

JAN 20 2023

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# A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

PART I

1  
2 SECTION 1. The legislature finds that the prevalence of  
3 drivers who violate Hawaii's traffic laws is intolerable,  
4 particularly drivers who speed. This dangerous behavior puts  
5 the lives of all of Hawaii's roadway users at risk. According  
6 to state traffic data, speeding continues to be the most common  
7 contributing factor in motor vehicle fatalities. Data from the  
8 department of transportation shows that speeding contributed to  
9 almost fifty per cent of all motor vehicle fatalities.

10 Automated red light and speed enforcement cameras are  
11 powerful tools that can reduce motor vehicle crashes and  
12 fatalities by augmenting traditional enforcement efforts or  
13 enforcing in locations where traffic stops are impractical or  
14 unsafe.

15 The purpose of this Act is to establish an automated speed  
16 enforcement program to improve enforcement of speeding laws.

PART II



1 SECTION 2. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to title 17 to be appropriately designated  
3 and to read as follows:

4 "CHAPTER

5 AUTOMATED SPEED ENFORCEMENT SYSTEMS

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

8 "Automated speed enforcement system" means a device, or  
9 combination of devices, used for traffic enforcement pursuant to  
10 section 291C-102 or section 291C- , that includes a vehicle  
11 sensor working in conjunction and synchronization with a speed  
12 measuring device and a camera, to automatically produce and  
13 record one or more sequenced photographs, microphotographs,  
14 video or other recorded images of a motor vehicle and motor  
15 vehicle license plate, at the time the motor vehicle is  
16 exceeding the applicable speed limit, in violation of section  
17 291C- .

18 "County highway" has the same meaning as used in section  
19 264-1.

20 "Department" means the department of transportation.



1 "Motor vehicle" has the same meaning as used in section  
2 291C-1.

3 "Owner" or "registered owner" has the same meaning as used  
4 in section 286-2.

5 "State highway" has the same meaning as used in section  
6 264-1.

7 § -2. **Automated speed enforcement systems program;**  
8 **established.** There is established the automated speed  
9 enforcement systems program, which may be implemented by the  
10 State or any county, on state or county highways within each  
11 respective county, to enforce the speed restriction laws of the  
12 State.

13 § -3. **State and county powers and duties.** (a) The  
14 State shall establish and implement, in accordance with this  
15 chapter, an automated speed enforcement system imposing monetary  
16 liability on the registered owner of a motor vehicle for failure  
17 to comply with section 291C-102. The State or any county may  
18 provide for the:

19 (1) Procurement, location, and oversight of an automated  
20 speed enforcement system; and



1           (2) Installation, operation, maintenance, and repair of  
2           the automated speed enforcement system through a  
3           third-party contractor.

4 Where the automated speed enforcement system affects state  
5 property, the department shall cooperate with and assist the  
6 county as needed to install, maintain, and repair the automated  
7 speed enforcement system established pursuant to this chapter.

8           (b) If the State establishes an automated speed  
9 enforcement system under this chapter, the compensation paid by  
10 the State to a manufacturer or vendor of the equipment used  
11 shall be based upon the value of the equipment and services  
12 provided or rendered in support of the automated speed  
13 enforcement system and shall not be based upon a portion of the  
14 fine or civil penalty imposed or the revenue generated by the  
15 equipment.

16           (c) Prior to the installation and operation of any  
17 automated speed enforcement system, for each intersection  
18 considered for enforcement via the automated speed enforcement  
19 system, the State shall:

20           (1) Conduct a comprehensive engineering review and study  
21           of each intersection and implement all necessary and



1 appropriate engineering, design, and traffic-control  
2 signal measures; and

3 (2) Conduct a study to acquire a baseline average of the  
4 number of motor vehicles violating the posted speed  
5 limit pursuant to section 291C-102, over a period of  
6 not less than one week; provided that the baseline  
7 average shall be determined prior to the installation  
8 of any signs or other official traffic-control devices  
9 that indicate that an intersection is being considered  
10 for an automated speed enforcement system.

