

JAN 18 2013

A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

1
2 SECTION 1. The legislature finds that the prevalence of
3 drivers violating Hawaii's traffic laws, especially on the
4 island of Oahu, has become intolerable, particularly drivers who
5 run red lights. These violations endanger the lives of
6 motorists and pedestrians and compound the already hazardous
7 conditions on Hawaii's roads and highways. It has become
8 increasingly common to hear reports of hit-and-run drivers who
9 have run over children or the elderly. Disregarding traffic
10 signals has also been the common denominator in recent highly-
11 publicized motor vehicle crashes that have claimed lives.

12 The legislature further finds that in other jurisdictions
13 in the United States, in Canada, in Europe, and in other
14 countries throughout the world, a technological innovation, the
15 photo red light imaging detector system, has already
16 demonstrated its reliability, efficiency, and effectiveness in
17 identifying and deterring those who run red lights.



1 Photo red light imaging detector systems are safe, quick,
2 cost-effective, and efficient. No traffic stop is involved, and
3 a police officer is not at risk from passing traffic or
4 violators who are armed or dangerous. For photo red light
5 imaging detector systems, a camera is positioned at
6 intersections where red light violations are a major cause of
7 collisions and serves as a twenty-four hour deterrent. Sensors
8 are buried under a crosswalk and lead to a self-contained camera
9 system mounted on a nearby structure. When a vehicle enters the
10 intersection and the traffic light is red, the camera takes a
11 telephoto color picture of the rear of the car, capturing the
12 license plate. A second wide-angle photograph takes in the
13 entire intersection, including other traffic.

14 These systems provide numerous benefits. Not only are
15 streets safer, but police officers are freed from time-consuming
16 traffic enforcement activities and have more time to respond to
17 priority calls. A violator is less likely to go to court, since
18 the color photograph of the violation, imprinted with the time,
19 date, and location of the violation, and the number of seconds
20 the light had been red before the violator entered the
21 intersection, can be used as evidence in court. Few cases are
22 contested in other jurisdictions using this system, and officers



1 make fewer court appearances, saving court, overtime, and other
2 costs.

3 The system may also result in lower insurance costs for
4 safe drivers through an overall reduction in crashes and
5 injuries. System costs are placed on the violators who have
6 created the need for the program, rather than law-abiding
7 taxpayers. Traffic laws are enforced without partiality, and
8 safety and efficiency are increased by reducing the number of
9 chases and the number of personnel required for traffic accident
10 clean-up, investigation, and court testimony.

11 The legislature additionally finds that the photo speed
12 imaging detector system created by Act 234, Session Laws of
13 Hawaii 1998, and implemented in January 2002, generated intense
14 public opposition to this program. As a result of this
15 opposition, the legislature repealed Act 234 in its entirety.
16 However, the majority of the opposition to this program resulted
17 from the method in which the program was implemented. The
18 public perceived that the program operated more to maximize
19 revenue for the vendor administering the program, rather than to
20 improve traffic safety. In particular, vans in which the
21 cameras were mounted were often placed at locations that did not
22 necessarily have a history of speed-related accidents and



1 instead were used to monitor locations with heavy traffic flow
2 at lower speeds. This permitted the vendor to issue the maximum
3 number of citations in the shortest period of time and at the
4 least cost, thereby maximizing the potential return to the
5 vendor without necessarily maximizing traffic safety.

6 The purpose of this Act is to:

- 7 (1) Establish a three-year pilot photo red light imaging
8 detector system program to improve enforcement of the
9 traffic signal laws in all counties with a population
10 in excess of 600,000;
- 11 (2) Authorize fines collected under county programs to be
12 deposited into a general fund special account;
- 13 (3) Authorize the county to expend funds from this general
14 fund special account for the establishment, operation,
15 management, and maintenance of the pilot photo red
16 light imaging detector system program; and
- 17 (4) Make an appropriation for implementation and operation
18 of the program.

19 **PART II**

20 SECTION 2. **Definitions.** As used in this Act, unless the
21 context otherwise requires:



1 "County" means any county with a population in excess of
2 600,000.

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

5 "Department" means the department of transportation.

6 "Motor vehicle" has the same meaning as defined in section
7 291C-1, Hawaii Revised Statutes.

