

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, particularly drivers
4 who fail to stop at red lights, has become intolerable. These
5 violations endanger the lives of motorists, pedestrians, and
6 other highway users and compound the already hazardous
7 conditions on Hawaii's roads and highways. In recent years, it
8 has become increasingly common to hear reports of hit-and-run
9 drivers who have struck children or the elderly.

10 The increasing number of reports of drivers who fail to
11 stop at red lights is a particularly concerning trend in traffic
12 violations that could be remedied easily and quickly through the
13 use of simple, yet efficient technology. In other jurisdictions
14 in the United States and in countries throughout the world,
15 including Canada and those in Europe, photo red light imaging
16 detector systems have proven reliable, efficient, and effective
17 in identifying and deterring drivers who run red lights.



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

15 The legislature finds that these systems provide numerous
16 benefits. Not only are streets safer, but police officers,
17 freed from the time-consuming duties of traffic enforcement,
18 have more time to respond to priority calls. A violator is less
19 likely to go to court because the color photograph of the
20 violation, imprinted with the time, date, and location of the
21 violation, and the number of seconds the light had been red



1 before the violator entered the intersection, can be used as
2 evidence in court. Few cases are contested using this system,
3 and officers make fewer court appearances, thus saving 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 violators instead of
7 law-abiding taxpayers. This system ensures that traffic laws
8 are impartially enforced, and safety and efficiency are
9 increased by reducing the number of chases and personnel
10 required for traffic accident clean-up, investigation, and court
11 testimony.

12 While the legislature established photo speed imaging
13 detector and photo red light imaging detector systems to improve
14 traffic safety and enforcement through the passage of Act 234,
15 Session Laws of Hawaii 1998, implementation of these systems as
16 traffic enforcement tools in January 2002 generated intense
17 public opposition. As a result of this opposition, the
18 legislature repealed Act 234 in its entirety by Act 58, Session
19 Laws of Hawaii 2002. However, opposition to these programs was
20 directed primarily toward the photo speed imaging detector
21 system and the method by which that program was implemented.



1 The public perceived that the program was operated to maximize
2 revenue for the vendor running the program rather than to
3 improve traffic safety.

4 Though many of the concerns raised regarding photo speed
5 imaging detector systems were and continue to be valid, the use
6 of photo red light imaging detector systems appears to be a more
7 acceptable method of traffic enforcement, as a motorist's
8 disregard of a steady red traffic signal is evident. The
9 legislature finds that establishing a photo red light imaging
10 detector systems pilot program will serve as a useful traffic
11 enforcement tool and is in the best interest of public safety on
12 Hawaii's roadways.

13 Accordingly, the purpose of this Act is to:

- 14 (1) Establish a three-year pilot program in major arterial
15 zones on state or county highways within a specified
16 area to provide for the implementation of photo red
17 light imaging detector systems to improve traffic
18 enforcement;
- 19 (2) Authorize any impacted county to implement the photo
20 red light imaging detector system pilot program; and



1 (3) Appropriate funds for the establishment of a photo red
2 light imaging detector systems pilot program.

3 PART II

4 SECTION 2. **Definitions.** As used in this Act, unless the
5 context otherwise requires:

6 "County" means a county with a resident population of
7 greater than five hundred thousand.

8 "County highway" has the same meaning as used in section
9 264-1, Hawaii Revised Statutes.

10 "Department" means the department of transportation.

11 "Motor vehicle" has the same meaning as defined in section
12 291C-1, Hawaii Revised Statutes.

13 "Photo red light imaging detector" means a device used for
14 traffic enforcement that includes a vehicle sensor that works in
15 conjunction with a traffic-control signal and a camera or
16 similar device to automatically produce a photographic, digital,
17 or other visual image of a vehicle that has disregarded a steady
18 red traffic-control signal in violation of section 291C-32,
19 Hawaii Revised Statutes, and a photographic, digital, or other
20 visual image of the driver of the motor vehicle.



1 "State highway" has the same meaning as used in section
2 264-1, Hawaii Revised Statutes.

3 "Traffic-control signal" has the same meaning as defined in
4 section 291C-1, Hawaii Revised Statutes.

