

JAN 23 2020

A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

1 PART I

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

12 The legislature further finds that in other jurisdictions
13 in the United States, Canada, Europe, and other countries
14 throughout the world, photo red light imaging detector systems
15 have been proven reliable, efficient, and effective in
16 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 armed
4 violators. With photo red light imaging detector systems, a
5 camera is positioned at intersections where red light violations
6 are a major cause of collisions and serves as a twenty-four-hour
7 deterrent to running a red light. Sensors are buried under a
8 crosswalk and lead to a self-contained camera system mounted on
9 a nearby structure. When a vehicle enters the intersection
10 against a red light, the camera takes a telephoto color picture
11 of the rear of the car, capturing the license plate. A second
12 wide-angle photograph takes in the entire intersection,
13 including other traffic.

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



1 court. Few cases are contested in other jurisdictions using
2 this system, and officers make fewer court appearances, saving
3 court costs.

4 The system may also result in lower insurance costs for
5 safe drivers through an overall reduction in crashes and
6 injuries and by placing system costs on the violators who have
7 created the need for the program, not on law-abiding taxpayers.
8 Traffic laws are impartially enforced, and safety and efficiency
9 are increased by reducing the number of chases and personnel
10 required for traffic accident clean-up, investigation, and court
11 testimony.

12 The legislature further finds that the photo speed imaging
13 detector system created by Act 234, Session Laws of Hawaii 1998,
14 and implemented in January 2002, generated intense public
15 opposition. As a result of this opposition, the legislature
16 repealed Act 234 in its entirety. However, the majority of the
17 opposition to this program resulted from the method by which the
18 program was implemented. The public perceived that the program
19 was operated more to maximize revenue for the vendor running the
20 program than to improve traffic safety. In particular, vans in
21 which the cameras were mounted were often placed at locations



1 that did not necessarily have a history of speed-related
2 accidents and instead were used to monitor locations with heavy
3 traffic flow at lower speeds. This permitted the vendor to
4 issue the maximum number of citations in the shortest period of
5 time and at the least cost, thereby maximizing the potential
6 return to the vendor without improving traffic safety.

7 The legislature further finds that Act 131, Session Laws of
8 Hawaii 2019, created the red light running committee, whose
9 purpose was to "develop policy recommendations for red light
10 running programs in the city and county of Honolulu, and the
11 counties of Maui, Kauai, and Hawaii." After examining the red
12 light running programs of Washington, Illinois, New York, and
13 Florida, the red light running committee found that red light
14 photo enforcement programs are a promising tool that, when
15 implemented properly, can save lives and reduce injuries by
16 changing drivers' behaviors and lead to safer driving habits.
17 Based on their findings, the red light running committee made a
18 number of policy recommendations, which are reflected in this
19 Act.

20 The purpose of this Act is to:



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

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

5 "Department" means the department of transportation.

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

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
11 synchronized to automatically record one or more sequenced
12 photographs, microphotographs, or electronic images of the rear
13 and front of the motor vehicle, the motor vehicle license plate
14 and driver of the motor vehicle at the time the vehicles fails
15 to stop when facing a steady red traffic-control signal in
16 violation of section 291C-32.

17 "State highway" has the same meaning as used in
18 section 264-1.

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



1 § -2 **Photo red light imaging detector systems program;**
2 **established.** There is established the photo red light imaging
3 detector systems program, which may be implemented by any county
4 on state or county highways within the respective county, to
5 enforce the traffic-control signal laws of the State.

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

18 (b) The State or a county that establishes a red light
19 imaging detector system under this chapter, the compensation
20 paid by the State or a county to a manufacturer or vendor of the
21 equipment used shall be based upon the value of the equipment



1 and services provided or rendered in support of the photo red
2 light imaging detector system, and shall not be based upon a
3 portion of the fine or civil penalty imposed or the revenue
4 generated by the equipment.

5 § -4 Photo red light imaging detector system

6 requirements. (a) Photo red light imaging detector equipment
7 may be operated from a fixed pole, post, or other fixed
8 structure on a state or county highway.

9 (b) Signs and other official traffic-control devices
10 indicating that traffic signal laws are enforced by a photo red
11 light imaging detector system shall be posted on all major
12 routes entering the area in question to provide, as far as
13 practicable, notice to drivers of the existence and operation of
14 the system.