8 "Photo red light imaging detector" means a device used for
9 traffic enforcement that includes a vehicle sensor that works in
10 conjunction with a traffic-control signal and a camera or
11 similar device to automatically produce a photographic, digital,
12 or other visual image of a vehicle that has disregarded a steady
13 red traffic-control signal in violation of section 291C-
14 32(a)(3), Hawaii Revised Statutes, and a photographic, digital,
15 or other visual image of the driver of the motor vehicle.

16 "State highway" has the same meaning as used in section
17 264-1, Hawaii Revised Statutes.

18 "Traffic-control signal" has the same meaning as defined in
19 section 291C-1, Hawaii Revised Statutes.

20 SECTION 3. **Photo red light imaging detector system**
21 **program; established.** There is established a pilot photo red
22 light imaging detector system program, which may be implemented



1 by any county on state or county highways within the respective
2 county to enforce the traffic-control signal laws of the State.
3 The program shall cease to operate on July 1, 2016.

4 SECTION 4. **County powers and duties.** Each county may
5 establish and implement, in accordance with this Act, a photo
6 red light imaging detector system program imposing monetary
7 liability on the registered owner of a motor vehicle for failure
8 to comply with traffic-control signal laws. Each county may
9 provide for the procurement, location, installation, operation,
10 maintenance, and repair of the photo red light imaging detector
11 system within the program. Where the photo red light imaging
12 detector system affects state property, the department shall
13 cooperate with and assist the county as needed to install,
14 maintain, and repair the photo red light imaging detector system
15 established pursuant to this Act.

16 SECTION 5. **Photo red light imaging detector system program**
17 **requirements.** (a) Photo red light imaging detector system
18 program equipment shall be operated from a fixed pole, post, or
19 other fixed structure on a state or county highway.

20 (b) Signs and other official traffic-control devices
21 indicating that traffic signal laws are enforced by a photo red
22 light imaging detector system shall be posted on all major



1 routes entering the area in question to provide, as far as
2 practicable, notice to drivers of the existence and operation of
3 the system.

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

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

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



1 SECTION 6. **Summons or citations.** (a) Notwithstanding any
2 law to the contrary, whenever any motor vehicle is determined to
3 have disregarded a steady red signal in violation of section
4 291C-32(a)(3), Hawaii Revised Statutes, by a photo red light
5 imaging detector system, the county shall send a summons or
6 citation, as described in this section, to the registered owner
7 of the vehicle at the address on record at the vehicle licensing
8 division, by certified or registered mail with a return receipt
9 that is postmarked within seventy-two hours of the time of the
10 incident. If the end of the seventy-two hour period falls on a
11 Saturday, Sunday, or holiday, then the ending period shall run
12 until the end of the next day that is not a Saturday, Sunday, or
13 holiday.

14 (b) The form and content of the summons or citation shall
15 be as adopted or prescribed by the administrative judge of the
16 district courts and shall be printed on a form identical with
17 the form of other summonses or citations used in modern methods
18 of arrest, so designed to include all necessary information to
19 make the summons or citation valid within the laws of the State;
20 provided that any summons or citation pursuant to the photo red
21 light imaging detector system program shall contain a clear and
22 unobstructed photographic, digital, or other visual image of the



1 driver of the motor vehicle that is to be used as evidence of
2 the violation.

3 (c) Every citation shall be consecutively numbered and
4 each copy thereof shall bear the number of its respective
5 original.

6 (d) Upon receipt of the summons or citation, the
7 registered owner shall respond as provided for in chapter 291D,
8 Hawaii Revised Statutes. A mail receipt signed by the
9 registered owner is prima facie evidence of notification. The
10 registered owner shall be determined by the identification of
11 the vehicle's registration plates.

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

15 **SECTION 7. Registered owner's responsibility for a summons**
16 **or citation.** In any proceeding for a violation of this Act, the
17 information contained in the summons or citation mailed in
18 accordance with section 6 shall be deemed evidence that the
19 registered vehicle violated section 291C-32(a)(3), Hawaii
20 Revised Statutes.

