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## A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

1           SECTION 1. The legislature finds that the prevalence of  
2 drivers violating Hawaii's traffic laws, especially on the  
3 island of Oahu, has become intolerable, particularly drivers who  
4 run red lights. These violations endanger the lives of  
5 motorists and pedestrians and compound the already hazardous  
6 conditions on Hawaii's roads and highways. It has become  
7 increasingly common to hear reports of hit-and-run drivers who  
8 have run over children or the elderly. Disregarding traffic  
9 signals has also been the common denominator in many recent,  
10 highly-publicized motor vehicle crashes that have claimed a  
11 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, a technological innovation namely, the  
15 photo red light imaging detector system, has already  
16 demonstrated its reliability, efficiency, and effectiveness in  
17 identifying and deterring those who run red lights.



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

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



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

3 The system may also result in lower insurance costs for  
4 safe drivers through an overall reduction in crashes and  
5 injuries and places system costs on the violators who have  
6 created the need for the program, not on law-abiding taxpayers.  
7 Traffic laws are enforced without partiality, and safety and  
8 efficiency are increased by reducing the number of chases and  
9 personnel required for traffic accident clean-up, investigation,  
10 and court testimony.

11 The legislature finds that the photo speed imaging detector  
12 system created by Act 234, Session Laws of Hawaii 1998, and  
13 implemented in December 2001, generated intense public  
14 opposition to this program. As a result of this opposition, the  
15 legislature repealed Act 234 in its entirety. However, the  
16 opposition to this program resulted largely from the  
17 implementation method of the program. The public perceived that  
18 the program was operated more to maximize revenue for the vendor  
19 running the program than to improve traffic safety. In  
20 particular, camera vans were stationed at locations that did not  
21 necessarily have a history of speed-related accidents. They  
22 were used to monitor locations with heavy traffic flow at lower



1 speeds. This permitted the vendor to issue the maximum number  
2 of citations in the shortest period of time and at the least  
3 cost, thereby maximizing the potential return to the vendor  
4 without improving traffic safety. The legislature finds that  
5 the photo red light imaging system program established by this  
6 Act, does not contain the same implementation flaws.

7 The purpose of this Act is to:

- 8 (1) Establish a photo red light imaging detector system  
9 program to improve enforcement of the traffic signal  
10 laws;
- 11 (2) Allow counties to implement the photo red light  
12 imaging detector system program;
- 13 (3) Authorize fines collected under county programs to be  
14 deposited into a general fund account; and
- 15 (4) Authorize funds from this general fund account to be  
16 expended in the county in which the fine was collected  
17 for the establishment, operation, management, and  
18 maintenance of the photo red light imaging detector  
19 system program.



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PART I

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

**"CHAPTER**

**PHOTO RED LIGHT IMAGING DETECTOR SYSTEM PROGRAM**

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

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

"Department" means the department of transportation.

"Driver" has the same meaning as defined in section 291C-1.

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

"Photo red light imaging detector system" or "system" means a device used for traffic enforcement to detect red light running that includes a motor vehicle sensor that works in conjunction with a traffic-control signal and a camera or similar device to automatically produce a photographic, digital, or other visual image of a motor vehicle that has disregarded a steady red traffic-control signal in violation of section



1 291C-32, and a photographic, digital, or other visual image of  
2 the driver of the motor vehicle.

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

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

7 § -2 **Photo red light imaging detector system program;**  
8 **established.** There is established the photo red light imaging  
9 detector system program, which may be implemented by any county  
10 on state or county highways within the respective county to  
11 enforce section 291C-32(a)(3).

12 § -3 **County powers and duties.** Each county may  
13 establish and implement, in accordance with this chapter, a  
14 photo red light imaging detector system program imposing  
15 monetary liability on the driver of a motor vehicle for failure  
16 to comply with section 291C-32(a)(3). Each county may provide  
17 for the procurement, location, installation, operation,  
18 maintenance, and repair of photo red light imaging detector  
19 systems within the program. Where a photo red light imaging  
20 detector system affects state property, the department shall  
21 cooperate with and assist the county as needed to install,  
22 maintain, and repair the system.



1           §     -4   **Photo red light imaging detector system program**

2   **requirements.**   (a)   Photo red light imaging detector system  
3   program equipment shall be operated from a fixed pole, post, or  
4   other fixed structure on a state or county highway.

