22 so. The director of finance of each county may adopt rules to

1 carry out the purposes stated in this section and shall expend
2 the necessary funds from the director's operating funds as may
3 be necessary for these purposes; provided that the director of
4 finance, if the director has ascertained as of the date of the
5 application that the registered owner has not deposited or paid
6 bail with respect to any summons or citation issued to the
7 registered owner for stopping, standing, or parking in violation
8 of traffic ordinances within the county, or a violation of
9 section 291C-32(a)(3) that was enforced by a photo red light
10 imaging detector system, may require, as a condition precedent
11 to the renewal, that the registered owner deposit or pay bail
12 with respect to all such summons or citations. The certificates
13 of registration issued hereunder shall show, in addition to all
14 information required under section 286-47, the serial number of
15 the tag or emblem and shall be valid during the registration
16 year only for which they are issued. The certificates of
17 ownership need not be renewed annually but shall remain valid as
18 to any interest shown therein until canceled by the director of
19 finance as provided by law or replaced by new certificates of
20 ownership as hereinafter provided."

21 SECTION 4. Section 287-3, Hawaii Revised Statutes, is
22 amended by amending subsection (b) to read as follows:

1 "(b) Notwithstanding any provision to the contrary, all
2 alleged moving violations as well as any convictions resulting
3 therefrom or any administrative license suspension pursuant to
4 chapter 291A or any violation of section 291C-32(a)(3) that is
5 enforced by a photo red light imaging detector system shall not
6 be included in a certified abstract of the bureaus' record."

7 SECTION 5. Section 291C-32, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(3) Steady red indication:

10 (A) Vehicular traffic facing a steady red signal
11 alone shall stop at a clearly marked stop line,
12 but if none, before entering the crosswalk on
13 the near side of the intersection or, if none,
14 then before entering the intersection and shall
15 remain standing until an indication to proceed
16 is shown, except as provided in the next
17 succeeding paragraphs. Violations of this
18 subparagraph that are enforced by a photo red
19 light imaging detector system are not moving
20 violations."

21 SECTION 6. Section 291C-163, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:

1 "(a) This chapter shall not be deemed to prevent counties
2 with respect to streets and highways under their jurisdiction
3 from:

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

- 1 (10) Altering or establishing speed limits;
- 2 (11) Requiring written accident reports;
- 3 (12) Designating no-passing zones;
- 4 (13) Prohibiting or regulating the use of controlled-access
- 5 roadways by any class or kind of traffic;
- 6 (14) Prohibiting or regulating the use of heavily traveled
- 7 streets by any class or kind of traffic found to be
- 8 incompatible with the normal and safe movement of
- 9 traffic;
- 10 (15) Establishing minimum speed limits;
- 11 (16) Designating hazardous railroad grade crossing;
- 12 (17) Designating and regulating traffic on play streets;
- 13 (18) Prohibiting pedestrians from crossing a roadway in a
- 14 business district or any designated highway except in
- 15 a crosswalk;
- 16 (19) Restricting pedestrian crossing at unmarked
- 17 crosswalks;
- 18 (20) Regulating persons propelling push carts;
- 19 (21) Regulating persons upon skates, coasters, sleds, and
- 20 other toy vehicles;

1 (22) Adopting and enforcing such temporary or experimental
2 regulations as may be necessary to cover emergencies
3 or special conditions;

4 (23) Adopting maximum and minimum speed limits on streets
5 and highways within their respective jurisdictions;

6 (24) Adopting requirements on stopping, standing, and
7 parking on streets and highways within their
8 respective jurisdictions except as provided in section
9 291C-111;

10 (25) Implementing a photo red light imaging detector system
11 program pursuant to chapter ; or

12 [~~25~~] (26) Adopting such other traffic regulations as are
13 specifically authorized by this chapter."

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

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

18 (1) In the case of an unattended vehicle, the original of
19 the citation shall be affixed to the vehicle as
20 provided for in section 291C-167; or

21 (2) In the case of:

1 (A) A vehicle utilizing the high occupancy vehicle
2 lane illegally; or
3 (B) A vehicle illegally utilizing a parking space
4 reserved for persons with disabilities, where the
5 violator refuses the citation;
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, or for vehicles running
13 a red traffic light that are identified by a photo red light
14 imaging detector system to the registered owner of the vehicle
15 at the address on record at the vehicle licensing division. If
16 the end of the applicable forty-eight or seventy-two hour period
17 falls on a Saturday, Sunday, or holiday, then the ending period
18 shall run until the end of the next day which is not a Saturday,
19 Sunday, or holiday; provided that the administrative judge of
20 the district courts may allow a carbon copy of the citation to
21 be given to the violator or affixed to the vehicle and provide

1 for the disposition of the original and any other copies of the
2 citation."

3 PART III

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

13 SECTION 9. If any provision of this Act, or the
14 application thereof to any person or circumstance is held
15 invalid, the invalidity does not affect other provisions or
16 applications of the Act that can be given effect without the
17 invalid provision or application, and to this end, the
18 provisions of this Act are severable.

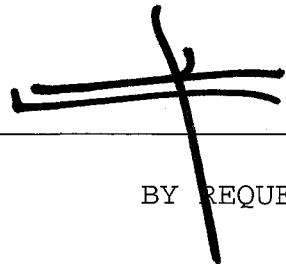
19 SECTION 10. This Act does not affect rights and duties
20 that matured, penalties that were incurred, and proceedings that
21 were begun, before its effective date.

1 SECTION 11. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 12. This Act shall take effect on July 1, 2009.

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5
6

INTRODUCED BY: _____

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BY REQUEST

Report Title:

Photo Red Light Imaging Detector System; Violations; Citations

Description:

Establishes a photo red light imaging detector system program and counties are provided the authorization to implement the program. Does not mandate the counties to implement a photo red light imaging detector system or authorize any appropriation for the program.

SB 988

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY.

PURPOSE: Authorizes counties to implement a photo red light enforcement program.

MEANS: Add a new chapter and amend sections 286-51(a), 287-3(b), 291C-32(a), 291C-163(a), and 291C-165(b), Hawaii Revised Statutes.

JUSTIFICATION: Red traffic light running is a dangerous practice. Photo red light enforcement is a safe, efficient, and cost-effective means of discouraging red traffic light running. Provides the authorization, but does not mandate the counties to establish and implement photo red light enforcement and make available to them an additional means of improving highway safety by reducing the number of serious crashes that are caused by red traffic light running.

Impact on the public: At signalized intersections that utilize photo enforcement red traffic light runners can be cited. This increased enforcement results in a decrease in violations and serious crashes at those intersections.

Impact on the department and other agencies: There will be no impact on the department. The Judiciary and the police departments will experience a higher number of red traffic light running citations.

GENERAL FUND: None.

OTHER FUNDS: None.

PBS PROGRAM DESIGNATION: TRN 595.

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OTHER AFFECTED

AGENCIES:

Judiciary, County police departments.

EFFECTIVE DATE:

July 1, 2009.