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# A BILL FOR AN ACT

RELATING TO AUTOMATED SPEED ENFORCEMENT SYSTEMS.

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

1 PART I

2 SECTION 1. The Hawaii Revised Statutes is amended by  
3 adding a new chapter to title 17 to be appropriately designated  
4 and to read as follows:

5 "CHAPTER

6 AUTOMATED SPEED ENFORCEMENT SYSTEMS

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

9 "Automated speed enforcement system" means a device used  
10 for traffic enforcement that includes a vehicle sensor that  
11 works in conjunction with a speed measuring device and a camera  
12 or similar device to automatically produce a photographic,  
13 digital, or other visual image of:

- 14 (1) A motor vehicle traveling at a prohibited rate of  
15 speed in violation of part X of chapter 291C; and  
16 (2) The driver of that motor vehicle.



1 "County" means one of the counties of Hawaii, Kauai, or  
2 Maui, or the city and county of Honolulu.

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

5 "Department" means the department of transportation.

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

8 "State highway" has the same meaning as used in section  
9 264-1.

10 **§ -2 Automated speed enforcement systems program;**  
11 **established.** There is established the automated speed  
12 enforcement systems program that may be implemented by any  
13 county on state or county highways within the respective county  
14 to enforce the speed restriction laws of the State.

15 **§ -3 County powers and duties.** (a) In accordance with  
16 this chapter, each county may establish and implement an  
17 automated speed enforcement system that imposes monetary  
18 liability on the operator of a motor vehicle for failure to  
19 comply with speed restriction laws. Each county may provide for  
20 the procurement, location, installation, operation, maintenance,  
21 and repair of the automated speed enforcement system. Where the



1 automated speed enforcement system affects state property, the  
2 department shall cooperate with and assist the county as needed  
3 to install, maintain, and repair the automated speed enforcement  
4 system.

5 (b) Each county shall pay the vendor that installs an  
6 automated speed enforcement system a negotiated lump sum  
7 regardless of the number of citations issued or expected to be  
8 issued through the use of the installed automated speed  
9 enforcement system.

10 **§ -4 Automated speed enforcement system requirements.**

11 (a) Automated speed enforcement system equipment shall be  
12 operated from a fixed pole, post, or other fixed structure on a  
13 state or county highway.

14 (b) Signs and other official traffic-control devices  
15 indicating that speed restriction laws are enforced by an  
16 automated speed enforcement system shall be posted on all major  
17 routes entering an area utilizing an automated speed enforcement  
18 system.

19 (c) Proof of a speed restriction violation shall be  
20 evidenced by information obtained from an automated speed  
21 enforcement system. A certificate, sworn to or affirmed by the



1 county's agent or employee, or a facsimile thereof, based upon  
2 inspection of any photograph, microphotograph, videotape, or  
3 other recorded image produced by the system, shall be prima  
4 facie evidence of the facts contained therein. Any photograph,  
5 microphotograph, videotape, or other recorded image evidencing a  
6 violation shall be available for inspection in any proceeding to  
7 adjudicate liability for the violation.

8 (d) A summons or citation based on the automated speed  
9 enforcement systems program shall not be issued unless it  
10 contains a clear and unobstructed photographic, digital, or  
11 other visual image of the driver of the motor vehicle.

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

16 **§ -5 Summons or citations.** (a) Notwithstanding any law  
17 to the contrary, whenever any motor vehicle is determined, by  
18 means of an automated speed enforcement system, to have exceeded  
19 a speed restriction in violation of part X of chapter 291C, the  
20 county shall issue a summons or citation to the registered owner



1 of the vehicle at the address on record at the vehicle licensing  
2 division. The summons or citation shall be:

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

7 If the end of the seventy-two hour period falls on a Saturday,  
8 Sunday, or state holiday, then the ending period shall run until  
9 the end of the next day that is not a Saturday, Sunday, or state  
10 holiday.

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



1 (c) Every summons or citation shall be consecutively  
2 numbered and each copy thereof shall bear the number of its  
3 respective original.