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

11           (c)   Proof of a violation of section 291C-32(a)(3) shall be  
12   as evidenced by information obtained from a photo red light  
13   imaging detector system. A certificate, sworn to or affirmed by  
14   the county's agent or employee, or a facsimile thereof, based  
15   upon inspection of photographs, microphotographs, videotape, or  
16   other recorded images produced by the system, shall be prima  
17   facie evidence of the facts contained therein. Any photographs,  
18   microphotographs, videotape, or other recorded images evidencing  
19   a violation shall be available for inspection in any proceeding  
20   to adjudicate the liability for that violation.

21           (d)   No summons or citation issued pursuant to the photo  
22   red light imaging detector system program shall be issued unless



1 it 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 that do not involve a  
6 fine or court appearance, or affect a person's driving record.

7 § -5 **Summons or citations.** (a) Notwithstanding any  
8 law 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 cause a summons or citation, as  
12 described in this section, and which is postmarked within  
13 seventy-two hours of the time of the incident, to be sent by  
14 certified or registered mail to the registered owner of the  
15 vehicle at the address on record at the vehicle licensing  
16 division. If the end of the seventy-two-hour period falls on a  
17 Saturday, Sunday, or state holiday, then the ending period shall  
18 run until the end of the next day that is not a Saturday,  
19 Sunday, or state holiday.

20 (b) The form and content of the summons or citation shall  
21 be as adopted or prescribed by the administrative judge of the  
22 district courts and shall be printed on a form commensurate with



1 the form of other summonses or citations used in modern methods  
2 of arrest, so designed to include all necessary information to  
3 make the summons or citation valid within the laws of the State;  
4 provided that any summons or citation issued under this chapter  
5 shall contain a clear and unobstructed photographic, digital, or  
6 other visual image of the driver of the motor vehicle that is to  
7 be used as evidence of the violation.

8 (c) Every citation shall be consecutively numbered and  
9 each copy thereof shall bear the number of its respective  
10 original.

11 (d) Upon receipt of the summons or citation, the  
12 registered owner shall respond as provided for in chapter 291D.  
13 A mail receipt from the post office is prima facie evidence of  
14 the registered owner's receipt of notification. The registered  
15 owner shall be identified through the vehicle's registration  
16 plates.

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

20 § -6 **Registered owner's responsibility for a summons or**  
21 **citation.** In any proceeding for a violation of this chapter,  
22 the information contained in the summons or citation mailed in



1 accordance with section -5 shall be deemed prima facie  
2 evidence that the registered owner of the vehicle violated  
3 section 291C-32(a)(3).

4       §     -7 **Prima facie evidence.** (a) Whenever the photo red  
5 light imaging detector system determines a motor vehicle to be  
6 in violation of section 291C-32(a)(3), evidence that the motor  
7 vehicle described in the citations or summons issued pursuant to  
8 this chapter was operated in violation of section 291C-32(a)(3),  
9 together with proof that the person to whom the summons or  
10 citation was sent was the registered owner of the motor vehicle  
11 at the time of the violation, shall constitute prima facie  
12 evidence that the registered owner of the motor vehicle was the  
13 person who committed the violation.

14       (b) The registered owner of the vehicle may rebut the  
15 evidence in subsection (a) by any one of the following,  
16 including:

17       (1) Submitting a written statement as provided in section  
18             291D-6(b)(2);

19       (2) Testifying in open court under oath that the person  
20             was not the driver of the motor vehicle at the time of  
21             the alleged violation;



- 1           (3) Calling witnesses to testify in open court under oath
- 2           that the person was not the driver of the motor
- 3           vehicle at the time of the alleged violation;
- 4           (4) Extrinsic evidence that the person was not the driver
- 5           of the motor vehicle at the time of the alleged
- 6           violation;
- 7           (5) Presenting, prior to the return date established on
- 8           the citation or summons issued pursuant to this
- 9           chapter, a letter of verification of loss from the
- 10          police department indicating that the motor vehicle
- 11          had been reported stolen, to the court adjudicating
- 12          the alleged violation; or
- 13          (6) Identifying the driver of the vehicle at the time of
- 14          the offense.

15          §     -8 **Failure to comply with summons or citation.** If

16 the registered owner of the motor vehicle does not return an

17 answer in response to a summons or citation within a period of

18 twenty-one days upon receipt of the summons or citation, the

19 district court shall issue, pursuant to section 291D-7(e), a

20 notice of entry of judgment of default to the registered owner

21 of the motor vehicle.



