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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 has become intolerable,  
3 particularly drivers who violate the speed limit. These  
4 violations endanger the lives of motorists and pedestrians and  
5 compound the already hazardous conditions on Hawaii's roads and  
6 highways. It has become increasingly common to hear reports of  
7 speeding hit-and-run drivers who have run over children or the  
8 elderly. Speeding has also been the common denominator in many  
9 recent, highly publicized motor vehicle crashes that have  
10 claimed a number of lives.

11           The legislature further finds that in other jurisdictions  
12 in the United States, Canada, Europe, and other countries  
13 throughout the world, two technological innovations--namely,  
14 photo red light imaging and photo speed imaging detector  
15 systems--have already demonstrated their reliability,  
16 efficiency, and effectiveness in identifying and deterring those  
17 who speed.



1 Photo speed imaging detector systems are safe, quick, cost-  
2 effective, and efficient. No traffic stop is involved, thus  
3 police officers are not at risk from passing traffic or armed  
4 violators. Moreover, while a motivated traffic officer may  
5 average fifteen or twenty tickets per shift, the photo speed  
6 imaging detector system can write two tickets per second.

7 These systems provide numerous benefits. Not only are  
8 streets safer, but police officers are also freed from time-  
9 consuming traffic enforcement duties and have more time to  
10 respond to priority calls. A violator is less likely to go to  
11 court, since the color photograph of the violation, imprinted  
12 with the time, date, and location of the violation and the  
13 violator's speed, can be used as evidence in court. Few cases  
14 are contested in other jurisdictions using this system, and  
15 officers make fewer court appearances, saving court costs.

16 The system may also result in lower insurance costs for  
17 safe drivers through an overall reduction in crashes and  
18 injuries and places system costs on the violators who have  
19 created the need for the program, not on law-abiding taxpayers.  
20 Traffic laws are enforced without partiality, and safety and  
21 efficiency are increased by reducing the number of high-speed



1 chases and the number of personnel required for traffic accident  
2 clean-up, investigation, and court testimony.

3       The legislature finds that the photo speed imaging detector  
4 system created by Act 234, Session Laws of Hawaii 1998, and  
5 implemented in January 2002, generated intense public  
6 opposition. As a result of this opposition, the legislature  
7 repealed Act 234 in its entirety. However, the majority of the  
8 opposition to this program resulted largely from the method of  
9 implementing the program. The public perceived that the program  
10 was operated more to maximize revenue for the vendor running the  
11 program than to improve traffic safety. In particular, vans in  
12 which the cameras were mounted were often placed at locations  
13 that did not necessarily have a history of speed-related  
14 accidents and instead were used to monitor locations with a  
15 heavy traffic flow traveling at lower speeds. This arrangement  
16 permitted the vendor to issue the maximum number of citations in  
17 the shortest period of time and at the least cost, thereby  
18 maximizing the potential return to the vendor without improving  
19 traffic safety.

20       Speeding whether on a highway or through a red light--  
21 frequently causes injury and death. When speeding occurs, the  
22 accidents involved are almost always more serious. More



1 recently, a number of cases of fatal crashes involved vehicles  
2 traveling at speeds far exceeding the posted speed limit. The  
3 legislature finds that there is an immediate need to remedy the  
4 steadily worsening traffic conditions in Hawaii and that the  
5 implementation of a photo speed imaging detector system program  
6 will help to protect the health, safety, and welfare of the  
7 people of this state, while at the same time offering  
8 substantial cost savings.

9 The purpose of this Act is to:

- 10 (1) Establish a photo speed imaging detector system  
11 program to improve enforcement of the speed limits;
- 12 (2) Allow counties to implement the photo speed imaging  
13 detector system program in areas where excessive  
14 speeding has been found to be a problem;
- 15 (3) Authorize fines collected under county programs to be  
16 deposited into a general fund account; and
- 17 (4) Authorize funds from this general fund account to be  
18 expended in the county in which the fine was collected  
19 for the establishment, operation, management, and  
20 maintenance of a photo speed imaging detector systems  
21 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 SPEED IMAGING DETECTOR SYSTEM PROGRAM

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

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

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

"Department" means the department of transportation.