11 (d) At least sixty days prior to the automated speed  
12 enforcement system becoming operational, the department, in  
13 conjunction with any county that implements an automated speed  
14 enforcement system program pursuant to this chapter, shall  
15 conduct a comprehensive informational and educational campaign  
16 to inform motorists and the general public about the program.

17 (e) During the first thirty days of operation of an  
18 automated speed enforcement system at a particular intersection,  
19 a warning shall be issued for any violation and mailed to the  
20 registered owner of the motor vehicle at the address on record



1 at the vehicle licensing division in lieu of a summons or  
2 citation pursuant to section -6.

3 § -4 Automated speed enforcement system requirements.

4 (a) Automated speed enforcement system equipment shall be  
5 operated from a fixed pole, post, or other fixed structure on a  
6 state or county highway.

7 (b) Signs or other traffic-control signal devices  
8 indicating that traffic signal laws are enforced by an automated  
9 speed enforcement system shall be posted on major routes  
10 entering the area in question to provide, as far as practicable,  
11 notice to drivers of the existence and operation of the system.

12 (c) Proof of a violation of section 291C-102 shall be as  
13 evidenced by information obtained from an automated speed  
14 enforcement system authorized pursuant to this chapter. A  
15 certificate, sworn to or affirmed by the reviewing county police  
16 department, or a facsimile thereof, based upon inspection of any  
17 photograph, microphotograph, videotape, or other recorded image  
18 evidencing a violation shall be available for inspection in any  
19 proceeding to adjudicate the liability for that violation.

20 (d) It shall be a defense to any prosecution for a  
21 violation of motor vehicle noise limits pursuant to this chapter



1 that the automated speed enforcement system was malfunctioning  
2 at the time of the alleged violation.

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 not involving a fine or  
6 court appearance.

7 § -5 **Summons or citations.** (a) Notwithstanding any law  
8 to the contrary, beginning January 1, 2024, whenever any motor  
9 vehicle is determined, by means of an automated speed  
10 enforcement system, to have violated the posted speed limit  
11 pursuant to section 291C-102, the State's third party contractor  
12 shall cause a summons or citation, as described in this section,  
13 to be sent by first class mail, that is postmarked within ten-  
14 calendar days after the date of the incident, to the registered  
15 owner of the motor vehicle at the address on record at the  
16 vehicle licensing division. If the end of the ten-calendar day  
17 period falls on a Saturday, Sunday, or holiday, then the ending  
18 period shall run until the end of the next day that is not a  
19 Saturday, Sunday, or 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



1 district courts and shall be printed on a form commensurate with  
2 the form of other summonses or citations used in modern methods  
3 of arrest, so designed to include all necessary information to  
4 make the summons or citation valid within the laws of the State;  
5 provided that any summons or citation issued pursuant to the  
6 automated speed enforcement systems program shall contain a  
7 clear and unobstructed photographic, digital, or other visual  
8 image of the motor vehicle license plate, and decibel units  
9 measured by the decibel reader, which shall be used as evidence  
10 of the violation.

11 (c) Every summons or citation shall be consecutively  
12 numbered and each copy thereof shall bear the number of its  
13 respective original.

14 (d) Prior to the mailing of the summons or citation for a  
15 traffic infraction pursuant to subsection (a), the applicable  
16 county police department shall review and verify the validity of  
17 the clear and unobstructed photographic, digital, or other  
18 visual image of the license plate of the motor vehicle required  
19 under this section.

20 (e) Upon receipt of the summons or citation the registered  
21 owner shall respond as provided for in chapter 291D. A record





1 of the mailing of the summons or citations prepared in the  
2 ordinary course of business is prima facie evidence of  
3 notification. The registered owner shall be determined by the  
4 identification of the motor vehicle license plate.

5 § -6 Registered owner's responsibility for a summons or

6 citation. (a) In any proceeding for a violation of this  
7 chapter, the information contained in the summons or citation  
8 mailed in accordance with section -5 shall be deemed prima  
9 facie evidence that a violation of section 291C-32(c) occurred.

