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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 PART I

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

13 The legislature further finds that in other jurisdictions  
14 in the United States, Canada, Europe, and other countries  
15 throughout the world, photo speed imaging detector systems have  
16 been proven reliable, efficient, and effective in identifying  
17 and deterring those 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 because 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 by placing system costs on the violators who have  
19 created the need for the program, not on law-abiding taxpayers.  
20 Traffic laws are impartially enforced, and safety and efficiency  
21 are increased by reducing the number of high-speed chases and



1 the number of personnel required for traffic accident clean-up,  
2 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 from the method by which it  
9 was implemented. The public perceived that the program was  
10 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 resulting accidents are almost always more serious. Recently, a



1 number of cases of fatal crashes involved vehicles traveling at  
2 speeds far exceeding the posted speed limit. The legislature  
3 finds that there is an immediate need to remedy the steadily  
4 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 also offering substantial cost  
8 savings.

9 The purpose of this Act is to:

- 10 (1) Establish a photo speed imaging detector system  
11 program to improve speed limit enforcement;
- 12 (2) Allow counties to implement the photo speed imaging  
13 detector system program in areas where excessive  
14 speeding has been 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 system  
21 program.



1 PART II

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

5 "CHAPTER  
6 PHOTO SPEED IMAGING DETECTOR SYSTEM PROGRAM

7 § -1 Definitions. As used in this chapter, unless the  
8 context otherwise requires:

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

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

13 "Department" means the department of transportation.

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

16 "Motor vehicle" has the same meaning as defined in section  
17 291C-1.

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



1 and a photographic, digital, or other visual image of the driver  
2 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, under section 291C-105, in  
12 areas where excessive speeding occurs on a regular basis as  
13 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 a  
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 or  
10 court appearance or affecting a person's driving record.

11 **§ -5 Summons or citations.** (a) Notwithstanding any law  
12 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 and  
15 the requirements of section -4(d) are met, the county shall  
16 cause a summons or citation, as described in this section and  
17 which is postmarked within seventy-two hours of the time of the  
18 incident, to be sent by certified or registered mail to the  
19 registered owner of the vehicle at the address on record at the  
20 vehicle licensing division. If the end of the seventy-two-hour  
21 period falls on a Saturday, Sunday, or state holiday, then the





1 ending period shall run until the end of the next day that is  
2 not a Saturday, 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. The registered



1 owner shall be determined by the identification of the 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-105.

12 **§ -7 Prima facie evidence.** (a) Whenever the photo  
13 speed imaging detector system determines a motor vehicle to be  
14 in violation of section 291C-105, 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-105,  
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 such  
2 evidence in subsection (a) by any one of the following:
- 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 vehicle at the time of the  
7 alleged violation;
- 8 (3) Calling witnesses to testify in open court under oath  
9 that the person was not the driver of the vehicle at  
10 the time of the alleged violation;
- 11 (4) Presenting extrinsic evidence that the person was not  
12 the driver of the vehicle at the time of the alleged  
13 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 has been reported stolen prior to the time of the  
19 violation, to the court adjudicating the alleged  
20 violation; or
- 21 (6) Identifying the driver of the vehicle at the time of  
22 the offense.



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

21           (2) The administrative judge of the court having  
 22 jurisdiction over the summons or citation may waive



1           the requirement of providing the name and address of  
2           the lessee and impose on the lessor an administrative  
3           fee of \$           per citation.

4           **§ -10 Penalty.** The penalties for a violation of  
5 excessive speeding where the charge has been initiated under  
6 this chapter shall be as provided in section 291C-105(c).

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





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



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





1 (24) Adopting requirements on stopping, standing, and  
2 parking on streets and highways within their  
3 respective jurisdictions except as provided in section  
4 291C-111;

5 (25) Prohibiting or regulating electric personal assistive  
6 mobility devices on sidewalks and bicycle paths; ~~and~~

7 (26) Implementing a photo speed imaging detector system  
8 program pursuant to chapter ; and

9 ~~[(26)]~~ (27) Adopting such other traffic regulations as are  
10 specifically authorized by this chapter."

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

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

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

18 (2) In the case of:

19 (A) A vehicle utilizing the high occupancy vehicle  
20 lane illegally~~ly~~, the original of the  
21 citation shall be sent by certified or registered  
22 mail, with a return receipt that is postmarked



1                   within forty-eight hours of the time of the  
2                   incident, as provided in section 291C-223; 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, to the registered owner~~  
13 ~~of the vehicle at the address on record at the vehicle licensing~~  
14 ~~division.]~~

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

20           (3) In the case of a motor vehicle determined under the  
21           photo speed imaging detector system program  
22           established pursuant to chapter       to be excessively





1           §                   to the county of Kauai.

2           The sum appropriated shall be expended by the counties for  
3 the purposes of this Act.

4           SECTION 6. 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 therefor to the legislature at its next session  
12 thereafter for review by the legislature.

13          SECTION 7. 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 which can be given effect without the  
17 invalid provision or application, and to this end the provisions  
18 of this Act are severable.

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



1 SECTION 9. Upon enactment, the revisor of statutes shall  
2 insert the number of this chapter into sections 291C-163 and  
3 291C-165, Hawaii Revised Statutes, where indicated in sections 3  
4 and 4 of this Act, respectively.

5 SECTION 10. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 11. This Act shall take effect on January 7, 2059;  
8 provided that section 5 shall take effect on July 1, 2012.



**Report Title:**

Highway Safety; Photo Speed Imaging; Appropriation

**Description:**

Establishes a photo speed imaging detector system program. Authorizes counties to administer the program. Requires proceeds of fines to be expended in the county from which they were collected for generation of the program. Appropriates funds. Effective January 7, 2059. (HB2789 HD1)

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