

JAN 18 2019

A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

1 SECTION 1. The prevalence of drivers violating Hawaii's
2 traffic laws has become intolerable and endangers the lives of
3 motorists, pedestrians, and other highway users, compounding the
4 already hazardous conditions on Hawaii's roads and highway. In
5 2018, there were already sixty traffic fatalities on Oahu by
6 November. Many of these fatalities were the result of various
7 traffic violations, making this one of the deadliest years on
8 record for Oahu's roadways.

9 The increasing number of reports of drivers who fail to
10 stop at red lights is a particularly concerning trend in traffic
11 violations that could be remedied easily and quickly through the
12 use of simple, yet efficient technology. In other jurisdictions
13 in the United States and in countries throughout the world,
14 including Canada and Europe, photo red light imaging detector
15 systems have proven reliable, efficient, and effective in
16 identifying and deterring drivers who run red lights.



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

15 The legislature finds that these systems provide numerous
16 benefits. Not only are streets safer, but police officers,
17 freed from the time-consuming duties of traffic enforcement,
18 have more time to respond to priority calls. A violator is less
19 likely to go to court because the color photograph of the
20 violation, imprinted with the time, date, and location of the
21 violation, and the number of seconds the light had been red



1 before the violator entered the intersection, can be used as
2 evidence in court. Few cases are contested in other
3 jurisdictions using this system, and officers make fewer court
4 appearances, thus saving court costs.

5 The system may also result in lower insurance costs for
6 safe drivers through an overall reduction in crashes and
7 injuries and by placing system costs on violators instead of
8 law-abiding taxpayers. This system ensures that traffic laws
9 are impartially enforced, and safety and efficiency are
10 increased by reducing the number of chases and personnel
11 required for traffic accident clean-up, investigation, and court
12 testimony.

13 While the legislature established photo speed imaging
14 detector and photo red light imaging detector systems to improve
15 traffic safety and enforcement through the passage of Act 234,
16 Session Laws of Hawaii 1998, implementation of these systems as
17 traffic enforcement tools in January 2002 generated intense
18 public opposition. As a result of this opposition, the
19 legislature repealed Act 234 in its entirety. However, the
20 majority of the opposition to these programs was directed toward
21 the photo speed imaging detector system and the method by which



1 the program was implemented. The public perceived that the
2 program was operated to maximize revenue for the vendor running
3 the program rather than improve traffic safety. In particular,
4 vans in which the cameras were mounted were often placed at
5 locations that did not have a history of speed-related
6 accidents. Vans were used to monitor locations with heavy
7 traffic flow at lower speeds. This permitted the vendor to
8 maximize the vendor's own potential return by issuing the
9 maximum number of citations in the shortest period of time and
10 at the least cost, without actually improving traffic safety.

11 Though many of the concerns raised regarding photo speed
12 imaging detector systems were and continue to be valid, the use
13 of photo red light imaging detector systems appears to be a more
14 acceptable method of traffic enforcement, as a motorist's
15 disregard of a steady red traffic signal is evident. The
16 legislature finds that establishing a photo red light imaging
17 detector systems program will serve as a useful traffic
18 enforcement tool and is in the best interest of public safety on
19 Hawaii's roadways.

20 Accordingly, the purpose of this Act is to:



- 1 (1) Establish a photo red light imaging detector systems
- 2 program to improve enforcement of the State's traffic
- 3 signal laws;
- 4 (2) Allow counties to implement the photo red light
- 5 imaging detector systems program;
- 6 (3) Amend the amount of the fines for various violations
- 7 of the statewide traffic code; and
- 8 (4) Authorize the direct transfer to the counties of any
- 9 fines collected under county programs that are in
- 10 excess of amounts required by the State to pay the
- 11 administrative costs of the traffic violations bureau.

12 SECTION 2. The Hawaii Revised Statutes is amended by

13 adding a new chapter to be appropriately designated and to read

14 as follows:

15 "CHAPTER

16 PHOTO RED LIGHT IMAGING DETECTOR SYSTEMS

17 § -1 Definitions. As used in this chapter, unless the

18 context otherwise requires:

19 "County" means the counties of Hawaii, Kauai, and Maui, and

20 the city and county of Honolulu.



1 "County highway" has the same meaning as used in section
2 264-1.

3 "Department" means the department of transportation.

4 "Motor vehicle" has the same meaning as used in section
5 291C-1.

