



**Office of the Public Defender  
State of Hawaii  
Timothy Ho, Chief Deputy Public Defender**



**Testimony of the Office of the Public Defender,  
State of Hawaii to the House Committee on Judiciary**

February 9, 2012, 2:00 p.m.

H.B. No. 2789: RELATING TO HIGHWAY SAFETY

Chair Keith-Agaran and Members of the Committee:

This measure would establish a photo speed imaging detector system program. This system would be an unmanned, automated system, which would provide a photograph of a vehicle traveling in excess of the established speed limit.

Although we believe that strict enforcement of our traffic laws results in a reduction of traffic accidents and increased traffic safety, we do not believe this measure appropriately balances the rights of the accused violators with the public's interest in traffic safety.

There was overwhelming public opposition to a photo speed detection system implemented on Oahu a few years ago. There is nothing to indicate that the public will favorably receive any photo speed detection system today. The arbitrary, robotic nature of an automated speed detection system, albeit without the camera vans, will still generate public opposition. The difference between an automated system and a manned system is that everyone traveling over the speed limit will be ticketed by the automated system. A police officer would be able exercise his or her discretion in deciding whether or not to pull over and eventually issue a speeding ticket. For example, a police officer stationed in a 35 mile per hour zone may decide not to pull over a driver traveling 38 miles per hour, and issue a warning to a person traveling 41 miles per hour. While the officer may decide to issue a ticket to the driver traveling at 44 miles per hour, the automated system would ticket everyone going 36 miles per hour and above.

While it is true that the public outcry against previous version of photo speed enforcement was directed at the private vendor, cessation of that program was accomplished by simply terminating the contract with the vendor. H.B. 2789 will be implemented by the counties, not a private vendor. The financial burden of purchasing and maintaining the photo speed detection equipment, as well as the cost of the additional personnel to run the system will fall on the public. What happens if the photo detection law is repealed again? In this instance, the bill will be footed by the taxpayers. Money would be better spent on increasing the police presence on our highways. It has worked in east Honolulu, where officers patrol the freeway from the University off-ramp to Hawaii Kai.

Legally, we express the same opposition to this bill as in H. B. 2790. The registered owner will be deemed liable, even if he is not the actual operator of the vehicle. The registered owner, if he was not driving the motor vehicle during the photo red light violation, would be inconvenienced by having to prepare a written statement, testify in court, call witnesses or obtain extrinsic proof of his innocence, at his own expense. The registered owner would also be forced to choose between accepting responsibility for a violation he did not commit and assisting the government in the prosecution of a spouse, friend or family member.

We oppose the passage of H.B. No. 2789. Thank you for the opportunity to be heard on this matter.

# OFFICE OF INFORMATION PRACTICES

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EMAIL: oip@hawaii.gov

To: House Committee on Judiciary  
From: Cheryl Kakazu Park, Director  
Date: February 9, 2012, 2:00 p.m.  
State Capitol, Room 325  
Re: Testimony on H.B. No. 2789  
Relating to Highway Safety

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Thank you for the opportunity to submit testimony on H.B. No. 2789.

OIP takes no position on the substance of this bill, but is testifying to request that this Committee clarify a provision (on bill page 13, beginning at line 6) protecting “personal and confidential” information shared by a government agency with an agent of a county. The provision as written does not provide any standard to determine what sort of information is “personal and confidential.” OIP would suggest amending the provision to add a reference to the existing standards for what constitutes personal and confidential information in the Uniform Information Practices Act, chapter 92F, Hawaii Revised Statutes. This could be done by amending lines 7-8 to read: “All [~~personal and confidential information~~] information that would fall under an exception to public disclosure under chapter 92F made available by any government agency . . . .”

Thank you for considering OIP’s testimony.

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON JUDICIARY  
ON  
HOUSE BILL NO. 2789

February 9, 2012

RELATING TO HIGHWAY SAFETY

House Bill No. 2789 establishes a photo speed imaging detector system program to be administered by the counties. Proceeds from fines, resulting from speeding violations captured by the speed imaging detectors, are to be deposited into a special account in the State general fund to be expended in the county in which the fine was imposed and used for the establishment, operation, management, and maintenance of the program.

