



February 20, 2020

Testimony in Support of HB1676HD1 Relating to Highway Safety

Aloha Chair Luke, Vice Chair Cullen, and esteemed members of the House Committee on Finance:

Hawaii Bicycling League **supports with amendments** House Bill 1676HD1, establishing a 3-year pilot program for photo red light imaging detector systems. The bill is commendable.

The red light running committee during the interim included **all** county police, transportation/public works, and prosecutors; state transportation department, judiciary, and public defenders; and non-profit advocates from the Hawaii Bicycling League, MADD, AAA Hawaii, and a staff member of the Portland Bureau of Transportation. The red light committee agreed on best practices in red light running photo enforcement.

https://www.capitol.hawaii.gov/session2020/bills/DC250_.pdf.

HB1676 moves in the right direction. The following amendments will help it operate clearly and without ambiguity, following best practices of other states.

Do not require photographs of the driver.

20 of 23 states that use red light cameras only require photographs of the vehicle license plate; some states specifically prohibit driver photographs. The vehicle poses a danger by running a red light regardless of the operator, so the registered owner is made liable for the driver. Defenses are if the vehicle was stolen or sold. Please see the attached law where New York City has operated such a system successfully for 25 years. See NYC 2018 report <https://www1.nyc.gov/html/dot/downloads/pdf/nyc-red-light-camera-program.pdf> Another defense is made for rental owners/lessors who give police the name and address of the renter on the rental contract. The Honolulu Star-Advertiser endorsed this simple, strong approach in its editorial of 2/5/20, page A-10.

Use first class mail, allow at least 10 days to send the ticket.

These are best practices. See NYC law following. Registered or certified mail is too expensive and can be defeated easily if the addressee just ignores it. Most states allow between 14-30 days for tickets to be sent out; 72-hours is just too short for an adequate review by a police or government officer prior to sending the ticket out.

Allow police and city/state transportation officials to decide on pilot program locations based on data and experience.

Designating the central Honolulu area as a pilot program area is too restrictive for an effective pilot program. It may be one of the sites based on data and police/city judgment, but should not be legislatively prescribed.

Allow a maximum of three years from start of operations of the cameras for a pilot program, but allow the officials to return earlier for approval to extend the pilot program area sooner.

Realistically it will take 6-12 months to start cameras operating if proper procurement, data analysis, and training is to occur. The pilot program clock should start when the first camera starts operation. On the flip side, if the pilot is working, allow the city/state to return sooner than 3 years for authorization to extend the program to more areas.

Hawaii Bicycling League has spent ten years doing research, has visited red light camera operations in California and New York, and has been a part of the national Vision Zero coalition where this issue is widely covered.

Please consider amending this bill.

Ride and Drive Aloha,



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New York State laws <https://www.nysenate.gov/legislation/laws/VAT/T7A24>

New York State law authorizing New York City, with details <https://www.nysenate.gov/legislation/laws/VAT/1111-A> We only attached the relevant sections below.

Section 1111-A

Owner liability for failure of operator to comply with traffic-control indications

Owner liability for failure of operator to comply with traffic-control indications. (a) 1. Notwithstanding any other provision of law, each city with a population of one million or more is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such city in accordance with the provisions of this section. Such demonstration program shall empower a city to install and operate traffic-control signal photo violation-monitoring devices at no more than one hundred fifty intersections within such city at any one time.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo violation-monitoring systems shall not include images that identify the driver, the passengers, or the contents of the vehicle. Provided, however, that no notice of liability issued pursuant to this section shall be dismissed solely because a photograph or photographs allow for the identification of the contents of a vehicle, provided that such city has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any city which has adopted a local law or ordinance pursuant to subdivision (a) of this section, the owner of a vehicle shall be liable for a penalty imposed pursuant to this section if such vehicle was used or

operated with the permission of the owner, express or implied, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo violation-monitoring system; provided however that no owner of a vehicle shall be liable for a penalty imposed pursuant to this section where the operator of such vehicle has been convicted of the underlying violation of subdivision (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal which automatically produces two or more photographs, two or more microphotographs, a videotape or other recorded images of each vehicle at the time it is used or operated in violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the city in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal photo violation-monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for

inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance, except that in a city which, by local law, has authorized the adjudication of such owner liability by a parking violations bureau, such schedule shall be promulgated by such bureau. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance may provide for an additional penalty not in excess of twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period.

(f) An imposition of liability under a local law or ordinance adopted pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

(g) 1. A notice of liability shall be sent by first class mail to each person alleged to be liable as an owner for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to this section.

Personal delivery on the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein.

2. A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to this section, the registration number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation and the identification number of the camera which recorded the violation or other document locator number.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which he may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

4. The notice of liability shall be prepared and mailed by the city having jurisdiction over the intersection where the violation occurred, or by any other entity authorized by the city to prepare and mail such notification of violation.

(h) Adjudication of the liability imposed upon owners by this section shall be by a traffic violations bureau established pursuant to section three hundred seventy of the general municipal law or, if there be none, by the court having jurisdiction over traffic infractions, except that any city which has established an administrative tribunal to hear and determine complaints of traffic infractions constituting parking, standing or stopping violations may, by local law, authorize such adjudication by such tribunal.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the vehicle was reported to the police department as having been stolen, it shall be a valid defense to an allegation of liability for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to this section that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. For purposes of asserting the defense provided by this subdivision it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail to the traffic violations bureau, court having jurisdiction or parking violations bureau.

(j) 1. In a city where the adjudication of liability imposed upon owners pursuant to this section is by a traffic violations bureau or a court having jurisdiction, an owner who is a lessor of a vehicle to which a

notice of liability was issued pursuant to subdivision (g) of this section shall not be liable for the violation of subdivision (d) of section eleven hundred eleven of this article, provided that he or she sends to the traffic violations bureau or court having jurisdiction a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty-seven days after receiving notice from the bureau or court of the date and time of such violation, together with the other information contained in the original notice of liability. Failure to send such information within such thirty-seven day time period shall render the owner liable for the penalty prescribed by this section. Where the lessor complies with the provisions of this paragraph, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section, shall be subject to liability for the violation of subdivision (d) of section eleven hundred eleven of this article pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

2. (i) In a city which, by local law, has authorized the adjudication of liability imposed upon owners by this section by a parking violations bureau, an owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision (g) of this section shall not be liable for the violation of subdivision (d) of section eleven hundred eleven of this article, provided that:

(A) prior to the violation, the lessor has filed with the bureau in accordance with the provisions of section two hundred thirty-nine of this chapter; and

(B) within thirty-seven days after receiving notice from the bureau of the date and time of a liability, together with the other information contained in the original notice of liability, the lessor submits to the bureau the correct name and address of the lessee of the vehicle identified in the notice of liability at the time of such violation, together with such other additional information contained in the rental, lease or other contract document, as may be reasonably required by the bureau pursuant to regulations that may be promulgated for such purpose.

(ii) Failure to comply with clause (B) of subparagraph (i) of this paragraph shall render the owner liable for the penalty prescribed in this section.

(iii) Where the lessor complies with the provisions of this paragraph, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section, shall be subject to liability for such violation pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

(k) 1. If the owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to this section was not

the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

2. Notwithstanding any other provision of this section, no owner of a vehicle shall be subject to a monetary fine imposed pursuant to this section if the operator of such vehicle was operating such vehicle without the consent of the owner at the time such operator failed to obey a traffic-control indication. For purposes of this subdivision there shall be a presumption that the operator of such vehicle was operating such vehicle with the consent of the owner at the time such operator failed to obey a traffic-control indication.

(1) Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of subdivision (d) of section eleven hundred eleven of this article.