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

14 "State highway" has the same meaning as used in section
15 264-1.

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

18 § -2 Photo red light imaging detector systems program;
19 established. There is established the photo red light imaging
20 detector systems program that may be implemented by any county



1 on state or county highways within the respective county to
2 enforce the traffic-control signal laws of the State.

3 **§ -3 County powers and duties.** (a) In accordance with
4 this chapter, each county may establish and implement a photo
5 red light imaging detector system that imposes monetary
6 liability on the operator of a motor vehicle for failure to
7 comply with traffic-control signal laws. Each county may
8 provide for the procurement, location, installation, operation,
9 maintenance, and repair of the photo red light imaging detector
10 system. Where the photo red light imaging detector system
11 affects state property, the department shall cooperate with and
12 assist the county as needed to install, maintain, and repair the
13 photo red light imaging detector system established pursuant to
14 this chapter.

15 (b) Each county shall pay the vendor that installs a photo
16 red light imaging detector system a negotiated lump sum
17 regardless of the number of citations issued or expected to be
18 issued through the use of the installed photo red light imaging
19 detector system.

20 **§ -4 Photo red light imaging detector system**
21 **requirements.** (a) Photo red light imaging detector equipment



1 shall be operated from a fixed pole, post, or other fixed
2 structure on a state or county highway.

3 (b) Signs and other official traffic-control devices
4 indicating that traffic signal laws are enforced by a photo red
5 light imaging detector system shall be posted on all major
6 routes entering an area utilizing a photo red light imaging
7 detector system to provide, as far as practicable, notice to
8 drivers of the existence and operation of the system.

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

19 (d) A summons or citation based on the photo red light
20 imaging detector systems program shall not be issued unless it



1 contains a clear and unobstructed photographic, digital, or
2 other visual image of the driver of the motor vehicle.

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

7 § -5 **Summons or citations.** (a) Notwithstanding any law
8 to the contrary, whenever any motor vehicle is determined, by
9 means of a photo red light imaging detector system, to have
10 disregarded a steady red signal in violation of section
11 291C-32(a)(3), the county shall issue a summons or citation to
12 the registered owner of the vehicle at the address on record at
13 the vehicle licensing division. The summons or citation shall
14 be:

- 15 (1) Sent by certified or registered mail;
16 (2) Sent with a return receipt; and
17 (3) Postmarked within seventy-two hours of the time of the
18 incident.

19 If the end of the seventy-two hour period falls on a Saturday,
20 Sunday, or state holiday, then the ending period shall run until



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

3 (b) The form and content of the summons or citation shall
4 be as adopted or prescribed by the administrative judge of the
5 district courts and shall be printed on a form commensurate with
6 the form of other summonses or citations used in modern methods
7 of arrest, so designed to include all necessary information to
8 make the summons or citation valid within the laws of the State;
9 provided that any summons or citation issued pursuant to the
10 photo red light imaging detector systems program shall contain a
11 clear and unobstructed photographic, digital, or other visual
12 image of the driver of the motor vehicle, that shall be used as
13 evidence of the violation.

14 (c) Every summons or citation shall be consecutively
15 numbered and each copy thereof shall bear the number of its
16 respective original.

17 (d) Upon receipt of the summons or citation, the
18 registered owner shall respond as provided for in chapter 291D.
19 A mail receipt signed by the registered owner is prima facie
20 evidence of notification. The registered owner shall be



1 determined by the identification of the vehicle's registration
2 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 vehicle violated section
11 291C-32(a)(3).

12 § -7 Prima facie evidence. (a) Whenever the photo red
13 light imaging detector system determines a motor vehicle to be
14 in violation of section 291C-32(a)(3), evidence that the motor
15 vehicle described in the summons or citation issued pursuant to
16 this chapter was operated in violation of that section, together
17 with proof that the person to whom the summons or citation was
18 sent was the registered owner of the motor vehicle at the time
19 of the violation, shall constitute prima facie evidence that the
20 registered owner of the motor vehicle was the person who
21 committed the violation.



