

ACT 124

H.B. NO. 2336

A Bill for an Act Relating to the Photo Red Light Imaging Detector Systems Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

PART I

SECTION 1. Section 291C-32, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, ~~[are]~~ and actively monitored by an official photo red light imaging detector system, all registered owners of all motor vehicles in vehicular traffic at the intersection shall be held strictly liable for the motor vehicle’s compliance with the traffic-control signal, to the extent that registered owners may be cited and held accountable for non-compliance via civil traffic infractions pursuant to chapter 291J. The traffic-control signal lights shall apply to the registered owners ~~[and]~~ of motor vehicles as follows:

(1) Steady red indication:

- (A) Vehicular traffic facing a steady red signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until an indication to proceed is shown, except as provided in the next succeeding paragraphs.
- (B) Vehicular traffic that is stopped in obedience to a steady red indication may make a right turn but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at said intersection, except that counties by ordinance may prohibit any such right turn against a steady red indication, which ordinance shall be effective when a sign is erected at such intersection giving notice thereof.
- (C) Vehicular traffic on a one-way street that intersects another one-way street on which traffic moves to the left shall stop in obedience to a steady red indication but may then make a left turn into said one-way street, but shall yield right-of-way to pedestrians, proceeding as directed by the signal at said intersection except that counties by ordinance may prohibit any

such left turn as above described which ordinance shall be effective when a sign is erected at such intersection giving notice thereof.

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

SECTION 2. Section 291J-1, Hawaii Revised Statutes, is amended by amending the definition of "photo red light imaging detector" to read as follows:

""Photo red light imaging detector" or "photo red light imaging detector system" means a device, or combination of devices, used for traffic enforcement pursuant to section 291C-32(c), that includes a vehicle sensor [that works] working in conjunction and synchronization with a traffic-control signal and a camera [synchronized], to automatically produce and record one or more sequenced photographs, microphotographs, video, or [electronic images] other recorded images of the rear of the motor vehicle and motor vehicle license plate, at the time the motor vehicle fails to stop when facing a steady red traffic-control signal [in violation of section 291C-32(e)]."

SECTION 3. Section 291J-4, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) During the first thirty days of operation of an individual photo red light imaging detector system at a particular traffic signal, a warning shall be issued for any violation of section 291C-32(c), and mailed to the registered owner of the motor vehicle at the address on record [as] at the vehicle licensing division, in lieu of a summons or citation pursuant to section 291J-6."

SECTION 4. Section 291J-5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Proof of a violation of section 291C-32(c) shall be as evidenced by information obtained from the photo red light imaging detector system authorized pursuant to this chapter. A certificate, sworn to or affirmed by the reviewing police department, or a facsimile thereof, based upon inspection of photographs, microphotographs, [videotape,] video, or other recorded images produced by the system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, [videotape,] video, or other recorded images evidencing a violation shall be available for inspection in any proceeding to adjudicate the liability for that violation."

SECTION 5. Section 291J-6, Hawaii Revised Statutes, is amended to read as follows:

"**[§291J-6] Summons or citations.** (a) Notwithstanding any law to the contrary, and except for the time period allowed pursuant to [§]section 291J-4(e), beginning January 1, 2021, whenever any motor vehicle is determined, by means of a photo red light imaging detector system, to have disregarded a steady red signal in violation of section 291C-32(c), the State's or county's third party contractor shall cause a summons or citation, as described in this section, to be sent by first class mail, ~~that is postmarked within ten calendar days after the date of the incident,~~ to the registered owner of the motor vehicle ~~[at the address on record at the vehicle licensing division].~~ The summons or citation shall be mailed to the registered owner's address on record at the vehicle licensing division and postmarked within ten calendar days after the date of the incident. If the end of the ten calendar day period falls on a Saturday, Sunday, or holiday,

then the ending period shall run until the end of the next day that is not a Saturday, Sunday, or holiday.

(b) The form and content of the summons or citation shall be as adopted or prescribed by the administrative judge of the district courts and shall be printed on a form commensurate with the form of other summonses or citations used in modern methods of arrest, so designed to include all necessary information to make the summons or citation valid within the laws of the State; provided that any summons or citation issued pursuant to the photo red light imaging detector systems program shall contain a clear and unobstructed ~~[photographic, digital, or other visual]~~ image of the motor vehicle license plate, which shall be used as evidence of the violation.

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

(d) Prior to the mailing of the summons or citation for a traffic infraction pursuant to subsection (a), the applicable county police department shall review and verify the ~~[validity of the]~~ clear and unobstructed ~~[photographic, digital, or other visual]~~ image of the license plate of the motor vehicle required under section 291J-6(b).

(e) Upon receipt of the summons or citation the registered owner shall ~~[respond]~~ answer as provided for in ~~[chapter 291D-]~~ section 291D-6. A record of the mailing of the summons or citations prepared in the ordinary course of business is prima facie evidence of notification. The registered owner shall be determined by the identification of the motor vehicle license plate.