10 If the registered owner does not rebut the evidence presented in  
11 this subsection by presenting one or more of the defenses listed  
12 in subsection (b), the registered owner shall be strictly liable  
13 for a violation of section 291C-31.

14 (b) The registered owner of the vehicle may present the  
15 following evidence to rebut the evidence in subsection (a):

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

18 (2) Testifying in open court under oath that the person  
19 named in the summons or citation was not the  
20 registered owner 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 named in the summons or citation was  
3           not the registered owner of the motor vehicle at the  
4           time of the alleged violation; or

5           (4) Submitting to the court adjudicating the alleged  
6           violation, prior to the return date established on the  
7           citation or summons issued pursuant to this chapter, a  
8           letter of verification of loss from the county police  
9           department indicating that the motor vehicle or the  
10          motor vehicle license plates had been reported stolen.

11          §   -7 **Failure to comply with summons or citation.** If the  
12 registered owner of the motor vehicle fails to respond to a  
13 summons or citation within thirty days from the date of the  
14 mailing of the summons or citation, the district court shall  
15 issue a notice of entry of judgment of default to the registered  
16 owner of the motor vehicle pursuant to section 291D-7(e).

17          §   -8 **Liability for rental or U-drive motor vehicle.**  
18 Notwithstanding any law to the contrary, any registered owner of  
19 record who is the lessor of a rental or U-drive motor vehicle,  
20 including those defined in section 286-2, shall be liable for  
21 any summons or citation issued pursuant to this chapter. The



1 registered owner shall not be precluded from pursuing  
2 reimbursement from any applicable renter or lessee.

3 § -9 Penalty. (a) It shall be a violation for any  
4 person to violate any of the provisions of this chapter, unless  
5 the violation is by other law of the State declared to be a  
6 felony, misdemeanor, or petty misdemeanor.

7 (b) Every person who is determined to have violated any  
8 provision of this chapter for which another penalty is not  
9 provided shall be fined:

- 10 (1) Not more than \$ for a first violation
- 11 thereof;
- 12 (2) Not more than \$ for a second violation
- 13 committed within one year after the date of the first
- 14 violation; and
- 15 (3) Not more than \$ for a third or subsequent
- 16 violation committed within one year after the date of
- 17 the first violation.

18 (c) Any summons or citations issued or convictions  
19 resulting from this chapter shall not be recorded on a person's  
20 traffic abstract and shall not be used for insurance purposes in  
21 the provision of motor vehicle insurance coverage.



1           §   -10   **Fines for unauthorized disclosure.** All personal  
2 and confidential information made available by an automated  
3 speed enforcement system to an officer, employee, or agent of  
4 the State or any county, including third party contractors,  
5 shall be kept confidential and shall be used only for the  
6 purposes for which the information was furnished. Any officer,  
7 employee, or agent of the State or any county, including a  
8 third-party contractor, who intentionally discloses or provides  
9 a copy of personal and confidential information obtained from an  
10 automated speed enforcement system to any person or agency  
11 without authorization shall be fined not more than \$500;  
12 provided that the fine shall not preclude the application of  
13 penalties or fines otherwise provided for by law.

14           §   -11   **Automated speed enforcement systems program**  
15 **special fund; established.** (a) There is established in the  
16 state treasury an automated speed enforcement system program  
17 special fund to be administered by the department, into which  
18 shall be deposited all fines and revenues collected pursuant to  
19 this chapter.  
20           (b) Moneys in the fund shall be expended by the department  
21 in the county in which the fine was imposed, for the



1 establishment, implementation, operation, oversight, repair, and  
2 maintenance of an automated speed enforcement system.

3 § -12 Rules. The department shall adopt rules pursuant  
4 to chapter 91 to effectuate the purposes of this chapter."