1 (b) The registered owner of the vehicle may rebut the
2 evidence of a violation in subsection (a) by any one of the
3 following:

4 (1) Submitting a written statement as provided in section
5 291D-6(b)(2);

6 (2) Testifying in open court under oath that the person
7 was not the operator of the vehicle at the time of the
8 alleged violation;

9 (3) Calling witnesses to testify in open court under oath
10 that the person was not the operator of the vehicle at
11 the time of the alleged violation;

12 (4) Extrinsic evidence that the person was not the
13 operator of the vehicle at the time of the alleged
14 violation;

15 (5) Presenting to the court adjudicating the alleged
16 violation, prior to the return date established on the
17 citation or summons issued pursuant to this chapter, a
18 letter of verification of loss from the police
19 department indicating that the vehicle had been
20 reported stolen; or



1 (6) Identifying the person who was the actual driver of
2 the vehicle at the time of the alleged violation.

3 § -8 Failure to comply with summons or citation. If the
4 registered owner of the vehicle does not answer a summons or
5 citation within twenty-one days of receipt of the summons or
6 citation, the district court shall issue a notice of entry of
7 judgment by default to the registered owner of the vehicle
8 pursuant to section 291D-7(e).

9 § -9 Liability for rental or U-drive motor vehicle.

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

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



1 (2) The administrative judge of the court having
2 jurisdiction over the summons or citation may waive
3 the requirement of providing the name and address of
4 the lessee and impose on the lessor an administrative
5 fee of \$ per citation.

6 § -10 **Penalty; disposition of fines.** (a) The penalties
7 for a steady red signal violation determined by a photo red
8 light imaging detector system shall be as provided in section
9 291C-161.

10 (b) All fines collected under this chapter for violations
11 occurring on a county highway that are in excess of amounts
12 required by the State to pay the administrative costs of the
13 traffic violations bureau shall be transmitted by the director
14 of finance to the county in which the fine was imposed not more
15 than thirty days after the end of each fiscal quarter.

16 § -11 **Fines for unauthorized disclosure.** All personal
17 and confidential information made available by any government
18 agency to an agent of any county for the photo red light imaging
19 detector systems program shall be kept confidential and shall be
20 used only for the purposes for which the information was
21 furnished. Any officer, employee, or agent of a county who



1 intentionally discloses or provides a copy of personal and
2 confidential information obtained from a photo red light imaging
3 detector system to any person or agency without authorization
4 shall be fined not more than \$; provided that the fine
5 shall not preclude the application of penalties or fines
6 otherwise provided for by law.

7 § -12 Rules. The department shall adopt rules pursuant
8 to chapter 91 to effectuate the purposes of this chapter."

9 SECTION 3. Section 291C-161, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§291C-161 Penalties[-]; photo red light imaging detector
12 system fines. (a) It is a violation for any person to violate
13 any of the provisions of this chapter, except as otherwise
14 specified in subsections (c) and (d) and unless the violation is
15 by other law of this State declared to be a felony, misdemeanor,
16 or petty misdemeanor.

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



1 (1) Not more than [~~\$200~~] \$ _____ for a first violation
2 thereof;

3 (2) Not more than [~~\$300~~] \$ _____ for a second violation
4 committed within one year after the date of the first
5 violation; and

6 (3) Not more than [~~\$500~~] \$ _____ for a third or subsequent
7 violation committed within one year after the date of
8 the first violation.

9 (c) Every person convicted under or found in violation of
10 section 291C-12, 291C-12.5, 291C-12.6, 291C-13, 291C-14, 291C-
11 15, 291C-16, 291C-72, 291C-73, 291C-95, 291C-102, 291C-103,
12 291C-104, or 291C-105 shall be sentenced or fined in accordance
13 with those sections.

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

16 (1) Be fined not more than [~~\$200~~] \$ _____ or imprisoned not
17 more than ten days for a first conviction thereof;

18 (2) Be fined not more than [~~\$300~~] \$ _____ or imprisoned not
19 more than twenty days or both for conviction of a
20 second offense committed within one year after the
21 date of the first offense; and



1 (3) Be fined not more than [~~\$500~~] \$ _____ or imprisoned not
2 more than six months or both for conviction of a third
3 or subsequent offense committed within one year after
4 the date of the first offense.

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

9 (f) All fines collected under chapter _____ for a violation
10 of section 291C-32 occurring on a county highway that are in
11 excess of amounts required by the State to pay the
12 administrative costs of the traffic violations bureau shall be
13 transmitted by the director of finance to the county in which
14 the fine was assessed not more than thirty days after the end of
15 each fiscal quarter.