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

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

13 **§ -6 Registered owner's responsibility for a summons or**  
14 **citation.** In any proceeding for a violation of this chapter,  
15 the information contained in the summons or citation mailed in  
16 accordance with section -5 shall be deemed prima facie  
17 evidence that the registered vehicle violated part X of chapter  
18 291C.

19 **§ -7 Prima facie evidence.** (a) Whenever an automated  
20 speed enforcement system determines a motor vehicle to be in  
21 violation of part X of chapter 291C, evidence that the motor



1 vehicle described in the summons or citation issued pursuant to  
2 this chapter was operated in violation of that section, together  
3 with proof that the person to whom the summons or citation was  
4 sent was the registered owner of the motor vehicle at the time  
5 of the violation, shall constitute prima facie evidence that the  
6 registered owner of the motor vehicle was the person who  
7 committed the violation.

8 (b) The registered owner of the vehicle may rebut the  
9 evidence of a violation in subsection (a) by any one of the  
10 following:

- 11 (1) Submitting a written statement as provided in section  
12 291D-6(b)(2);
- 13 (2) Testifying in open court under oath that the person  
14 was not the operator of the vehicle at the time of the  
15 alleged violation;
- 16 (3) Calling witnesses to testify in open court under oath  
17 that the person was not the operator of the vehicle at  
18 the time of the alleged violation;
- 19 (4) Extrinsic evidence that the person was not the  
20 operator of the vehicle at the time of the alleged  
21 violation;



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 chapter, a  
4           letter of verification of loss from the police  
5           department indicating that the vehicle had been  
6           reported stolen; or

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

9           **§ -8 Failure to comply with summons or citation.** If the  
10          registered owner of the vehicle does not answer a summons or  
11          citation within twenty-one days of receipt of the summons or  
12          citation, the district court shall issue a notice of entry of  
13          judgment by default to the registered owner of the vehicle  
14          pursuant to section 291D-7(e).

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





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

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

13          **§ -10 Penalty.** The penalties for a speed restriction  
14 violation determined by an automated speed enforcement system  
15 shall be as provided in section 291C-161.

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 automated speed  
19 enforcement systems program shall be kept confidential and shall  
20 be 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 an automated speed  
3 enforcement to any person or agency without authorization shall  
4 be fined not more than \$ ; provided that the fine shall  
5 not preclude the application of penalties or fines otherwise  
6 provided for by law.

7 **§ -12 Automated speed enforcement systems program**

8 **special fund; established.** (a) There is established the  
9 automated speed enforcement systems program special fund to be  
10 administered by the department.

11 (b) All fines collected pursuant to this chapter shall be  
12 deposited into the automated speed enforcement systems program  
13 special fund. Any moneys in the fund shall be expended by the  
14 department of transportation in the county in which the fine was  
15 imposed, for purposes that include the establishment, operation,  
16 management, and maintenance of an automated speed enforcement  
17 system.

18 **§ -13 Rules.** The department shall adopt rules pursuant  
19 to chapter 91 to effectuate the purposes of this chapter."



1 PART II

2 SECTION 2. Section 291C-161, Hawaii Revised Statutes, is  
3 amended to read as follows:

4 "~~§291C-161 Penalties[-];~~ automated speed enforcement

5 system fines. (a) It is a violation for any person to violate  
6 any of the provisions of this chapter, except as otherwise  
7 specified in subsections (c) and (d) and unless the violation is  
8 by other law of this State declared to be a felony, misdemeanor,  
9 or petty misdemeanor.

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

14 (1) Not more than [~~\$200~~] \$\_\_\_\_\_ for a first violation  
15 [~~thereof~~];

16 (2) Not more than [~~\$300~~] \$\_\_\_\_\_ for a second violation  
17 committed within one year after the date of the first  
18 violation; and

19 (3) Not more than [~~\$500~~] \$\_\_\_\_\_ for a third or  
20 subsequent violation committed within one year after  
21 the date of the first violation.