5 SECTION 3. **Photo red light imaging detector systems pilot**
6 **program; established.** There is established the photo red light
7 imaging detector systems pilot program to enforce the traffic-
8 control signal laws of the State, which may be implemented in
9 the major arterial zones on state or county highways within the
10 area designated in section 4 of this Act.

11 SECTION 4. **Pilot program designated area; boundaries.** The
12 photo red light imaging detector systems pilot program district
13 is established. The district shall include all major arterial
14 zones in that area in the city and county of Honolulu bounded by
15 McCully Street from South King Street to its intersection with
16 Ala Wai Boulevard; Ala Wai Boulevard from McCully Street to its
17 intersection with Kapahulu Avenue; Kapahulu Avenue from Ala Wai
18 Boulevard to its intersection with Paki Avenue; Paki Avenue from
19 Kapahulu Avenue to its intersection with Monsarrat Avenue;
20 Monsarrat Avenue from Paki Avenue to its intersection with
21 Kalakaua Avenue; Kalakaua Avenue from Monsarrat Avenue to its



1 intersection with Kapiolani Boulevard; Kapiolani Boulevard from
2 Kalakaua Avenue to its intersection with Piikoi Street; Piikoi
3 Street from Kapiolani Boulevard to its intersection with Ala
4 Moana Boulevard; Ala Moana Boulevard from Piikoi Street to its
5 intersection with Fort Street; Nimitz Highway from Fort Street
6 to its intersection with Nuuanu Avenue; Nuuanu Avenue from
7 Nimitz Highway to its intersection with Vineyard Boulevard;
8 Vineyard Boulevard from Nuuanu Avenue to its intersection with
9 Lusitana Street; Lusitana Street from Vineyard Boulevard to its
10 intersection with Kinau Street; Kinau Street from Lusitana
11 Street to its intersection with Pensacola Street; Pensacola
12 Street from Kinau Street to its intersection with South King
13 Street; and South King Street from Pensacola Street to its
14 intersection with McCully Street.

15 SECTION 5. **County powers and duties.** Each impacted county
16 may establish and implement, in accordance with this Act, a
17 photo red light imaging detector system imposing monetary
18 liability on the operator of a motor vehicle for failure to
19 comply with traffic-control signal laws. Each county may
20 provide for the procurement, location, installation, operation,
21 maintenance, and repair of the photo red light imaging detector



1 system. Where the photo red light imaging detector system
2 affects state property, the department shall cooperate with and
3 assist the county as needed to install, maintain, and repair the
4 photo red light imaging detector system established pursuant to
5 this Act.

6 SECTION 6. **Photo red light imaging detector system**
7 **requirements.** (a) Photo red light imaging detector equipment
8 shall be positioned within the pilot program designated area
9 established in section 4 at the ten intersections with the
10 highest motor vehicle accident rates during the time period
11 commencing January 1, 2018, and ending on March 15, 2019. Photo
12 red light imaging detector equipment shall be operated from a
13 fixed pole, post, or other fixed structure on a state or county
14 highway.

15 (b) Signs and other official traffic-control devices
16 indicating that traffic signal laws are enforced by a photo red
17 light imaging detector system shall be posted on all major
18 routes entering the area designated by section 4 of this Act to
19 provide, as far as practicable, notice to drivers of the
20 existence and operation of the system.



1 (c) Proof of a traffic-control signal violation shall be
2 as evidenced by information obtained from the photo red light
3 imaging detector system authorized pursuant to this Act. A
4 certificate, sworn to or affirmed by the county's agent or
5 employee, or a facsimile thereof, based upon inspection of
6 photographs, microphotographs, videotape, or other recorded
7 images produced by the system, shall be prima facie evidence of
8 the facts contained therein. Any photographs, microphotographs,
9 videotape, or other recorded images evidencing a violation shall
10 be available for inspection in any proceeding to adjudicate the
11 liability for that violation.

12 (d) No notice of traffic infraction pursuant to the photo
13 red light imaging detector systems program shall be issued
14 unless it contains a clear and unobstructed photographic,
15 digital, or other visual image of the driver of the motor
16 vehicle.

