

WRITTEN ONLY

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON TRANSPORTATION
ON
HOUSE BILL NO. 388

February 2, 2009

RELATING TO HIGHWAY SAFETY

Section 5 of House Bill No. 388 appropriates unspecified general fund amounts to each county for Fiscal Year 2010 to establish a photo speed imaging detector system program.

We defer to the Department of Transportation on the operational aspects of this bill. We request that Section 5 be amended to add a provision to reimburse the general fund for start-up costs, and to establish a special fund to cover the costs of the photo speed imaging detector system program assuming the program would be self-sufficient.



**Office of the Public Defender
State of Hawaii
Timothy Ho, Chief Deputy Public Defender**



**Testimony of the Office of the Public Defender,
State of Hawaii to the House Committee on Transportation**

February 2, 2009, 9:00 a.m.

H.B. No. 388: RELATING TO HIGHWAY SAFETY

Chair Souki and Members of the Committee:

This measure would establish a photo speed imaging detector system program. This system would be an unmanned, automated system, which would provide a photograph of a vehicle traveling in excess of the established speed limit.

Although we believe that strict enforcement of our traffic laws results in a reduction of traffic accidents and increased traffic safety, we do not believe this measure appropriately balances the rights of the accused violators with the public's interest in traffic safety.

There was overwhelming public opposition to a photo speed detection system implemented on Oahu a few years ago. There is nothing to indicate that the public will favorably receive any photo speed detection system today. The arbitrary, robotic nature of an automated speed detection system, albeit without the camera vans, will still generate public opposition. The difference between an automated system and a manned system is that everyone traveling over the speed limit will be ticketed by the automated system. A police officer would be able exercise his or her discretion in deciding whether or not to pull over and eventually issue a speeding ticket. For example, a police officer stationed in a 35 mile per hour zone may decide not to pull over a driver traveling 38 miles per hour, and issue a warning to a person traveling 41 miles per hour. While the officer may decide to issue a ticket to the driver traveling at 44 miles per hour, the automated system would ticket everyone going 36 miles per hour and above.

While it is true that the public outcry against previous version of photo speed enforcement was directed at the private vendor, cessation of that program was accomplished by simply terminating the contract with the vendor. H.B. 388 will implemented by the counties, not a private vendor. The financial burden of purchasing and maintaining the photo speed detection equipment, as well as the cost of the additional personnel to run the system will fall on the public. What happens if the photo detection law is repealed again? In this instance, the bill will be footed by the taxpayers. Money would be better spent on increasing the police presence on our highways. It has worked in east Honolulu, where officers patrol the freeway from the University off-ramp to Hawaii Kai.

Legally, we express the same opposition to this bill as in H. B. 145. The registered owner will be deemed liable, even if he is not the actual operator of the vehicle. The registered owner, if he was not driving the motor vehicle during the photo red light violation, would be inconvenienced by having to prepare a written statement, testify in court, call witnesses or obtain extrinsic proof of his innocence, at his own expense. The registered owner would also be forced to choose between accepting responsibility for a violation he did not commit and assisting the government in the prosecution of a spouse, friend or family member.

We oppose the passage of H.B. No. 388. Thank you for the opportunity to be heard on this matter.



THE JUDICIARY, STATE OF HAWAII

Testimony to the Twenty-Fifth Legislature, Regular Session of 2009

House Committee on Transportation
The Honorable Joseph M. Souki, Chair
The Honorable Karen Leilani Awana, Vice Chair

Monday, February 2, 2009, 9:00 a.m.
State Capitol, Conference Room 309

by
Iris Murayama
Deputy Chief Court Administrator
District Court of the First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 388, Relating to Highway Safety

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

Judiciary's Position:

The Judiciary takes no position on the merits of House Bill No. 388, but is concerned with the negative impact on the Judiciary operations.

The bill calls for the summons or citations to be issued to the registered owners of the offending vehicles. However, the governmental body responsible for the managing of the motor vehicle registrations is not always current with its vehicle registrations and there are always pending vehicle transfers transactions. Thus, it may result in the summons or citations regarding the offending vehicles being mailed to the previous owners.

Because of this discrepancy, it may mean that a large number of the summons or citations issued in error will still require processing by District Court staff. In addition, should the defendants contest the summons or citations by either submitting written statements or by



House Bill No. 388, Relating to Highway Safety
House Committee on Transportation
Monday, February 2, 2009
Page 2

making requests for court hearings, District Court staff will need to prepare these written statements for review or schedule the cases for court hearings.

Secondly, the potential impact on our fiscal staff needs to be considered. Because the Judiciary's fiscal staff will be responsible for the collection of the imposed fines, there is presently no mechanism to identify the fines.

Thank you for the opportunity to testify on this measure.