1 (c) Every person convicted under or found in violation of  
2 section 291C-12, 291C-12.5, 291C-12.6, 291C-13, 291C-14,  
3 291C-15, 291C-16, 291C-72, 291C-73, 291C-95, 291C-102, 291C-103,  
4 291C-104, or 291C-105 shall be sentenced or fined in accordance  
5 with those sections.

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

8 (1) Be fined not more than [~~\$200~~] \$\_\_\_\_\_ or imprisoned  
9 not more than ten days for a first conviction  
10 [~~thereof~~];

11 (2) Be fined not more than [~~\$300~~] \$\_\_\_\_\_ or imprisoned  
12 not more than twenty days or both for conviction of a  
13 second offense committed within one year after the  
14 date of the first offense; and

15 (3) Be fined not more than [~~\$500~~] \$\_\_\_\_\_ or imprisoned  
16 not more than six months or both for conviction of a  
17 third or subsequent offense committed within one year  
18 after the date of the first offense.

19 (e) The court may assess a sum not to exceed \$50 for the  
20 cost of issuing a penal summons upon any person who fails to



1 appear at the place within the time specified in the citation  
2 issued to the person for any traffic violation.

3 (f) All revenues from fines collected for a violation of  
4 part X of chapter 291C pursuant to an automated speed  
5 enforcement system established by chapter shall be  
6 deposited into the automated speed enforcement systems program  
7 special fund established under section -12 and shall be  
8 expended in the county in which the fine was imposed, for  
9 purposes that include the establishment, operation, management,  
10 and maintenance of an automated speed enforcement system in that  
11 county.

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

16 SECTION 3. Section 291C-163, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18 "(a) This chapter shall not be deemed to prevent counties  
19 with respect to streets and highways under their jurisdiction  
20 from:



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



- 1 (12) Designating no-passing zones;
- 2 (13) Prohibiting or regulating the use of controlled-access  
3 roadways by any class or kind of traffic;
- 4 (14) Prohibiting or regulating the use of heavily traveled  
5 streets by any class or kind of traffic found to be  
6 incompatible with the normal and safe movement of  
7 traffic;
- 8 (15) Establishing minimum speed limits;
- 9 (16) Designating hazardous railroad grade crossing;
- 10 (17) Designating and regulating traffic on play streets;
- 11 (18) Prohibiting pedestrians from crossing a roadway in a  
12 business district or any designated highway except in  
13 a crosswalk;
- 14 (19) Restricting pedestrian crossing at unmarked  
15 crosswalks;
- 16 (20) Regulating persons propelling push carts;
- 17 (21) Regulating persons upon skates, coasters, sleds, and  
18 other toy vehicles;
- 19 (22) Adopting and enforcing [~~such~~] temporary or  
20 experimental regulations [~~as~~] that may be necessary to  
21 cover emergencies or special conditions;



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

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

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

9 (26) Implementing an automated speed enforcement system  
10 pursuant to chapter ; and

11 ~~[(26)]~~ (27) Adopting ~~[such]~~ other traffic regulations ~~[as~~  
12 ~~are]~~ specifically authorized by this chapter."

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

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

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

20 (2) In the case of:





- 1 (A) A vehicle utilizing the high occupancy vehicle
- 2 lane illegally; [~~or~~]
- 3 (B) A vehicle illegally utilizing a parking space
- 4 reserved for persons with disabilities, where the
- 5 violator refuses the citation; or
- 6 (C) A motor vehicle determined by an automated speed
- 7 enforcement system established pursuant to
- 8 chapter to have exceeded a speed
- 9 restriction in violation of part X of chapter
- 10 291C;

11 the original of the citation shall be sent by certified or  
12 registered mail, with a return receipt that is postmarked within  
13 forty-eight hours of the time of the incident, as provided in  
14 section 291C-223 for vehicles illegally utilizing the high  
15 occupancy vehicle lane, or within seventy-two hours of the time  
16 of the incident for vehicles illegally utilizing a parking space  
17 reserved for persons with disabilities[~~7~~] or for vehicles  
18 exceeding a speed restriction in violation of part X of chapter  
19 291C as determined by an automated speed enforcement system, to  
20 the registered owner of the vehicle at the address on record at  
21 the vehicle licensing division. If the end of the applicable



1 forty-eight or seventy-two hour period falls on a Saturday,  
2 Sunday, or state holiday, then the ending period shall run until  
3 the end of the next day which is not a Saturday, Sunday, or  
4 state holiday; provided that the administrative judge of the  
5 district courts may allow a carbon copy of the citation to be  
6 given to the violator or affixed to the vehicle and provide for  
7 the disposition of the original and any other copies of the  
8 citation."