21 **SECTION 8. Prima facie evidence.** (a) Whenever the photo
22 red light imaging detector system determines a motor vehicle to



1 be in violation of section 291C-32(a)(3), Hawaii Revised
2 Statutes, evidence that the motor vehicle described in the
3 citation or summons issued pursuant to this Act was operated in
4 violation of that section, together with proof that the person
5 to whom the summons or citation was sent was the registered
6 owner of the motor vehicle at the time of the violation, shall
7 constitute prima facie evidence that the registered owner of the
8 motor vehicle was the person who committed the violation.

9 (b) The registered owner of the vehicle may rebut the
10 evidence in subsection (a) by:

11 (1) Submitting a written statement as provided in section
12 291D-6(b)(2), Hawaii Revised Statutes;

13 (2) Testifying in open court under oath that the
14 registered owner was not the person operating the
15 motor vehicle at the time of the alleged violation;

16 (3) Calling witnesses to testify in open court under oath
17 that the registered owner was not the person operating
18 the motor vehicle at the time of the alleged
19 violation;

20 (4) Extrinsic evidence that the registered owner was not
21 the person operating the motor vehicle at the time of
22 the alleged violation; or



1 (5) Presenting to the court adjudicating the alleged
2 violation, prior to the return date established on the
3 citation or summons issued pursuant to this Act, a
4 letter of verification of loss from the police
5 department indicating the vehicle had been reported
6 stolen.

7 SECTION 9. **Failure to comply with summons or citation;**
8 **rebuttal of identification of operator.** (a) If the registered
9 owner of the vehicle does not return an answer in response to a
10 summons or citation within a period of fifteen days upon receipt
11 of the summons or citation, the district court shall issue,
12 pursuant to section 291D-7(e), Hawaii Revised Statutes, a notice
13 of entry of judgment of default to the registered owner of the
14 vehicle, except if the registered owner rebuts the
15 identification of the operator of the vehicle.

16 (b) The registered owner shall be given an opportunity by
17 the district court to rebut the identification of the registered
18 owner of the vehicle as provided in section 8(b).

19 SECTION 10. **Liability for rental or U-drive motor vehicle.**
20 Notwithstanding any law to the contrary, if the registered owner
21 of record is the lessor of a rental or U-drive motor vehicle, as
22 defined in section 286-2, Hawaii Revised Statutes, pursuant to a



1 written lease agreement, the lessee at the time of the violation
2 shall be responsible for the summons or citation; provided:

3 (1) The lessor shall be responsible for the summons or
4 citation if the lessor does not provide the court
5 having jurisdiction over the summons or citation with
6 the name and address of the lessee within thirty days
7 after a notice containing the date, time, and location
8 of the violation and the license number of the vehicle
9 is sent to the lessor; and

10 (2) The administrative judge of the court having
11 jurisdiction over the summons or citation may waive
12 the requirement of providing the name and address of
13 the lessee and impose on the lessor an administrative
14 fee of \$50 per citation.

15 SECTION 11. **Penalty.** The penalties for all consequences
16 of a violation for disregarding a steady red signal initiated by
17 the use of a photo red light imaging detector system shall be as
18 provided in section 291C-161, Hawaii Revised Statutes.

19 SECTION 12. **Fines for unauthorized disclosure.** (a) The
20 information obtained by a photo red light imaging detector, and
21 any other information arising therefrom, shall be confidential
22 for purposes of law enforcement and court proceedings.



1 (b) Any officer, employee, or agent of a county who
2 intentionally discloses or provides a copy of personal and
3 confidential information obtained from a photo red light imaging
4 detector to any person or agency, with actual knowledge that
5 disclosure is prohibited by the statutory provisions set forth
6 in this Act, shall be fined up to \$1,000; provided that the fine
7 shall not preclude the application of penalties or fines
8 otherwise provided for by law.

9 SECTION 13. **Photo red light imaging detector program**
10 **account established.** (a) There is established, as a special
11 account within the general fund, a photo red light imaging
12 detector program account, into which shall be paid revenues
13 collected pursuant to this Act.

14 (b) All fines collected under this Act shall be deposited
15 into the photo red light imaging detector program account.
16 Moneys in the account shall be expended by the county in which
17 the fine was imposed, for purposes including the establishment,
18 operation, management, and maintenance of a photo red light
19 imaging detector system.

20 SECTION 14. **Rules.** The department shall adopt rules
21 pursuant to chapter 91, Hawaii Revised Statutes, as may be
22 necessary to implement this Act.