(f) Procedures regarding answering, court hearings, and court actions shall be pursuant to sections 291D-6, 291D-7, 291D-8, and 291D-13; provided that it shall not be a defense of any citation issued under this chapter that another person was driving the defendant's motor vehicle at the time of incident, unless the motor vehicle was stolen as documented by a police report; provided further that any reference to the defendant's commission of the traffic infraction or similar language shall be interpreted to mean commission of the traffic infraction."

SECTION 6. Section 291J-7, Hawaii Revised Statutes, is amended to read as follows:

**"[H]§291J-7) Registered owner's responsibility for a summons or citation.** ~~[(a)]~~ In any proceeding for a violation of this chapter, the information contained in the summons or citation, mailed in accordance with section 291J-6, shall be deemed prima facie evidence that a violation of section 291C-32(c) occurred. ~~[If the registered owner does not rebut the evidence presented in this subsection by presenting one or more of the defenses listed in subsection (b), the]~~ The registered owner shall be strictly liable for a violation of section 291C-32(c).

~~[(b)]~~ The registered owner of the motor vehicle may present evidence to rebut the evidence in subsection (a) by any one of the following:

- (1) Submitting a written statement as provided in section 291D-6(b)(2);
- (2) Testifying in open court under oath that the person named in the summons or citation was not the registered owner of the motor vehicle at the time of the alleged violation;
- (3) Calling witnesses to testify in open court under oath that the person named in the summons or citation was not the registered owner of the motor vehicle at the time of the alleged violation;
- (4) Submitting evidence that the motor vehicle passed through the intersection when the traffic light was red in order to yield the right-of-way to an emergency vehicle;

- (5) ~~Submitting evidence that the motor vehicle was part of a funeral procession escorted by the police;~~
- (6) ~~Presenting, prior to the return date established on the citation or summons issued pursuant to this chapter, a letter of verification of loss from the police department indicating that the motor vehicle or the motor vehicle license plates had been reported stolen, to the court adjudicating the alleged violation; or~~
- (7) ~~Submitting evidence that the motor vehicle passed through the intersection at the direction of a law enforcement officer.]”~~

SECTION 7. Section 291J-12, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) All fines collected under this chapter shall be deposited into the photo red light imaging detector systems program special fund. Moneys in the fund shall be expended by the department in the county in which the fine was imposed, for purposes that include the establishment, ~~[implementation,]~~ operation, oversight, repair, and maintenance of a photo red light imaging detector system~~[-]~~ and implementation of the photo red light imaging detector system program.”

## PART II

SECTION 8. Act 30, Session Laws of Hawaii 2020, sections 9 and 10, as amended by section 1 of Act 133, Session Laws of Hawaii 2021, are amended to read as follows:

“SECTION 9. There is appropriated out of the state highway fund the sum of \$2,000,000 or so much thereof as may be necessary for fiscal year 2020-2021; \$400,000 or so much as may be necessary for fiscal year 2021-2022; and \$400,000 or so much as may be necessary for fiscal year 2022-2023 to be deposited into the photo red light imaging detector systems program special fund.

SECTION 10. There is appropriated out of the photo red light imaging detector systems program special fund the sum of \$2,000,000 or so much thereof as may be necessary for fiscal year 2020-2021; \$400,000 or so much as may be necessary for fiscal year 2021-2022; and \$400,000 or so much as may be necessary for fiscal year 2022-2023 for purposes of establishing the photo red light imaging detector systems pilot program; provided that the moneys appropriated for fiscal year 2020-2021, fiscal year 2021-2022, and fiscal year 2022-2023 shall not lapse at the end of that fiscal year; provided further that all moneys appropriated for fiscal year 2020-2021, fiscal year 2021-2022, and fiscal year 2022-2023 that are unexpended or unencumbered as of June 30, ~~[2022,]~~ 2025, shall lapse to the credit of the photo red light imaging detector systems special fund.

The sum appropriated shall be expended by the department of transportation for the purposes of this Act; provided that the department of transportation shall ~~[expend \$112,602]~~ transfer \$125,779 in ~~[fiscal year 2021-2022,]~~ fiscal year 2022-2023, ~~[and]~~ fiscal year 2023-2024 ~~[for the funding of one permanent full-time (1.0 FTE) deputy prosecuting attorney position within], and fiscal year 2024-2025~~ to the department of the prosecuting attorney of the city and county of Honolulu. The department of the prosecuting attorney shall expend these funds exclusively for personnel costs related to the photo red light imaging detector systems program; provided that any remaining balances in any of the fiscal years shall be returned to the department of transportation.”

**PART III**

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

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval; provided that part II shall take effect retroactive to June 30, 2021.

(Approved June 27, 2022.)