

JAN 17 2020

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. (a) The department of transportation shall
3 establish a speed enforcement committee to review this Act and
4 recommend any necessary amendments that may be considered during
5 the 2021 legislative session.

6 (b) The department of transportation shall invite the
7 following to participate on the speed enforcement committee:

- 8 (1) The deputy chief court administrator for the district
9 court of the first circuit or the deputy chief court
10 administrator's designee;
- 11 (2) The public defender or the public defender's designee;
- 12 (3) County police;
- 13 (4) County prosecutors; and
- 14 (5) County transportation officials.

15 (c) The speed enforcement committee shall submit a report
16 including any findings and recommendations, and any proposed
17 legislation or amendments to this Act, to the legislature no



1 later than twenty days prior to the convening of the 2021
2 regular session.

3 PART II

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

7 "CHAPTER
8 AUTOMATED SPEED ENFORCEMENT SYSTEMS

9 § -1 Definitions. As used in this chapter, unless the
10 context otherwise requires:

11 "Automated speed enforcement system" means a device used
12 for traffic enforcement that includes a vehicle sensor that
13 works in conjunction with a speed measuring device and a camera
14 or similar device to automatically produce a photographic,
15 digital, or other visual image of a vehicle traveling at a
16 prohibited rate of speed in violation of part X of chapter 291C
17 and a photographic, digital, or other visual image of the driver
18 of the motor vehicle.

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 defined in section
5 291C-1.

6 "State highway" has the same meaning as used in section
7 264-1.

8 **§ -2 Automated speed enforcement systems program;**
9 **established.** There is established the automated speed
10 enforcement systems program, which may be implemented by any
11 county on state or county highways within the respective county,
12 to enforce the speed restriction laws of the State.

13 **§ -3 County powers and duties.** (a) Each county may
14 establish and implement, in accordance with this chapter, an
15 automated speed enforcement system imposing monetary liability
16 on the operator of a motor vehicle for failure to comply with
17 speed restriction laws. Each county may provide for the
18 procurement, location, installation, operation, maintenance, and
19 repair of the automated speed enforcement system. Where the
20 automated speed enforcement system affects state property, the
21 department shall cooperate with and assist the county as needed



1 to install, maintain, and repair the automated speed enforcement
2 system established pursuant to this chapter.

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

8 **§ -4 Automated speed enforcement system requirements.**

9 (a) An automated speed enforcement system shall be operated
10 from a fixed pole, post, or other fixed structure on a state or
11 county highway.

12 (b) Signs and other official traffic-control devices
13 indicating that speed restriction laws are enforced by an
14 automated speed enforcement system shall be posted on all major
15 routes entering the area in question to provide, as far as
16 practicable, notice to drivers of the existence and operation of
17 the system.

18 (c) Proof of a speed limit violation shall be as evidenced
19 by information obtained from the automated speed enforcement
20 system authorized pursuant to this chapter. A certificate,
21 sworn to or affirmed by the county's agent or employee, or a



1 facsimile thereof, based upon inspection of photographs,
2 microphotographs, videotape, or other recorded images produced
3 by the system, shall be prima facie evidence of the facts
4 contained therein. Any photographs, microphotographs,
5 videotape, or other recorded images evidencing a violation shall
6 be available for inspection in any proceeding to adjudicate the
7 liability for that violation.

8 (d) No summons or citation pursuant to the automated speed
9 enforcement systems program shall be issued unless it contains a
10 clear and unobstructed photographic, digital, or other visual
11 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 limit in violation of part X of chapter 291C, the county
20 shall cause a summons or citation, as described in this section,
21 to be sent by certified or registered mail with a return



1 receipt, which is postmarked within seventy-two hours of the
2 time of the incident, to the registered owner of the vehicle at
3 the address on record at the vehicle licensing division. If the
4 end of the seventy-two-hour period falls on a Saturday, Sunday,
5 or state holiday, then the ending period shall run until the end
6 of the next day that is not a Saturday, Sunday, or state
7 holiday.

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

19 (c) Every summons or citation shall be consecutively
20 numbered and each copy thereof shall bear the number of its
21 respective original.