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PART III

SECTION 15. Section 291C-161, Hawaii Revised Statutes, is amended to read as follows:

"§291C-161 Penalties~~[-]~~; photo red light imaging detector system fine. (a) It is a violation for any person to violate any of the provisions of this chapter, except as otherwise specified in subsections (c) and (d) and unless the violation is by other law of this State declared to be a felony, misdemeanor, or petty misdemeanor.

(b) Except as provided in subsections (c) and (d), every person who is determined to have violated any provision of this chapter for which another penalty is not provided shall be fined:

- (1) Not more than \$200 for a first violation thereof;
- (2) Not more than \$300 for a second violation committed within one year after the date of the first violation; and
- (3) Not more than \$500 for a third or subsequent violation committed within one year after the date of the first violation.

(c) Every person convicted under or found in violation of section 291C-12, 291C-12.5, 291C-12.6, 291C-13, 291C-14, 291C-

1 15, 291C-16, 291C-72, 291C-73, 291C-95, 291C-102, 291C-103,
2 291C-104, or 291C-105 shall be sentenced or fined in accordance
3 with [~~these sections.~~] that section.

4 (d) Every person who violates section 291C-13 or 291C-18
5 shall:

6 (1) Be fined not more than \$200 or imprisoned not more
7 than ten days for a first conviction thereof;

8 (2) Be fined not more than \$300 or imprisoned not more
9 than twenty days or both for conviction of a second
10 offense committed within one year after the date of
11 the first offense; and

12 (3) Be fined not more than \$500 or imprisoned not more
13 than six months or both for conviction of a third or
14 subsequent offense committed within one year after the
15 date of the first offense.

16 (e) The court may assess a sum not to exceed \$50 for the
17 cost of issuing a penal summons upon any person who fails to
18 appear at the place within the time specified in the citation
19 issued to the person for any traffic violation.

20 (f) The court may require a person who violates any of the
21 provisions of this chapter to attend a course of instruction in



1 driver retraining as deemed appropriate by the court, in
2 addition to any other penalties imposed.

3 (g) Fines collected for violations of section 291C-
4 32(a) (3) pursuant to the photo red light imaging detector system
5 program established pursuant to Act _____, Session Laws of Hawaii
6 2013, shall be deposited into the photo red light imaging
7 detector system account and shall be expended by the county in
8 which the fine was imposed, for purposes including the
9 establishment, operation, management, and maintenance of a photo
10 red light imaging detector system program."

11 SECTION 16. Section 291C-163, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

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

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



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



- 1 (15) Establishing minimum speed limits;
- 2 (16) Designating hazardous railroad grade crossing;
- 3 (17) Designating and regulating traffic on play streets;
- 4 (18) Prohibiting pedestrians from crossing a roadway in a
- 5 business district or any designated highway except in
- 6 a crosswalk;
- 7 (19) Restricting pedestrian crossing at unmarked
- 8 crosswalks;
- 9 (20) Regulating persons propelling push carts;
- 10 (21) Regulating persons upon skates, coasters, sleds, and
- 11 other toy vehicles;
- 12 (22) Adopting and enforcing such temporary or experimental
- 13 regulations as may be necessary to cover emergencies
- 14 or special conditions;
- 15 (23) Adopting maximum and minimum speed limits on streets
- 16 and highways within their respective jurisdictions;
- 17 (24) Adopting requirements on stopping, standing, and
- 18 parking on streets and highways within their
- 19 respective jurisdictions except as provided in section
- 20 291C-111;
- 21 (25) Prohibiting or regulating electric personal assistive
- 22 mobility devices on sidewalks and bicycle paths; [~~and~~]



1 (26) Implementing a photo red light imaging detector system
2 pursuant to Act , Session Laws of Hawaii 2013; or
3 [~~(26)~~] (27) Adopting [~~such~~] other traffic regulations as
4 [~~are~~] specifically authorized by this chapter."