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



1 SECTION 7. **Notice of traffic infraction.** (a)

2 Notwithstanding any law to the contrary, whenever any motor
3 vehicle is determined, by means of a photo red light imaging
4 detector system, to have disregarded a steady red signal in
5 violation of section 291C-32(a)(3), Hawaii Revised Statutes, the
6 county shall cause a notice of traffic infraction, as described
7 in this section, to be sent by certified or registered mail with
8 a return receipt, which is postmarked within seventy-two hours
9 of the time of the incident, to the registered owner of the
10 vehicle at the address on record at the vehicle licensing
11 division. If the end of the seventy-two-hour period falls on a
12 Saturday, Sunday, federal holiday, or state holiday, then the
13 ending period shall run until the end of the next day that is
14 not a Saturday, Sunday, federal holiday, or state holiday.

15 (b) The form and content of the notice of traffic
16 infraction shall be as adopted or prescribed by the
17 administrative judge of the district courts and shall be printed
18 on a form commensurate with the form of other summonses or
19 citations used in modern methods of arrest, so designed to
20 include all necessary information to make the notice of traffic
21 infraction valid within the laws of the State; provided that any



1 notice of traffic infraction pursuant to the photo red light
2 imaging detector systems program shall contain:

- 3 (1) The date, time, and location of the violation;
- 4 (2) The license number of the vehicle; and
- 5 (3) A clear and unobstructed photographic, digital, or
6 other visual image of the operator of the motor
7 vehicle that is to be used as evidence of the
8 violation.

9 (c) Every notice of traffic infraction shall be
10 consecutively numbered and each copy thereof shall bear the
11 number of its respective original.

12 (d) Upon receipt of the notice of traffic infraction, the
13 registered owner shall respond as provided for in section
14 291D-6, Hawaii Revised Statutes. A mail receipt signed by the
15 registered owner shall be prima facie evidence of notification.
16 The registered owner shall be determined by the identification
17 of the motor vehicle's registration plates.

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



1 SECTION 8. **Registered owner's responsibility for a notice**
2 **of infraction.** In any proceeding for a violation of this Act,
3 the information contained in the notice of traffic infraction
4 mailed in accordance with section 7 of this Act shall be deemed
5 evidence that the registered motor vehicle violated section
6 291C-32(a)(3), Hawaii Revised Statutes.

7 SECTION 9. **Prima facie evidence.** (a) Whenever the photo
8 red light imaging detector system determines that an operator of
9 a motor vehicle has violated section 291C-32(a)(3), Hawaii
10 Revised Statutes, evidence that the motor vehicle described in
11 the notice of traffic infraction issued pursuant to this Act was
12 operated in violation of that section, together with proof that
13 the person to whom the notice of traffic infraction was sent was
14 the registered owner of the motor vehicle at the time of the
15 violation, shall constitute prima facie evidence that the
16 registered owner of the motor vehicle was the person that
17 committed the violation.

18 (b) The registered owner of the vehicle may present
19 evidence to rebut the evidence in subsection (a), including:

20 (1) Submitting a written statement as provided in section
21 291D-6(b)(2), Hawaii Revised Statutes;



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

18 SECTION 10. **Failure to answer the notice of traffic**
19 **infraction.** If the registered owner of the motor vehicle does
20 not answer the notice of traffic infraction within twenty-one
21 days of the issuance of the notice pursuant to section



1 291D-6(a), the district court shall mail, pursuant to section
2 291D-7(e), Hawaii Revised Statutes, a notice of entry of default
3 judgment to the address in which the motor vehicle is
4 registered.

5 SECTION 11. **Liability for rental or U-drive vehicle.** The
6 liability for any notice of traffic infraction issued pursuant
7 to this Act of any registered owner of record who is the lessor
8 of a rental or U-drive motor vehicle, as defined in section
9 286-2, Hawaii Revised Statutes, pursuant to a written lease
10 agreement, shall be as provided in section 291C-226, Hawaii
11 Revised Statutes.

12 SECTION 12. **Penalty.** The act of disregarding a steady red
13 signal, as determined by means of a photo red light imaging
14 detector system, shall be a violation of section 291C-32(a)(3),
15 Hawaii Revised Statutes, and any penalty imposed for that
16 violation shall be as provided in section 291C-161, Hawaii
17 Revised Statutes.