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

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

10 § -6 Registered owner's responsibility for a summons or
11 citation. In any proceeding for a violation of this chapter,
12 the information contained in the summons or citation mailed in
13 accordance with section -5 shall be deemed prima facie
14 evidence that the registered vehicle violated part X of chapter
15 291C.

16 § -7 Prima facie evidence. (a) Whenever the automated
17 speed enforcement system determines a motor vehicle to be in
18 violation of part X of chapter 291C, evidence that the motor
19 vehicle described in the citation or summons issued pursuant to
20 this chapter was operated in violation of that section, together
21 with proof that the person to whom the summons or citation was



1 sent was the registered owner of the motor vehicle at the time
2 of the violation, shall constitute prima facie evidence that the
3 registered owner of the motor vehicle was the person who
4 committed the violation.

5 (b) The registered owner of the vehicle may rebut the
6 evidence in subsection (a) by any one of the following:

7 (1) Submitting a written statement as provided in section
8 291D-6 (b) (2);

9 (2) Testifying in open court under oath that the person
10 was not the operator of the vehicle at the time of the
11 alleged violation;

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

15 (4) Extrinsic evidence that the person was not the
16 operator of the vehicle at the time of the alleged
17 violation;

18 (5) Presenting, prior to the return date established on
19 the citation or summons issued pursuant to this
20 chapter, a letter of verification of loss from the
21 police department indicating that the vehicle had been



1 reported stolen, to the court adjudicating the alleged
2 violation; or

3 (6) Identifying the actual driver of the vehicle at the
4 time of the alleged violation.

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

11 § -9 Liability for rental or U-drive vehicle.
12 Notwithstanding any law to the contrary, if the registered owner
13 of record is the lessor of a rental or U-drive motor vehicle, as
14 defined in section 286-2, pursuant to a written lease agreement,
15 the lessee at the time of the violation shall be responsible for
16 the summons or citation; provided that:

17 (1) The lessor shall be responsible for the summons or
18 citation if the lessor does not provide the court
19 having jurisdiction over the summons or citation with
20 the name and address of the lessee within thirty days
21 after a notice containing the date, time, and location



1 of the alleged violation and the license number of the
2 vehicle is sent to the lessor; and

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

8 § -10 **Penalty.** The penalties for all consequences of a
9 violation for exceeding a speed limit initiated by the use of an
10 automated speed enforcement system shall be as provided in
11 section 291C-161.

12 § -11 **Fines for unauthorized disclosure.** All personal
13 and confidential information made available by any government
14 agency to an agent of any county for the automated speed
15 enforcement systems program shall be kept confidential and shall
16 be used only for the purposes for which the information was
17 furnished. Any officer, employee, or agent of a county who
18 intentionally discloses or provides a copy of personal and
19 confidential information obtained from an automated speed
20 enforcement system to any person or agency without authorization
21 shall be fined not more than \$; provided that the fine



1 shall not preclude the application of penalties or fines
2 otherwise provided for by law.

3 § -12 Automated speed enforcement systems program

4 special fund established. (a) There is established an
5 automated speed enforcement systems special fund to be
6 administered by the department, into which shall be paid
7 revenues collected pursuant to this chapter.

8 (b) All fines collected under this chapter shall be
9 deposited into the automated speed enforcement systems program
10 special fund. Moneys in the fund shall be expended by the
11 department in the county in which the fine was imposed, for
12 purposes that include the establishment, operation, management,
13 and maintenance of an automated speed enforcement system. No
14 portion of any fine collected through the use of automated speed
15 enforcement systems may be utilized as general revenue of the
16 implementing jurisdiction.

17 § -13 Rules. The department shall adopt rules pursuant
18 to chapter 91, as may be necessary to implement this chapter."

19 PART IV

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



1 "§291C-161 Penalties[-]; automated speed enforcement
2 system fines. (a) It is a violation for any person to violate
3 any of the provisions of this chapter, except as otherwise
4 specified in subsections (c) and (d) and unless the violation is
5 by other law of this State declared to be a felony, misdemeanor,
6 or petty misdemeanor.