"Excessive speeding" has the same meaning as used in section 291C-105.

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

"Photo speed imaging detector" means a device used for traffic enforcement that includes a vehicle sensor that works in conjunction with a camera or similar device designed to automatically produce a photographic, digital, or other visual image of a vehicle traveling in excess of the legal speed limit



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

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

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

7 § -2 **Photo speed imaging detector system program;**  
8 **established.** There is established the photo speed 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 the excessive speeding law of the State under section  
12 291C-105 in areas where excessive speeding occurs on a regular  
13 basis as determined by the county.

14 § -3 **County powers and duties.** Each county may establish  
15 and implement, in accordance with this chapter, a photo speed  
16 imaging detector system program that imposes monetary liability  
17 on the driver of a motor vehicle for failure to comply with  
18 section 291C-105. Each county may provide for the procurement,  
19 location, installation, operation, maintenance, and repair of  
20 photo speed imaging detector systems within the program. Where  
21 a photo speed imaging detector system affects state property,



1 the department shall cooperate with and assist the county as  
2 needed to install, maintain, and repair the system.

3       **§ -4 Photo speed imaging detector system program**

4 **requirements.** (a) Photo speed imaging detector system program  
5 equipment shall be operated from a fixed pole, post, or other  
6 fixed structure on a state or county highway in areas where  
7 excessive speeding occurs on a regular basis as determined by  
8 the county.

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

15       (c) Proof of a violation of section 291C-105 shall be as  
16 evidenced by information obtained from a photo speed imaging  
17 detector system. A certificate, sworn to or affirmed by the  
18 county's agent or employee, or a facsimile thereof, based upon  
19 inspection of photographs, microphotographs, videotape, or other  
20 recorded images produced by the system, shall be prima facie  
21 evidence of the facts contained therein. Any photographs,  
22 microphotographs, videotape, or other recorded images evidencing



1 a violation shall be available for inspection in any proceeding  
2 to adjudicate the liability for that violation.

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

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

11 § -5 **Summons or citations.** (a) Notwithstanding any law  
12 to the contrary, whenever any motor vehicle is determined by  
13 means of a photo speed imaging detector system to be in excess  
14 of the legal speed limit in violation of section 291C-105, the  
15 county shall cause a summons or citation, as described in this  
16 section, and which is postmarked within seventy-two hours of the  
17 time of the incident, to be sent by certified or registered mail  
18 to the registered owner of the vehicle at the address on record  
19 at the vehicle licensing division. If the end of the seventy-  
20 two-hour period falls on a Saturday, Sunday, or state holiday,  
21 then the ending period shall run until the end of the next day  
22 that is not a Saturday, Sunday, or state holiday.



1 (b) There shall be a form of summons or citation for use in  
2 citing violators as specified in subsection (a) that shall not  
3 mandate the physical arrest of those violators. The form and  
4 content of the summons or citation shall be as adopted or  
5 prescribed by the administrative judge of the district courts  
6 and shall be printed on a form commensurate with the form of  
7 other summonses or citations used in modern methods of arrest,  
8 so designed to include all necessary information to make the  
9 summons or citation valid within the laws of the State; provided  
10 that any summons or citation issued under this chapter shall  
11 contain a clear and unobstructed photographic, digital, or other  
12 visual image of the driver of the motor vehicle that is to be  
13 used as evidence of the violation.

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

16 (d) Upon receipt of the summons or citation, the registered  
17 owner shall respond as provided for in chapter 291D. A mail  
18 receipt from the post office is prima facie evidence of the  
19 registered owner's receipt of notification. The registered  
20 owner shall be determined by the identification of the vehicle's  
21 registration plates.



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

4 § -6 Registered owner's responsibility for a summons or  
5 citation. In any proceeding for a violation of this chapter,  
6 the information contained in the summons or citation mailed in  
7 accordance with section -5 shall be deemed prima facie  
8 evidence that the registered owner of the vehicle violated  
9 section 291C-105.