15 (c) Proof of a traffic-control signal violation shall be
16 as evidenced by information obtained from the photo red light
17 imaging detector system authorized pursuant to this chapter. A
18 certificate, sworn to or affirmed by the county's agent or
19 employee, or a facsimile thereof, based upon inspection of
20 photographs, microphotographs, videotape, or other recorded
21 images produced by the system, shall be prima facie evidence of



1 the facts contained therein. Any photographs, microphotographs,
2 videotape, or other recorded images evidencing a violation shall
3 be available for inspection in any proceeding to adjudicate the
4 liability for that violation.

5 (d) No summons or citation pursuant to the photo red light
6 imaging detector systems program shall be issued unless it
7 contains a clear and unobstructed photographic, digital, or
8 other visual image of the driver of the motor vehicle.

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

13 **§ -5 Summons or citations.** (a) Notwithstanding any law
14 to the contrary, whenever any motor vehicle is determined, by
15 means of a photo red light imaging detector system, to have
16 disregarded a steady red signal in violation of section
17 291C-32(a)(3), the county shall cause a summons or citation, as
18 described in this section, to be sent by first class mail, which
19 is postmarked within ten calendar days of the date of the
20 incident, to the registered owner of the vehicle at the address
21 on record at the vehicle licensing division. If the end of the



1 ten calendar day period falls on a Saturday, Sunday, or state
2 holiday, then the ending period shall run until the end of the
3 next day that is not a Saturday, Sunday, or state holiday.

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

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

18 (d) Upon receipt of the summons or citation, the
19 registered owner shall respond as provided for in chapter 291D.
20 A record of the mailing of the summons or citations prepared in
21 the ordinary course of business is prima facie evidence of



1 notification. The registered owner shall be determined by the
2 identification of the vehicle's registration 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 citation or summons 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 in subsection (a) by any one of the following:

3 (1) Submitting a written statement as provided in section
4 291D-6(b)(2) and a photocopy of the registered owner's
5 driver's license;

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) Submitting evidence the driver passed through the
13 intersection when the traffic light was red in order
14 to yield the right-of-way to an emergency vehicle;

15 (5) Submitting evidence that the motor vehicle was part of
16 a funeral procession escorted by the police;

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



1 vehicle license plates had been reported stolen, to
2 the court adjudicating the alleged violation;

3 (7) Identifying the actual driver of the vehicle at the
4 time of the alleged violation; or

5 (8) At the direction of a law enforcement officer.

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

13 § -9 Liability for rental or U-drive vehicle.

14 Notwithstanding any law to the contrary, if the registered owner
15 of record is the lessor of a rental or U-drive motor vehicle, as
16 defined in section 286-2, pursuant to a written lease agreement,
17 the lessee at the time of the violation shall be responsible for
18 the summons or citation; provided that the lessor shall be
19 responsible for the summons or citation if the lessor does not
20 provide the court having jurisdiction over the summons or
21 citation with the name and address of the lessee within thirty



1 days after a notice containing the date, time, and location of
2 the alleged violation and the license number of the vehicle is
3 sent to the lessor.

4 **§ -10 Reissuance of summons or citation.** A summons or
5 citation will be reissued to the person who the registered owner
6 identifies as the driver of the vehicle or the lessor identifies
7 as the lessee of the vehicle at the time of the infraction.

8 **§ -11 Penalty.** (a) The penalties for all consequences
9 of a violation for disregarding a steady red signal initiated by
10 the use of a photo red light imaging detector system shall be as
11 provided in section 291C-161.

12 (b) Any summons or citations issues, or convictions
13 resulting from this chapter, shall not be recorded on a person's
14 traffic abstract.

15 **§ -12 Fines for unauthorized disclosure.** All personal
16 and confidential information made available by any government
17 agency to an agent of any county for the photo red light imaging
18 detector systems program shall be kept confidential and shall be
19 used only for the purposes for which the information was
20 furnished. Any officer, employee, or agent of a county who
21 intentionally discloses or provides a copy of personal and



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

6 § -13 Photo red light imaging detector systems program
7 special fund established. (a) There is established a photo red
8 light imaging detector systems special fund to be administered
9 by the department, into which shall be paid revenues collected
10 pursuant to this chapter.