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

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

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

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

19 (c) Every person convicted under or found in violation of
20 section 291C-12, 291C-12.5, 291C-12.6, 291C-13, 291C-14,
21 291C-15, 291C-16, 291C-72, 291C-73, 291C-95, 291C-102, 291C-103,



1 291C-104, or 291C-105 shall be sentenced or fined in accordance
2 with those sections.

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

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

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

12 (3) Be fined not more than [~~\$500~~] \$ _____ or
13 imprisoned not more than six months or both for
14 conviction of a third or subsequent offense committed
15 within one year after the 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) Fines collected for a violation of part X of chapter
21 291C pursuant to the automated speed enforcement system



1 established pursuant to chapter shall be deposited into
 2 the automated speed enforcement systems program special fund
 3 established under section -12 and shall be expended in the
 4 county in which the fine was imposed, for purposes that include
 5 the establishment, operation, management, and maintenance of an
 6 automated speed enforcement system.

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

11 SECTION 4. 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



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



1 respective jurisdictions except as provided in section
2 291C-111;

3 (25) Prohibiting or regulating electric personal assistive
4 mobility devices on sidewalks and bicycle paths; [~~and~~]

5 (26) Implementing an automated speed enforcement system
6 pursuant to chapter _____ ; and

7 [~~(26)~~] (27) Adopting such other traffic regulations as are
8 specifically authorized by this chapter."

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

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

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

16 (2) In the case of:

17 (A) A vehicle utilizing the high occupancy vehicle
18 lane illegally; [~~or~~]

19 (B) A vehicle illegally utilizing a parking space
20 reserved for persons with disabilities, where the
21 violator refuses the citation; or



1 (C) A motor vehicle determined by means of an
2 automated speed enforcement system established
3 pursuant to chapter to have exceeded a
4 speed limit in violation of part X of chapter
5 291C,
6 the original of the citation shall be sent by certified or
7 registered mail, with a return receipt that is postmarked within
8 forty-eight hours of the time of the incident, as provided in
9 section 291C-223 for vehicles illegally utilizing the high
10 occupancy vehicle lane, or within seventy-two hours of the time
11 of the incident for vehicles illegally utilizing a parking space
12 reserved for persons with disabilities[7] or for vehicles
13 exceeding a speed limit in violation of part X of chapter 291C,
14 as determined by means of an automated speed enforcement system,
15 to the registered owner of the vehicle at the address on record
16 at the vehicle licensing division. If the end of the applicable
17 forty-eight or seventy-two hour period falls on a Saturday,
18 Sunday, or state holiday, then the ending period shall run until
19 the end of the next day which is not a Saturday, Sunday, or
20 state holiday; provided that the administrative judge of the
21 district courts may allow a carbon copy of the citation to be



1 given to the violator or affixed to the vehicle and provide for
2 the disposition of the original and any other copies of the
3 citation."

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

6 "(c) Any person who is convicted of violating this section
7 shall be subject to penalties as provided under section
8 291C-161(b) and [~~f~~] (g)."

9 PART V

10 SECTION 7. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$ or so
12 much thereof as may be necessary for fiscal year 2021-2022 for
13 the purposes of establishing the automated speed enforcement
14 systems program to be allocated as follows:

- 15 \$ to the city and county of Honolulu;
- 16 \$ to the county of Maui;
- 17 \$ to the county of Hawaii; and
- 18 \$ to the county of Kauai.

19 The sums appropriated shall be expended by the appropriate
20 counties for the purposes of this Act; provided that a county



1 shall elect to implement an automated speed enforcement system
2 as a condition to receiving any funds appropriated by this Act.

3 PART VI

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

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

19 SECTION 10. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 11. This Act shall take effect on July 1, 2021;
2 provided that part II shall take effect on July 1, 2020.

3

INTRODUCED BY:

Francis L. Group
Mike Gabbal
[Signature]
DK
[Signature]
[Signature]
[Signature]



S.B. NO. 2236

Report Title:

Traffic; Highway Safety; Automated Speed Enforcement;
Appropriation

Description:

Establishes the Automated Speed Enforcement Systems Program (Program). Authorizes counties to administer the Program. Requires proceeds of fines to be expended in the county from which they were collected for operation of the Program. Makes an appropriation. Establishes a Speed Committee.

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