16 [~~(f)~~] (g) The court may require a person who violates any
17 of the provisions of this chapter to attend a course of
18 instruction in driver retraining as deemed appropriate by the
19 court, in addition to any other penalties imposed."

20 SECTION 4. Section 291C-163, Hawaii Revised Statutes, is
21 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;



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



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- 1 (21) Regulating persons upon skates, coasters, sleds, and
2 other toy vehicles;
- 3 (22) Adopting and enforcing such temporary or experimental
4 regulations as may be necessary to cover emergencies
5 or special conditions;
- 6 (23) Adopting maximum and minimum speed limits on streets
7 and highways within their respective jurisdictions;
- 8 (24) Adopting requirements on stopping, standing, and
9 parking on streets and highways within their
10 respective jurisdictions except as provided in section
11 291C-111;
- 12 (25) Prohibiting or regulating electric personal assistive
13 mobility devices on sidewalks and bicycle paths; ~~and~~
- 14 (26) Implementing a photo red light imaging detector system
15 pursuant to chapter ; and
- 16 ~~[(26)]~~ (27) Adopting ~~[such]~~ other traffic regulations ~~[as~~
17 ~~are]~~ specifically authorized by this chapter."

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

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



1 (1) In the case of an unattended vehicle, the original of
2 the citation shall be affixed to the vehicle as
3 provided for in section 291C-167; or
4 (2) In the case of:
5 (A) A vehicle utilizing the high occupancy vehicle
6 lane illegally; [~~or~~]
7 (B) A vehicle illegally utilizing a parking space
8 reserved for persons with disabilities, where the
9 violator refuses the citation; or
10 (C) A motor vehicle determined by a photo red light
11 imaging detector system established pursuant to
12 chapter to have disregarded a steady red
13 signal in violation of section 291C-32(a)(3);
14 the original of the citation shall be sent by certified or
15 registered mail, with a return receipt that is postmarked within
16 forty-eight hours of the time of the incident, as provided in
17 section 291C-223 for vehicles illegally utilizing the high
18 occupancy vehicle lane, or within seventy-two hours of the time
19 of the incident for vehicles illegally utilizing a parking space
20 reserved for persons with disabilities[~~7~~] or for vehicles
21 disregarding a steady red signal in violation of section 291C-



1 32(a)(3) as determined by a photo red light imaging detector
2 system, to the registered owner of the vehicle at the address on
3 record at the vehicle licensing division. If the end of the
4 applicable forty-eight or seventy-two hour period falls on a
5 Saturday, Sunday, or state holiday, then the ending period shall
6 run until the end of the next day which is not a Saturday,
7 Sunday, or state holiday; provided that the administrative judge
8 of the district courts may allow a carbon copy of the citation
9 to be given to the violator or affixed to the vehicle and
10 provide for the disposition of the original and any other copies
11 of the citation."

12 SECTION 6. Section 291C-194, Hawaii Revised Statutes, is
13 amended by amending subsection (c) to read as follows:

14 "(c) Any person who is convicted of violating this section
15 shall be subject to penalties as provided under section 291C-
16 161(b) and [~~+(f)+-~~] (g)."

17 SECTION 7. It is the intent of this Act not to jeopardize
18 the receipt of any federal aid nor to impair the obligation of
19 the State or any agency thereof to the holders of any bond
20 issued by the State or by any such agency, and the governor may
21 modify the strict provisions of this Act only to the extent



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1 necessary to effectuate this intent; provided that the governor
2 shall promptly report any modification with reasons therefor to
3 the legislature at its next regular session thereafter.

4 SECTION 8. If any provision of this Act, or the
5 application thereof to any person or circumstance, is held
6 invalid, the invalidity does not affect other provisions or
7 applications of the Act that can be given effect without the
8 invalid provision or application, and to this end the provisions
9 of this Act are severable.

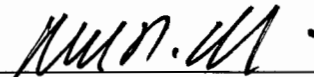
10 SECTION 9. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 10. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 11. This Act shall take effect on July 1, 2019.

16

INTRODUCED BY: _____



By Request



S.B. NO. 169

Report Title:

City and County of Honolulu Mayor's Package; Highway Safety;
Photo Red Light Imaging; County Authority

Description:

Establishes the photo red light imaging detector systems program. Authorizes counties to administer the program. Requires fines collected for violations on a county highway to be transmitted to the appropriate county after expenses are deducted.

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