11 (b) All fines collected under this chapter shall be
12 deposited into the photo red light imaging detector systems
13 program special fund. Moneys in the fund shall be expended by
14 the department in the county in which the fine was imposed, for
15 purposes that include the establishment, operation, management,
16 and maintenance of a photo red light imaging detector system.

17 § -14 Rules. The department shall adopt rules pursuant
18 to chapter 91, as may be necessary to implement this chapter."

19 PART III

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



1 "§291C-161 Penalties[+]; photo red light imaging detector
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 thereof;

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

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

18 (c) Every person convicted under or found in violation of
19 section 291C-12, 291C-12.5, 291C-12.6, 291C-13, 291C-14,
20 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 imprisoned not more
6 than ten days for a first conviction thereof;

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

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

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

19 (f) Fines collected for a violation of section 291C-32
20 pursuant to the photo red light imaging detector system
21 established pursuant to chapter shall be deposited into



1 the photo red light imaging detector systems program special
2 fund established under section -13 and shall be expended in
3 the county in which the fine was imposed, for purposes that
4 include the establishment, operation, management, and
5 maintenance of a photo red light imaging detector system.

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

10 SECTION 4. Section 291C-163, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

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

- 15 (1) Regulating or prohibiting stopping, standing, or
16 parking except as provided in section 291C-111;
17 (2) Regulating traffic by means of police officers or
18 official traffic-control devices;
19 (3) Regulating or prohibiting processions or assemblages
20 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 a photo red light imaging detector 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 to read as follows:

11 "**§291C-165 Summons or citation.** (a) There shall be
12 provided for use by authorized police officers, a form of
13 summons or citation for use in citing violators of those traffic
14 laws which do not mandate the physical arrest of such violators.
15 The form and content of such summons or citation shall be as
16 adopted or prescribed by the administrative judge of the
17 district courts and shall be printed on a form commensurate with
18 the form of other summonses or citations used in modern methods
19 of arrest, so designed to include all necessary information to
20 make the same valid within the laws and regulations of the
21 State.



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

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

6 (2) In the case of:

7 (A) A vehicle utilizing the high occupancy vehicle
8 lane illegally; or

9 (B) A vehicle illegally utilizing a parking space
10 reserved for persons with disabilities, where the
11 violator refuses the citation;

12 the original of the citation shall be sent by certified or
13 registered mail, with a return receipt that is postmarked within
14 forty-eight hours of the time of the incident, as provided in
15 section 291C-223 for vehicles illegally utilizing the high
16 occupancy vehicle lane, or within seventy-two hours of the time
17 of the incident for vehicles illegally utilizing a parking space
18 reserved for persons with disabilities, to the registered owner
19 of the vehicle at the address on record at the vehicle licensing
20 division. If the end of the applicable forty-eight or seventy-
21 two hour period falls on a Saturday, Sunday, or holiday, then



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

7 (c) In the case of a motor vehicle determined by means of
8 a photo red light imaging detector system established pursuant
9 to chapter _____ to have disregarded a steady red signal in
10 violation of section 291C-32(a)(3); the original shall be sent
11 by first class mail within ten calendar days from the time of
12 the incident for vehicles disregarding a steady red light signal
13 in violation of section 291C-32(a)(3), as determined by means of
14 a photo red light imaging system, to the registered owner of the
15 vehicle at the address on record at the vehicle licensing
16 division. If the end of the applicable ten calendar day period
17 falls on a Saturday, Sunday, or holiday, then the ending period
18 shall run until the end of the next day which is not a Saturday,
19 Sunday, or holiday.



1 applications of the Act which can be given effect without the
2 invalid provision or application, and to this end the provisions
3 of this Act are severable.

4 SECTION 9. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 10. This Act shall take effect on July 1, 2021.
7

INTRODUCED BY: *Francis R. Sroufe*

Joh

Resaly de Baka
Mike Gebel

DK



S.B. NO. 2994

Report Title:

Highway Safety; Photo Red Light Imaging

Description:

Establishes the Photo Red Light Imaging Detector 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.

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

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