5 PART III

6 SECTION 3. Chapter 291C, Hawaii Revised Statutes, is  
7 amended by adding a new section to be appropriately designated  
8 and to read as follows:

9 "§291C- Noncompliance with speed limit under automated  
10 speed enforcement system (a) Whenever a motor vehicle travels  
11 through a location actively monitored by an automated speed  
12 enforcement system, all registered owners of all motor vehicles  
13 in vehicular traffic shall be held strictly liable for their  
14 motor vehicle's compliance with the maximum speed limit, to the  
15 extent that registered owners may be cited and held accountable  
16 for their motor vehicle traveling at a speed greater than the  
17 maximum speed limit, via civil traffic infractions pursuant to  
18 chapter .

19 (b) In the event a registered owner is cited for their  
20 motor vehicle violating this section, and the driver of the  
21 motor vehicle is cited pursuant to section 291C-102 or section



1 291C-105 for the same incident, the citation issued under this  
2 paragraph shall be dismissed.

3 (c) If the maximum speed limit is exceeded by more than  
4 ten miles per hour, a surcharge of \$10 shall be imposed, in  
5 addition to any other penalties, and shall be deposited into the  
6 neurotrauma special fund.

7 (d) If the motor vehicle is traveling at a speed  
8 exceeding:

9 (1) The maximum speed limit by thirty miles per hour or  
10 more; or

11 (2) Eighty miles per hour or more irrespective of the  
12 maximum speed limit;

13 the registered owner shall pay a fine of \$250.

14 (e) To the extent a registered owner's motor vehicle fails  
15 to comply with any other law or ordinance related to traffic-  
16 control signals, including subsection (d)(1) or (2), the  
17 registered owner of a motor vehicle shall not be held strictly  
18 liable unless otherwise provided by law.

19 (f) For purposes of this section, "maximum speed limit"  
20 means the maximum speed limit established by county ordinance or



1 by official signs placed by the director of transportation on  
2 highways under the director's jurisdiction."

3 SECTION 4. Section 291C-161, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§291C-161 Penalties; photo red light imaging detector  
6 system fines[-]; automated speed enforcement system fines. (a)

7 It shall be a violation for any person to violate any of the  
8 provisions of this chapter, except as otherwise specified in  
9 subsections (c) and (d) and unless the violation is by other law  
10 of this State declared to be a felony, misdemeanor, or petty  
11 misdemeanor.

12 (b) Except as provided in subsections (c) and (d), every  
13 person who is determined to have violated any provision of this  
14 chapter for which another penalty is not provided shall be  
15 fined:

- 16 (1) Not more than \$200 for a first violation thereof;  
17 (2) Not more than \$300 for a second violation committed  
18 within one year after the date of the first violation;  
19 and



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

4           (c) Every person convicted under or found in violation of  
5 section 291C-12, 291C-12.5, 291C-12.6, 291C-13, 291C-14,  
6 291C-15, 291C-16, 291C-72, 291C-73, 291C-95, 291C-102, 291C-103,  
7 291C-104, or 291C-105 shall be sentenced or fined in accordance  
8 with those sections.

9           (d) Every person who violates section 291C-13 or 291C-18  
10 shall:

11           (1) Be fined not more than \$200 or imprisoned not more  
12                   than ten days for a first conviction thereof;

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

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





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

5 (f) Fines collected for a violation of section 291C-32(c)  
6 pursuant to the photo red light imaging detector system  
7 established pursuant to chapter 291J shall be deposited into the  
8 photo red light imaging detector systems program special fund  
9 established under section 291J-12 and shall be expended in the  
10 county in which the fine was imposed, for purposes that include  
11 the establishment, implementation, operation, oversight,  
12 management, repair and maintenance of a photo red light imaging  
13 detector system.

14 (g) Fines collected for a violation of section  
15 291C- pursuant to an automated speed enforcement system  
16 established by chapter shall be deposited into the  
17 automated speed enforcement systems program special fund  
18 established under section -11 and shall be expended in the  
19 county in which the fine was imposed, for purposes that include  
20 the establishment, implementation, operation, oversight, repair  
21 and maintenance of an automated speed enforcement system and



1 implementation of the automated speed enforcement systems  
2 program.