While the Department of Budget and Finance does not take any position on establishment of a photo speed imaging detector system, as a matter of general policy, the department does not support the creation of any special account within the general fund of the State for specific purposes. This is an inconsistent application and use of the general fund. The department strongly believes that general fund program requirements should be reviewed on a statewide basis and allocated to programs based on statewide priorities within available resources. Conventional application of the general fund would entail, any and all, expenditures via direct appropriations authorized by the Legislature, where each appropriation is weighted against the affordability of statewide requirements of the general fund.



3442 Waialae Ave., Suite 1, Honolulu, HI 96816 Office 808.735.5756 Fax 808.735.7989 [www.hbl.org](http://www.hbl.org)

Testimony in Support of HB 2789 RELATING TO HIGHWAY SAFETY  
House Judiciary Committee 2 p.m. Rm 325 2/9/12  
Submitted by Chad Taniguchi, Executive Director, Hawaii Bicycling League

**Protect all road users from those who violate speed limits and endanger others!**

The Hawaii Bicycling League, along with other bicycling and walking organizations statewide, supports HB 2789 to allow photo speed imaging camera enforcement of drivers who violate speed limits. HB 2789 provides for fair, efficient law enforcement while freeing our police for other important tasks that can best be done by skilled officers. Photo speed cameras safely and accurately enforce speeding laws impartially.

The Hawaii Bicycling League asks all road users to heed Kamehameha's Law of the Splintered Paddle (decreed 1797) because "Everyone has the right to be safe on Hawaii's roads." Now 215 years later we have large, fast machines capable of killing instantly if the operators are not careful. We need to use technology to help control a minority of drivers who speed and endanger others.

We extend our deepest condolences to the families of Officers Garret Davis and Eric Fontes, and to Chief Kealoha and members of the Honolulu Police Department, who daily risk their lives to protect our safety. It is a tragedy when anyone is killed or seriously injured on our public roads because these crashes can be avoided by obeying the speed limits and concentrating to adjust to changing conditions.

Under current enforcement systems we are allowing more than 100 people to be killed on our roads each year. The number could be greatly reduced with photo speed imaging camera systems. When the mobile van cams were in effect drivers followed the speed limit but problems in implementation shut down the system. This bill allows fixed speed cameras where there is a history of speeding and avoids the pitfalls of the van cam system.

*Ride Aloha! Drive Aloha!*

COMMITTEE ON JUDICIARY

Honorable Gilbert S.C. Keith-Agaran, Chair  
Honorable Karl Rhoads, Vice Chair

Re: House Bill No. 2789 -- Relating to Highway Safety

Thursday, February 9, 2012  
Hawaii State Capitol, Conference Room 325  
2:00 p.m.

HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Milton Imada. I am a registered voter with a background in fleet maintenance and safety who also maintains a commercial driver's license. I am speaking in behalf of private and professional drivers who believe as I do.

This Committee above all others has the sole responsibility to ensure justice prevails in all areas of new law enforcement. The blatantly flawed highway camera system imposed in this Bill will deliberately allow motorcycles to freely exceed the speed limits while punishing other motor vehicle drivers, therefore this Bill is unjust. We ask you to uphold your responsibility and reject House Bill No. 2789.

Spending hundred thousands of dollars on a camera system during a time of failing economy and high unemployment is irresponsible.

We rejected the initial December 2001 traffic camera Bill in its entirety and firmly opposed any and all forms of photo imaging cameras instead of using police officers.

Part II, Section -4, Paragraph (d) of this Bill discriminates against drivers of cars, trucks and buses because it does not provide an effective means to cite speeding motorcycles whose driver helmet visor (dark and clear) obscures driver identification. The absence of front license plates also prevents identification and contradicts the "safety" purpose of this Bill.

It is unconscionable when lawmakers become obsessed with spending taxpayers' monies to build the "son of van cam" that will pose to harass all

drivers when the true problems causing the highway carnage are racing more than 30 miles per hour over the posted speed limits, driving under the influence of alcohol or drugs, weaving in and out of traffic lanes and following too close.