18 SECTION 13. **Fines for unauthorized disclosure.** All
19 personal and confidential information made available by any
20 government agency to an agent of any county for the photo red
21 light imaging detector system pilot program shall be kept



1 confidential and shall be used only for the purposes for which
2 the information was furnished. Any officer, employee, or agent
3 of a county who intentionally discloses or provides a copy of
4 personal and confidential information obtained from a photo red
5 light imaging detector system to any person or agency without
6 authorization shall be fined not more than \$; provided
7 that the fine shall not preclude the application of penalties or
8 fines otherwise provided for by law.

9 SECTION 14. **Photo red light imaging detector systems pilot**
10 **program account established.** (a) There is established, as a
11 special account within the general fund, a photo red light
12 imaging detector systems pilot program account, into which shall
13 be paid revenues collected pursuant to this Act.

14 (b) All fines collected under this Act shall be deposited
15 into the photo red light imaging detector system pilot program
16 account. Moneys in the account shall be expended in the county
17 in which the fine was imposed, for purposes that include the
18 establishment, operation, management, and maintenance of a photo
19 red light imaging detector system.

20 SECTION 15. **Annual report.** The department, in
21 consultation with any county that implements a photo red light



1 imaging detector system pilot program pursuant to this Act,
2 shall annually submit a report to the legislature not later than
3 twenty days prior to the convening of the 2021, 2022, 2023, and
4 2024 regular sessions. The reports shall include, at a minimum,
5 information on whether the implementation of the pilot program
6 has resulted in any statistically significant reduction in motor
7 vehicle accidents, traffic infractions, and other traffic-
8 related incidents. The reports shall also include
9 recommendations on how to improve the pilot program, if it
10 should be made permanent, and funding estimates.

11 SECTION 16. **Rules.** The department shall adopt rules
12 pursuant to chapter 91, Hawaii Revised Statutes, as may be
13 necessary to implement this Act.

14 PART III

15 SECTION 17. Notwithstanding any law to the contrary, any
16 impacted county shall be authorized to implement a photo red
17 light imaging system pursuant to this Act.

18 SECTION 18. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$ or so
20 much thereof as may be necessary for fiscal year 2020-2021 for



1 purposes of establishing the photo red light imaging detector
2 systems pilot program.

3 The sum appropriated shall be expended by the city and
4 county of Honolulu for the purposes of this Act.

5 SECTION 19. If any provision of this Act, or the
6 application thereof to any person or circumstance is held
7 invalid, the invalidity does not affect other provisions or
8 applications of the Act which can be given effect without the
9 invalid provision or application, and to this end the provisions
10 of this Act are severable.

11 SECTION 20. This Act does not affect rights and duties
12 that matured, penalties that were incurred, and proceedings that
13 were begun, before its effective date.

14 SECTION 21. Upon the repeal of this Act as provided in
15 section 23:

16 (1) All contracts, agreements, permits, or other documents
17 executed or entered into by any county pursuant to
18 this Act shall remain in full force and effect until
19 terminated pursuant to the terms of the relevant
20 contract, agreement, permit, or document; and



1 (2) All unexpended and unencumbered moneys remaining in an
 2 account or fund established pursuant to section 14 and
 3 deemed to be in excess of the moneys necessary to
 4 carry out the purposes of this Act shall lapse to the
 5 credit of the general fund.

6 SECTION 22. This Act shall take effect on July 1, 2020,
 7 and shall be repealed on June 30, 2023.

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INTRODUCED BY:

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S.B. NO. 3172

Report Title:

Department of Transportation; Highway Safety; Photo Red Light Imaging Pilot Program; Appropriation

Description:

Establishes a three-year photo red light imaging detector system pilot program. Authorizes any impacted county to administer the photo red light imaging detector system pilot program. Establishes a photo red light imaging detector systems pilot program account as a special account within the general fund. Requires proceeds of fines expended in the county from which they were collected for operation of the photo red light imaging detector system pilot program. Appropriates funds. Sunsets 6/30/2023.

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