1           §     **-9 Liability for rental or U-drive vehicle.**

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

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

14           (2) The administrative judge of the court having  
15 jurisdiction over the summons or citation may waive  
16 the requirement of providing the name and address of  
17 the lessee and impose on the lessor an administrative  
18 fee of \$           per citation.

19           §     **-10 Fines for unauthorized disclosure.** Any officer,  
20 employee, or agent of a county who intentionally discloses or  
21 provides a copy of personal and confidential information  
22 obtained from a photo red light imaging detector system to any



1 unauthorized person or agency shall be fined not more than  
2 \$ ; provided that the fine shall not preclude the  
3 application of penalties or fines otherwise provided for by law.

4 § -11 **Photo red light imaging detector system program**

5 **account established.** (a) There is established as a special  
6 account within the general fund, a photo red light imaging  
7 detector system program account into which shall be paid  
8 revenues collected pursuant to this chapter.

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

16 § -12 **Rules.** The department shall adopt rules pursuant  
17 to chapter 91 as may be necessary to implement this chapter."

18 PART II

19 SECTION 3. Section 291C-163, Hawaii Revised Statutes, is  
20 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;
- 21          (9) Regulating or prohibiting the turning of vehicles or  
22          specified types of vehicles;



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



- 1 (22) Adopting and enforcing such temporary or experimental
- 2 regulations as may be necessary to cover emergencies
- 3 or special conditions;
- 4 (23) Adopting maximum and minimum speed limits on streets
- 5 and highways within their respective jurisdictions;
- 6 (24) Adopting requirements on stopping, standing, and
- 7 parking on streets and highways within their
- 8 respective jurisdictions except as provided in section
- 9 291C-111;
- 10 (25) Implementing a photo red light imaging detector system
- 11 program pursuant to chapter ; or
- 12 [~~25~~] (26) Adopting such other traffic regulations as are
- 13 specifically authorized by this chapter."

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

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

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

21 (2) In the case of:



1 (A) A vehicle utilizing the high occupancy vehicle  
2 lane illegally[~~+~~], the original of the  
3 citation shall be sent to the registered owner of  
4 the vehicle at the address on record at the  
5 vehicle licensing division within seventy-two  
6 hours of the time of the incident for vehicles  
7 utilizing the high occupancy lane;

8 (B) A vehicle illegally utilizing a parking space  
9 reserved for persons with disabilities, where the  
10 violator refuses the citation[~~+~~], the original of  
11 the citation shall be sent to the registered  
12 owner of the vehicle at the address on record at  
13 the vehicle licensing division within seventy-two  
14 hours of the time of the incident;

15 or

16 (3) In the case of a motor vehicle determined by means of  
17 a photo red light imaging detector system established  
18 pursuant to chapter , to have disregarded a  
19 steady red signal in violation of section 291C-  
20 32(a)(3), the original of the citation shall be sent  
21 to the registered owner of the vehicle at the address



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

20           SECTION 5. There is appropriated out of the general  
21   revenues of the State of Hawaii the sum of \$           or so much  
22   thereof as may be necessary for fiscal year 2007-2008 for the



1 purposes of establishing the photo red light imaging detector  
2 system program to be allocated as follows:

3         \$                   to the city and county of Honolulu;

4         \$                   to the county of Maui;

5         \$                   to the county of Hawaii; and

6         \$                   to the county of Kauai.

7         The sum appropriated shall be expended by the counties for  
8 the purposes of this Act.

9         SECTION 6. It is the intent of this Act neither to  
10 jeopardize the receipt of any federal aid nor to impair the  
11 obligation of the State or any agency thereof to the holders of  
12 any bond issued by the State or by any such agency, and to the  
13 extent, and only to the extent, necessary to effectuate this  
14 intent, the governor may modify the strict provisions of this  
15 Act, but shall promptly report any such modification with  
16 reasons therefore to the legislature at its next session  
17 thereafter for review by the legislature.

18         SECTION 7. If any provision of this Act, or the  
19 application thereof to any person or circumstance is held  
20 invalid, the invalidity does not affect other provisions or  
21 applications of the Act which can be given effect without the



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

3 SECTION 8. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun, before its effective date.

6 SECTION 9. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 10. This Act shall take effect on July 1, 2007.

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INTRODUCED BY:

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*[Handwritten signature]*  
*[Handwritten signature]*  
0-29.2-  
Kiric Caldwell  
Tony Watts

JAN 18 2007



**Report Title:**  
Highway Safety

**Description:**  
Establishes the photo red light imaging detector system program.  
Authorizes counties to administer the program.