10 § -7 Prima facie evidence. (a) Whenever the photo speed  
11 imaging detector system determines a motor vehicle to be in  
12 violation of section 291C-105, evidence that the motor vehicle  
13 described in the citations or summons issued pursuant to this  
14 chapter was operated in violation of section 291C-105, together  
15 with proof that the person to whom the summons or citation was  
16 sent was the registered owner of the motor vehicle at the time  
17 of the violation, shall constitute prima facie evidence that the  
18 registered owner of the motor vehicle was the person who  
19 committed the violation.

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



- 1           (1) Submitting a written statement as provided in section  
2                   291D-6 (b) (2) ;
- 3           (2) Testifying in open court under oath that the person  
4                   was not the driver of the vehicle at the time of the  
5                   alleged violation;
- 6           (3) Calling witnesses to testify in open court under oath  
7                   that the person was not the driver of the vehicle at  
8                   the time of the alleged violation;
- 9           (4) Presenting extrinsic evidence that the person was not  
10                  the driver of the vehicle at the time of the alleged  
11                  violation;
- 12          (5) Presenting, prior to the return date established on  
13                  the citation or summons issued pursuant to this  
14                  chapter, a letter of verification of loss from the  
15                  police department indicating that the motor vehicle  
16                  has been reported stolen prior to the time of the  
17                  violation, to the court adjudicating the alleged  
18                  violation; or
- 19          (6) Identifying the driver of the vehicle at the time of  
20                  the offense.

21           **§ -8 Failure to comply with summons or citation.** If the  
22 registered owner of the vehicle does not return an answer in



1 response to a summons or citation within a period of twenty-one  
2 days upon receipt of the summons or citation, the district court  
3 shall issue, pursuant to section 291D-7(e), a notice of entry of  
4 judgment of default to the registered owner of the motor  
5 vehicle.

6 § -9 Liability for rental or U-drive vehicle.

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

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

19 (2) The administrative judge of the court having  
20 jurisdiction over the summons or citation may waive  
21 the requirement of providing the name and address of



1           the lessee and impose on the lessor an administrative  
2           fee of \$           per citation.

3           **§ -10 Penalty.** The penalties for a violation of  
4 excessive speeding where the charge has been initiated under  
5 this chapter shall be as provided in section 291C-105 (c).

6           **§ -11 Personal and confidential information; fines for**  
7 **unauthorized disclosure.** All personal and confidential  
8 information made available by any government agency to an agent  
9 of any county for the photo speed imaging detector system  
10 program shall be kept confidential and shall be used only for  
11 the purposes for which the information was furnished. Any agent  
12 receiving government records pursuant to this section shall be  
13 subject to the same restrictions on disclosure of the records as  
14 the originating agency. Any agent, or officer or employee of  
15 any agent, who intentionally discloses or provides a copy or  
16 personal and confidential information obtained from a photo  
17 speed imaging detector system to any person or agency with  
18 actual knowledge that disclosure is prohibited, shall be fined  
19 not more than \$           ; provided that the fine shall not  
20 preclude the application of penalties or fines otherwise  
21 provided for by law.



1           §     -12   Photo speed imaging detector system program  
2   account established. (a) There is established, as a special  
3   account within the general fund, a photo speed imaging detector  
4   system program account, into which shall be paid revenues  
5   collected pursuant to this chapter.

6           (b) All fines collected under this chapter shall be  
7   deposited into the photo speed imaging detector system program  
8   account. Moneys in the account shall be expended in the county  
9   in which the fine was imposed, for purposes that include the  
10   establishment, operation, management, and maintenance of a photo  
11   speed imaging detector system program.

12          §     -13   Rules. The department shall adopt rules pursuant  
13   to chapter 91 as may be necessary to implement this Act."