Highway cameras are a poor substitute for police officers who can immediately defuse a possible catastrophe down the roadway by pulling over a racing motorist or one who is driving carelessly. The officers can also identify alcohol and drug abuse or a medical emergency. Cameras will never replace police presence on the highways or roadways.

Traffic police officers here and on the mainland exercise discretion and have been known to allow up to 10 miles per hour over the posted speed limit before citing a driver. The lay of the road can change instantly and can affect a vehicle's speed without the driver's immediate knowledge. Speedometer errors will also affect a vehicle's speed. The safe flow of traffic is another consideration.

As we interpret this Bill, anyone with the exception of motorcycle operators traveling one mile per hour over the speed limit will be cited with no allowance for speedometer errors that are inherent in the design of motor vehicles. The speedometer inadequacy was proven to the House Transportation Committee and its Chair Joseph Souki when a representative from car dealerships confirmed it to be true during a previous hearing related to this same subject matter that I took part in.

This flawed highway camera system imposed in haste will be able to write two tickets per second sounds like a cunning way to increase the State's general fund.

Hawaii drivers do not drive like drivers on the mainland, therefore, we do not deserve to be harassed or treated in the same manner. We want to keep Hawaii a very special place without becoming photo targets and unwilling benefactors.

We ask you not to impose this unpopular, band aid solution in lieu of spending wisely and responsibly taxpayers' monies for additional police officers

to compensate for our growing population and increased traffic. More officers can allow the police department to once again maintain a meaningful presence on our highways and intersections

Photo imaging cameras will instill driver fear and paranoia as drivers become obsessed with focusing on speedometers to maintain precise speeds while looking for the cameras. These drivers will be distracted from applying other safe driving techniques. Bad weather and worsening traffic conditions make the situation more stressful.

This Bill is bad law and will open a Pandora's box with growing negativity infringing on our rights to privacy and lead Hawaii down a dangerous path of eroding civil liberties.

Insurance companies will treat law abiding drivers with ten or more years of safe driving records like criminals by raising their premiums forever for being cited by photo cameras driving one mile per hour over the speed limit. These drivers may contest the citations in court.

If you insist on imposing this Bill, we suggest the following:

1. Provide a 10 mile per hour allowance for speedometer errors and the lay of the land which may quickly increase the speed of a vehicle without the driver's knowledge.

2. Provide that warnings be issued in lieu of citations for photo camera violations up to 10 miles per hour over the posted speed limit, considering that when insurance premiums go up drivers will drive without insurance.

3. Provide that a violation for which a civil penalty is imposed under this Bill for the first 10 miles per hour be treated the same as a seat belt and child restraint violation to prevent insurance companies raising premiums.

4. Increase our police force to compensate for the growing population resulting in more vehicles on our roadway.

5. In lieu of photo imaging, we suggest creating a part time police traffic detachment dedicated to highway and intersection safety with the following considerations:



- A. Hire our already trained, qualified volunteer police officers.
- B. Hours of work not to exceed part time status.
- C. Duties will be confined to maintaining roadway and intersection safety.

6. The monies you spend on this project can be better spent on repairing Oahu's infrastructure, repairing, rebuilding and modernizing schools, preventing drug abuse, resurfacing roadways, boosting our failing economy and aiding victims of failed airlines and businesses, etc.

7. Please refrain from enacting this flawed and discriminatory photo speed imaging detector system, which will impose upon the financial security of many, undeserving citizens while exempting the drivers of motorcycles from being cited for speeding.

There is no Aloha spirit in photo traffic enforcement.

Thank you. We look forward to your support.

Testimony for HB2789 on 2/9/2012 2:00:00 PM

**Testimony for HB2789 on 2/9/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Wednesday, February 08, 2012 9:48 AM

**To:** JUDtestimony

**Cc:** jgoody@hawaii.rr.com

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Testimony for JUD 2/9/2012 2:00:00 PM HB2789

Conference room: 325

Testifier position: Support

Testifier will be present: No

Submitted by: John Goody

Organization: Hawaii Bicycling League

E-mail: jgoody@hawaii.rr.com

Submitted on: 2/8/2012

**Comments:**

Please support this bill. It will save lives.