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

7       SECTION 5. Section 291C-165, Hawaii Revised Statutes, is  
8 amended by amending subsection (b) to read as follows:

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

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

14       (2) In the case of:

15       (A) A vehicle utilizing the high occupancy vehicle  
16 lane illegally; ~~[or]~~

17       (B) A vehicle illegally utilizing a parking space  
18 reserved for persons with disabilities, where the  
19 violator refuses the citation; or

20       (C) A motor vehicle determined by an automated speed  
21 enforcement system established pursuant to



1                    chapter                    to have exceeded a speed  
2                    restriction in violation of section 291C- ,  
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 seventy-  
12 two hour period falls on a Saturday, Sunday, or holiday, then  
13 the ending period shall run until the end of the next day  
14 [~~which~~] that is not a Saturday, Sunday, or holiday; provided  
15 that the administrative judge of the district courts may allow a  
16 carbon copy of the citation to be given to the violator or  
17 affixed to the vehicle and provide for the disposition of the  
18 original and any other copies of the citation."

PART IV

20                    SECTION 6. There is appropriated out of the general  
21 revenues of the State of Hawaii the sum of \$                    or so



1 much thereof as may be necessary for fiscal year 2023-2024 as a  
2 grant-in-aid to the city and county of Honolulu for the  
3 implementation of the automated speed enforcement systems  
4 program.

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

7 SECTION 7. There is appropriated out of the general  
8 revenues of the State of Hawaii the sum of \$ or so  
9 much thereof as may be necessary for fiscal year 2023-2024 as a  
10 grant-in-aid to the county of Maui for the implementation of the  
11 automated speed enforcement systems program.

12 The sum appropriated shall be expended by the city and  
13 county of Maui for the purposes of this Act.

14 SECTION 8. There is appropriated out of the general  
15 revenues of the State of Hawaii the sum of \$ or so  
16 much thereof as may be necessary for fiscal year 2023-2024 as a  
17 grant-in-aid to the county of Kauai for the implementation of  
18 the automated speed enforcement systems program.

19 The sum appropriated shall be expended by the city and  
20 county of Kauai for the purposes of this Act.



1 SECTION 9. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$ or so  
3 much thereof as may be necessary for fiscal year 2023-2024 as a  
4 grant-in-aid to the county of Hawaii for the implementation of  
5 the automated speed enforcement systems program.

6 The sum appropriated shall be expended by the city and  
7 county of Hawaii for the purposes of this Act.

8 SECTION 10. There is appropriated out of the general  
9 revenues of the State of Hawaii the sum of \$ or so  
10 much thereof as may be necessary for fiscal year 2023-2024 and  
11 the same sum or so much thereof as may be necessary for fiscal  
12 year 2024-2025 to be deposited into the automated speed  
13 enforcement systems program special fund.

14 SECTION 11. There is appropriated out of the automated  
15 speed enforcement systems program special fund the sum of  
16 \$ or so much thereof as may be necessary for fiscal  
17 year 2023-2024 and the same sum or so much thereof as may be  
18 necessary for fiscal year 2024-2025 for the establishment and  
19 implementation of the automated speed enforcement systems  
20 program.



1 The sums appropriated shall be expended by the department  
2 of transportation for the purposes of this Act.

3 SECTION 12. If any provision of this Act, or the  
4 application thereof to any person or circumstance, is held  
5 invalid, the invalidity does not affect other provisions or  
6 applications of the Act that can be given effect without the  
7 invalid provision or application, and to this end the provisions  
8 of this Act are severable.

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

12 SECTION 14. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 15. This Act shall take effect on July 1, 2023.

15

INTRODUCED BY:



# S.B. NO. 852

**Report Title:**

Department of Transportation; Highway Safety; Automated Speed Enforcement System; Automated Speed Enforcement Systems Program Special Fund; Appropriation

**Description:**

Establishes the Automated Speed Enforcement Systems Program. Authorizes the state or counties to administer the Automated Speed Enforcement Systems Program. Requires fines collected beginning 1/1/2024 for violations on a county highway to be expended for the operation of the Automated Speed Enforcement Systems Program. Creates a new offense of noncompliance with the posted speed limit under the Automated Speed Enforcement System. Appropriates funds.

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