5 SECTION 17. Section 291C-165, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

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

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

12 (2) In the case of:

13 (A) A vehicle utilizing the high occupancy vehicle
14 lane illegally; or

15 (B) A vehicle illegally utilizing a parking space
16 reserved for persons with disabilities, where the
17 violator refuses the citation; or

18 (3) In the case of a motor vehicle determined by a photo
19 red light imaging detector system established pursuant
20 to Act , Session Laws of Hawaii 2013, to have
21 disregarded a steady red signal in violation of
22 section 291C-32(a)(3);



1 the original of the citation shall be sent by certified or
2 registered mail, with a return receipt that is postmarked within
3 forty-eight hours of the time of the incident, as provided in
4 section 291C-223 for vehicles illegally utilizing the high
5 occupancy vehicle lane[-]; or within seventy-two hours of the
6 time of the incident for vehicles illegally utilizing a parking
7 space reserved for persons with disabilities, to the registered
8 owner of the vehicle at the address on record at the vehicle
9 licensing division[-]; or within seventy-two hours of the time
10 of the incident to the registered owner of the vehicle at the
11 address on record at the vehicle licensing division for vehicles
12 disregarding a steady red signal in violation of section 291C-
13 32(a)(3), as determined by means of a photo red light imaging
14 detector system. If the end of the applicable forty-eight or
15 seventy-two hour period falls on a Saturday, Sunday, or holiday,
16 then the ending period shall run until the end of the next day
17 which is not a Saturday, Sunday, or holiday; provided that the
18 administrative judge of the district courts may allow a carbon
19 copy of the citation to be given to the violator or affixed to
20 the vehicle and provide for the disposition of the original and
21 any other copies of the citation."

22

PART IV



1 SECTION 18. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2013-2014 and
4 the same sum or so much thereof as may be necessary for fiscal
5 year 2014-2015 for implementation and operation of the pilot
6 photo red light imaging detector system program.

7 The sums appropriated shall be expended by the department
8 of transportation for the purposes of this Act.

9 **PART V**

10 SECTION 19. It is the intent of this Act not to jeopardize
11 the receipt of any federal aid nor to impair the obligation of
12 the State or any agency thereof to the holders of any bond
13 issued by the State or by any such agency, and to the extent,
14 necessary to effectuate this intent, the governor may modify the
15 strict provisions of this Act, but shall promptly report any
16 such modification with reasons therefore to the legislature at
17 its next session for review.

18 SECTION 20. If any provision of this Act, or the
19 application thereof to any person or circumstance, is held
20 invalid, the invalidity does not affect other provisions or
21 applications of the Act that can be given effect without the



1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 21. This Act does not affect rights and duties
4 that matured, penalties that were incurred, and proceedings that
5 were begun before its effective date.

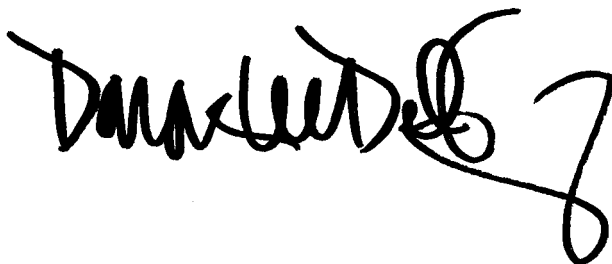
6 SECTION 22. Upon enactment, the revisor of statutes shall
7 insert the number of this Act into sections 291C-161, 291C-163,
8 and 291C-165, Hawaii Revised Statutes, where indicated in
9 sections 15, 16, and 17 of this Act, respectively.

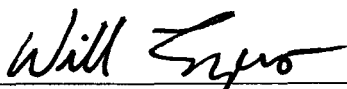
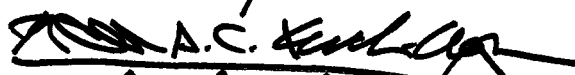

10 SECTION 23. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 24. This Act shall take effect on July 1, 2013,
13 and shall be repealed on July 1, 2016; provided that sections
14 291C-161, 291C-163(a), and 291C-165(b), Hawaii Revised Statutes,
15 shall be reenacted in the form in which they read on the day
16 before the effective date of this Act.

17

INTRODUCED BY:





S.B. NO. 693

Report Title:

Highway Safety; Pilot Program; Photo Red Light Imaging Detector System Program; Appropriation

Description:

Establishes a three-year pilot photo red light imaging detector system program. Appropriates funds for implementation and operation of the program. Authorizes counties to administer the program.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