COMMITTEE ON TRANSPORTATION

Honorable Joseph M. Souki, Chair
Honorable Karen Leinani Awana, Vice Chair

Re: House Bill No. 388 -- Relating to Highway Safety

Monday, February 2, 2009
Hawaii State Capitol, Conference Room 309
9:00 a.m.

HONORABLE JOSEPH M. SOUKI, CHAIR, HONORABLE KAREN LEINANI
AWANA, VICE CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Milton Imada. I am a registered voter with a background in fleet maintenance and safety who also maintains a commercial driver's license. I am speaking in behalf of private and professional drivers who believe as I do.

We ask you to reject House Bill No. 388.

Spending hundred thousands of dollars on a camera system during a time of failing economy and high unemployment is irresponsible.

We rejected the initial December 2001 traffic camera Bill in its entirety and firmly opposed any and all forms of photo imaging cameras instead of using police officers.

Are the highway cameras designed to effectively cite speeding motorcycles? If not, then the system is flawed and contradicts its purpose by knowingly allowing a specific type of motor vehicle a speeding exemption. If not, the system is unjust and discriminates against car and truck drivers. The camera system proposed should not have this serious flaw.

It is unconscionable when lawmakers become obsessed with spending taxpayers' monies to build the "son of van cam" that will pose to harass all drivers when the true problems causing the highway carnage are racing more than 30 miles per hour over the posted speed limits, driving under the influence of alcohol or drugs, weaving in and out of traffic lanes and following too close.

Highway cameras are a poor substitute for police officers who can immediately defuse a possible catastrophe down the roadway by pulling over a racing motorist or one who is driving carelessly. The officers can also identify alcohol and drug abuse or a medical emergency. Cameras will never replace police presence on the highways or roadways.

Traffic police officers here and on the mainland exercise discretion and have been known to allow up to 10 miles per hour over the posted speed limit before citing a driver. The lay of the road can change instantly and can affect a vehicle's speed without the driver's immediate knowledge. Speedometer errors will also affect a vehicle's speed. The safe flow of traffic is another consideration.

As we interpret this Bill, anyone traveling one mile per hour over the speed limit will be cited with no allowance for speedometer errors that are inherent in the design of motor vehicles. The speedometer inadequacy was proven to the House Transportation Committee and its Chair Joseph Souki when a representative from car dealerships confirmed it to be true during a previous hearing related to this same subject matter that I took part in.

The highway camera system will be able to write two tickets per second sounds like a cunning way to increase state revenues. Putting the monies collected into a special fund will not prevent it from being raided in the future given State government's past history.

Hawaii drivers do not drive like drivers on the mainland, therefore, we do not deserve to be harassed or treated in the same manner. We want to keep Hawaii a very special place without becoming photo targets and unwilling benefactors.

We ask you not to impose this unpopular, band aid solution in lieu of spending wisely and responsibly taxpayers' monies for additional police officers to compensate for our growing population and increased traffic. More officers can allow the police department to once again maintain a meaningful presence on our highways and intersections

Photo imaging cameras will instill driver fear and paranoia as drivers become obsessed with focusing on speedometers to maintain precise speeds while looking for the cameras. These drivers will be distracted from applying other safe driving techniques. Bad weather and worsening traffic conditions make the situation more stressful.

This Bill is bad law and will open a Pandora's box with growing negativity infringing on our rights to privacy and lead Hawaii down a dangerous path of eroding civil liberties.

Insurance companies will treat law abiding drivers with ten or more years of safe driving records like criminals by raising their premiums forever for being cited by photo cameras driving one mile per hour over the speed limit. These drivers may contest the citations in court.

If you insist on imposing this Bill, we suggest the following:

1. Provide a 10 mile per hour allowance for speedometer errors and the lay of the land which may quickly increase the speed of a vehicle without the driver's knowledge.

2. Provide that warnings be issued in lieu of citations for photo camera violations up to 10 miles per hour over the posted speed limit, considering that when insurance premiums go up drivers will drive without insurance.

3. Provide that a violation for which a civil penalty is imposed under this Bill for the first 10 miles per hour be treated the same as a seat belt and child restraint violation to prevent insurance companies raising premiums.

4. Increase our police force to compensate for the growing population resulting in more vehicles on our roadway.

5. In lieu of photo imaging, we suggest creating a part time police traffic detachment dedicated to highway and intersection safety with the following considerations:

- A. Hire our already trained, qualified volunteer police officers.
- B. Hours of work not to exceed part time status.

C. Duties will be confined to maintaining roadway and intersection safety.

6. The monies you spend on this project can be better spent on repairing Oahu's infrastructure, repairing, rebuilding and modernizing schools, preventing drug abuse, resurfacing roadways, boosting our failing economy and aiding victims of failed airlines and businesses, etc.

There is no Aloha spirit in photo traffic enforcement.

Thank you. We look forward to your support.