9 SECTION 5. Section 291C-194, Hawaii Revised Statutes, is  
10 amended by amending subsection (c) to read as follows:

11 "(c) Any person who is convicted of violating this section  
12 shall be subject to penalties as provided under section  
13 291C-161(b) and [~~+(f)+~~] (g)."

14 PART III

15 SECTION 6. (a) The department of transportation shall  
16 establish an automated speed enforcement task force to review  
17 this Act and recommend any necessary amendments, including any  
18 proposed legislation, for consideration by the legislature  
19 during the regular session of 2021.



1           (b) The department of transportation shall invite the  
2 following to participate on the automated speed enforcement task  
3 force:

4           (1) The deputy chief court administrator for the district  
5 court of the first circuit, or the deputy chief court  
6 administrator's designee;

7           (2) The state public defender, or the state public  
8 defender's designee; and

9           (3) A representative of each of the counties of Hawaii,  
10 Kauai, and Maui, and of the city and county of  
11 Honolulu, from each of the respective following  
12 agencies:

13           (A) The police department, selected by the respective  
14 chief of police;

15           (B) The prosecutor's office or department, selected  
16 by the respective prosecuting attorney of the  
17 county; and

18           (C) The department having jurisdiction over county  
19 highways and roads, selected by the respective  
20 department head.



1 (c) The automated speed enforcement task force shall  
2 submit a report to the legislature of its findings and  
3 recommendations, including any proposed legislation, no later  
4 than twenty days prior to the convening of the regular session  
5 of 2021.

6 PART IV

7 SECTION 7. There is appropriated out of the general  
8 revenues of the State of Hawaii the sum of \$ or so much  
9 thereof as may be necessary for fiscal year 2020-2021 for the  
10 purposes of establishing the photo red light imaging detector  
11 systems program to be allocated as follows:

- 12 (1) \$ to the city and county of Honolulu department  
13 of transportation services;
- 14 (2) \$ to the county of Maui department of public  
15 works;
- 16 (3) \$ to the county of Hawaii department of public  
17 works; and
- 18 (4) \$ to the county of Kauai department of public  
19 works.

20 The sum appropriated shall be expended by the department of  
21 transportation for the purposes of this Act.



## 1 PART V

2 SECTION 8. It is the intent of this Act not to jeopardize  
3 the receipt of any federal aid nor to impair the obligation of  
4 the State or any agency thereof to the holders of any bond  
5 issued by the State or by any such agency, and the governor may  
6 modify the strict provisions of this Act only to the extent  
7 necessary to effectuate this intent; provided that the governor  
8 shall promptly report any modification with reasons therefor to  
9 the legislature at its next regular session thereafter.

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

16 SECTION 10. This Act does not affect rights and duties  
17 that matured, penalties that were incurred, and proceedings that  
18 were begun before its effective date.

19 SECTION 11. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.



1 SECTION 12. This Act shall take effect on July 1, 2020;  
2 provided that part I of this Act shall take effect on July 1,  
3 2021.

4

INTRODUCED BY: 

JAN 21 2020



# H.B. NO. 2175

**Report Title:**

Department of Transportation; Traffic; Highway Safety; Automated Speed Enforcement Task Force; Automated Speed Enforcement System; Appropriation

**Description:**

Establishes an automated speed enforcement task force. Establishes the automated speed enforcement systems program, effective 7/1/2021. Authorizes the State or counties to administer the program. Requires fines collected for violations on a county highway to be expended for the operation of the program. Appropriates funds.

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