Speeding is epidemic on our roads and especially in communities. We need to reduce the hazards that speeders impose on pedestrians, cyclists and other roadway users.

Thanks you

John Goody

Kaneohe

Testimony for HB2790 on 2/9/2012 2:00:00 PM

**Testimony for HB2790 on 2/9/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Wednesday, February 08, 2012 9:50 AM

**To:** JUDtestimony

**Cc:** jgoody@hawaii.rr.com

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Testimony for JUD 2/9/2012 2:00:00 PM HB2790

Conference room: 325

Testifier position: Support

Testifier will be present: No

Submitted by: John Goody

Organization: HBL

E-mail: jgoody@hawaii.rr.com

Submitted on: 2/8/2012

Comments:

Dear Chairman and Committee Members:

I am testifying in support of this very badly needed bill for highway safety, red light imaging.

For the safety of us all, whether pedestrian, cyclist or car driver, we badly need to reduce red light running, which has become rampant on our roadways.

I have personally witnessed several very close calls, where drivers accelerate through the intersection after the light turns red, in one instance nearly striking two elderly ladies already in the crosswalk; they were missed by inches and the driver never even seemed to see them.

Passing this measure will help us all, and curb a very dangerous illegal practice on our roads.

Thank you.

John Goody

Kaneohe

Crysttal Atkins  
HC 1, Box 5639  
Kea'au, HI 96749

February 9, 2012

To Whom It May Concern:

I strongly support HB 2790 which would establish a Photo Red Light Running program for the state of Hawai'i. Such programs have been highly successful in other states and I believe it would greatly increase safety for all users of Hawai'i roadways by reducing red light running behavior. I would suggest, however, that the definition of how funds from this program be used be amended to include improvements to pedestrian and bicycle facilities and for pedestrian and bicyclist education programs.

Mahalo for the opportunity to testify.

Crysttal Atkins

Testimony for HB2789 on 2/9/2012 2:00:00 PM

**Testimony for HB2789 on 2/9/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Wednesday, February 08, 2012 11:51 PM

**To:** JUDtestimony

**Cc:** abroner@hawaii.edu

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Testimony for JUD 2/9/2012 2:00:00 PM HB2789

Conference room: 325

Testifier position: Support

Testifier will be present: No

Submitted by: Alexander Broner

Organization: Individual

E-mail: abroner@hawaii.edu

Submitted on: 2/8/2012

**Comments:**

Red Light cameras are an important traffic safety tool that discourages people from running red lights. Knowledge that running a red light will lead to a fine will prevent reckless behavior that is the cause of many accidents. Please pass this bill for the safety of all road users in Hawaii.

Testimony for HB2789 on 2/9/2012 2:00:00 PM

**Testimony for HB2789 on 2/9/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Thursday, February 09, 2012 1:11 AM

**To:** JUDtestimony

**Cc:** mymunekata@gmail.com

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Testimony for JUD 2/9/2012 2:00:00 PM HB2789

Conference room: 325

Testifier position: Support

Testifier will be present: No

Submitted by: Myra Munekata

Organization: Individual

E-mail: mymunekata@gmail.com

Submitted on: 2/9/2012

**Comments:**

Speeders endanger other road users by putting their convenience and time above those of other law abiding drivers, pedestrians and bicyclists. I see no reason why we should not use the best camera technologies to enforce our laws in addition to the work of our police officers.

I teach kindergarten and impress upon our young children the need to help each other and not harm others.

Please pass this bill and protect our people.

Testimony for HB2789 on 2/9/2012 2:00:00 PM

**Testimony for HB2789 on 2/9/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Wednesday, February 08, 2012 9:48 AM

**To:** JUDtestimony

**Cc:** jgoody@hawaii.rr.com

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Testimony for JUD 2/9/2012 2:00:00 PM HB2789

Conference room: 325

Testifier position: Support

Testifier will be present: No

Submitted by: John Goody

Organization: Hawaii Bicycling League

E-mail: jgoody@hawaii.rr.com

Submitted on: 2/8/2012

**Comments:**

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