PART II

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

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

- 20           (1) Regulating or prohibiting stopping, standing, or
- 21           parking except as provided in section 291C-111;



- 1 (2) Regulating traffic by means of police officers or  
2 official traffic-control devices;
- 3 (3) Regulating or prohibiting processions or assemblages  
4 on the highways;
- 5 (4) Designating particular highways or roadways for use by  
6 traffic moving in one direction;
- 7 (5) Establishing speed limits for vehicles in public  
8 parks;
- 9 (6) Designating any highway as a through highway or  
10 designating any intersection as a stop or yield  
11 intersection;
- 12 (7) Restricting the use of highways;
- 13 (8) Regulating the operation and equipment of and  
14 requiring the registration and inspection of bicycles,  
15 including the requirement of a registration fee;
- 16 (9) Regulating or prohibiting the turning of vehicles or  
17 specified types of vehicles;
- 18 (10) Altering or establishing speed limits;
- 19 (11) Requiring written accident reports;
- 20 (12) Designating no-passing zones;
- 21 (13) Prohibiting or regulating the use of controlled-access  
22 roadways by any class or kind of traffic;



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



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

5       (25) Implementing a photo speed imaging detector system  
 6           program pursuant to chapter \_\_\_\_\_; or

7       ~~[(25)]~~ (26) Adopting such other traffic regulations as are  
 8           specifically authorized by this chapter."

9       SECTION 4. 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; ~~[e]~~

16       (2) In the case of:

17       (A) A vehicle utilizing the high occupancy vehicle  
 18           lane illegally~~[, or]~~, the original of the  
 19           citation shall be sent by certified or registered  
 20           mail, with a return receipt that is postmarked  
 21           within forty-eight hours of the time of the  
 22           incident, as provided in section 291C-223; or



1 (B) A vehicle illegally utilizing a parking space  
 2 reserved for persons with disabilities, where the  
 3 violator refuses the citation[+  
 4 ~~the original of the citation shall be sent by certified or~~  
 5 ~~registered mail, with a return receipt that is postmarked within~~  
 6 ~~forty eight hours of the time of the incident, as provided in~~  
 7 ~~section 291C-223 for vehicles illegally utilizing the high~~  
 8 ~~occupancy vehicle lane, or within seventy two hours of the time~~  
 9 ~~of the incident for vehicles illegally utilizing a parking space~~  
 10 ~~reserved for persons with disabilities, to the registered owner~~  
 11 ~~of the vehicle at the address on record at the vehicle licensing~~  
 12 ~~division.]~~

13 , the original of the citation shall be sent to  
 14 the registered owner of the vehicle at the  
 15 address on record at the vehicle licensing  
 16 division within seventy-two hours of the time of  
 17 the incident;

18 or

19 (3) In the case of a motor vehicle determined under the  
 20 photo speed imaging detector system program  
 21 established pursuant to chapter to be  
 22 excessively speeding in violation of section 291C-105,



1           the original of the citation shall be sent to the  
 2           registered owner of the vehicle at the address on  
 3           record at the vehicle licensing division within  
 4           seventy-two hours of the time of the incident.

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

13           SECTION 5. There is appropriated out of the general  
 14 revenues of the State of Hawaii the sum of \$           or so much  
 15 thereof as may be necessary for fiscal year 2007-2008 for the  
 16 purposes of establishing the photo speed imaging detector system  
 17 program to be allocated as follows:

- 18           \$                           to the city and county of Honolulu;
- 19           \$                           to the county of Maui;
- 20           \$                           to the county of Hawaii; and
- 21           \$                           to the county of Kauai.



1           The sum appropriated shall be expended by the counties for  
2 the purposes of this Act.

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

12           SECTION 7. If any provision of this Act, or the  
13 application thereof to any person or circumstance is held  
14 invalid, the invalidity does not affect other provisions or  
15 applications of the Act which can be given effect without the  
16 invalid provision or application, and to this end the provisions  
17 of this Act are severable.

18           SECTION 8. This Act does not affect rights and duties that  
19 matured, penalties that were incurred, and proceedings that were  
20 begun, before its effective date.

21           SECTION 9. Upon enactment, the revisor of statutes shall  
22 insert the number of this chapter into sections 291C-163 and





**Report Title:**

Highway Safety.

**Description:**

Establishes the photo speed imaging detector system program.  
Authorizes counties to administer the program.

